# LAWS

## OF THE

# STATE OF MAINE

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE**

**SECOND REGULAR SESSION**
**January 6, 2010 to April 12, 2010**

**THE GENERAL EFFECTIVE DATE FOR**
**SECOND REGULAR SESSION**
**NON-EMERGENCY LAWS IS**
**JULY 12, 2010**

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

**Augusta, Maine**
**2010**

# TABLE OF CONTENTS

## VOLUME 3



## SECOND REGULAR SESSION



## OTHER MATTERS

# PREFACE

The 2009 edition of the Laws of Maine is the official publication of the Session Laws of the State of Maine enacted by the 124th Legislature and is compiled and published under the authority of the Maine Revised Statutes, Title 3, section 163-A. The Laws 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, resolves, constitutional resolutions and joint study orders enacted at the Second Regular Session of the 124th Legislature, followed by the 2009 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 124th 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 this volume, 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 to show 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 stricken through. When an entire section or larger segment is repealed, the text that is repealed is not shown stricken, but its repeal is indicated by express language.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 124th Legislature is July 12, 2010. 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. The Laws of Maine are also available online through the website of the Office of the Revisor of Statutes at http://www.mainelegislature.org/ros/lom/lomdirectory.htm.

This edition of the Laws 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
June 2010

# LEGISLATIVE STATISTICS

## SECOND REGULAR SESSION
## 124th Legislature

| | |
|---|---|
| Convened | January 6, 2010 |
| Adjourned | April 12, 2010 |
| Days in Session | |
| Senate | 37 |
| House of Representatives | 37 |
| Legislative Documents | 423 |
| Public Laws | 194 |
| Private and Special Laws | 16 |
| Resolves | 71 |
| Constitutional Resolutions | 0 |
| Competing Measure Resolutions | 0 |
| Initiated Bills | 1 |
| Vetoes | 0 |
| Overridden | 0 |
| Sustained | 0 |
| Emergency Enactments | 98 |
| Emergency Passed | 32 |
| Effective Date | July 12, 2010 (unless otherwise indicated) |

(Note: 88 bills were carried over to the Second Regular Session of the 124th Legislature.)

## CHAPTER 462

## H.P. 1177 - L.D. 1668

### An Act To Implement the Recommendations of the Initiative To Streamline State Government and To Make Other Necessary Changes to Law

**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 2009, chapter 213, Part QQQ directed the Joint Standing Committee on Appropriations and Financial Affairs to continue the effort of streamlining State Government begun in 2007 and achieve a targeted spending reduction of at least $30,000,000 in the 2010-2011 biennium; and

**Whereas,** the committee is authorized to submit legislation to the Second Regular Session of the 124th Legislature to implement its recommendations; and

**Whereas,** it is necessary for this legislation to take effect sooner than the 90 days after adjournment of the Second Regular Session in order to achieve the recommended savings; 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: Reduces the contribution from the General Fund to the Firefighters and Law Enforcement Officers Health Insurance Program Fund due to a lower participation rate in the program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($200,000) | ($150,000) |
| GENERAL FUND TOTAL | ($200,000) | ($150,000) |

#### Departments and Agencies - Statewide 0016

Initiative: Adjusts funding in the Statewide - Streamline State Government account to recognize the distribution of savings associated with the initiative to streamline State Government as authorized in Public Law 2009, chapter 213, Part QQQ.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Unallocated | $0 | $30,000,000 |
| GENERAL FUND TOTAL | $0 | $30,000,000 |

#### Financial and Personnel Services - Division of 0713

Initiative: Eliminates one vacant Inventory and Property Assistant position.

| FINANCIAL AND PERSONNEL SERVICES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($46,145) |
| FINANCIAL AND PERSONNEL SERVICES FUND TOTAL | $0 | ($46,145) |

#### Revenue Services - Bureau of 0002

Initiative: Reduces funding for legal services paid to the Department of the Attorney General.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($100,000) |
| GENERAL FUND TOTAL | $0 | ($100,000) |

#### Revenue Services - Bureau of 0002

Initiative: Reduces funding for contracted services.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($50,000) | ($50,000) |
| GENERAL FUND TOTAL | ($50,000) | ($50,000) |

**Revenue Services - Bureau of 0002**

Initiative: Reduces funding for printing costs.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($140,000) |
| GENERAL FUND TOTAL | $0 | ($140,000) |

**Statewide Radio Network System 0112**

Initiative: Reduces funding for a portion of debt service payments as a result of a delay in the Statewide Radio and Network System project.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($447,838) |
| GENERAL FUND TOTAL | $0 | ($447,838) |

**Statewide Radio Network System 0112**

Initiative: Reduces funding for debt service payments as a result of reduced estimated interest rates and making semiannual payments.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($237,357) |
| GENERAL FUND TOTAL | $0 | ($237,357) |

| ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF<br>DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($250,000) | $28,874,805 |
| FINANCIAL AND PERSONNEL SERVICES FUND | $0 | ($46,145) |
| DEPARTMENT TOTAL - ALL FUNDS | ($250,000) | $28,828,660 |

## AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

**Division of Animal Health and Industry 0394**

Initiative: Reallocates the cost of one part-time Public Service Coordinator II position from 100% Division of Animal Health and Industry program, General Fund to 50% Division of Market and Production Development program, Other Special Revenue Funds and 50% Harness Racing Commission program, Other Special Revenue Funds.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (0.500) |
| Personal Services | $0 | ($52,210) |
| GENERAL FUND TOTAL | $0 | ($52,210) |

**Division of Market and Production Development 0833**

Initiative: Reallocates the cost of one part-time Public Service Coordinator II position from 100% Division of Animal Health and Industry program, General Fund to 50% Division of Market and Production Development program, Other Special Revenue Funds and 50% Harness Racing Commission program, Other Special Revenue Funds.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 0.500 |
| Personal Services | $0 | $26,105 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $26,105 |

**Division of Market and Production Development 0833**

Initiative: Eliminates one Public Service Manager II position and reduces funding for related All Other costs.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($98,948) |
| All Other | $0 | ($2,500) |
| GENERAL FUND TOTAL | $0 | ($101,448) |

**Harness Racing Commission 0320**

Initiative: Reallocates the cost of one part-time Public Service Coordinator II position from 100% Division of Animal Health and Industry program, General Fund to 50% Division of Market and Production Development program, Other Special Revenue Funds and 50% Har-

ness Racing Commission program, Other Special Revenue Funds.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $26,105 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $26,105 |

### Office of the Commissioner 0401

Initiative: Reduces funding for charges made by the Department of Administrative and Financial Services, Division of Financial and Personnel Services as a result of the elimination of one Inventory and Property Assistant position in the Natural Resources Service Center.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($5,467) |
| GENERAL FUND TOTAL | $0 | ($5,467) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($1,293) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($1,293) |

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

| DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | $0 | ($159,125) |
| OTHER SPECIAL REVENUE FUNDS | $0 | $50,917 |
| DEPARTMENT TOTAL - ALL FUNDS | $0 | ($108,208) |

## ATTORNEY GENERAL, DEPARTMENT OF THE

### Administration - Attorney General 0310

Initiative: Transfers one Research Assistant position and reallocates the cost from the General Fund to Other Special Revenue Funds within the same program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| Personal Services | ($123,206) | ($130,023) |
| GENERAL FUND TOTAL | ($123,206) | ($130,023) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 1.000 | 1.000 |
| Personal Services | $123,206 | $130,023 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $123,206 | $130,023 |

### Administration - Attorney General 0310

Initiative: Reallocates the cost of one Research Assistant position from 100% General Fund in the Administration - Attorney General program to 50% General Fund within the same program and 50% Other Special Revenue Funds in the Victims' Compensation Board program effective January 1, 2010.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($20,817) | ($43,975) |
| GENERAL FUND TOTAL | ($20,817) | ($43,975) |

### Administration - Attorney General 0310

Initiative: Reduces funding to recognize savings achieved by realigning responsibilities.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($92,718) | ($70,293) |
| GENERAL FUND TOTAL | ($92,718) | ($70,293) |

### Victims' Compensation Board 0711

Initiative: Reallocates the cost of one Research Assistant position from 100% General Fund in the Administration program to 50% General Fund within the same program and 50% Other Special Revenue Funds in the Victims' Compensation Board program effective January 1, 2010.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $20,817 | $43,975 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $20,817 | $43,975 |

| ATTORNEY GENERAL, DEPARTMENT OF THE DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($236,741) | ($244,291) |
| OTHER SPECIAL REVENUE FUNDS | $144,023 | $173,998 |
| DEPARTMENT TOTAL - ALL FUNDS | ($92,718) | ($70,293) |

## CONSERVATION, DEPARTMENT OF

### Office of the Commissioner 0222

Initiative: Reduces funding for charges made by the Department of Administrative and Financial Services, Division of Financial and Personnel Services as a result of the elimination of one Inventory and Property Assistant position in the Natural Resources Service Center.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($3,699) |
| GENERAL FUND TOTAL | $0 | ($3,699) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($7,104) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($7,104) |

### Parks - General Operations 0221

Initiative: Reallocates 30% of the cost of one Office Assistant II position from the General Fund to the Federal Expenditures Fund within the same program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($13,453) | ($14,118) |
| GENERAL FUND TOTAL | ($13,453) | ($14,118) |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $13,453 | $14,118 |
| FEDERAL EXPENDITURES FUND TOTAL | $13,453 | $14,118 |

| CONSERVATION, DEPARTMENT OF DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($13,453) | ($17,817) |
| FEDERAL EXPENDITURES FUND | $13,453 | $14,118 |
| OTHER SPECIAL REVENUE FUNDS | $0 | ($7,104) |
| DEPARTMENT TOTAL - ALL FUNDS | $0 | ($10,803) |

## CORRECTIONS, DEPARTMENT OF

### Adult Community Corrections 0124

Initiative: Eliminates one Public Service Manager II position.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($52,771) | ($109,208) |
| GENERAL FUND TOTAL | ($52,771) | ($109,208) |

### Adult Community Corrections 0124

Initiative: Reduces funding for facilities through regional office closure, renegotiated leases and colocation with juvenile probation offices.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($4,341) | ($23,660) |
| GENERAL FUND TOTAL | ($4,341) | ($23,660) |

### Juvenile Community Corrections 0892

Initiative: Reduces funding in facilities through regional office closure, renegotiated leases and colocation with adult probation offices.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($12,532) |
| GENERAL FUND TOTAL | $0 | ($12,532) |

### Juvenile Community Corrections 0892

Initiative: Transfers one Public Service Coordinator II position and reallocates the cost from 100% General Fund to 100% Other Special Revenue Funds within the same program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| Personal Services | ($52,055) | ($108,100) |

| | | |
|---|---|---|
| GENERAL FUND TOTAL | ($52,055) | ($108,100) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 1.000 | 1.000 |
| Personal Services | $52,055 | $108,100 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $52,055 | $108,100 |

### Mountain View Youth Development Center 0857

Initiative: Reduces funding through decreased dependence on fossil fuel with the installation of a wood pellet fuel system.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($2,030) | ($24,358) |
| GENERAL FUND TOTAL | ($2,030) | ($24,358) |

**CORRECTIONS, DEPARTMENT OF**

| DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($111,197) | ($277,858) |
| OTHER SPECIAL REVENUE FUNDS | $52,055 | $108,100 |
| DEPARTMENT TOTAL - ALL FUNDS | ($59,142) | ($169,758) |

## ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF

### Business Development 0585

Initiative: Eliminates one Development Director position.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| Personal Services | ($101,459) | ($107,586) |
| GENERAL FUND TOTAL | ($101,459) | ($107,586) |

**ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF**

| DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($101,459) | ($107,586) |
| DEPARTMENT TOTAL - ALL FUNDS | ($101,459) | ($107,586) |

## EDUCATION, DEPARTMENT OF

### Adult Education 0364

Initiative: Reallocates the cost of 2 Education Specialist III positions to reflect the percentage of the distribution of job functions.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $21,221 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $21,221 |

### Federal and State Program Services Z079

Initiative: Transfers 50% of the cost of one Education Specialist III position from the Federal and State Program Services program, General Fund to the Adult Education program, Federal Expenditures Fund and transfers 25% of the costs of one Education Specialist III position from the Adult Education program, Federal Expenditures Fund to the Federal and State Program Services program, General Fund.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($21,221) |
| GENERAL FUND TOTAL | $0 | ($21,221) |

### PK-20 Curriculum, Instruction and Assessment Z081

Initiative: Reduces funding for support for regional representatives, statewide effort for travel, technology, general operating and support costs, telephones, supplies and the Maine Educational Assessment Advisory Committee.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($43,000) |
| GENERAL FUND TOTAL | $0 | ($43,000) |

**Special Services Team Z080**

Initiative: Reduces funding for the coordinated school health program professional development and consultative assistance to local school personnel.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($43,000) |
| GENERAL FUND TOTAL | $0 | ($43,000) |

**Special Services Team Z080**

Initiative: Reduces funding for the Interdepartmental Committee on Transition in the areas of professional development and assistance to schools, interdepartmental agencies and families in the transition of students with disabilities from school to postsecondary education, the work force and their communities.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($200,000) |
| GENERAL FUND TOTAL | $0 | ($200,000) |

| EDUCATION, DEPARTMENT OF DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | $0 | ($307,221) |
| FEDERAL EXPENDITURES FUND | $0 | $21,221 |
| DEPARTMENT TOTAL - ALL FUNDS | $0 | ($286,000) |

## ENVIRONMENTAL PROTECTION, DEPARTMENT OF

**Administration - Environmental Protection 0251**

Initiative: Reduces funding for charges made by the Department of Administrative and Financial Services, Division of Financial and Personnel Services as a result of the elimination of one Inventory and Property Assistant position in the Natural Resources Service Center.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($11,095) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($11,095) |

| ENVIRONMENTAL PROTECTION, DEPARTMENT OF DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| OTHER SPECIAL REVENUE FUNDS | $0 | ($11,095) |
| DEPARTMENT TOTAL - ALL FUNDS | $0 | ($11,095) |

## ETHICS AND ELECTION PRACTICES, COMMISSION ON GOVERNMENTAL

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

Initiative: Reallocates the cost of one Registration and Reporting Officer position from 42% General Fund and 58% Other Special Revenue Funds to 34% General Fund and 66% Other Special Revenue Funds within the same program and reduces the All Other line category to fund the position costs in Other Special Revenue Funds.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($5,470) | ($5,655) |
| GENERAL FUND TOTAL | ($5,470) | ($5,655) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $5,470 | $5,655 |
| All Other | ($5,470) | ($5,655) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $0 |

| ETHICS AND ELECTION PRACTICES, COMMISSION ON GOVERNMENTAL DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($5,470) | ($5,655) |
| OTHER SPECIAL REVENUE FUNDS | $0 | $0 |
| DEPARTMENT TOTAL - ALL FUNDS | ($5,470) | ($5,655) |

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

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

Initiative: Reduces funding not required to support program costs.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($945,000) | ($555,000) |
| GENERAL FUND TOTAL | ($945,000) | ($555,000) |

**Mental Health Services - Children 0136**

Initiative: Deappropriates funds based on a history of lapsed balances and fiscal year 2009-10 first quarter allotment reserves.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($145,000) | ($145,000) |
| GENERAL FUND TOTAL | ($145,000) | ($145,000) |

**Mental Health Services - Community 0121**

Initiative: Deappropriates funds based on a history of lapsed balances and fiscal year 2009-10 first quarter allotment reserves.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($145,000) | ($145,000) |
| GENERAL FUND TOTAL | ($145,000) | ($145,000) |

**Mental Retardation Services - Community 0122**

Initiative: Deappropriates funds based on a history of lapsed balances and fiscal year 2009-10 first quarter allotment reserves.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($145,000) | ($145,000) |
| GENERAL FUND TOTAL | ($145,000) | ($145,000) |

**Office of Substance Abuse 0679**

Initiative: Deappropriates funds based on a history of lapsed balances and fiscal year 2009-10 first quarter allotment reserves.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($10,000) | ($10,000) |
| GENERAL FUND TOTAL | ($10,000) | ($10,000) |

| HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY BDS) DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($1,390,000) | ($1,000,000) |
| DEPARTMENT TOTAL - ALL FUNDS | ($1,390,000) | ($1,000,000) |

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

**FHM - Bureau of Health 0953**

Initiative: Transfers one Public Service Manager II position from the Office of Management and Budget program to the FHM - Bureau of Health program.

| FUND FOR A HEALTHY MAINE | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $110,092 |
| FUND FOR A HEALTHY MAINE TOTAL | $0 | $110,092 |

**Office of Elder Services Central Office 0140**

Initiative: Deappropriates funds based on a history of lapsed balances and fiscal year 2009-10 first quarter allotment reserves.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($5,000) | ($5,000) |
| GENERAL FUND TOTAL | ($5,000) | ($5,000) |

**Office of Management and Budget 0142**

Initiative: Transfers one Public Service Manager II position from the Office of Management and Budget program to the FHM - Bureau of Health program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($110,092) |
| GENERAL FUND TOTAL | $0 | ($110,092) |

**Purchased Social Services 0228**

Initiative: Deappropriates funds based on a history of lapsed balances and fiscal year 2009-10 first quarter allotment reserves.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($50,000) | ($50,000) |
| GENERAL FUND TOTAL | ($50,000) | ($50,000) |

### State Supplement to Federal Supplemental Security Income 0131

Initiative: Reduces funding not required to support program costs.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($500,000) |
| GENERAL FUND TOTAL | $0 | ($500,000) |

| HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS) DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($55,000) | ($665,092) |
| FUND FOR A HEALTHY MAINE | $0 | $110,092 |
| DEPARTMENT TOTAL - ALL FUNDS | ($55,000) | ($555,000) |

## HISTORIC PRESERVATION COMMISSION, MAINE

### Historic Preservation Commission 0036

Initiative: Transfers operational expenditures for professional services by the State from the General Fund to the Federal Expenditures Fund.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($11,750) | ($12,040) |
| GENERAL FUND TOTAL | ($11,750) | ($12,040) |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $11,750 | $12,040 |
| FEDERAL EXPENDITURES FUND TOTAL | $11,750 | $12,040 |

| HISTORIC PRESERVATION COMMISSION, MAINE DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($11,750) | ($12,040) |
| FEDERAL EXPENDITURES FUND | $11,750 | $12,040 |
| DEPARTMENT TOTAL - ALL FUNDS | $0 | $0 |

## INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF

### Administrative Services - Inland Fisheries and Wildlife 0530

Initiative: Reduces funding for charges made by the Department of Administrative and Financial Services, Division of Financial and Personnel Services as a result of the elimination of one Inventory and Property Assistant position in the Natural Resources Service Center.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($8,444) |
| GENERAL FUND TOTAL | $0 | ($8,444) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($3,120) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($3,120) |

| INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | $0 | ($8,444) |
| OTHER SPECIAL REVENUE FUNDS | $0 | ($3,120) |
| DEPARTMENT TOTAL - ALL FUNDS | $0 | ($11,564) |

## LABOR, DEPARTMENT OF

### Governor's Training Initiative Program 0842

Initiative: Reduces funding for the Governor's Training Initiative Program beginning in fiscal year 2009-10.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($250,000) | ($250,000) |
| GENERAL FUND TOTAL | ($250,000) | ($250,000) |

| LABOR, DEPARTMENT OF<br>DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($250,000) | ($250,000) |
| DEPARTMENT TOTAL - ALL FUNDS | ($250,000) | ($250,000) |

## MARINE RESOURCES, DEPARTMENT OF

### Bureau of Resource Management 0027

Initiative: Reallocates the cost of one Marine Resource Scientist II position from 100% General Fund in the Bureau of Resource Management program to 50% General Fund in the Bureau of Resource Management program and 50% Other Special Revenue Funds in the Office of the Commissioner program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($43,444) | ($44,110) |
| GENERAL FUND TOTAL | ($43,444) | ($44,110) |

### Marine Patrol - Bureau of 0029

Initiative: Transfers one Public Service Manager II position from the General Fund to Other Special Revenue Funds within the same program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| Personal Services | ($21,439) | ($94,275) |
| GENERAL FUND TOTAL | ($21,439) | ($94,275) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 1.000 | 1.000 |
| Personal Services | $21,439 | $94,275 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $21,439 | $94,275 |

### Marine Patrol - Bureau of 0029

Initiative: Reduces funding for the purchase of law books.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($1,000) | ($1,000) |
| GENERAL FUND TOTAL | ($1,000) | ($1,000) |

### Office of the Commissioner 0258

Initiative: Reallocates the cost of one Marine Resource Scientist II position from 100% General Fund in the Bureau of Resource Management program to 50% General Fund in the Bureau of Resource Management program and 50% Other Special Revenue Funds in the Office of the Commissioner program.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $43,444 | $44,110 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $43,444 | $44,110 |

### Office of the Commissioner 0258

Initiative: Eliminates funding for the printing of tide charts.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($700) | ($700) |
| GENERAL FUND TOTAL | ($700) | ($700) |

### Office of the Commissioner 0258

Initiative: Reduces funding for charges made by the Department of Administrative and Financial Services, Division of Financial and Personnel Services as a result of the elimination of one Inventory and Property Assistant position in the Natural Resources Service Center.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($5,236) |
| GENERAL FUND TOTAL | $0 | ($5,236) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|

| | | |
|---|---|---|
| All Other | $0 | ($685) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($685) |

### Sea Run Fisheries and Habitat Z049

Initiative: Transfers one Biologist I position from the General Fund to the Federal Expenditures Fund within the same program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| Personal Services | ($72,111) | ($73,337) |
| GENERAL FUND TOTAL | ($72,111) | ($73,337) |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 1.000 | 1.000 |
| Personal Services | $72,111 | $73,337 |
| FEDERAL EXPENDITURES FUND TOTAL | $72,111 | $73,337 |

### Sea Run Fisheries and Habitat Z049

Initiative: Eliminates funding for the Atlantic Salmon Commission.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($500) | ($1,000) |
| GENERAL FUND TOTAL | ($500) | ($1,000) |

| MARINE RESOURCES, DEPARTMENT OF<br>DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($139,194) | ($219,658) |
| FEDERAL EXPENDITURES FUND | $72,111 | $73,337 |
| OTHER SPECIAL REVENUE FUNDS | $64,883 | $137,700 |
| DEPARTMENT TOTAL - ALL FUNDS | ($2,200) | ($8,621) |

## PUBLIC SAFETY, DEPARTMENT OF

### Liquor Enforcement 0293

Initiative: Eliminates funding for radios for the Liquor Licensing unit.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($3,000) | ($6,000) |
| GENERAL FUND TOTAL | ($3,000) | ($6,000) |

### State Police 0291

Initiative: Eliminates funding for pagers for the State Police.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($7,000) | ($14,000) |
| GENERAL FUND TOTAL | ($7,000) | ($14,000) |

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($6,725) | ($13,451) |
| HIGHWAY FUND TOTAL | ($6,725) | ($13,451) |

### State Police 0291

Initiative: Eliminates funding for Troop D barracks for the State Police.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($7,000) | ($14,000) |
| GENERAL FUND TOTAL | ($7,000) | ($14,000) |

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($6,725) | ($13,451) |
| HIGHWAY FUND TOTAL | ($6,725) | ($13,451) |

| PUBLIC SAFETY, DEPARTMENT OF<br>DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($17,000) | ($34,000) |
| HIGHWAY FUND | ($13,450) | ($26,902) |
| DEPARTMENT TOTAL - ALL FUNDS | ($30,450) | ($60,902) |

## SECRETARY OF STATE, DEPARTMENT OF

### Bureau of Administrative Services and Corporations 0692

Initiative: Reduces funding through eliminating the requirement that referendum questions be advertised in the State's 7 daily newspapers.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($20,000) | ($20,000) |
| GENERAL FUND TOTAL | ($20,000) | ($20,000) |

| SECRETARY OF STATE, DEPARTMENT OF DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($20,000) | ($20,000) |
| DEPARTMENT TOTAL - ALL FUNDS | ($20,000) | ($20,000) |

## STATE PLANNING OFFICE

### Planning Office 0082

Initiative: Reduces funding to maintain costs within projected available resources.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($79,053) | ($80,091) |
| GENERAL FUND TOTAL | ($79,053) | ($80,091) |

| STATE PLANNING OFFICE DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($79,053) | ($80,091) |
| DEPARTMENT TOTAL - ALL FUNDS | ($79,053) | ($80,091) |

## TREASURER OF STATE, OFFICE OF

### Administration - Treasury 0022

Initiative: Recognizes savings in banking services.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($102,720) |
| GENERAL FUND TOTAL | $0 | ($102,720) |

### Debt Service - Treasury 0021

Initiative: Reduces funding for debt service based on updated projections for the bond package approved by the Legislature in Public Law 2009, chapter 414 coupled with revisions to the interest rate assumptions.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($3,485,483) | ($5,888,104) |
| GENERAL FUND TOTAL | ($3,485,483) | ($5,888,104) |

| TREASURER OF STATE, OFFICE OF DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($3,485,483) | ($5,990,824) |
| DEPARTMENT TOTAL - ALL FUNDS | ($3,485,483) | ($5,990,824) |

| SECTION TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($6,165,800) | $19,475,103 |
| HIGHWAY FUND | ($13,450) | ($26,902) |
| FEDERAL EXPENDITURES FUND | $97,314 | $120,716 |
| FUND FOR A HEALTHY MAINE | $0 | $110,092 |
| OTHER SPECIAL REVENUE FUNDS | $260,961 | $449,396 |
| FINANCIAL AND PERSONNEL SERVICES FUND | $0 | ($46,145) |
| SECTION TOTAL - ALL FUNDS | ($5,820,975) | $20,082,260 |

## PART B

**Sec. B-1. Transfer of excess equity reserves from Workers' Compensation Management Fund.** Notwithstanding any other provision of law, the State Controller shall transfer $1,772,840 representing the General Fund share of excess equity reserve for workers' compensation by June 30, 2010 from the Workers' Compensation Management Fund in the Department of Administrative and Financial Services to the unappropriated surplus of the General Fund. The State Controller shall also transfer the equitable share of workers' compensation excess equity reserve to each participating fund by June 30, 2010.

**Sec. B-2. Calculation and transfer; General Fund; Statewide Workers' Compensation Savings.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in the Statewide Workers' Compen-

sation Savings account in the Department of Administrative and Financial Services in section 3 that applies against each General Fund account for departments and agencies statewide in fiscal year 2010-11 from savings achieved through an adjustment in the rates for workers' compensation. 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 2010-11.

**Sec. B-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 from departments and agencies statewide from projected savings in Personal Services achieved through a rate reduction for workers' compensation.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($1,731,300) |
| GENERAL FUND TOTAL | $0 | ($1,731,300) |

## PART C

**Sec. C-1. Lapse; unencumbered balance; Debt Service Payments; Office of the Treasurer of State.** Notwithstanding any other provision of law, the State Controller shall lapse $6,393,322 from the unencumbered balance in All Other from the General Fund Debt Service Payments account in the office of the Treasurer of State to General Fund unappropriated surplus at the close of fiscal year 2009-10.

## PART D

**Sec. D-1. 1 MRSA §353,** as amended by PL 2009, c. 341, §1, is further amended to read:

**§353. Explanation of proposed amendments and statewide referenda**

With the assistance of the Secretary of State, the Attorney General shall prepare a brief explanatory statement that must fairly describe the intent and content and what a "yes" vote favors and a "no" vote opposes for each constitutional resolution or statewide referendum that may be presented to the people and that must include any information prepared by the Treasurer of State under Title 5, section 152. The explanatory statement may not include comments of proponents or opponents as provided by section 354. In addition to the explanatory statement, the Office of Fiscal and Program Review shall prepare an estimate of the fiscal impact of each constitutional resolution or statewide referendum on state revenues, appropriations and allocations within 10 business days after the receipt of the application and full text of the proposed law by the Secretary of State. The fiscal impact estimate must summarize the aggregate impact that the constitutional resolution or referendum will have on the General Fund, the Highway Fund, Other Special Revenue Funds and the amounts distributed by the State to local units of government. ~~The Secretary of State shall publish the explanatory statement and the fiscal estimate in each daily newspaper of the State, not more than 10 and not less than 7 days prior to the voting. This information may be published in the English language in a foreign language newspaper.~~

## PART E

**Sec. E-1. 30-A MRSA §5681, sub-§5-C,** as enacted by PL 2009, c. 213, Pt. S, §6 and affected by §16, is amended to read:

**5-C. Transfers to General Fund.** For the months beginning on or after July 1, 2009, ~~$18,758,840~~ $19,383,491 in fiscal year 2009-10 and ~~$25,260,943~~ $25,270,254 in fiscal year 2010-11 from the total transfers pursuant to subsection 5 must be transferred to General Fund undedicated revenue. The amounts transferred to General Fund undedicated revenue each fiscal year pursuant to this subsection must be deducted from the distributions required by subsections 4-A and 4-B based on the percentage share of the transfers to the Local Government Fund pursuant to subsection 5. The reductions in this subsection must be allocated to each month proportionately based on the budgeted monthly transfers to the Local Government Fund as determined at the beginning of the fiscal year.

**Sec. E-2. Transfers to General Fund for fiscal year 2009-10.** Notwithstanding the requirement in the Maine Revised Statutes, Title 30-A, section 5681, subsection 5-C that amounts must be transferred to General Fund undedicated revenue on a proportionate basis, for fiscal year 2009-10, only $19,383,491 must be transferred on a proportional basis based on the number of months remaining in fiscal year 2009-10 following the effective date of this Part.

## PART F

**Sec. F-1. Install fee collection stations at unstaffed state park entrances.** The Commissioner of Conservation shall install fee collection stations at unstaffed entrances of certain state parks and historic sites and, pursuant to the Maine Revised Statutes, Title 12, section 1819, shall establish, in a manner determined most appropriate by the commissioner, fees so as to generate additional undedicated revenue to the General Fund of $17,000 in fiscal year 2009-10 and $132,000 annually beginning in fiscal year 2010-11.

## PART G

**Sec. G-1. 5 MRSA §1582, sub-§4,** as amended by PL 2009, c. 213, Pt. BB, §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, 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. G-2. Salary Plan program; lapsed balances; Administrative and Financial Services, General Fund.** Notwithstanding any other provision of law, $500,000 at the close of fiscal year 2009-10 and $468,985 at the close of fiscal year 2010-11 of unencumbered balance forward in the Personal Services line category in the Salary Plan program, General Fund account in the Department of Administrative and Financial Services lapses to the General Fund unappropriated surplus.

## PART H

**Sec. H-1. 8 MRSA §1036, sub-§2, ¶E,** as amended by PL 2005, c. 663, §12, 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 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;

## PART I

**Sec. I-1. 22 MRSA §3273, sub-§7,** as enacted by PL 1977, c. 712, §3, is repealed.

**Sec. I-2. 22 MRSA §3273, sub-§7-A** is enacted to read:

**7-A. Transfer of funds prohibited.** Funds appropriated to support benefits authorized under sections 3271 and 3274 may not be transferred by financial order.

**Sec. I-3. 22 MRSA §3274, sub-§4,** as enacted by PL 1973, c. 790, §3, is amended to read:

**4. Inconsistent provisions.** The provisions of sections 3271, 3272 and 3273, except for section 3273, subsection 7-A, do not apply to so-called "mandatory" payments. If any provision of these sections is inconsistent with this section, this section, as it relates to mandatory payments, ~~shall prevail~~ prevails.

## PART J

**Sec. J-1. 5 MRSA §20072-A** is enacted to read:

**§20072-A. Funding**

General Fund appropriations for the Driver Education and Evaluation Programs may not exceed $1,700,000 in any fiscal year.

## PART K

**Sec. K-1. 5 MRSA §933, sub-§1, ¶L,** as enacted by PL 2005, c. 337, §2 and affected by §4, is amended to read:

L. Director, Division of Animal Health and Industry; and

**Sec. K-2. 5 MRSA §933, sub-§1, ¶M,** as enacted by PL 2005, c. 337, §2 and affected by §4, is repealed.

## PART L

**Sec. L-1. Adjustment for general purpose aid for local schools.** Notwithstanding any other provision of law, the Department of Education is authorized to temporarily adjust payments to local school administrative units under the General Purpose Aid for Local Schools program in fiscal year 2009-10 pursuant to the curtailment of the allotment of $38,098,223 contained in Executive Order 05 FY 10/11 dated November 20, 2009.

**Sec. L-2. Report.** The Department of Education shall report to the Joint Standing Committee on Education and Cultural Affairs and the Joint Standing Committee on Appropriations and Financial Affairs regarding the implementation of this Part no later than March 1, 2010.

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

Effective January 21, 2010.

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## CHAPTER 463

## H.P. 1070 - L.D. 1521

### An Act To Clarify the State's Initiative Involving the Federal Post-9/11 Veterans Educational Assistance Act of 2008

**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 2009, chapter 443 established a waiver of the tuition charges remaining for veterans who are using benefits under the federal Post-9/11 Veterans Educational Assistance Act of 2008 and who are enrolled as undergraduate students at any campus of the University of Maine System, the Maine Community College System and Maine Maritime Academy; and

**Whereas,** the legislative intent of Public Law 2009, chapter 443 was to establish a waiver of the tuition charges for eligible veterans in a manner that also provided the opportunity for the University of Maine System, the Maine Community College System and Maine Maritime Academy to receive the maximum possible funding from the federal Department of Veterans Affairs; and

**Whereas,** an unintended consequence of the provisions established by Public Law 2009, chapter 443 is that campuses of the University of Maine System, the Maine Community College System and Maine Maritime Academy would receive, in some cases, less than the in-state tuition rates that they charge to eligible veterans enrolled as undergraduate students; and

**Whereas,** immediate enactment of this legislation is necessary to prevent a significant and adverse fiscal impact for the campuses of the University of Maine System, the Maine Community College System and Maine Maritime Academy; 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 §10010,** as enacted by PL 2009, c. 443, §1, is amended to read:

**§10010. Veterans**

Regardless of the state of residence, a veteran of the Armed Forces of the United States using the benefits under the Post-9/11 Veterans Educational Assistance Act of 2008 must receive a waiver from the tuition that remains after the application of all payments from the federal Department of Veterans Affairs, including payments under the Yellow Ribbon G.I. Education Enhancement Program in the Post-9/11 Veterans Educational Assistance Act of 2008, and the application of other nonrepayable resources for which the veteran may be eligible. The amount of the tuition waiver received by a veteran under this section may not exceed an amount that lowers the tuition to less than the in-state tuition charged by the institution. This section applies to all veterans enrolled at any campus of the University of Maine System, the Maine Community College System or Maine Maritime Academy in an undergraduate program of education.

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

Effective February 8, 2010.

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## CHAPTER 464

## H.P. 1069 - L.D. 1520

### An Act To Allow the Board of Dental Examiners To Grant Permits to Qualified Individuals To Practice as Dental Residents

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

**Sec. 1. 32 MRSA §1086,** as amended by PL 1997, c. 107, §7, is further amended by adding at the end a new paragraph to read:

The board has the authority, upon presentation of satisfactory credentials and fulfillment of other conditions set by rule adopted by the board, to issue a permit to a graduate of an approved dental school or college who has not been licensed to practice dentistry in this State, who has passed an examination for licensure in this State and who, in the board's judgment, has not violated a provision of this chapter or rules adopted by the board to serve as a dental resident in a board-approved dental setting within the State. The board must, prior to the issuance of a permit under this paragraph, determine that the supervision and control of the services to be performed by the dental resident are adequate and that the performance of these services by the dental resident are within the dental resident's dental knowledge and skill. The dental resident must function under the supervision and direction of a dentist licensed in this State. A permit under this paragraph may not be valid for more than one year. The board may charge a fee up to $50 for a permit.

See title page for effective date.

## CHAPTER 465

## H.P. 1110 - L.D. 1572

## An Act To Correct Errors in the Laws Relating to Unlicensed Practice and Other Provisions of the Professional and Occupational Licensing Laws

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

**Sec. 1. 10 MRSA §8003-B, sub-§1,** as amended by PL 1999, c. 687, Pt. C, §10, is further amended to read:

**1. During investigation.** Unless otherwise provided by Title 24, chapter 21, all complaints and investigative records of the licensing boards ~~and~~, commissions and regulatory functions within or affiliated with the Department of Professional and Financial Regulation are confidential during the pendency of an investigation. Those records become public records upon the conclusion of an investigation unless confidentiality is required by some other provision of law. For purposes of this section, an investigation is concluded when:

A. A notice of an adjudicatory hearing under Title 5, chapter 375, subchapter ~~IV~~ 4 has been issued;

C. A consent agreement has been executed; or

D. A letter of dismissal has been issued or the investigation has otherwise been closed.

**Sec. 2. 10 MRSA §8003-B, sub-§2-A,** as amended by PL 2001, c. 345, §1, is further amended to read:

**2-A. Certain client records confidential.** Notwithstanding subsections 1 and 2, a treatment record provided to a licensing board or commission or in connection with a regulatory function within or affiliated with the department during investigation of a person licensed by the department in a medical, mental health, substance abuse, psychological or health field that contains information personally identifying a licensee's client or patient is confidential during the pendency of the investigation and remains confidential upon the conclusion of the investigation. A treatment record may be disclosed only if:

A. The client or patient executes a written release that states that:

(1) Unless the release provides for more limited disclosure, execution of the release may result in the record becoming a public record; or

(2) If the client or patient wishes, execution of the release allows disclosure to only the person or persons clearly identified in the release. The release must require the person or persons identified in the release not to make a disclosure to another person;

B. The disclosure is necessary under Title 22, chapter 857 concerning personnel and licensure actions;

C. The disclosure is necessary under Title 22, section 3474 concerning reports of suspected adult abuse or exploitation;

D. The disclosure is necessary under Title 22, section 4011-A concerning reports of suspected child abuse or neglect; or

E. The disclosure is necessary under Title 22, section 7703 concerning reports of suspected child or adult abuse or neglect.

A release executed by a client or patient does not operate to disclose a record otherwise made confidential by law.

This subsection does not prevent disclosure of records pursuant to an order of a court of competent jurisdiction upon good cause shown.

**Sec. 3. 10 MRSA §8003-C, sub-§1,** as enacted by PL 1999, c. 687, Pt. C, §12, is amended to read:

**1. Complaints of unlicensed practice.** A board or commission ~~listed~~ identified in section 8001, subsection 38 or section 8001-A or a regulatory function administered by the Office of Licensing and Registration identified in section 8001, subsection 38 may receive or initiate complaints of unlicensed practice.

**Sec. 4. 10 MRSA §8003-C, sub-§3,** as repealed and replaced by PL 2003, c. 452, Pt. E, §10 and affected by Pt. X, §2, is amended to read:

**3. Unlicensed practice; criminal penalties.** Notwithstanding any other provision of law:

A. A person who practices or represents to the public that the person is authorized to practice a profession or trade and intentionally, knowingly or recklessly fails to obtain a license as required by ~~this Title~~ the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A or intentionally, knowingly or recklessly practices or represents to the public that the person is authorized to practice after the license required by ~~this Title~~ the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A has expired or been suspended or revoked commits a Class E crime; and

B. A person who practices or represents to the public that the person is authorized to practice a profession or trade and intentionally, knowingly or recklessly fails to obtain a license as required by ~~this Title~~ the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A or intentionally, knowingly or recklessly practices or represents to the public that the person is authorized to practice after the license required by ~~this Title~~ the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A has expired or been suspended or revoked when the person has a prior conviction under this subsection commits a Class D crime. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence, except that, for purposes of this paragraph, the date of the prior conviction must precede the commission of the offense being enhanced by no more than 3 years.

**Sec. 5. 10 MRSA §8003-C, sub-§4,** as amended by PL 2009, c. 44, §1, is further amended to read:

**4. Unlicensed practice; civil penalties.** Any person who practices or represents to the public that the person is authorized to practice a profession or trade without first obtaining a license as required by ~~this Title~~ the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A or after the license has expired or has been suspended or revoked commits a civil violation punishable by a fine of not less than $1,000 but not more than $5,000 for each violation. An action under this subsection may be brought in District Court or, in combination with an action under subsection 5, in Superior Court.

**Sec. 6. 10 MRSA §8003-D,** as enacted by PL 1999, c. 687, Pt. C, §12, is amended to read:

**§8003-D. Investigations; enforcement duties; assessments**

When there is a finding of a violation, a board or commission ~~listed~~ identified in section 8001, subsection 38 or section 8001-A or the Office of Licensing and Registration with regard to a regulatory function identified in section 8001, subsection 38 administered by the office may assess the licensed person or entity for all or part of the actual expenses incurred by the board, commission, Office of Licensing and Registration or ~~its~~ their agents for investigations and enforcement duties performed.

"Actual expenses" include, but are not limited to, travel expenses and the proportionate part of the salaries and other expenses of investigators or inspectors, hourly costs of hearing officers, costs associated with record retrieval and the costs of transcribing or reproducing the administrative record.

The board ~~or~~, commission or Office of Licensing and Registration, as soon as feasible after finding a violation, shall give the licensee notice of the assessment. The licensee shall pay the assessment in the time specified by the board ~~or~~, commission or Office of Licensing and Registration, which may not be less than 30 days.

**Sec. 7. 10 MRSA §8003-E,** as enacted by PL 1999, c. 687, Pt. C, §12, is amended to read:

**§8003-E. Citations and fines**

Any board or commission ~~listed~~ identified in section 8001, subsection 38 or section 8001-A or a regulatory function administered by the Office of Licensing and Registration identified in section 8001, subsection 38 may adopt by rule a list of violations for which citations may be issued by professional technical support staff. A violation may carry a fine not to exceed $200. Citations issued by employees of the Office of Licensing and Registration or an affiliated board must expressly inform the licensee that the licensee may pay the fine or request a hearing before the board or commission or the Office of Licensing and Registration

with regard to a regulatory function identified in section 8001, subsection 38 administered by the office regarding the violation.

See title page for effective date.

## CHAPTER 466
## H.P. 1087 - L.D. 1543

### An Act To Make Maine Laws Consistent with Recent Amendments to the United States Trade Act of 1974

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

**Sec. 1. 26 MRSA §1191, sub-§3,** as amended by PL 1991, c. 193, §3, is further amended to read:

**3. Weekly benefit for partial unemployment.** Each eligible individual who is partially unemployed in any week must be paid a partial benefit for that week. The partial benefit is equal to the weekly benefit amount less the individual's weekly earnings in excess of $25. ~~Any amount received from the Federal Government by members of the National Guard and organized reserve, including base pay and allowances or any amounts received as a volunteer firefighter, as a volunteer emergency medical services person or as elected members of the Legislature, is not considered wages for the purpose of this subsection.~~ The following amounts are not considered wages for purposes of this subsection:

A. Amounts received from the Federal Government by a member of the National Guard and organized reserve, including base pay and allowances;

B. Amounts received as a volunteer firefighter or as a volunteer emergency medical services person;

C. Amounts received as an elected member of the Legislature; and

D. Earnings for the week received as a result of participation in full-time training under the United States Trade Act of 1974 as amended by the United States Trade and Globalization Adjustment Assistance Act of 2009 up to an amount equal to the individual's most recent weekly benefit amount.

**Sec. 2. 26 MRSA §1192, sub-§6-A,** as enacted by PL 1981, c. 548, §2, is amended to read:

**6-A. Prohibition against disqualification of individuals in approved training under the United States Trade Act of 1974.** Notwithstanding any other provisions of this chapter, no otherwise eligible individual may be denied benefits for any week because ~~he~~ the individual is in training approved under 19 United States Code, Section 2296(a) or under any amendment or addition to the United States Trade Act of 1974, ~~Section 236 (a) (1),~~ nor may that individual be denied benefits by reason of leaving work to enter that training, provided the work left is not suitable employment, or because of the application to any such week in training of provisions in this chapter, or any applicable federal unemployment compensation law, relating to availability for work, active search for work or refusal to accept work. Benefits paid to any eligible claimant while in such training for which, except for this subsection, the claimant could be disqualified under section 1193, subsection 1 or 3, ~~shall~~ may not be charged against the experience rating record of any employer but ~~shall~~ must be charged to the General Fund.

For purposes of this subsection, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for purposes of the United States Trade Act of 1974, and wages for such work at not less than 80% of the individual's average weekly wage as determined for the purposes of the United States Trade Act of 1974.

See title page for effective date.

## CHAPTER 467
## H.P. 1252 - L.D. 1758

### An Act To Implement the Recommendations of the Task Force on the Sustainability of the Dairy Industry in 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,** milk producers are receiving milk payments that are below the cost of production; 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 §2952-A, sub-§3, ¶A,** as enacted by PL 2005, c. 382, Pt. F, §4, is amended to read:

A. Not less than once every 3 years, conduct independent studies of the economics and practices of the milk industry in order to assist the commission in establishing minimum prices. The studies must include the compilation of cost data for farms at ~~3~~ 4 different levels of production; and

**Sec. 2. 7 MRSA §3153-B, sub-§1, ¶D,** as enacted by PL 2003, c. 648, §2, is amended to read:

D. "Target price" means the short-run break-even point for each of ~~3~~ 4 categories of annual production. Target prices are determined in accordance with subsection 3.

**Sec. 3. 7 MRSA §3153-B, sub-§3,** as amended by PL 2007, c. 240, Pt. OOO, §1 and c. 262, §1, is further amended to read:

**3. Determination of target prices.** The Maine Milk Commission shall establish ~~3~~ 4 tiers of production, each representing a range of annual production. The commission shall use the most recent studies conducted in accordance with section 2952-A, subsection 3, paragraph A to estimate the short-run break-even point within each tier.

The Maine Milk Commission may establish and amend ranges of production for each tier and target prices through rulemaking. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 4. 7 MRSA §3153-C,** as amended by PL 2005, c. 230, §1, is repealed.

**Sec. 5. 7 MRSA §3153-D,** as enacted by PL 2005, c. 418, §1, is amended to read:

**§3153-D. Transfer of revenues**

On or before the ~~15th~~ 18th day of each month, the administrator of the Maine Milk Pool shall certify the amounts to be distributed for the previous month pursuant to ~~sections~~ section 3153-B ~~and 3153-C~~ 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. 6. PL 2007, c. 240, Pt. OOO, §2** is repealed.

**Sec. 7. PL 2007, c. 262, §2** is repealed.

**Sec. 8. PL 2009, c. 213, Pt. TTT, §2** is amended to read:

**Sec. TTT-2. Cap on transfers for the dairy stabilization program in fiscal years 2009-10 and 2010-11.** Notwithstanding the Maine Revised Statutes, Title 7, section 3153-D, in fiscal years 2009-10 and 2010-11, the administrator of the Maine Milk Pool may not certify any amount to be transferred from the General Fund for distributions under Title 7, section 3153-B that would bring the total amount transferred in fiscal years 2009-10 and 2010-11 above ~~$13,349,600~~ $17,361,291.

Notwithstanding Title 7, section 3153-B, in fiscal years 2009-10 and 2010-11, the administrator of the Maine Milk Pool may not distribute payments for dairy stabilization support that in the aggregate exceed ~~$13,349,600~~ $17,361,291.

**Sec. 9. Interim target prices.** Beginning July 1, 2010 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 $20.70 per hundredweight;

2. For production from 16,791 hundredweight to 49,079 hundredweight per year, the target price is $18.07 per hundredweight;

3. For production from 49,080 hundredweight to 76,803 hundredweight per year, the target price is $17.29 per hundredweight; and

4. For production in excess of 76,803 hundredweight per year, the target price is $16.51 per hundredweight.

**Sec. 10. Administrator authorized to make monthly adjustments during the period from July 1, 2010 to June 30, 2011.** During the period from July 1, 2010 to June 30, 2011, the administrator of the Maine Milk Pool shall monitor milk price projections and each month calculate the amounts to be paid out under the dairy stabilization program for fiscal year 2010-11 based on these projections. The administrator may adjust the amount requested and the amount distributed in any month during this period based on the most recent projections and calculations. The administrator may reduce payments only if projections indicate that the total distributions under the stabilization program will exceed $17,361,291 in the biennium consisting of fiscal years 2009-10 and 2010-11.

If projections indicate that total distributions will exceed $17,361,291, the administrator shall adjust payments distributed in October 2010 to June 2011 on milk produced in the months of September 2010 to May 2011 by multiplying the target price for each tier by the same percent. The administrator shall adjust

payments distributed in July, August and September 2010 on milk produced in June, July and August 2010, respectively, in accordance with sections 11 and 12.

**Sec. 11. Calculation of payments for milk produced June 1, 2010 to August 31, 2010.** Notwithstanding the Maine Revised Statutes, Title 7, section 3153-B, the administrator of the Maine Milk Pool shall calculate and make payments to Maine milk producers in accordance with this section for milk produced from June 1, 2010 to August 31, 2010.

1. No later than June 15, 2010, the administrator of the Maine Milk Pool shall assign each producer to one of 4 tiers based on that producer's total production during the 12-month period beginning June 1, 2009 and ending May 31, 2010.

2. Upon receiving the production data for June 2010, the administrator shall:

A. Calculate the amount of money due each producer in accordance with Title 7, section 3153-B, subsection 4;

B. Reduce each producer's payment by a percentage established in section 12; and

C. Certify to the State Controller the amounts to be transferred and distributed.

3. The administrator shall calculate payments for milk produced in July 2010 and milk produced in August 2010 in the manner prescribed in subsection 2, paragraphs A, B and C.

**Sec. 12. Reductions in payments for milk produced in June, July and August 2010.** The administrator of the Maine Milk Pool shall determine the percentage reduction in payments required under section 11, subsection 2, paragraph B in a manner that results in:

1. Each producer within a tier receiving the same percentage reduction in payment for a month as other producers in that tier receive for that month; and

2. Percentage reductions between adjacent tiers in a ratio of 1 to 2, progressing from tier 1 to tier 4.

**Sec. 13. Calculation and distribution of dairy stabilization payments beginning July 1, 2011.** Beginning July 1, 2011 and until further legislative action is taken, the administrator of the Maine Milk Pool shall calculate and distribute payments in accordance with the Maine Revised Statutes, Title 7, section 3153-B using the production levels and target prices established in section 9. The administrator may not use authority under section 10 or 11 to reduce payments after June 30, 2011.

**Sec. 14. Improvements to cost-of-production study.** The Maine Milk Commission shall develop a method for comprehensive data collection to improve the reliability and verification of the cost-of-production studies used to determine target prices under the Maine Revised Statutes, Title 7, section 3153-B, subsection 3. With improved information, the commission shall establish tiers that are more representative of Maine dairy farms and target prices that more closely approximate the short-run break-even point for each tier.

**Sec. 15. Report to joint standing committee.** No later than January 15, 2011, the Maine Milk Commission shall report to the joint standing committee of the Legislature having jurisdiction over agriculture matters on the improved data collection method developed under section 14. The report must contain a timetable for implementing the method and for revising the tiers of production and target prices in accordance with the Maine Revised Statutes, Title 7, section 3153-B, subsection 3.

**Sec. 16. Legislation authorized.** The joint standing committee of the Legislature having jurisdiction over agriculture matters may submit legislation to the 125th Legislature to revise the tiers and target prices used to calculate dairy stabilization payments to Maine milk producers under the Maine Revised Statutes, Title 7, section 3153-B.

**Sec. 17. Appropriations and allocations.** The following appropriations and allocations are made.

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

**Milk Commission 0188**

Initiative: Provides allocation to the Maine Milk Pool for fiscal year 2010-11 based on an increase in the cap on the milk subsidy to $17,361,291 for fiscal year 2010-11.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $4,011,691 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $4,011,691 |

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

Effective February 12, 2010.

## CHAPTER 468

## H.P. 1247 - L.D. 1753

## An Act To Adjust the Milk Handling Fee

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

**Whereas,** revenue from the milk handling fee to the General Fund varies widely when the price of milk experiences extreme fluctuations; and

**Whereas,** establishing a minimum and maximum handling fee may increase the accuracy of revenue projections; 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 §4902, sub-§2-A,** as enacted by PL 2007, c. 240, Pt. PPP, §3 and c. 269, §3, is amended to read:

**2-A. Rate.** The rate of the fee levied under this chapter is established for each fee period on the basis of the basic price of milk in effect on the Sunday following the first Sunday of the fee period in accordance with this subsection:

A. If the basic price is ~~$24.00~~ $21.00 per hundredweight and above, the rate of the milk handling fee is ~~0¢~~ 4¢ per gallon;

~~B. If the basic price is $23.00 to $23.99 per hundredweight, the rate of the milk handling fee is 2¢ per gallon;~~

~~C. If the basic price is $22.00 to $22.99 per hundredweight, the rate of the milk handling fee is 4¢ per gallon;~~

~~D. If the basic price is $21.00 to $21.99 per hundredweight, the rate of the milk handling fee is 6¢ per gallon;~~

E. If the basic price is $20.00 to $20.99 per hundredweight, the rate of the milk handling fee is 8¢ per gallon;

F. If the basic price is ~~$19.00~~ $19.50 to $19.99 per hundredweight, the rate of the milk handling fee is ~~10¢~~ 12¢ per gallon;

~~G. If the basic price is $18.00 to $18.99 per hundredweight, the rate of the milk handling fee is 12¢ per gallon;~~

H. If the basic price is ~~$17.50~~ $19.00 to ~~$17.99~~ $19.49 per hundredweight, the rate of the milk handling fee is 16¢ per gallon;

I. If the basic price is ~~$17.00~~ $18.50 to ~~$17.49~~ $18.99 per hundredweight, the rate of the milk handling fee is 20¢ per gallon;

J. If the basic price is ~~$16.50~~ $18.00 to ~~$16.99~~ $18.49 per hundredweight, the rate of the milk handling fee is 24¢ per gallon;

K. If the basic price is ~~$16.00~~ $17.50 to ~~$16.49~~ $17.99 per hundredweight, the rate of the milk handling fee is 28¢ per gallon;

L. If the basic price is ~~$15.50~~ $17.00 to ~~$15.99~~ $17.49 per hundredweight, the rate of the milk handling fee is 32¢ per gallon; and

M. If the basic price is ~~$15.00~~ $16.50 to ~~$15.49~~ $16.99 per hundredweight, the rate of the milk handling fee is 36¢ per gallon.

If the basic price falls below ~~$15.00~~ $16.50 per hundredweight, for each 50¢ decrease in the basic price, the rate of the milk handling fee increases by ~~6¢~~ 4¢ per gallon until the handling fee reaches a maximum of 84¢ per gallon.

For any container other than a gallon, the fee is computed on a gallon-equivalent basis.

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

Effective February 12, 2010.

## CHAPTER 469

## S.P. 663 - L.D. 1736

### An Act To Improve Safety on Maine's Primary and Secondary Roads, Reduce Road Maintenance Costs and Improve the Environment and the Economy by Allowing Certain Heavy Commercial Vehicles on the Interstate Highway System in 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,** the United States Congress has enacted and the President of the United States has signed legislation allowing vehicles up to 100,000 pounds gross vehicle weight on all of the Interstate Highway System in Maine; and

**Whereas,** the federal legislation allows these larger vehicles on the Interstate for a period of only

one year beginning December 16, 2009, the date the President signed the legislation; and

**Whereas,** the Governor has signed a proclamation allowing certain heavier vehicles to travel on the Interstate until the Legislature acts to conform Maine law to the heavier allowances in federal law; and

**Whereas,** amending the law to allow for heavier vehicles to travel on the Interstate Highway System in Maine rather than on local roads promotes the interests of safety, less pollution and 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-A** is enacted to read:

**§2355-A. Six-axle truck weight pilot project**

Notwithstanding any other provision of this subchapter to the contrary, 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, a 6-axle combination vehicle consisting of a 3-axle truck tractor with a tri-axle semitrailer having a maximum gross vehicle weight of 100,000 pounds may be operated on any portion of the interstate system consistent with this subchapter as it applies to the Maine Turnpike.

For the purposes of this section, "interstate system" has the same meaning as in Title 23, section 1903, subsection 3.

**Sec. 2. Retroactivity.** This Act applies retroactively to December 16, 2009.

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

Effective February 12, 2010.

## CHAPTER 470

## H.P. 1005 - L.D. 1449

### An Act To Expand Tax Incentives for Visual Media Productions

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

**Sec. 1. 5 MRSA §13090-L,** as enacted by PL 2005, c. 519, Pt. GG, §1, is amended to read:

**§13090-L. Visual media production certification**

**1. Generally.** A visual media production company that intends to undertake a visual media production in this State may apply to the department to have the production, or a portion of the production, certified under subsection 3 for purposes of the visual media production reimbursement pursuant to Title 36, chapter 919-A and the credit under Title 36, section 5219-Y.

~~**2. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.~~

~~A. "Media production" means a single-medium or multimedia feature film, television show or series, video, commercial, photographic project, interactive computer or video game or other program intended for a national audience and fixed on film, video tape, computer disk, laser disc or other delivery medium that can be viewed or reproduced and that is exhibited in theaters or by individual television stations or groups of stations, television networks or cable television stations or via other means or licensed for home viewing or use.~~

~~"Media production" does not include:~~

~~(1) A news, current events or public programming show or a program that includes weather or market reports;~~

~~(2) A talk show;~~

~~(3) A sports event or activity;~~

~~(4) A gala presentation or awards show;~~

~~(5) A finished production that solicits funds; or~~

~~(6) A production produced by a media production company if records, as required by 18 United States Code, Section 2257, are to be maintained by that media production company with respect to any performer portrayed in that production.~~

~~B. "Media production company" means a person engaged in the business of producing a media production.~~

~~C. "Media production expense" means an expense directly incurred during the creation of a media production. This term includes wages and salaries of individuals employed in the production on which taxes have been paid or accrued; the cost of construction, operations, editing and related services, still and motion photography, sound recording and synchronization, lighting, wardrobe and accessories; and the rental of facilities and equipment, including location fees. The~~

~~term does not include expenses incurred in marketing and advertising a media production or in printing or otherwise disseminating a media production.~~

~~D. "Person" has the same meaning as in Title 36, section 111, subsection 3.~~

**2-A. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Digital media project" means visual and audio content on an electronic, digital medium and created, referred to and distributed electronically. "Digital media project" includes publicly accessible websites, computer multimedia, video and computer games and digital video discs.

B. "Maine State Film Office" means the Maine State Film Office established in the Office of Tourism pursuant to section 13090-I.

C. "Person" has the same meaning as in Title 36, section 111, subsection 3.

D. "Visual media production" means a single-medium or multimedia feature film, television show or series, video, digital media project or photographic project intended for a local, regional, national or international audience and fixed on film, videotape, computer disk, laser disc or other delivery medium that can be viewed or reproduced and that is exhibited in theaters or by individual television stations or groups of stations, television networks or cable television stations or via other means or licensed for home viewing or use. "Visual media production" does not include:

(1) A news, current events or public programming show or a program that includes weather or market reports;

(2) A talk show;

(3) A sports event or activity;

(4) A gala presentation or awards show;

(5) A finished production that solicits funds; or

(6) A production for which records are required to be maintained by 18 United States Code, Section 2257.

E. "Visual media production company" means a person engaged in the business of producing a visual media production.

F. "Visual media production expense" means an expense directly incurred in this State for preproduction, production or postproduction of a visual media production certified under this section. "Visual media production expense" includes wages and salaries of individuals employed in the production on which taxes have been paid or accrued if those wages do not exceed $50,000 per individual and payments to a temporary employee-leasing company, as defined in Title 36, section 6901, subsection 3-A, and other contractual payments for the services of individuals working in the State if those payments do not exceed $50,000 per individual providing services in the production. "Visual media production expense" includes the cost of construction; operations; editing and related services; music, photography and film processing, including transferring film to tape or a digital format; sound recording, mixing and synchronization; lighting, makeup, wardrobe and accessories; transportation; food and lodging for cast and crew; insurance and bonding; and the rental of facilities and equipment, including location fees. "Visual media production expense" does not include expenses incurred in marketing or advertising a visual media production or in printing or disseminating a visual media production.

**3. Requirements for visual media production certificate.** Applications for a visual media production certificate must be made on a form prescribed and furnished by the department. The applicant must:

A. Provide the names of the principals involved in the visual media production and contact information for them;

B. Provide a certificate of insurance for the visual media production;

C. Provide financial information that demonstrates that the visual media production is ~~economically sound~~ fully financed and that at least ~~$250,000~~ $75,000 of visual media production expense will be incurred ~~in Maine during a period of 12 consecutive months~~ for the visual media production certified in accordance with this subsection;

D. Provide data demonstrating that the visual media production will benefit the people of the State by increasing opportunities for employment and will strengthen the economy of the State;

E. Agree to include, in ~~all~~ the certified visual media ~~productions~~ production, an on-screen credit for the State of Maine. The exact wording and size of that credit must be determined in rules adopted by the Maine State Film Office and the department. The Maine State Film Office or the department may, at its discretion, exempt visual media productions from this requirement. Rules adopted pursuant to this paragraph are routine technical rules as defined in chapter 375, subchapter 2-A;

F. Provide evidence that the visual media production company is not owned by, affiliated with or

controlled by, in whole or in part, a person that is in default on a loan made by the State or a loan guaranteed by the State; ~~and~~

G. Provide any other information required by the department.~~;~~ and

H. Provide a projected schedule for preproduction, production and postproduction of the visual media production that shows that the production will begin within 60 days after certification pursuant to this subsection.

To qualify for a visual media production certificate, a visual media production company must demonstrate to the satisfaction of the commissioner that the visual media production company has met, or will meet, the ~~expectations and requirements under paragraphs B, C, D, E, F and G~~ requirements of this subsection. If the department determines that the applicant does not qualify for a visual media production certificate, it must inform the applicant of that determination in writing within 4 weeks of receiving the application. As soon as practicable, the department shall issue a visual media production certificate for a visual media production that qualifies. The department shall include with the certificate information regarding ~~qualification for a tax reimbursement and credit certificate pursuant to~~ the tax credit report under subsection 4 and procedures for claiming reimbursement under Title 36, chapter 919-A and the credit under Title 36, section 5219-Y.

**4. Certified visual media production report.** ~~Within~~ No later than 4 weeks ~~of~~ after completion of a certified visual media production, the visual media production company shall ~~confirm~~ report, in a format specified by the Maine State Film Office or the department, its compliance with the requirements of subsection 3 with respect to the certified visual media production to the Maine State Film Office and the State Tax Assessor. ~~Upon determining compliance by the media production company, the department shall issue to the company a tax reimbursement and credit certificate. The tax reimbursement and credit certificate entitle the media production company to claim the reimbursement provided by Title 36, chapter 919-A and the credit under Title 36, section 5219-Y.~~

**5. Department to provide information to State Tax Assessor.** The department shall provide to the State Tax Assessor copies of ~~tax reimbursement and credit certificates~~ the visual media production certificate issued ~~in accordance with~~ pursuant to subsection ~~4~~ 3, together with any other information reasonably required by the State Tax Assessor for the administration of visual media production reimbursement under Title 36, chapter 919-A and the credit under Title 36, section 5219-Y.

**6. Rulemaking.** The department shall develop rules as necessary to administer this section in cooperation with the State Tax Assessor. Rules adopted pursuant to this section are routine technical rules as defined in chapter 375, subchapter 2-A.

**7. Report.** The Maine State Film Office shall submit a report by January 15th annually to the joint standing committee of the Legislature having jurisdiction over taxation matters regarding the certification and reporting process pursuant to this section and the visual media production tax credit and reimbursement activities pursuant to Title 36, section 5219-Y and Title 36, chapter 919-A. The report must include a description of any rule-making activity related to the implementation of the credit and reimbursement activities, outreach efforts to visual media production companies, the number of applications for the visual media production credit and tax reimbursement, the number of credits and reimbursements granted, the revenue loss associated with the credit and reimbursement and the amount of visual media production expenses generated in the State as a result of the credit and reimbursement.

**Sec. 2. 10 MRSA §1100-T, sub-§2, ¶B,** as amended by PL 1999, c. 504, §10, is further amended to read:

B. The Maine business must be a manufacturer; must provide a product or service that is sold or rendered, or is projected to be sold or rendered, predominantly outside of the State; must be engaged in the development or application of advanced technologies; must be certified as a visual media production company under Title 5, section 13090-L; or must bring capital into the State, as determined by the authority.

**Sec. 3. 10 MRSA §1100-T, sub-§2-A, ¶B,** as amended by PL 1997, c. 774, §1, is further amended to read:

B. As used in this subsection, unless the context otherwise indicates, an "eligible business" means a business located in the State that:

(1) Is a manufacturer;

(2) Is engaged in the development or application of advanced technologies;

(3) Provides a service that is sold or rendered, or is projected to be sold or rendered, predominantly outside of the State; ~~or~~

(4) Brings capital into the State, as determined by the authority.~~;~~ or

(5) Is certified as a visual media production company under Title 5, section 13090-L.

**Sec. 4. 36 MRSA §191, sub-§2, ¶MM,** as reallocated by PL 2009, c. 361, §15, is amended to read:

MM. The disclosure to an authorized representative of the Department of Economic and Community Development of information required for the administration of the visual media production credit under section 5219-Y, the employment tax increment financing program under chapter 917, the visual media production reimbursement program under chapter 919-A or the Pine Tree Development Zone program under Title 30-A, chapter 206, subchapter 4.

**Sec. 5. 36 MRSA §5219-Y,** as enacted by PL 2005, c. 519, Pt. GG, §2, is repealed and the following enacted in its place:

**§5219-Y. Certified visual media production credit**

**1. Credit allowed.** A visual media production company, as defined in Title 5, section 13090-L, subsection 2-A, paragraph E, is allowed a credit against the taxes imposed by this Part in an amount equal to 5% of the visual media production expenses, as defined in Title 5, section 13090-L, subsection 2-A, paragraph F, if the visual media company has visual media production expenses of $75,000 or more. For purposes of this section, "visual media production expenses" does not include wages, salaries, commissions or any other form of compensation or remuneration paid to employees for personal services.

**2. Limitation.** The credit allowed by this section may not reduce the tax otherwise due under this Part below zero and may be used only for the taxable year in which the certified visual media production, as defined in section 6901, subsection 1, is completed. Taxpayers claiming a credit under section 5219-W are not eligible for this credit.

**Sec. 6. 36 MRSA §6901,** as enacted by PL 2005, c. 519, Pt. GG, §3, is amended to read:

**§6901. Definitions**

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

**1. Certified visual media production.** "Certified visual media production" means a visual media production that has been certified by the Department of Economic and Community Development ~~for eligibility~~ as eligible for reimbursement under this chapter in accordance with Title 5, section 13090-L.

**2. Certified production wages.** "Certified production wages" means wages that are paid ~~during the project period~~ by a visual media production company ~~that has been issued a tax reimbursement certificate in accordance with Title 5, section 13090-L~~ for work on a certified visual media production and that are subject to withholding pursuant to chapter 827. "Certified production wages" includes payments to a temporary employee-leasing company and payments for the services of performing artists working in the State. "Certified production wages" does not include any wages in excess of ~~$1,000,000~~ $50,000 paid to a single individual for personal services rendered in connection with a particular certified visual media production.

**3. Commissioner.** "Commissioner" means the Commissioner of Administrative and Financial Services.

**3-A. Temporary employee-leasing company.** "Temporary employee-leasing company" means a business that contracts with a visual media production company to supply workers to perform services for a certified visual media production or a private employment agency that contracts with a visual media production company to supply workers to perform services for a certified visual media production on a temporary help basis.

**4. Visual media production.** "~~Media~~ Visual media production" has the same meaning as in Title 5, section 13090-L, subsection ~~2~~ 2-A, paragraph ~~A~~ D.

**5. Visual media production company.** "~~Media~~ Visual media production company" has the same meaning as in Title 5, section 13090-L, subsection ~~2~~ 2-A, paragraph ~~B~~ E.

~~**6. Project period.** "Project period" means the period of time, not to exceed 12 consecutive months, that a media production company is engaged in the business of producing a media production or productions.~~

**7. Resident of Maine.** "Resident of Maine" means a person who:

A. Filed as a resident individual under Part 8 on that person's most recently filed Maine income tax return;

B. ~~If no income tax return was required, who could~~ Could have filed as a resident individual under Part 8 if a return had been required in a case where no income tax return was required; or

C. Was claimed, or could have been claimed, as a dependent on the Maine income tax return of an individual who filed as a resident individual under Part 8 on the filer's most recently filed Maine income tax return.

**Sec. 7. 36 MRSA §6902,** as amended by PL 2009, c. 361, §35, is further amended to read:

**§6902. Reimbursement allowed; procedure; audits**

**1. Generally.** A visual media production company certified pursuant to Title 5, section 13090-L is allowed a reimbursement equal to 12% of certified production wages paid to employees who are residents of Maine and 10% of certified production wages paid to other employees.

**2. Procedure for reimbursement.** Within 6 weeks following ~~receipt~~ submission of ~~a tax reim-~~

~~bursement and credit certificate~~ the certified visual media production report pursuant to Title 5, section 13090-L, subsection 4, a visual media production company shall report to the State Tax Assessor that portion of certified production wages paid ~~during the project period~~ for the certified visual media production, together with any additional information the assessor may reasonably require. The assessor shall certify to the State Controller the amounts to be transferred to the visual media production reimbursement account established, maintained and administered by the State Controller from General Fund undedicated revenue within the withholding tax category. The assessor shall pay those amounts to each visual media production company within 90 days of the receipt by the assessor of the visual media production company's report.

**3. Audit process.** This chapter may not be construed to limit the authority of the State Tax Assessor to conduct an audit of any visual media production company certified pursuant to Title 5, section 13090-L. When the assessor determines that a distribution larger than that authorized by this chapter has been received by any person, the assessor may enforce repayment of the overpayment by assessment pursuant to the provisions of chapter 7 or may apply the overpayment against subsequent reimbursements made pursuant to this chapter. If the assessor determines that an overpayment is the result of fraud on the part of a visual media production company, the assessor may disqualify that company from receiving any future distributions pursuant to this chapter.

**Sec. 8. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 36, chapter 919-A, in the chapter headnote, the words "media production reimbursement" are amended to read "visual media production reimbursement" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

## CHAPTER 471

## H.P. 997 - L.D. 1421

### An Act To Ensure the Perpetual Care of Maine Veterans' Cemeteries

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

**Sec. 1. 37-B MRSA §512** is enacted to read:

**§512. Maine Veterans' Memorial Cemetery System Care Fund**

**1. Maine Veterans' Memorial Cemetery System Care Fund establishment; purpose.** The Maine Veterans' Memorial Cemetery System Care Fund, known in this section as "the fund," is established for the purpose of ensuring ongoing care and maintenance of veterans' graves within the Maine Veterans' Memorial Cemetery System after plot interment allowances for burials within the system are no longer received from the United States Department of Veterans Affairs. The fund is established from deposits of 1/3 of the funds received from the United States Department of Veterans Affairs for plot interment allowances. The fund may also accept private and public donations. The fund is separate from other perpetual care or cemetery maintenance funds that support veterans' cemeteries and were established prior to the effective date of this section.

**Sec. 2. Expenditures prohibited.** An expenditure or promise of payment may not be made from the Maine Veterans' Memorial Cemetery System Care Fund established in the Maine Revised Statutes, Title 37-B, section 512 prior to the enactment of guidelines in statute that govern the investment of revenue, interest or principal from the fund and criteria by which expenditures for perpetual care are established.

**Sec. 3. Director of Bureau of Maine Veterans' Services to report on future investment plan.** The Director of the Bureau of Maine Veterans' Services within the Department of Defense, Veterans and Emergency Management shall consult with the Treasurer of State to develop an investment plan for the Maine Veterans' Memorial Cemetery System Care Fund established in the Maine Revised Statutes, Title 37-B, section 512 that provides appropriate guidelines for investment and expenditures from the fund. The director shall submit the report and any suggested legislation to the joint standing committee of the Legislature having jurisdiction over veterans' cemeteries no later than February 15, 2011. The joint standing committee of the Legislature having jurisdiction over veterans' cemeteries is authorized to submit a bill to the First Regular Session of the 125th Legislature based on the report.

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

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

**Veterans Services 0110**

Initiative: Establishes the Maine Veterans' Memorial Cemetery System Care Fund and provides a base allocation.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $500 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $500 |

See title page for effective date.

## CHAPTER 472

## S.P. 603 - L.D. 1596

### An Act Regarding Mobile Service Bars at Municipal Golf Courses

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

**Whereas,** municipal golf courses serve as a popular recreation destination for residents of Maine and tourists alike; and

**Whereas,** the opportunity to visit golf courses in Maine can begin as early as April; 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 §1075-A, sub-§2, ¶A,** as enacted by PL 2003, c. 579, §4, is amended to read:

A. All individuals selling, serving or dispensing malt liquor from a mobile service bar are employees of the golf course, except as provided in subsection 2-A;

**Sec. 2. 28-A MRSA §1075-A, sub-§2, ¶K,** as enacted by PL 2003, c. 579, §4, is amended to read:

K. The operator of a mobile service bar has the ability and necessary tools to immediately contact a golf course employee working at the part of the golf course licensed as an on-premises establishment or an employee of a Class A restaurant or Class A restaurant/lounge operating under a contract with a municipal golf course for assistance in enforcing the provisions of this section.

**Sec. 3. 28-A MRSA §1075-A, sub-§2-A** is enacted to read:

**2-A. Municipal golf course.** Notwithstanding subsection 2, paragraph A, employees of a Class A restaurant or Class A restaurant/lounge operating under a contract with a municipal golf course that does not have a license to serve alcoholic beverages may sell, serve or dispense malt liquor from a mobile service bar under the same conditions prescribed by subsection 2.

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

Effective February 23, 2010.

## CHAPTER 473

## S.P. 602 - L.D. 1595

### An Act To Provide Continued Protection of Benefits for Retirees of the Maine Public Employees Retirement System

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

**Sec. 1. 4 MRSA §1358, sub-§1, ¶A,** as amended by PL 2009, c. 433, §1, is further amended to read:

A. Except as provided in paragraph A-1, the board shall automatically adjust allowances, beginning in September 1985, and each September thereafter, by any percentage ~~change~~ increase in the Consumer Price Index from July 1st to June 30th, but only to a maximum annual increase ~~or~~ ~~decrease~~ of 4%. The board shall determine the cost of these adjustments and shall include them in its budget requests, if necessary.

**Sec. 2. 4 MRSA §1358, sub-§1, ¶A-1,** as enacted by PL 2009, c. 433, §2, is amended to read:

A-1. If there is a percentage decrease in the Consumer Price Index from July 1st to June 30th, the board ~~as provided in paragraph A~~ shall set the percentage change at 0% for that September. The adjustment for the following year must be set based on the actuarially compounded Consumer Price Index for both years in a cost-neutral manner. If the Consumer Price Index in the subsequent year or years is not sufficient to allow for the adjustment to be cost-neutral for the 2 years, then the adjustment needed for cost-neutrality must continue to be applied to following years until such time as the cost-neutrality requirement is met.

**Sec. 3. 5 MRSA §17806, sub-§1, ¶A,** as amended by PL 2009, c. 433, §3, is further amended to read:

A. Except as provided in paragraph A-1, whenever there is a percentage ~~change~~ increase in the Consumer Price Index from July 1st to June 30th, the board shall automatically make an equal percentage increase ~~or decrease~~ in retirement benefits, beginning in September, up to a maximum annual increase ~~or decrease~~ of 4%.

**Sec. 4. 5 MRSA §17806, sub-§1, ¶A-1,** as enacted by PL 2009, c. 433, §4, is amended to read:

A-1. If there is a percentage decrease in the Consumer Price Index from July 1st to June 30th, the board ~~as provided in paragraph A~~ shall set the percentage change at 0% for that September. The adjustment for the following year must be set based on the actuarially compounded Consumer Price Index for both years in a cost-neutral manner. If the Consumer Price Index in the subsequent year or years is not sufficient to allow for the adjustment to be cost-neutral for the 2 years, then the adjustment needed for cost-neutrality must continue to be applied to following years until such time as the cost-neutrality requirement is met.

**Sec. 5. 5 MRSA §18407, sub-§4, ¶A,** as amended by PL 2009, c. 433, §5, is further amended to read:

A. Except as provided in paragraph A-1, whenever there is a percentage ~~change~~ increase in the Consumer Price Index from July 1st to June 30th, the board shall automatically make an equal percentage increase ~~or decrease~~ in retirement benefits, beginning in September, up to a maximum annual increase ~~or decrease~~ of 4%.

**Sec. 6. 5 MRSA §18407, sub-§4, ¶A-1,** as enacted by PL 2009, c. 433, §6, is amended to read:

A-1. If there is a percentage decrease in the Consumer Price Index from July 1st to June 30th, the board ~~as provided in paragraph A~~ shall set the percentage change at 0% for that September. The adjustment for the following year must be set based on the actuarially compounded Consumer Price Index for both years in a cost-neutral manner. If the Consumer Price Index in the subsequent year or years is not sufficient to allow for the adjustment to be cost-neutral for the 2 years, then the adjustment needed for cost-neutrality must continue to be applied to following years until such time as the cost-neutrality requirement is met.

See title page for effective date.

# CHAPTER 474

## H.P. 1120 - L.D. 1582

## An Act To Bring the Laws of the Maine Public Employees Retirement System into Compliance with the Federal Internal Revenue Code

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

**Sec. 1. 3 MRSA §701, sub-§10-A** is enacted to read:

**10-A. Internal Revenue Code.** "Internal Revenue Code" or "Code" means the United States Internal Revenue Code of 1986, as amended.

**Sec. 2. 3 MRSA §702, first ¶,** as amended by PL 2007, c. 491, §5, is further amended to read:

There is established the Legislative Retirement Program as a governmental qualified defined benefit plan pursuant to Sections 401(a) and 414(d) of the Internal Revenue Code and such other provisions of the Internal Revenue Code and United States Treasury regulations and other guidance as are applicable, which has the powers and privileges of a corporation.

**Sec. 3. 3 MRSA §705** is enacted to read:

**§705. Internal Revenue Code compliance**

The Legislative Retirement Program established in this chapter is subject to the following requirements.

**1. Vesting.** In compliance with the Code, Section 401(a)(7), a member is 100% vested in the member's contribution account at all times.

**2. Use of forfeitures of benefits.** In compliance with the Code, Section 401(a)(8), any forfeitures of benefits by members or former members may not be used to pay benefit increases, but must be used to reduce unfunded liabilities.

**3. Benefits.** In compliance with the Code, Section 401(a)(9), benefits must be paid in accordance with a good faith interpretation of the requirements of the Code, Section 401(a)(9) and the regulations in effect under that section as applicable to a governmental plan within the meaning of the Code, Section 414(d).

**4. Application of annual compensation limits.** In compliance with the Code, Section 401(a)(17), applicable annual compensation limits must be applied for purposes of determining benefits or contributions due to the Maine Public Employees Retirement System.

**5. Rollovers.** In compliance with the Code, Section 401(a)(31), a member may elect, at the time and in the manner prescribed by the board of trustees, to have any portion of an eligible rollover distribution

paid directly to an eligible retirement plan specified by the member in a direct rollover.

**6. Qualified military service.** Effective December 12, 1994, contributions, benefits and service credit with respect to qualified military service are governed by the Code, Section 414(u) and the federal Uniformed Services Employment and Reemployment Rights Act of 1994 and, effective January 1, 2007, the Code, Section 401(a)(37).

**7. Additional requirements.** In compliance with the Code, Section 415, the member contributions paid to and retirement benefits paid from the Legislative Retirement Program must be limited to the extent necessary to conform to the requirements of the Code, Section 415 for a qualified pension plan.

**8. Compliance with Section 503(b).** Effective July 1, 1989, the board of trustees may not engage in a transaction prohibited by the Code, Section 503(b).

**9. Rules.** The board of trustees shall adopt rules necessary to maintain the qualified pension plan tax status of the Legislative Retirement Program under the Internal Revenue Code as required for governmental defined benefit plans defined in the Code, Section 414(d). Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 4. 3 MRSA §801, sub-§1-A,** as amended by PL 2007, c. 491, §18, is further amended to read:

**1-A. Waiver provision.** Any Legislator may petition the presiding officer for a waiver from the membership provisions of subsection 1 if it can be demonstrated that membership in the Legislative Retirement Program will create or exacerbate a Legislator's federal income tax liability due to the ownership of another retirement plan. The Office of the Executive Director of the Legislative Council shall provide assistance as requested by the Legislator or presiding officer. The presiding officer shall respond to the Legislator's petition within 30 days and shall provide copies of the decision to the Executive Director of the Legislative Council and the Executive Director of the Maine Public Employees Retirement System. A granted waiver of membership constitutes a one-time irrevocable election with respect to all subsequent employment with the same employer when membership in the Legislative Retirement Program is not mandatory.

**Sec. 5. 3 MRSA §805-B, sub-§1,** as enacted by PL 2007, c. 137, §4, is amended to read:

**1. Conditions for refund.** The retirement system may make an automatic refund of contributions to a member who has not properly applied for a refund as provided in section 805-A and who has terminated service, except by death or by retirement under this chapter, and who has not met the minimum creditable service requirement for eligibility to receive a service retirement benefit at the applicable age under the following conditions:

A. The member account in the retirement system has been inactive for 3 or more years;

B. Only accumulated contributions made by the member or picked up by the employer may be refunded to that member under this subsection; and

C. A member who receives an automatic refund under this subsection may, within 30 days of the issuance of the refund, return the full refunded amount to the retirement system. Upon receipt, the retirement system shall restore the accumulated contributions to the member's credit.

Pursuant to the Code, Section 401(a)(31)(B), the amount of an automatic refund under this section may not exceed $1,000.

**Sec. 6. 4 MRSA §1201, sub-§11-A** is enacted to read:

**11-A. Internal Revenue Code.** "Internal Revenue Code" or "Code" means the United States Internal Revenue Code of 1986, as amended.

**Sec. 7. 4 MRSA §1202, first ¶,** as amended by PL 2007, c. 491, §34, is further amended to read:

There is established the Judicial Retirement Program as a governmental qualified defined benefit plan pursuant to Sections 401(a) and 414(d) of the Internal Revenue Code and such other provisions of the Internal Revenue Code and United States Treasury regulations and other guidance as are applicable, which has the powers and privileges of a corporation.

**Sec. 8. 4 MRSA §1205** is enacted to read:

**§1205. Internal Revenue Code compliance**

The Judicial Retirement Program established in this chapter is subject to the following requirements.

**1. Vesting.** In compliance with the Code, Section 401(a)(7), a member is 100% vested in the member's contribution account at all times.

**2. Use of forfeitures of benefits.** In compliance with the Code, Section 401(a)(8), any forfeitures of benefits by members or former members may not be used to pay benefit increases, but must be used to reduce unfunded liabilities.

**3. Benefits.** In compliance with the Code, Section 401(a)(9), benefits must be paid in accordance with a good faith interpretation of the requirements of the Code, Section 401(a)(9) and the regulations in effect under that section, as applicable to a governmental plan within the meaning of the Code, Section 414(d).

**4. Application of annual compensation limits.** In compliance with the Code, Section 401(a)(17), applicable annual compensation limits must be applied for purposes of determining benefits or contributions

due to the Maine Public Employees Retirement System.

**5. Rollovers.** In compliance with the Code, Section 401(a)(31), a member may elect, at the time and in the manner prescribed by the board of trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the member in a direct rollover.

**6. Qualified military service.** Effective December 12, 1994, contributions, benefits and service credit with respect to qualified military service are governed by the Code, Section 414(u) and the federal Uniformed Services Employment and Reemployment Rights Act of 1994 and, effective January 1, 2007, the Code, Section 401(a)(37).

**7. Additional requirements.** In compliance with the Code, Section 415, the member contributions paid to and retirement benefits paid from the Judicial Retirement Program must be limited to the extent necessary to conform to the requirements of the Code, Section 415 for a qualified pension plan.

**8. Compliance with Section 503(b).** Effective July 1, 1989, the board of trustees may not engage in a transaction prohibited by the Code, Section 503(b).

**9. Rules.** The board of trustees shall adopt rules necessary to maintain the qualified pension plan tax status of the Judicial Retirement Program under the Internal Revenue Code as required for governmental defined benefit plans defined in the Code, Section 414(d). Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 9. 4 MRSA §1305-B, sub-§1,** as enacted by PL 2007, c. 137, §8, is amended to read:

**1. Conditions for refund.** The retirement system may make an automatic refund of contributions to a member who has not properly applied for a refund as provided in section 1305-A and who has terminated service, except by death or by retirement under this chapter, and who has not met the minimum creditable service requirement for eligibility to receive a service retirement benefit at the applicable age under the following conditions:

A. The member account in the retirement system has been inactive for 3 or more years;

B. Only accumulated contributions made by the member or picked up by the employer may be refunded to that member under this subsection; and

C. A member who receives an automatic refund under this subsection may, within 30 days of the issuance of the refund, return the full refunded amount to the retirement system. Upon receipt, the retirement system shall restore the accumulated contributions to the member's credit.

Pursuant to the Code, Section 401(a)(31)(B), the amount of an automatic refund under this section may not exceed $1,000.

**Sec. 10. 4 MRSA §1306, sub-§2,** as amended by PL 2007, c. 491, §48, is further amended to read:

**2. Payment.** The amount that a member who makes the election permitted in subsection 1 must pay is the amount equal to the employee contribution that person would have made on wages that would have been paid to that person on the days off without pay during the 2002-03 fiscal year as described in section 1201, subsection 3, plus interest at ~~the same rate as that required for payment of back contributions pursuant to Title 5, section 17704, subsection 3~~ a rate, to be set by the board, not to exceed regular interest by 5 or more percentage points. Interest must be computed beginning at the end of the year when those contributions or pick-up contributions would have been made to the date of payment. If the member elects to make the payment, the Maine Public Employees Retirement System shall withhold the required amount from the member's first retirement benefit check.

**Sec. 11. 5 MRSA §17001, sub-§18-A** is enacted to read:

**18-A. Internal Revenue Code.** "Internal Revenue Code" or "Code" means the United States Internal Revenue Code of 1986, as amended.

**Sec. 12. 5 MRSA §17054-A** is enacted to read:

**§17054-A. Responsibilities of employers and the retirement system**

Employers are responsible for providing procedures by which employees for whom membership in the retirement system is optional make a membership election, for maintaining all records relevant to the election process and an individual employee's election and for informing the retirement system as to employee elections in accordance with procedures established by the executive director. The retirement system is responsible to ensure that its records accurately reflect the information provided by the employer. With respect to matters related to participation and membership in the retirement system other than those specified in this section, the retirement system and the board retain responsibility and authority according to applicable retirement system law and rules as to the employer and the employees to whom this Part applies, including the authority to make final administrative decisions.

**Sec. 13. 5 MRSA §17602, first ¶,** as enacted by PL 2007, c. 491, §93, is amended to read:

There is established the State Employee and Teacher Retirement Program as a governmental qualified defined benefit plan pursuant to Sections 401(a) and 414(d) of the Internal Revenue Code and such

other provisions of the Internal Revenue Code and United States Treasury regulations and other guidance as are applicable, which has the powers and privileges of a corporation.

**Sec. 14. 5 MRSA §17603** is enacted to read:

**§17603. Internal Revenue Code qualified plan compliance**

The State Employee and Teacher Retirement Program established in this chapter is subject to the following requirements.

**1. Vesting.** In compliance with the Code, Section 401(a)(7), a member is 100% vested in the member's contribution account at all times.

**2. Use of forfeitures of benefits.** In compliance with the Code, Section 401(a)(8), any forfeitures of benefits by members or former members may not be used to pay benefit increases, but must be used to reduce unfunded liabilities.

**3. Benefits.** In compliance with the Code, Section 401(a)(9), benefits must be paid in accordance with a good faith interpretation of the requirements of the Code, Section 401(a)(9) and the regulations in effect under that section, as applicable to a governmental plan within the meaning of the Code, Section 414(d).

**4. Application of annual compensation limits.** In compliance with the Code, Section 401(a)(17), applicable annual compensation limits must be applied for purposes of determining benefits or contributions due to the retirement system.

**5. Rollovers.** In compliance with the Code, Section 401(a)(31), a member may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the member in a direct rollover.

**6. Qualified military service.** Effective December 12, 1994, contributions, benefits and service credit with respect to qualified military service are governed by the Code, Section 414(u) and the federal Uniformed Services Employment and Reemployment Rights Act of 1994 and, effective January 1, 2007, the Code, Section 401(a)(37).

**7. Additional requirements.** In compliance with the Code, Section 415, the member contributions paid to and retirement benefits paid from the State Employee and Teacher Retirement Program must be limited to the extent necessary to conform to the requirements of the Code, Section 415 for a qualified pension plan.

**8. Compliance with Section 503(b).** Effective July 1, 1989, the board may not engage in a transaction prohibited by the Code, Section 503(b).

**9. Rules.** The board shall adopt rules necessary to maintain the qualified pension plan tax status of the State Employee and Teacher Retirement Program under the Internal Revenue Code as required for governmental defined benefit plans defined in the Code, Section 414(d). Rules adopted under this subsection are routine technical rules as defined in chapter 375, subchapter 2-A.

**Sec. 15. 5 MRSA §17652,** as amended by PL 2007, c. 491, §95, is further amended to read:

**§17652. Optional membership**

**1. Elected and appointed officials.** Membership in the State Employee and Teacher Retirement Program is optional for elected officials or officials appointed for a fixed term. A person must make an election at the time of hire whether to be a member of the program. Once an election is made under this subsection, the election is irrevocable with respect to all subsequent employment with the same employer when membership in the program is not mandatory.

~~**2. Delayed election of membership.** A person, including a substitute teacher, who elects not to join the State Employee and Teacher Retirement Program at the beginning of that person's employment may at any time apply for and be admitted to membership.~~

~~A-1. A person who joins the State Employee and Teacher Retirement Program under this subsection may purchase service credit for the period during which the person served as an elected official or official appointed for a fixed term or was employed as a substitute teacher but was not a member of the program.~~

~~B. Membership service credit for persons joining the State Employee and Teacher Retirement Program under this subsection begins as of the effective date of first contributions or pick-up contributions to the program.~~

~~C. This subsection applies to any member who begins membership after December 31, 1985.~~

~~**2-A. Reentry.** A person whose membership is optional and who becomes a member after having previously withdrawn from the State Employee and Teacher Retirement Program may purchase service credit for the time served in eligible service as follows. If qualified under both paragraphs A and B, the person may purchase time under both paragraphs.~~

~~A. If the person withdrew accumulated contributions at the time of withdrawal, the person may repurchase that prior service credit by repaying those contributions pursuant to section 17703.~~

~~B. For the purchase of time for which the person was not a member, the person must pay the amount set forth in section 17704-A.~~

**3. Certain employees of the Maine Community College System.** Notwithstanding section 17651, membership in the State Employee and Teacher Retirement Program is optional for employees of the Maine Community College System who are eligible to participate in a retirement plan pursuant to Title 20-A, section 12722. A person must make an election at the time of hire whether to be a member of the program. Once an election is made under this subsection, the election is irrevocable with respect to all subsequent employment with the same employer when membership in the program is not mandatory.

**4. Limitation on election to join State Employee and Teacher Retirement Program.** Notwithstanding any other law, confidential employees of the Maine Community College System who are not represented in a collective bargaining unit may join ~~or rejoin~~ the State Employee and Teacher Retirement Program under this section only upon the written authorization of the Board of Trustees of the Maine Community College System. The board of trustees shall authorize the person to join ~~or rejoin~~ the State Employee and Teacher Retirement Program when the Maine Community College System Office or other Maine Community College System entity that employs the individual seeking to join ~~or rejoin~~ has identified and designated the funds necessary to pay for the cost of that person's joining ~~or rejoining~~ the program. A person must make an election at the time of hire whether to be a member of the program. Once an election is made under this subsection, the election is irrevocable with respect to all subsequent employment with the same employer when membership in the program is not mandatory.

**5. Certain members of the Maine National Guard.** A member of the Maine National Guard who is not governed by section 17651 and who is on active state service for more than 5 consecutive days pursuant to Title 37-B may elect to be a member of the State Employee and Teacher Retirement Program. A member of the Maine National Guard on active state service pursuant to Title 37-B who does not elect to participate in the State Employee and Teacher Retirement Program or is not eligible to participate in the State Employee and Teacher Retirement Program shall participate in the United States Social Security System. Once a member of the Maine National Guard makes an election under this subsection, that election is irrevocable with respect to all subsequent employment with the same employer when membership in the program is not mandatory. A member of the Maine National Guard on active state service pursuant to Title 37-B may participate in the tax-deferred arrangement of chapter 67.

**6. Substitute teachers.** Notwithstanding section 17651, membership in the State Employee and Teacher Retirement Program is optional for substitute teachers. ~~The right of a substitute teacher to rejoin the program is limited to 2 occurrences.~~ A person must make an election at the time of hire whether to be a member of the program. Once an election is made under this subsection, the election is irrevocable with respect to all subsequent employment with the same employer when membership in the program is not mandatory.

**Sec. 16. 5 MRSA §17704,** as amended by PL 2007, c. 491, §109, is repealed.

**Sec. 17. 5 MRSA §17704-A,** as amended by PL 2007, c. 491, §§110 and 111, is repealed.

**Sec. 18. 5 MRSA §17704-B, sub-§2,** as amended by PL 2009, c. 213, Pt. SSS, §2, is further amended to read:

**2. Payment.** The amount that a member who makes the election permitted in subsection 1 must pay is the amount equal to the employee contribution that member would have made on compensation that would have been paid to that member on the days off without pay or for days worked for which the level of pay is reduced as the result of the freezing of merit pay and longevity pay during fiscal year 2002-03, 2009-10 or 2010-11, or a combination thereof, as provided in section 17001, subsection 4, paragraph A, plus interest at ~~the same rate as that required for payment of back contributions pursuant to section 17704, subsection 3~~ a rate, to be set by the board, not to exceed regular interest by 5 or more percentage points. Interest must be computed beginning at the end of the year when those contributions or pick-up contributions would have been made to the date of payment. If the member elects to make the payment, the retirement system shall withhold the required amount from the member's first retirement benefit check.

**Sec. 19. 5 MRSA §17704-C** is enacted to read:

**§17704-C. Continued eligibility to purchase back time**

A member whose membership date is prior to August 1, 2010 and who was eligible to purchase service credit under former section 17704 or 17704-A prior to August 1, 2010, retains eligibility to purchase that service credit under the conditions of those sections as in effect prior to repeal.

**Sec. 20. 5 MRSA §17706-A, sub-§1,** as amended by PL 2007, c. 491, §113, is further amended to read:

**1. Conditions for refund.** The retirement system may make an automatic refund of contributions to a member who has not properly applied for a refund as provided in section 17705-A and who has terminated service, except by death or by retirement under this Part, or who as an optional member has withdrawn from a retirement program of the Maine Public Employees Retirement System, and who has not met the

minimum creditable service requirement for eligibility to receive a service retirement benefit at the applicable age under the following conditions:

A. The member account has been inactive for 3 or more years;

B. Except when inclusion of a portion of employer contributions is required by this subsection, only accumulated contributions made by the member or picked up by the employer may be refunded to that member under this subsection;

C. The amount of the refund of accumulated contributions related to a member's compensation for service rendered as a part-time, seasonal or temporary employee after December 31, 1991 must be at least equal to 7.5% of the member's compensation for that service plus interest as provided by section 17156; and

D. A member who receives an automatic refund under this subsection may, within 30 days of the issuance of the refund, return the full refunded amount to the retirement system. Upon receipt, the retirement system shall restore the accumulated contributions to the member's credit.

Pursuant to the Code, Section 401(a)(31)(B), the amount of an automatic refund under this section may not exceed $1,000.

**Sec. 21. 5 MRSA §17707, sub-§4, ¶C,** as amended by PL 2007, c. 491, §114, is further amended to read:

C. If an employee who has not contributed during the employee's CETA employment or who has withdrawn the employee's contributions later elects, under section 17761, to purchase the employee's CETA time for past creditable service, the employee shall pay to the applicable retirement program of the Maine Public Employees Retirement System an amount equal to the employee's contributions, plus interest, ~~as provided under section 17704~~ at a rate, to be set by the board, not to exceed regular interest by 5 or more percentage points. Interest must be computed beginning at the end of the year when those contributions or pick-up contributions would have been made to the date of payment.

**Sec. 22. 5 MRSA §17753,** as amended by PL 1995, c. 180, §4, is further amended to read:

**§17753. Service credit for back contributions**

Upon complete payment of the back contributions under section ~~17704 or 17704-A~~ 17704-C, the member must be granted service credit for the period of time for which the contributions have been made. Upon making partial payment of the back contributions under section ~~17704 or 17704-A~~ 17704-C, the member must be granted service credit on a pro rata basis in accordance with rules adopted by the board.

**Sec. 23. 5 MRSA §17758,** as enacted by PL 1985, c. 801, §§5 and 7, is repealed.

**Sec. 24. 5 MRSA §18058, sub-§1,** as amended by PL 2009, c. 236, §1, is further amended to read:

**1. Employees automatically insured.** ~~Except as provided in Title 20-A, section 12722, subsection 8, paragraph D, all~~ All employees eligible for basic insurance under this subchapter are automatically insured for the amounts of basic coverage applicable under this subchapter, beginning on the first day of the month following one month of employment after the employee becomes eligible. Each employee shall complete an application for insurance coverage within 31 days of becoming eligible.

A. The employee shall indicate the types of coverage elected.

B. If an application is completed in a timely manner, any coverage in addition to basic becomes effective on the first day of the month following one month of employment after the employee becomes eligible.

C. If an application is not completed within 31 days of the employee's first becoming eligible, the employee may subsequently apply for supplemental and dependent insurance but must produce evidence of insurability at the employee's own expense and in accordance with the requirements of the insurance underwriter.

**Sec. 25. 5 MRSA §18058, sub-§2,** as amended by PL 2009, c. 236, §2, is further amended to read:

**2. Employees not wanting to be insured.** ~~Except as provided in Title 20-A, section 12722, subsection 8, paragraph D, any~~ Any employee not wanting to be insured under this subchapter, at the time the employee first becomes eligible, shall, on the application form, give written notice to the employee's employing officer and to the retirement system that the employee does not want to be insured.

A. If after being insured, the employee wishes to cancel or reduce coverage, written notice must be given by the employee to the employee's employing officer and to the retirement system.

B. The employee's insurance coverage must cease or be reduced at the end of the month in which the notice is received by the employing office.

C. Any employee who does not want to be insured or who cancels insurance coverage may subsequently apply for insurance, but must produce evidence of insurability at the employee's

own expense and in accordance with the requirements of the insurance underwriter.

D. Any employee who, during a period of unpaid military leave of absence, does not continue coverage while on unpaid military leave must be reinstated to the levels of coverage in effect immediately prior to the unpaid military leave. A request for reinstatement by the employee must be made within 31 days of the employee's return to work following unpaid military leave. An employee who wants to be reinstated and who does not apply for reinstatement within 31 days of the employee's return to work from unpaid military leave must produce evidence of insurability at the employee's own expense and in accordance with the requirements of the insurance underwriter.

**Sec. 26. 5 MRSA §18200, first ¶,** as enacted by PL 2007, c. 491, §181, is amended to read:

There is established the Participating Local District Retirement Program as a governmental qualified defined benefit plan pursuant to Sections 401(a) and 414(d) of the Internal Revenue Code and such other provisions of the Internal Revenue Code and United States Treasury regulations and other guidance as are applicable, which has the powers and privileges of a corporation.

**Sec. 27. 5 MRSA §18205** is enacted to read:

**§18205. Internal Revenue Code qualified plan compliance**

The Participating Local District Retirement Program established in this chapter is subject to the following requirements.

**1. Vesting.** In compliance with the Code, Section 401(a)(7), a member is 100% vested in the member's contribution account at all times.

**2. Use of forfeitures of benefits.** In compliance with the Code, Section 401(a)(8), any forfeitures of benefits by members or former members may not be used to pay benefit increases, but must be used to reduce unfunded liabilities.

**3. Benefits.** In compliance with the Code, Section 401(a)(9), benefits must be paid in accordance with a good faith interpretation of the requirements of the Code, Section 401(a)(9) and the regulations in effect under that section, as applicable to a governmental plan within the meaning of the Code, Section 414(d).

**4. Application of annual compensation limits.** In compliance with the Code, Section 401(a)(17), applicable annual compensation limits must be applied for purposes of determining benefits or contributions due to the retirement system.

**5. Rollovers.** In compliance with the Code, Section 401(a)(31), a member may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the member in a direct rollover.

**6. Qualified military service.** Effective December 12, 1994, contributions, benefits and service credit with respect to qualified military service are governed by the Code, Section 414(u) and the federal Uniformed Services Employment and Reemployment Rights Act of 1994 and, effective January 1, 2007, the Code, Section 401(a)(37).

**7. Additional requirements.** In compliance with the Code, Section 415, the member contributions paid to and retirement benefits paid from the Participating Local District Retirement Program must be limited to the extent necessary to conform to the requirements of the Code, Section 415 for a qualified pension plan.

**8. Compliance with Section 503(b).** Effective July 1, 1989, the board may not engage in a transaction prohibited by the Code, Section 503(b).

**9. Rules.** The board shall adopt rules necessary to maintain the qualified pension plan tax status of the Participating Local District Retirement Program under the Internal Revenue Code as required for governmental defined benefit plans defined in the Code, Section 414(d). Rules adopted under this subsection are routine technical rules as defined in chapter 375, subchapter 2-A.

**Sec. 28. 5 MRSA §18251, sub-§3,** as amended by PL 2007, c. 491, §188, is further amended to read:

**3. Optional membership.** Membership in the Participating Local District Retirement Program is optional for the following employees of a participating local district:

A. A person in the service of a participating local district on the date of establishment for that participating local district. Once such a person joins the Participating Local District Retirement Program, membership ceases to be optional for that person under this paragraph;

B. An elected official or an official appointed for a fixed term. Special provisions apply to certain officials as follows:

(1) Membership of trustees of a water district is governed by Title 35-A, section 6410, subsection 8;

(2) Membership of trustees of a sanitary district is governed by Title 38, section 1104; and

(3) Membership of trustees of a sewer district is governed by Title 38, section 1252;

C. A chief administrative officer of a participating local district, whether appointed for a fixed term or appointed with tenure; and

D. A person whose membership is optional under section 18252, 18252-A or 18801.

A person must make an election at the time of hire, or on the date of first eligibility to participate, whichever occurs earlier, whether to be a member of the program. Once an election is made under this subsection, the election is irrevocable with respect to all subsequent employment with the same employer when membership in the program is not mandatory.

**Sec. 29. 5 MRSA §18251, sub-§4,** as amended by PL 2007, c. 491, §189, is repealed.

**Sec. 30. 5 MRSA §18251, sub-§5,** as amended by PL 2007, c. 491, §190, is repealed.

**Sec. 31. 5 MRSA §18252,** as repealed and replaced by PL 2009, c. 415, Pt. A, §5, is amended to read:

**§18252. Membership in districts with Social Security coverage**

A person who is or would be covered by the United States Social Security Act as a result of employment by a participating local district with Social Security coverage may elect to ~~join, not to join, to cease contributions to or to withdraw from~~ be a member in the Participating Local District Retirement Program ~~under the following conditions~~. A person must make an election at the time of hire or on the date of first eligibility to participate, whichever occurs earlier, whether to be a member of the program. Once an election is made under this section, the election is irrevocable with respect to all subsequent employment with the same employer when membership in the program is not mandatory.

~~**1. Membership.** An employee may join the Participating Local District Retirement Program at the beginning of employment or at any time after beginning employment, as long as that person is still an employee of the participating local district and the district continues to be a participating local district.~~

~~A. Purchase of service credit for the period during which the person was not a member of the Participating Local District Retirement Program is governed by section 18305-A.~~

~~**2. Employee who is participating member.** A person who is a participating member of the Participating Local District Retirement Program may elect to cease contributions to that program and, at that person's discretion, may withdraw accumulated contributions in accordance with section 18306-A.~~

~~**3. Person who has previously ceased contributions.** A person who has previously elected to cease contributions to the Participating Local District Retirement Program, whether or not accumulated contributions have been withdrawn, may choose to rejoin that program at any time under the following conditions.~~

~~B. The employer must still be a participating local district allowing new membership in the Participating Local District Retirement Program.~~

~~C. Purchase of service credit for the period during which the person was not a member of the Participating Local District Retirement Program is governed by section 18305-A. Repayment of withdrawn accumulated contributions is governed by section 18304.~~

~~**5. Limit on right to rejoin.** The right of a person to rejoin under subsection 3 is limited to 2 occurrences.~~

**6. Restoration to service.** If any person who is the recipient of a service retirement benefit is covered by the United States Social Security Act upon being restored to service, continuation of that person's benefit is governed by the following.

A. The person may elect to have the service retirement benefit continued during the period of time the person is restored to service and the person may not accumulate any additional service credits.

B. The person may elect to have the service retirement benefit terminated, again become a member of the Participating Local District Retirement Program and begin contributing at the current rate.

(1) The person is entitled to accumulate additional service credits during the period of time the person is restored to service.

(2) When the person again retires, the person is entitled to receive benefits computed on the person's entire creditable service and in accordance with the law in effect at the time.

C. Upon being restored to service, the person must elect to have benefits either continued or terminated. If written notification of the person's election is not received by the executive director within 60 days of restoration to service, the person is deemed to have elected the provisions of paragraph A. The election, regardless of how it is made, is irrevocable during the period of restoration to service.

**Sec. 32. 5 MRSA §18252-A, sub-§1, ¶A,** as repealed and replaced by PL 2009, c. 415, Pt. A, §6, is amended to read:

A. A person hired by a participating local district, or rehired following a break in service, after the date on which the employer provides a plan under section 18252-B must elect at the time of hiring or

rehiring whether to be a member under the Participating Local District Retirement Program or to be covered under a plan provided by the employer under section 18252-B. Once an election is made under this paragraph, the election is irrevocable with respect to all subsequent employment with the same employer when membership in the program is not mandatory.

~~(1) If the person elects to be a member under the Participating Local District Retirement Program, the election is effective as of the date of hire or rehire.~~

~~(a) A person who elects to be a member of the Participating Local District Retirement Program may later elect to be covered under a plan provided by the employer under section 18252-B. The person who so elects may, at that person's discretion, withdraw accumulated contributions in accordance with section 18306-A.~~

~~(b) A person who elects under division (a) to be covered under a plan provided by the employer under section 18252-B may later elect to again become a member under the Participating Local District Retirement Program, unless to so elect would have the effect of requiring the employer, without the employer's agreement, to make an employer contribution to both that program and the plan provided by the employer under section 18252-B.~~

~~(c) A person who elects under division (b) to again become a member of the Participating Local District Retirement Program may, in accordance with section 18305-A, purchase service credit for the period during which the person elected not to be a member of that program. The person may, in accordance with section 18304, repay contributions withdrawn under division (a) and may, as permitted under other relevant retirement system law, rule and policy, repay other refunded contributions.~~

~~(d) A person who, having elected to again become a member under the Participating Local District Retirement Program under division (c), later elects again not to be a member may not thereafter become a member under that program while employed by the same participating local district.~~

~~(2) A person who elects to be covered under a plan provided by the employer under section 18252-B may later elect to become a member under the Participating Local District Retirement Program.~~

~~(a) Membership service credit for a person joining the Participating Local District Retirement Program under this subparagraph begins as of the effective date of first contributions or pick-up contributions to that program following that person's election under this subparagraph.~~

~~(b) A person who joins the Participating Local District Retirement Program under this subparagraph may, in accordance with section 18305-A, purchase service credit for the period during which the person elected not to be a member of that program.~~

~~(c) A person who, having elected to become a member under the Participating Local District Retirement Program under this subparagraph, later elects again not to be a member may, at the employee's discretion, withdraw accumulated contributions in accordance with applicable requirements of law and rule and retirement system procedures and may not thereafter become a member under that program while employed by the same participating local district.~~

**Sec. 33. 5 MRSA §18252-A, sub-§1, ¶B,** as repealed and replaced by PL 2009, c. 415, Pt. A, §6, is amended to read:

B. An employee of the participating local district who is a member under the Participating Local District Retirement Program on the date on which the employer provides a plan under section 18252-B may elect to remain a member under that program or to become covered under a plan provided by the employer under section 18252-B. A person must make an election within 90 days of the date on which the employer provides a plan under section 18252-B. Once an election is made under this paragraph, the election is irrevocable with respect to all subsequent employment with the same employer when membership in the program is not mandatory.

(1) If that person elects not to remain a member, the election is effective as of the first day of the month in which no contributions or pick-up contributions are made to the Participating Local District Retirement Program by that person. A person who elects not to remain a member may, at that person's discretion, withdraw accumulated contributions in accordance with section 18306-A.

~~(2) A person who elects not to remain a member under the Participating Local District Retirement Program may later elect to again become a member.~~

~~(a) Membership service credit for a person who elects to again become a member under the Participating Local District Retirement Program under this subparagraph begins as of the effective date of the first contributions or pick-up contributions to that program following that person's election under this subparagraph.~~

~~(b) A person who rejoins the Participating Local District Retirement Program under this subparagraph may, in accordance with section 18305-A, purchase service credit for the period during which that person elected not to be a member of that program. The person may, in accordance with section 18304, repay contributions refunded under subparagraph (1), unless to so elect would have the effect of requiring the employer, without the employer's agreement, to make an employer contribution to both the Participating Local District Retirement Program and the plan provided by the employer under section 18252-B.~~

~~(c) A person who, having elected to again become a member under the Participating Local District Retirement Program under this subparagraph, later elects again not to be a member may, at that person's discretion, withdraw accumulated contributions in accordance with section 18306-A and may not thereafter become a member under that program while employed by the same participating local district.~~

**Sec. 34. 5 MRSA §18252-B, sub-§6, ¶C,** as amended by PL 2007, c. 491, §198, is repealed.

**Sec. 35. 5 MRSA §18254, sub-§1,** as amended by PL 2007, c. 491, §204, is further amended to read:

**1. Employee eligible to withdraw accumulated contributions.** An employee of the district whose membership in the Participating Local District Retirement Program was compulsory under section 18251 must make an election to remain a member under that program or to withdraw accumulated contributions within 90 days of the effective date of the employer withdrawal from the program under section 18203, subsection 2. An employee who ~~withdraws~~ elects to withdraw accumulated contributions under this subsection may not be a member of the ~~Participating Local District Retirement Program~~ program as an employee of that district. Once an election is made under this subsection, the election is irrevocable with respect to all subsequent employment with the same employer when membership in the program is not mandatory if the employer later resumes participation in the program pursuant to section 18254-A.

**Sec. 36. 5 MRSA §18254, sub-§5,** as enacted by PL 2001, c. 181, §10, is amended to read:

**5. Conditions under which withdrawn participating local district is no longer participating local district.** A participating local district that has no former employees eligible for retirement benefits under subsection 3 and no former employees covered under subsection 4 is no longer a participating local district when:

A. The participating local district's status as a participating local district is based solely on the existence of a former employee or employees who are retirees receiving retirement benefits or on the existence of current or potential beneficiaries of such retirees who are receiving or potentially entitled to receive benefits; and

B. The district satisfies fully all liabilities as measured by the retirement system for those to whom paragraph A applies:

(1) In accordance with state and federal law; and

(2) According to standards and procedures approved by the board as determined by the board to protect the interests of current and potential benefit recipients and any other affected or potentially affected person or entity. Such procedures may include, but are not limited to, the establishment by purchase or otherwise of an annuity or annuities as a means of satisfying the district's liabilities.

Having satisfied its liabilities in compliance with this subsection, a district is no longer a participating local district, and once the retirement plan is terminated in accordance with federal law, the retirement system must return to it any assets in the district's retirement system account exceeding the amount necessary to comply. Satisfaction of district liabilities pursuant to this subsection bars any future claim by any person against the retirement system for liability to or responsibility for any retiree, beneficiary or the district, and a retiree, beneficiary or the district is not thereafter subject to this Part.

**Sec. 37. 5 MRSA §18305,** as amended by PL 2007, c. 491, §§214 and 215, is repealed.

**Sec. 38. 5 MRSA §18305-A,** as amended by PL 2007, c. 491, §§216 and 217, is repealed.

**Sec. 39. 5 MRSA §18305-B** is enacted to read:

**§18305-B. Continued eligibility to purchase service credit**

A member whose membership date is prior to August 1, 2010, and who was eligible to purchase service credit under former section 18305 or 18305-A prior to August 1, 2010, retains eligibility to purchase that service credit under the conditions of those sections as in effect prior to repeal.

**Sec. 40. 5 MRSA §18307-A, sub-§1,** as amended by PL 2007, c. 491, §219, is further amended to read:

**1. Conditions for refund.** The retirement system may make an automatic refund of contributions to a member who has not properly applied for a refund as provided in section 18306-A and who has terminated service, except by death or by retirement under this Part, or who as an optional member has withdrawn from a retirement program of the Maine Public Employees Retirement System, and who has not met the minimum creditable service requirement for eligibility to receive a service retirement benefit at the applicable age under the following conditions:

A. The member account has been inactive for 3 or more years;

B. Except when inclusion of a portion of employer contributions is required by this subsection, only accumulated contributions made by the member or picked up by the employer may be refunded to that member under this subsection;

C. The amount of the refund of accumulated contributions related to a member's compensation for service rendered as a part-time, seasonal or temporary employee after December 31, 1991 must be at least equal to 7.5% of the member's compensation for that service plus interest as provided by section 17156; and

D. A member who receives an automatic refund under this subsection may, within 30 days of the issuance of the refund, return the full refunded amount to the retirement system. Upon receipt, the retirement system shall restore the accumulated contributions to the member's credit.

Pursuant to the Code, Section 401(a)(31)(B), the amount of an automatic refund under this subsection may not exceed $1,000.

**Sec. 41. 5 MRSA §18308, sub-§4, ¶C,** as amended by PL 2007, c. 491, §220, is further amended to read:

C. If an employee who has not contributed during the employee's CETA employment or who has withdrawn the employee's contributions later elects, under section 18361, to purchase the employee's CETA time for past creditable service, the employee shall pay to the applicable retirement program of the Maine Public Employees Retirement System an amount equal to the employee's contributions, plus interest, ~~as provided under section 18305~~ at a rate, to be set by the board, not to exceed regular interest by 5 or more percentage points. Interest must be computed beginning at the end of the year when those contributions or pick-up contributions would have been made to the date of payment.

**Sec. 42. 5 MRSA §18353,** as repealed and replaced by PL 1989, c. 95, §11, is amended to read:

**§18353. Service credit for back contributions**

Upon complete payment of the back contributions under section ~~18305~~ 18305-B, the member ~~shall~~ must be granted service credit for the period of time for which the contributions have been made. Upon making partial payment of the back contributions under section ~~18305~~ 18305-B, the member ~~shall~~ must be granted service credit on a pro rata basis in accordance with rules adopted by the board.

**Sec. 43. 5 MRSA §18358, sub-§2,** as amended by PL 2007, c. 491, §229, is repealed and the following enacted in its place:

**2. Optional members joining the Participating Local District Retirement Program.** A person who joins the Participating Local District Retirement Program under section 18251, 18252 or 18252-A begins to accrue membership service credit on the effective date of first contributions or pick-up contributions to the program.

**Sec. 44. 5 MRSA §18801, first ¶,** as amended by PL 1993, c. 250, §3, is repealed and the following enacted in its place:

There is established the Participating Local District Consolidated Retirement Plan as a governmental qualified defined benefit plan pursuant to Sections 401(a) and 414(d) of the Internal Revenue Code and such other provisions of the Internal Revenue Code and United States Treasury regulations and other guidance as are applicable, which has the powers and privileges of a corporation. The purpose of the Participating Local District Consolidated Retirement Plan is to provide retirement allowances and other benefits under this chapter for employees of participating local districts. The board shall establish by rule the plan provisions of the Participating Local District Consolidated Retirement Plan in accordance with section 18804.

**Sec. 45. 20-A MRSA §12722, sub-§2,** as enacted by PL 1997, c. 763, §4 and affected by §7 and amended by PL 2007, c. 58, §3, is repealed and the following enacted in its place:

**2. Election periods.** An eligible person is considered to be a participant in the defined contribution

plan offered by the board of trustees unless that person makes a one-time irrevocable election to participate in the Maine Public Employees Retirement System. The election must be made in writing no later than 30 days after the date of hire in an eligible position, and notice of the election must be filed with the administrative officer of the employing institution. The employing institution shall notify the Maine Public Employees Retirement System of the election in accordance with procedures established by the Executive Director of the Maine Public Employees Retirement System. Participation in the Maine Public Employees Retirement System pursuant to an election under this subsection is effective as of the date of hire, and the system shall remit all required contributions to the Maine Public Employees Retirement System retroactively to the date of hire.

**Sec. 46. 20-A MRSA §12722, sub-§3,** as amended by PL 2007, c. 58, §3 and c. 137, §25, is repealed.

**Sec. 47. 20-A MRSA §12722, sub-§8,** as amended by PL 2009, c. 236, §3, is repealed.

See title page for effective date.

## CHAPTER 475

## S.P. 624 - L.D. 1659

### An Act To Enhance the Small Enterprise Growth Fund

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

**Sec. 1. 10 MRSA §382, sub-§3,** as enacted by PL 1995, c. 699, §3, is amended to read:

**3. Program.** "Program" means the Small Enterprise Growth Program, which encompasses the Small Enterprise Growth Fund and any side fund created by the board.

**Sec. 2. 10 MRSA §382, sub-§3-A** is enacted to read:

**3-A. Program funds.** "Program funds" means the Small Enterprise Growth Fund and any side funds created by the board.

**Sec. 3. 10 MRSA §382, sub-§5** is enacted to read:

**5. Side fund.** "Side fund" means a fund other than the Small Enterprise Growth Fund administered by the board that is invested as determined by the board.

**Sec. 4. 10 MRSA §383,** as enacted by PL 1995, c. 699, §3, is amended to read:

**§383. Program funds established**

**1. Creation of fund.** There is established the Small Enterprise Growth Fund, which is a revolving fund used to provide funding for disbursements to qualifying small businesses in the State seeking to pursue an eligible project. The fund must be deposited with and maintained and administered by the Finance Authority of Maine and consists of appropriations provided for that purpose, interest accrued on the fund balance, funds received by the board to be applied to the fund, all funds remaining in the Pine Tree Partnership Fund and any funds received from repayment, interest, royalties, equities or other interests in business enterprises, products or services. The fund is a nonlapsing fund.

**1-A. Creation of side funds.** The board may create one or more side funds for placement of certain funds received by the board. A side fund may be structured as a revolving fund in addition to the Small Enterprise Growth Fund or as a fund in which the investor will have funds drawn and returned over an agreed time period.

**2. Administrative expenses.** Costs and expenses of maintaining and servicing ~~the fund~~ program funds and administering the Small Enterprise Growth Program established by this chapter may be paid out of amounts in the ~~fund~~ program funds.

**3. Management fees.** The board may charge and accept management fees for management of money placed in program funds other than money placed directly by the State.

**4. Agreements.** The board may enter into an agreement or contract with a 3rd party for investment in a side fund. The board may allocate ownership in a side fund through the agreement. The board may also repay money received and return profits according to terms in the agreement. The board may create a formula or terms for the sharing of profits on a side fund in the agreement.

**5. Profits.** The profits on a side fund retained by the board must be contributed to the fund.

See title page for effective date.

## CHAPTER 476

## H.P. 1208 - L.D. 1707

### An Act To Clarify the Application of Certain Statutory Requirements to Foreclosures

**Emergency preamble. Whereas,** acts and resolves of the Legislature do not become effective until

90 days after adjournment unless enacted as emergencies; and

**Whereas,** provisions in Public Law 2009, chapter 402 relating to the notices of a mortgagor's right to cure default were intended to apply to all residential mortgage loans; and

**Whereas,** an exception to the notice provision applicable to certain mortgage loans was not repealed in Public Law 2009, chapter 402; and

**Whereas,** this legislation repeals the exception so that the requirements for notices to cure default apply to all residential mortgages; 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. 9-A MRSA §5-111, sub-§6** is enacted to read:

6. Notwithstanding the other provisions of this section, a notice to cure default for a consumer credit transaction secured by a mortgage subject to Title 14, section 6111 must satisfy the requirements of Title 14, section 6111 and not the requirements of this section.

**Sec. A-2. 14 MRSA §6111, sub-§5,** as enacted by PL 1997, c. 579, §4, is repealed.

**Sec. A-3. Application.** This Part applies to any mortgage required to comply with the Maine Revised Statutes, Title 14, section 6111 for which a notice to cure default pursuant to Title 14, section 6111 has not been issued by a mortgagee before the effective date of this Part.

## PART B

**Sec. B-1. 14 MRSA §2401, sub-§3, ¶G,** as enacted by PL 2009, c. 402, §9, is amended to read:

G. With regard to mortgage foreclosure actions, the title "judgment of foreclosure and sale," the street address of the real estate involved, if any, and the book and page number of the mortgage, if any.

**Sec. B-2. 14 MRSA §6111, sub-§1-A, ¶C,** as enacted by PL 2009, c. 402, §11, is amended to read:

C. An itemization of any other charges that must be paid in order to ~~satisfy the full obligations of the loan~~ cure the default;

**Sec. B-3. 14 MRSA §6203-A,** as amended by PL 2009, c. 402, §16, is repealed and the following enacted in its place:

**§6203-A. Power of sale; procedure; notice; form**

**1. Power of sale.** Any holder of a mortgage on real estate that is granted by a corporation, partnership, including a limited partnership, limited liability company or trustee of a trust and that contains a power of sale, or a person authorized by the power of sale, or an attorney duly authorized by a writing under seal, or a person acting in the name of the holder of such mortgage or any such authorized person, may, upon breach of condition and without action, do all the acts authorized or required by the power; except that a sale under the power is not effectual to foreclose a mortgage unless, previous to the sale, notice has been published once in each of 3 successive weeks, the first publication to be not less than 21 days before the day of the sale in a newspaper of general circulation in the town where the land lies and which notice must prominently state the street address of the real estate encumbered by the mortgage deed, if any, and the book and page number of the mortgage, if any. This provision is implied in every power of sale mortgage in which it is not expressly set forth. For mortgage deeds executed on or after October 1, 1993, the power of sale may be used only if the mortgage deed states that it is given primarily for a business, commercial or agricultural purpose. A copy of the notice must, at least 21 days before the date of the sale under the power in the mortgage, be recorded in each registry of deeds in which the mortgage deed is or by law ought to be recorded and must be served on the mortgagor or its representative in interest, or may be sent by registered mail addressed to the mortgagor or the mortgagor's representative at the mortgagor's last known address, or to the person and to the address as may be agreed upon in the mortgage, at least 21 days before the date of the sale under the power in the mortgage. Any power of sale incorporated into a mortgage is not affected by the subsequent transfer of the mortgaged premises from the corporation, partnership, including a limited partnership, limited liability company or trustee of the trust to any other type of organization or to an individual or individuals. The power of sale may not be used to foreclose a mortgage deed granted by a trustee of a trust if at the time the mortgage deed is given the real estate is used exclusively for residential purposes, the real estate has 4 or fewer residential units and one of the units is the principal residence of the owner of at least 1/2 of the beneficial interest in the trust. If the mortgage deed contains a statement that at the time the mortgage deed is given the real estate encumbered by the mortgage deed is not used exclusively for residential purposes, that the real estate has more than 4 residential units or that none of the residential units is the principal residence of the owner of at least 1/2 of the beneficial interest in the trust, the

statement conclusively establishes these facts and the mortgage deed may be foreclosed by the power of sale. The method of foreclosure of real estate mortgages provided by this section is specifically subject to the order of priorities set out in section 6205.

**2. Notice to tenants; effect on title.** In addition to the notices provided pursuant to subsection 1, the mortgagee shall provide a copy of the notice to a residential tenant if the mortgagee knows or should know by exercise of due diligence that the property is occupied as a rental unit. Upon request from a mortgagee, the mortgagor or its representative in interest shall provide the name, address and other contact information for any residential tenant. Notice to a residential tenant may be served on the residential tenant by sheriff or may be sent by first class mail and registered mail at the residential tenant's last known address. A residential tenant may not be evicted unless a mortgagee institutes an action for forcible entry and detainer pursuant to section 6001 at least 21 days after a mortgagee has served the notice required by this subsection. This subsection may not be construed to prohibit an action for forcible entry and detainer in accordance with section 6001 for a reason that is not related to a foreclosure sale. The failure to provide the notice required by this subsection does not affect the validity of the foreclosure sale.

**3. Form of foreclosure notice.** The following form of foreclosure notice may be used and may be altered as circumstances require; but nothing herein may be construed to prevent the use of other forms.

FORM

Mortgagee's sale of real estate

By virtue of and in execution of the Power of Sale contained in a certain Mortgage Deed given by ..... to ..... dated ..... and recorded in the ..... County Registry of Deeds, Book ....., Page ....., of which Mortgage the undersigned is the present holder, ..... (if by assignment, or in any fiduciary capacity give reference) ....., for breach of the conditions of said Mortgage and for the purpose of foreclosing the same there will be sold at Public Sale at ..... o'clock, ..... M. on the ..... day of ..... 20....., at ....., all and singular the premises described in said Mortgages, ....., (in case of partial releases state exceptions).

To wit: "(Description exactly as in the Mortgage, including all reference to title, restrictions, encumbrances, etc., as made in the Mortgage)".

Terms of Sale: (State here the amount, if any, to be paid in cash by the purchaser at the time and place of the sale, and the time or times for payment of the balance or the whole as the case may be and any other terms or conditions relating to the sale).

Other terms to be announced at the sale.

Signed: .....

(Present holder of Mortgage)

..... 20.....

**4. Notice of sale.** A notice of sale in subsection 3, published in accordance with this chapter or in accordance with the power in the mortgage together with such other or further notice, if any, as is required by the mortgage, is sufficient notice of the sale, and the premises are considered to have been sold, and the deed thereunder must convey the premises subject to and with the benefit of all restrictions, easements, improvements, outstanding tax titles, municipal or other public taxes, assessments, liens or claims in the nature of liens and existing encumbrances of record created prior to the mortgage, whether or not reference to such restrictions, easements, improvements, liens or encumbrances is made in the deed; but no purchaser at the sale is bound to complete the purchase if there are encumbrances, other than those named in the mortgage and included in the notice of the sale, that are not stated at the sale and included in the seller's contract with the purchase.

**5. Public sale.** At a public sale pursuant to this section, a mortgagee may bid and may purchase any real estate sold at such sale, as long as the mortgagee is the highest bidder. If the real estate is sold for an amount in excess of the outstanding balance of the mortgage together with all interest and costs, said excess must be used to satisfy any other encumbrances on said property and after all said encumbrances are satisfied together with all interest and costs, any excess then remaining must be paid to the mortgagor. If the mortgagor or any person holding an encumbrance cannot be found after a diligent search, the money must be paid into the Superior Court in the county where the land lies for the benefit of the mortgagor or the holder of any such encumbrance.

**Sec. B-4. 14 MRSA §6203-B,** as enacted by PL 1967, c. 424, §2, is amended to read:

**§6203-B. Copy of notice; affidavit; recording; evidence**

The person selling shall, within 30 days after the sale, cause a copy of the notice as published and ~~his~~ the person's affidavit, fully and particularly stating ~~his~~ the person's acts, or the acts of ~~his~~ the person's principal or ward, to be recorded in the registry of deeds for the county where the land lies. If the affidavit shows that the requirements of the power of sale and ~~this chapter~~ section 6203-A, subsection 1 have in all respects been complied with, the affidavit or a certified copy of the record thereof ~~shall~~ must be admitted as evidence that the power of sale was duly executed. In case of an error or omission in the affidavit recorded as aforesaid, the Superior Court, on petition and after such notice as it may order may, if it ~~deems~~ deter-

mines proper, authorize the recording of an affidavit amending, correcting or in substitution for an affidavit so recorded, and the affidavit so authorized to be recorded or a certified copy of the record thereof ~~shall~~ must have the same effect and ~~shall~~ must be admitted in evidence, as if it had been recorded within said 30 days, but such subsequent affidavit ~~shall~~ does not prejudicially affect any title or interest in land ~~which~~ that may have arisen or have been created between the recording of the original and of the subsequent affidavit.

**Sec. B-5. 14 MRSA §6321, 3rd ¶,** as amended by PL 2009, c. 402, §17, is further amended to read:

The foreclosure must be commenced in accordance with the Maine Rules of Civil Procedure, and the mortgagee shall within ~~10~~ 60 days of commencing the foreclosure also record a copy of the complaint or a clerk's certificate of the filing of the complaint in each registry of deeds in which the mortgage deed is or by law ought to be recorded and such a recording thereafter constitutes record notice of commencement of foreclosure. The mortgagee shall further certify and provide evidence that all steps mandated by law to provide notice to the mortgagor pursuant to section 6111 were strictly performed. The mortgagee shall certify proof of ownership of the mortgage note and produce evidence of the mortgage note, mortgage and all assignments and endorsements of the mortgage note and mortgage. The complaint must allege with specificity the plaintiff's claim by mortgage on such real estate, describe the mortgaged premises intelligibly, including the street address of the mortgaged premises, if any, which must be prominently stated on the first page of the complaint, state the book and page number of the mortgage, if any, state the existence of public utility easements, if any, that were recorded subsequent to the mortgage and prior to the commencement of the foreclosure proceeding and without mortgagee consent, state the amount due on the mortgage, state the condition broken and by reason of such breach demand a foreclosure and sale. If a clerk's certificate of the filing of the complaint is presented for recording pursuant to this section, the clerk's certificate must bear the title "Clerk's Certificate of Foreclosure" and prominently state, immediately after the title, the street address of the mortgaged premises, if any, and the book and page number of the mortgage, if any. Service of process on all parties in interest and all proceedings must be in accordance with the Maine Rules of Civil Procedure. "Parties in interest" includes mortgagors, holders of fee interest, mortgagees, lessees pursuant to recorded leases or memoranda thereof, lienors and attaching creditors all as reflected by the indices in the registry of deeds and the documents referred to therein affecting the mortgaged premises, through the time of the recording of the complaint or the clerk's certificate. Failure to join any party in interest does not invalidate the action nor any subsequent proceedings as to those joined. Failure of the mortgagee to join, as a party in interest, the holder of any public utility easement recorded subsequent to the mortgage and prior to commencement of foreclosure proceedings is deemed consent by the mortgagee to that easement. Any other party having a claim to the real estate whose claim is not recorded in the registry of deeds as of the time of recording of the copy of the complaint or the clerk's certificate need not be joined in the foreclosure action, and any such party has no claim against the real estate after completion of the foreclosure sale, except that any such party may move to intervene in the action for the purpose of being added as a party in interest at any time prior to the entry of judgment. Within ~~3~~ 10 days of ~~recording a copy of the complaint or a clerk's certificate of the filing in the registry of deeds~~ submitting the complaint for filing with the court, the mortgagee shall provide a copy of the complaint or of the clerk's certificate as submitted to the court that prominently states, immediately after the title, the street address of the mortgaged premises, if any, and the book and page number of the mortgage, if any, to the municipal tax assessor of the municipality in which the property is located and, if the mortgaged premises is manufactured housing as defined in Title 10, section 9002, subsection 7, to the owner of any land leased by the mortgagor. The failure to provide the notice required by this section does not affect the validity of the foreclosure sale.

**Sec. B-6. 14 MRSA §6321-A, sub-§11, ¶A,** as enacted by PL 2009, c. 402, §18, is amended to read:

A. The mortgagee, who has the authority to agree to a proposed settlement, loan modification or dismissal of the ~~loan~~ action, except that the mortgagee may participate by telephone or electronic means as long as that mortgagee is represented with authority to agree to a proposed settlement;

**Sec. B-7. 14 MRSA §6321-A, sub-§13,** as enacted by PL 2009, c. 402, §18, is amended to read:

**13. Report.** A mediator must complete a report for each mediation conducted under this section. The mediator's report must indicate in a manner as determined by the court that the parties completed in full the Net Present Value Worksheet in the Federal Deposit Insurance Corporation Loan Modification Program Guide. If the ~~report is~~ mediation did not ~~the~~ result ~~of a~~ in the settlement or dismissal of the ~~case~~ action, the report must include the outcomes of the Net Present Value Worksheet. As part of the report, the mediator may notify the court if, in the mediator's opinion, either party failed to negotiate in good faith.

**Sec. B-8. 14 MRSA §6322-A,** as enacted by PL 2009, c. 402, §19, is amended to read:

**§6322-A. Notice to tenants of foreclosure judgment**

The mortgagee shall, after entry of final judgment in favor of the mortgagee, provide a copy of the foreclosure judgment to any residential tenant of the premises. Upon request from a mortgagee, the mortgagor shall provide the name, address and other contact information for any residential tenant. A residential tenant who receives written notice under this section is not required to file any responsive pleadings and must receive written notice of all subsequent proceedings including all matters through and including sale of the property. The mortgagee shall provide written notice to the residential tenant if the mortgagee knows or should know by exercise of due diligence that the property is occupied as a residential rental unit. Notice may be provided to a residential tenant by first class mail and registered mail at the residential tenant's last known address only after the mortgagee has made 2 good faith efforts to provide written notice to the residential tenant in person. ~~After providing the notice required by this section, and upon expiration of the redemption period, the mortgagee may institute an action for forcible entry and detainer pursuant to section 6001.~~ A residential tenant may not be evicted unless a mortgagee institutes an action for forcible entry and detainer pursuant to section 6001 after providing the notice required by this section and after the expiration of the redemption period. This section may not be construed to prohibit an action for forcible entry and detainer in accordance with section 6001 for a reason that is not related to a judicial foreclosure action. The failure to provide the notice required by this section does not affect the validity of the foreclosure sale.

**Sec. B-9. Retroactivity.** This Part applies retroactively to June 15, 2009.

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

Effective February 24, 2010.

## CHAPTER 477

## H.P. 1062 - L.D. 1513

### An Act To Authorize Municipal Officers To Resolve Road-naming Disputes

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

**Sec. 1. 30-A MRSA §3110** is enacted to read:

**§3110. Road-naming disputes**

Unless otherwise provided by local ordinance or charter, when there is a dispute over the naming of a town way, private way or private road for E-9-1-1 purposes, the decision of the municipal officers is final.

See title page for effective date.

## CHAPTER 478

## H.P. 1122 - L.D. 1584

### An Act To Require That Marine Resources Dealers Purchase Only from Licensed Harvesters

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

**Sec. 1. 12 MRSA §6803-A,** as enacted by PL 2009, c. 283, §1, is amended by adding at the end a new paragraph to read:

A holder of a license issued under this section may buy only from a harvester who possesses a seaweed permit under section 6803. The harvester shall make the seaweed permit available for inspection upon the license holder's request.

**Sec. 2. 12 MRSA §6851, sub-§2,** as amended by PL 1999, c. 491, §6 and affected by §9, is further amended to read:

**2. License activities.** The holder of a wholesale seafood license may, in the wholesale or retail trade:

A. Within or beyond the state limits, buy, sell, process, ship or transport any marine species or their parts, except lobsters, sea urchins and shrimp;

B. Within or beyond the state limits, buy, sell, shuck, pack, ship or, within the state limits, transport fresh or frozen shellfish, except lobsters, to the extent these activities are expressly authorized by a shellfish certificate issued under section 6856; or

D. Buy, sell, process, ship or, within the state limits, transport crayfish.

A holder of a wholesale 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 wholesale seafood license holder's request.

**Sec. 3. 12 MRSA §6852, sub-§2,** as amended by PL 2005, c. 434, §11, is further amended to read:

**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, 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.

**Sec. 4. 12 MRSA §6853,** as amended by PL 2009, c. 213, Pt. G, §39, is further amended by adding at the end a new paragraph to read:

A holder of a license required under this section when buying directly from a harvester may buy only from a harvester who possesses a marine worm digger's license under section 6751. The harvester shall make the marine worm digger's license available for inspection upon the license holder's request.

**Sec. 5. 12 MRSA §6864,** as amended by PL 2009, c. 213, Pt. G, §§44 and 45, is further amended by adding at the end a new paragraph to read:

A holder of an elver dealer 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 license holder's request.

See title page for effective date.

## CHAPTER 479

## S.P. 589 - L.D. 1531

### An Act To Update Laws Regulating the Maine Emergency Management Agency

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

**Sec. 1. 37-B MRSA §797,** as amended by PL 2009, c. 252, §5, is further amended to read:

**§797. Maine chemical inventory report**

A person required to submit a facility emergency response plan, material safety data sheet or list of hazardous chemicals and extremely hazardous substances must submit a Maine chemical inventory report to the commission, the local emergency planning committee and the local fire department with jurisdiction over the facility. The inventory report and fee must be submitted by March 1st annually for the previous calendar year~~, except that the inventory report and fee may be submitted with the registration fee in the year of reporting if the reporting facility can project its inventory levels for the current year~~. Information on the inventory of extremely hazardous substances and hazardous chemicals for the previous calendar year is required in the report. This report must state, at a minimum:

**1. Chemical name.** The chemical name of each substance listed;

**2. Maximum weight.** The maximum number of pounds of each substance present at any time during the preceding year;

**3. Average amount.** The average daily amount of each substance present during the preceding year;

**4. Chemical storage.** A brief description of the manner of the chemical's storage;

**5. Chemical location.** The chemical's location at the facility;

**6. Information withholding.** An indication if the person is electing to withhold information from disclosure under section 800;

**7. Transportation.** A description of the manner in which the substance is shipped to the facility, including standard and alternate transportation routes taken through the State from point of origin or entry to the facility. Records held by the commission regarding standard and alternate transportation routes are confidential records for the purposes of Title 1, chapter 13, subchapter 1. The commission may provide those records to state, county or local emergency management agencies or public officials, as the commission determines necessary, but shall require those agencies or officials to hold those records as confidential; and

**8. Progress toward toxics use reduction goals.** For those persons required to submit a report under this section for extremely hazardous substances, a report on the progress made by the facility toward meeting the toxics use reduction goals established in Title 38, section 2303.

See title page for effective date.

## CHAPTER 480

## H.P. 1150 - L.D. 1622

### An Act To Make Technical Changes to the Laws Governing the Practice of Law

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

**Sec. 1. 4 MRSA §807, sub-§3, ¶O,** as amended by PL 2007, c. 611, §2, is further amended to read:

O. A person who is not an attorney, but who is representing a party in any hearing, action or proceeding before the Maine Public Employees Retirement System; ~~or~~

**Sec. 2. 4 MRSA §807, sub-§3, ¶P,** as enacted by PL 2007, c. 611, §3, is amended to read:

P. A person who is not an attorney but who, as the executive director of the State Harness Racing Commission, is representing the Department of Agriculture, Food and Rural Resources at adjudicatory hearings before the commission in accordance with Title 8, section 263-C~~.~~; or

**Sec. 3. 4 MRSA §807, sub-§3, ¶Q** is enacted to read:

Q. A person who is an attorney admitted to practice in another United States jurisdiction to the extent permitted by rules of professional conduct adopted by the Supreme Judicial Court.

See title page for effective date.

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## CHAPTER 481

## H.P. 1107 - L.D. 1570

### An Act To Amend the Laws Governing the We Support Our Troops Registration Plates

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

**Sec. 1. 5 MRSA §12004-I, sub-§84-A,** as enacted by PL 2007, c. 229, §1, is amended to read:

**84-A.**

| | | | |
|---|---|---|---|
| Transportation: Motor Vehicles | We Support Our Troops Advisory Board | Not Authorized | ~~29-A MRSA §456-D~~ 37-B MRSA §158 |

**Sec. 2. 29-A MRSA §456-D, sub-§2, ¶A,** as repealed and replaced by PL 2007, c. 703, §7, is amended to read:

A. Ten dollars to the Maine ~~National Guard Foundation Fund Special Revenue Funds account in the Department of Defense, Veterans and Emergency Management, referred to in this section as "the fund," for use in accordance with subsection 7~~ Military Family Relief Fund as established in Title 37-B, section 158;

**Sec. 3. 29-A MRSA §456-D, sub-§3, ¶A,** as repealed and replaced by PL 2007, c. 703, §7, is amended to read:

A. Ten dollars to the ~~fund for use in accordance with subsection 7~~ Maine Military Family Relief Fund as established in Title 37-B, section 158;

**Sec. 4. 29-A MRSA §456-D, sub-§7,** as repealed and replaced by PL 2007, c. 703, §7, is amended to read:

**7. Administration of fees.** On a quarterly basis, the Secretary of State shall transfer the revenue from the issuance and renewal of the We Support Our Troops plates to the Treasurer of State for deposit and crediting pursuant to subsections 2 and 3.

The Treasurer of State shall reimburse the sponsor $20,000 of the original payment from the Highway Fund after the issuance of the first 2,000 registration plates under this section.

~~Revenue in the fund must be used to provide financial assistance to members of the Maine National Guard, residents of the State who are members of the Reserves of the Armed Forces of the United States and the families of those members of the Maine National Guard or Reserves of the Armed Forces of the United States for emergencies and other special needs as determined by the We Support Our Troops Advisory Board established in Title 5, section 12004-I, subsection 84-A.~~

**Sec. 5. 29-A MRSA §456-D, sub-§8,** as repealed and replaced by PL 2007, c. 703, §7, is repealed.

**Sec. 6. 37-B MRSA §158,** as enacted by PL 2003, c. 703, §2, is amended to read:

**§158. Maine Military Family Relief Fund**

The Maine Military Family Relief Fund, referred to in this section as "the fund," is established as a nonlapsing fund in the department administered according to rules adopted by the Adjutant General. ~~The~~ Except as provided in subsection 1, the Adjutant General is authorized to ~~make~~ award loans and grants from the ~~Maine Military Family Relief Fund~~ fund for emergencies and other special needs to members or families of ~~persons who are~~ members of the Maine National Guard or residents of the State who are members or families of members of the Reserves of the Armed Forces of the United States ~~who have been called to military duty~~ and to distribute funds to a statewide

nonprofit organization established for the purpose of providing assistance to members or families of members of the Maine National Guard or residents of the State who are members or families of members of the Reserves of the Armed Forces of the United States. The Military Bureau shall adopt rules establishing eligibility criteria for the loans and grants. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**1. We Support Our Troops Advisory Board.** The We Support Our Troops Advisory Board, as established by Title 5, section 12004-I, subsection 84-A and referred to in this subsection as "the board," shall determine the use of the revenue in the fund that is attributable to the issuance and renewal of the We Support Our Troops registration plates established in Title 29-A, section 456-D. The board consists of 9 members:

A. Eight members appointed by the Governor, in consultation with the Adjutant General:

(1) Two persons, each representing the interests of the Maine National Guard;

(2) Two persons, each representing the interests of Maine residents in the Reserves of the Armed Forces of the United States; and

(3) Four persons representing the interests of the public; and

B. The Adjutant General.

The Adjutant General serves during the Adjutant General's term of office. The terms of members appointed under paragraph A are for 3 years. Members may be reappointed for subsequent terms. A vacancy must be filled in the same manner as an original appointment for the remainder of the unexpired term.

The board shall submit a report to the joint standing committee of the Legislature having jurisdiction over transportation matters by June 30th of each year. The report must provide a detailed account of funds for each fiscal year and include the number of loans and grants awarded, the names of those who received loans and grants, a description of the process for awarding loans and grants and the total amount of loan and grant money awarded.

**Sec. 7. Transition.** Notwithstanding the appointment provisions of the Maine Revised Statutes, Title 37-B, section 158, subsection 1, the members of the We Support Our Troops Advisory Board on June 30, 2010 under former Title 29-A, section 456-D, subsection 8 continue to serve on the board for the balance of their terms of office.

See title page for effective date.

## CHAPTER 482

## H.P. 1137 - L.D. 1609

### An Act To Expand the Use of Ignition Interlock Devices

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

**Sec. 1. 29-A MRSA §2508, sub-§1, ¶C,** as enacted by PL 2007, c. 531, §6 and affected by §10, is amended to read:

C. The license of a person with 4 or more OUI offenses may be reinstated after the expiration of the period of suspension if the person has installed for a period of 4 years an ignition interlock device approved by the Secretary of State in the motor vehicle the person operates. This paragraph applies only to 4th or subsequent offenses committed after August 31, 2008.

**Sec. 2. PL 2007, c. 531, §8** is repealed.

See title page for effective date.

## CHAPTER 483

## S.P. 505 - L.D. 1389

### An Act To Create Regional Quality of Place Investment Strategies for High-value Jobs, Products and Services in Maine

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

**Sec. 1. 5 MRSA Pt. 16-A** is enacted to read:

**PART 16-A**

**MAINE QUALITY OF PLACE**

**CHAPTER 363**

**MAINE QUALITY OF PLACE JOBS CREATION AND INVESTMENT STRATEGY**

**§7019. Definitions**

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

**1. Council.** "Council" means the Maine Quality of Place Council set out under section 7020.

**2. Economic development district.** "Economic development district" means an economic development district as defined in 42 United States Code, Section 3122(3) that has a comprehensive economic development strategy under 42 United States Code, Section 3162.

**3. Quality of place assets.** "Quality of place assets" means those exceptional, marketable, place-based competitive strengths, resources and advantages that drive the local and regional economy and its sustainability, including:

A. Sustainable economic activities based on natural resources, including farming, fishing, forestry, nature-based and heritage-based tourism and outdoor recreation and leisure;

B. Downtowns and community centers;

C. Historic buildings, structures and related facilities;

D. Arts, culture and creative economy activities;

E. Landscapes, including the working landscapes of farms, forests and waterfronts;

F. Access to outdoor recreational activities and leisure over public and private lands, including motorized and nonmotorized activities;

G. Skills and knowledge of a workforce that relate to quality of place, including but not limited to those of workers in fishing, farming, forestry, research, historic preservation, the arts and culture, tourism and outdoor recreation and leisure; and

H. Intellectual assets, including schools and colleges, research institutes, museums and educational programs.

**4. Regional quality of place assets inventory.** "Regional quality of place assets inventory" means a listing, mapping and assessment of identified local and regional quality of place assets.

**5. Regional quality of place investment strategy.** "Regional quality of place investment strategy" means a plan of action, including proposed sources of funding, that makes use of a regional quality of place assets inventory to achieve the following goals:

A. Creation of new, high-value jobs, products and services in the geographic area served by an economic development district;

B. Increased regional investment, incomes and public revenues; and

C. Increased protection, enhancement and marketing of assets identified as economic drivers in a regional quality of place assets inventory.

**§7020. Maine Quality of Place Council**

**1. Composition.** The Maine Quality of Place Council, established in section 12004-G, subsection 29-C, consists of the following 12 members:

A. Six ex officio members:

(1) The Commissioner of Economic and Community Development;

(2) The Commissioner of Transportation;

(3) Two commissioners selected by the Governor from the following agencies: the Department of Agriculture, Food and Rural Resources, the Department of Conservation, the Department of Inland Fisheries and Wildlife and the Department of Marine Resources;

(4) The Director of the State Planning Office within the Executive Department; and

(5) The chair of the Maine State Cultural Affairs Council established in section 12004-G, subsection 7-A; and

B. Six private citizen members, appointed by the Governor, subject to approval by the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters and to confirmation by the Legislature. The private citizen members must be selected for their knowledge of and demonstrated commitment to protecting, enhancing and building upon the State's natural, historic, cultural, intellectual, tourism, outdoor recreational and downtown assets for marketability and jobs creation. One private citizen member must be a representative of an economic development district.

**2. Terms.** The members of the council appointed pursuant to subsection 1, paragraph B serve for 2-year terms. Each private citizen member of the council serves until that member's successor is appointed and qualified. A private citizen member of the council is eligible for reappointment.

**3. Vacancy.** A vacancy in the council does not impair the right of a quorum of the members to exercise all the rights and perform all the duties of the council. In the event of a vacancy occurring in the membership, the Governor shall appoint a replacement member for the remainder of the unexpired term in the same manner in which the original appointment was made.

**4. Chair; vice-chair.** At the first meeting of the council, the council shall elect from its membership a chair and a vice-chair. The chair and vice-chair serve for one-year terms. The chair and vice-chair serve until their successors are elected. The chair calls meetings of the council and presides over meetings. The vice-chair serves as the chair in the absence of the chair. The Director of the State Planning Office within the Executive Department shall call the first meeting of the council as soon as all initial appointments to the council have been made.

**5. Meetings; quorum.** The council shall meet at least 3 times each year. The chair shall establish the agenda. A quorum of the council is 7 members.

**6. Compensation.** Members of the council appointed pursuant to subsection 1, paragraph B are enti-

tled to receive compensation for travel expenses as allowed under section 12004-G, subsection 29-C while engaged in council activities. The Executive Department, State Planning Office shall absorb these costs.

**7. Assistance.** The Department of Economic and Community Development and the Executive Department, State Planning Office shall jointly provide staff support to the council. The Department of Economic and Community Development; the Department of Conservation; the Department of Transportation; the Maine State Cultural Affairs Council established in section 12004-G, subsection 7-A; the Department of Inland Fisheries and Wildlife; the Department of Agriculture, Food and Rural Resources; the Department of Marine Resources; the Executive Department, State Planning Office; and all other state agencies shall provide assistance considered necessary by the council to fulfill the objectives of this chapter.

**§7020-A. Council responsibilities**

The council shall facilitate interagency coordination of state and regional activities regarding regional quality of place investment strategies.

**1. Standards and guidance.** In consultation with directors of economic development districts, the council shall establish standards and guidelines for regional quality of place investment strategies. The standards and guidelines must ensure that regional quality of place investment strategies are developed with broad public input. The council shall provide guidance to directors of economic development districts for integrating regional capital investment plans, regional transportation plans and other regional plans and strategies with regional quality of place investment strategies.

**2. Interagency coordination.** The council shall work with relevant state agencies to identify how they can actively promote, strengthen and support efforts to make best use of the State's quality of place assets, including initiatives that support and implement regional quality of place investment strategies. State agencies are encouraged to fund projects that are identified as priorities in regional asset-based strategies developed by economic development districts according to the guidance in this chapter. The council shall coordinate its work with other state economic plans and with the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters. The council shall also consult with the Department of Economic and Community Development in the context of its economic development strategy authority under section 13053; the Maine Development Foundation in the context of its economic development strategy authority under Title 10, section 917-A, subsection 2; the Maine Economic Growth Council in the context of its economic development strategy authority under Title 10, section 929-B, subsection 1; the Maine Community College System; and the University of Maine System.

**3. Performance measures.** In consultation with directors of economic development districts, the council shall develop performance measures to assess the contributions of regional quality of place investment strategies to the goals described in section 7019, subsection 5.

**4. Annual report.** The council shall report on its activities to the Governor and seek input from and report on its activities to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters prior to December 31st of each year. In its report, the council shall describe whether and how regional quality of place investment strategies have contributed to the goals described in section 7019, subsection 5 and make any recommendations necessary to further the purposes of this chapter.

**Sec. 2. 5 MRSA §12004-G, sub-§29-C** is enacted to read:

**29-C.**

| | | | |
|---|---|---|---|
| Natural and Built Assets | Maine Quality of Place Council | Travel Expenses for Appointed Members | 5 MRSA §7020 |

**Sec. 3. 30-A MRSA §2343** is enacted to read:

**§2343. Regional quality of place investment strategies**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Economic development district" has the same meaning as in Title 5, section 7019, subsection 2.

B. "Quality of place assets" has the same meaning as in Title 5, section 7019, subsection 3.

C. "Regional quality of place assets inventory" has the same meaning as in Title 5, section 7019, subsection 4.

D. "Regional quality of place investment strategy" has the same meaning as in Title 5, section 7019, subsection 5.

**2. Regional quality of place investment strategies.** If an economic development district chooses to develop a regional quality of place assets inventory and regional quality of place investment strategy, the economic development district shall seek involvement from leading representatives of natural resources-based businesses, tourism, outdoor recreation and leisure, land conservation, arts and culture, historic preservation, downtown and community revitalization and

municipal, transportation and workforce development interests within the region and any other entity that represents regional business or economic development interests, as well as consult with the Maine Quality of Place Council as established in Title 5, chapter 363. In addition to a regional quality of place assets inventory, a regional quality of place investment strategy must include:

A. Identification of sustainable market opportunities that make best use of the region's identified quality of place assets;

B. An investment plan that includes one or more initiatives designed to realize the identified market opportunities;

C. Priorities among the region's identified and recommended quality of place investments and initiatives;

D. Opportunities and approaches for leveraging other public and private development activities and funds to support the regional quality of place investment strategy; and

E. A plan to achieve full implementation, monitoring and measurement of the results of the regional quality of place investment strategy.

**Sec. 4. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title 5, section 7020, subsection 2, of the initial appointments of the private citizen members of the Maine Quality of Place Council, 2 members must be appointed for 2-year terms, 2 members must be appointed for 3-year terms and 2 members must be appointed for 4-year terms.

See title page for effective date.

## CHAPTER 484

## H.P. 1168 - L.D. 1640

### An Act To Provide for the Safety of Maine Athletes

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

**Sec. 1. 29-A MRSA §101, sub-§63-A** is enacted to read:

**63-A. Roller ski.** "Roller ski" means an object affixed to a foot, separately from the other foot, primarily propelled by human power and driven by the operator on the ground via wheels.

**Sec. 2. 29-A MRSA §2052, sub-§5, ¶B,** as amended by PL 2005, c. 577, §27, is further amended to read:

B. Bicycles, roller skis or other nonmotorized traffic, scooters, motorized bicycles or tricycles or motorized scooters.

**Sec. 3. 29-A MRSA §2060, sub-§1-A,** as enacted by PL 2001, c. 148, §2, is amended to read:

**1-A. Right turns near bicyclists or roller skiers.** A person operating a vehicle that passes a person operating a bicycle or roller skis and proceeding in the same direction may not make a right turn at any intersection or into any road or way unless the turn can be made with reasonable safety.

**Sec. 4. 29-A MRSA §2062, sub-§5,** as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

**5. Passing.** A motorcycle operator may not overtake or pass in the lane occupied by the vehicle being overtaken, except for passing a bicycle or a roller skier. This subsection does not apply to a law enforcement officer performing an officer's duties.

**Sec. 5. 29-A MRSA §2063,** as amended by PL 2009, c. 212, §1, is further amended to read:

**§2063. Bicycles, roller skis, toy vehicles and scooters**

**1. Definitions.** For the purpose of this section, "bicycle" includes a motorized bicycle, a motorized tricycle or a motorized scooter.

**2. Riding to the right.** A person operating a bicycle or roller skis upon a roadway at a speed less than the normal speed of traffic moving in the same direction at that time and place shall drive on the right portion of the way as far as practicable except when it is unsafe to do so or:

A. When overtaking and passing another roller skier, bicycle or other vehicle proceeding in the same direction;

B. When preparing for or making a left turn at an intersection or into a private road or driveway;

C. When proceeding straight in a place where right turns are permitted; and

D. When necessary to avoid hazardous conditions, including, but not limited to, fixed or moving objects, vehicles, bicycles, roller skiers, pedestrians, animals, broken pavement, glass, sand, puddles, ice, surface hazards or opening doors from parallel-parked vehicles, or a lane of substandard width that makes it unsafe to continue along the right portion of the way. For purposes of this paragraph, "lane of substandard width" means a lane that is too narrow for a bicycle or roller skier and a vehicle to travel safely side by side in the lane.

This subsection does not apply in a municipality that, by ordinance approved by the Department of Public

Safety and the Department of Transportation, makes other provisions regarding the operating location of a bicycle or roller skier on a roadway.

**2-A. Bicycle or roller skier traveling on shoulder.** Notwithstanding subsection 2, a person operating a bicycle or roller skis may travel on paved shoulders.

**3. Seating.** A person operating a bicycle may not ride other than upon or astride a regular and permanently attached seat.

**3-A. Number of persons.** A bicycle may not be used to carry more persons than the number for which it is designed and equipped.

**4. Hitching rides.** A person riding on roller skis, a bicycle or a scooter may not attach it to a moving vehicle on a way.

**5. Rights and duties.** A person riding a bicycle or scooter or operating roller skis on a way has the rights and is subject to the duties applicable to the operator of a vehicle, except as to:

A. Special regulations; and

B. Provisions in this Title that by their nature can have no application.

**6. Speed.** A motorized bicycle or motorized scooter may not be operated in excess of 20 miles per hour.

**7. Penalties.** A person 17 years of age or over who violates this section commits a civil violation for which a fine of not less than $25 and not more than $250 may be adjudged. A person under 17 years of age is not subject to a fine under this section.

**8. Impoundment.** The chief of police of a municipality, or if there is no chief of police, the chair of the local legislative body, when satisfied that a juvenile under the age of 17 years has ridden a bicycle or scooter or has operated roller skis in violation of this section, may impound the bicycle ~~or~~, scooter or roller skis for a period not to exceed 5 days for the first offense, 10 days for a 2nd offense and 30 days for a subsequent offense.

**9. Passing a school bus.** A person operating a bicycle or roller skis on a way, in a parking area or on school property, on meeting or overtaking a school bus from either direction when the bus has stopped with its red lights flashing to receive or discharge passengers, shall stop the bicycle or roller skis before reaching the school bus. The person may not proceed until the school bus resumes motion or until signaled by the school bus operator to proceed.

The operator of a bicycle or roller skis on a way separated by curbing or other physical barrier need not stop on meeting or passing a school bus traveling in a lane separated by the barrier from the lane in which that person is traveling.

**Sec. 6. 29-A MRSA §2070, sub-§1-A,** as enacted by PL 2007, c. 400, §8, is amended to read:

**1-A. Passing bicycle or roller skier.** An operator of a motor vehicle that is passing a bicycle or roller skier proceeding in the same direction shall exercise due care by leaving a distance between the motor vehicle and the bicycle or roller skier of not less than 3 feet while the motor vehicle is passing the bicycle or roller skier. A motor vehicle operator may pass a bicycle or roller skier traveling in the same direction in a no-passing zone only when it is safe to do so.

**Sec. 7. 29-A MRSA §2070, sub-§6,** as amended by PL 2007, c. 400, §9, is further amended to read:

**6. Passing on the right.** An operator may pass a vehicle on the right only under the following conditions:

A. When the vehicle to be passed is making or about to make a left turn;

B. On a way with unobstructed pavement not occupied by parked vehicles and of sufficient width for 2 or more lines of traffic in each direction; or

C. On a way on which traffic is restricted to one direction, when the roadway is free from obstructions and of sufficient width for 2 or more lines of traffic.

An operator may pass on the right only under conditions permitting that movement in safety. An operator may not overtake by driving off the pavement or main traveled portion of the way.

A person operating a bicycle or roller skis may pass a vehicle on the right at the bicyclist's or roller skier's own risk.

**Sec. 8. 29-A MRSA §2071, sub-§5,** as amended by PL 2001, c. 148, §4, is further amended to read:

**5. Hand signals.** Signals by hand and arm must be given by the left arm from the left side of a vehicle in the following manner:

A. To indicate a left turn, the hand and arm must be extended horizontally;

B. To indicate a right turn, the hand and arm must be extended upward, except that a person who is operating a bicycle or roller skis is not in violation of this subsection if the person signals a right turn by extending the person's right hand and arm horizontally; and

C. To indicate a stop or a decrease in speed, the hand and arm must be extended downward.

A person operating a bicycle may return the hand used to signal a turn to the handlebars during the turn to

maintain proper control of the bicycle. A roller skier may return the hand used to signal a turn to a position required to maintain proper control of the roller skis during the turn.

**Sec. 9. 29-A MRSA §2321,** as enacted by PL 1999, c. 331, §1, is amended to read:

**§2321. Short title**

This chapter may be known and cited as the "Bicycle and Roller Skis Safety Education Act."

**Sec. 10. 29-A MRSA §2322, sub-§8,** as enacted by PL 1999, c. 331, §1, is amended to read:

**8. Operator.** "Operator" means a person who travels on and controls a bicycle or roller skis.

**Sec. 11. 29-A MRSA §2323,** as enacted by PL 1999, c. 331, §1, is amended to read:

**§2323. Bicyclist and roller skier helmet use; passenger seat use**

**1. Use of helmet.** A person under 16 years of age who is an operator or a passenger on a bicycle or an operator of roller skis on a public roadway or a public bikeway shall wear a helmet of good fit, positioned properly and fastened securely upon the head by helmet straps.

**2. Passenger seat.** A bicycle passenger must be seated properly in a bicycle passenger seat.

**Sec. 12. 29-A MRSA §2324,** as enacted by PL 1999, c. 331, §1, is amended to read:

**§2324. Obligation of rental businesses**

A person who is in the business of renting bicycles or roller skis shall post or make available to a person renting a bicycle or roller skis a written notice explaining the provisions of this chapter and shall provide an appropriate helmet to an operator or passenger who is under 16 years of age. A reasonable fee may be charged for the helmet rental.

**Sec. 13. 29-A MRSA §2325,** as enacted by PL 1999, c. 331, §1, is amended to read:

**§2325. Limitation of liability**

A person who is in the business of selling or renting bicycles or roller skis who complies with this chapter is not liable in a civil suit for damages for any physical injuries sustained by ~~a bicycle~~ an operator or bicycle passenger as a result of the operator's or passenger's failure to use a helmet.

**Sec. 14. 29-A MRSA §2326, sub-§1,** as enacted by PL 2007, c. 400, §11, is amended to read:

**1. Education.** For a first violation of section 2323, subsection 1, a law enforcement officer may provide ~~bicycle~~ safety information to the person. The officer may also inform that person's parent or guardian about the provisions of this chapter and about where to obtain ~~a bicycle~~ an appropriate helmet.

**Sec. 15. 29-A MRSA §2328,** as enacted by PL 1999, c. 331, §1, is amended to read:

**§2328. Evidence**

In an accident involving a bicycle or a roller skier, the nonuse of a helmet by the operator or passenger is not admissible as evidence in a civil or criminal trial.

**Sec. 16. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 29-A, chapter 20, in the chapter headnote, the words "bicycle safety education act" are amended to read "bicycle and roller skis safety education act" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

## CHAPTER 485

## S.P. 628 - L.D. 1663

### An Act Relating to the Maine Aeronautical Advisory Board

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

**Sec. 1. 6 MRSA §302, sub-§2, ¶A,** as amended by PL 1999, c. 131, §18, is further amended to read:

A. The membership of the board consists of ~~5~~ at least 7 members~~;~~: one person from an airport association in the State appointed by the association's board of directors; one person from a pilot's association in the State appointed by the association's board of directors; and ~~3 persons~~ the remaining members appointed by the Commissioner of Transportation~~, one of whom may not represent an interest in aviation~~. ~~The members representing the aviation organizations are appointed by their respective board of directors and all~~ All members serve a term of office of 2 years. Vacancies in membership must be filled in the same manner as the original appointment. The commissioner serves as secretary of the board.

See title page for effective date.

## CHAPTER 486

## H.P. 1101 - L.D. 1564

### 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 §8202, sub-§2, ¶B,** as enacted by PL 1995, c. 368, Pt. LL, §2, is amended to read:

B. Except as otherwise provided in this paragraph, effective July 1, 1996, the student or the student's parent or guardian shall pay to the school the cost of room and board for the school year. In the case of financial need, the State shall pay to the school the difference between the cost of room and board and the student's or the student's family's ability to pay that cost. The board of trustees shall adopt rules governing the determination of financial need and the cost and schedule of payment of room and board under this paragraph. The determination of financial need must be based on a nationally recognized public or private school financial needs assessment system. A student may use scholarship funds in place of payment for all or part of the cost of room and board and any other fees or expenses incurred as a result of that student's enrollment at the school.

**Sec. 2. 20-A MRSA §8202, sub-§3,** as enacted by PL 1993, c. 706, Pt. A, §4, is amended to read:

**3. Out-of-state tuition.** Students from other states and countries and students pursuing a postgraduate high school year of education may attend the school on a space-available basis by paying the cost of tuition, fees and room and board as established by the board of trustees.

**Sec. 3. 20-A MRSA §8202, sub-§4,** as enacted by PL 1995, c. 665, Pt. FF, §2, is amended to read:

**4. Scholarship fund.** The school must demonstrate its ability to raise private funds to support a scholarship fund. Based on this ability, the Legislature may provide General Fund appropriations to the scholarship fund. Funds available in the scholarship fund may not be used to offset, reduce or eliminate the appropriation of state funds described in subsection 2. The existence of the scholarship fund may not reduce or eliminate the State's funding obligations described in subsection 2.

**Sec. 4. 20-A MRSA §8202, sub-§5** is enacted to read:

**5. Educational enhancement fund.** The school may raise private funds to support an educational enhancement fund to enrich the educational experience of students enrolled at the school. The Legislature may provide General Fund appropriations to the educational enhancement fund. Funds available in the educational enhancement fund may not be used to offset, reduce or eliminate the appropriation of state funds described in subsection 2. The existence of the educational enhancement fund may not reduce or eliminate the State's funding obligations described in subsection 2.

**Sec. 5. 20-A MRSA §8204, sub-§1, ¶C,** as amended by PL 2003, c. 4, §1, is repealed and the following enacted in its place:

C. A member of the regional school unit board of the regional school unit in which the school is located, who must be from the community in which the school is located, or the member's designee;

**Sec. 6. 20-A MRSA §8204, sub-§1, ¶F,** as enacted by PL 1993, c. 706, Pt. A, §4, is amended to read:

F. Three members who are teachers, one of whom is a full-time teacher at the school who is a nonvoting member and is annually elected by members of the school's faculty and 2 of whom are teachers in the State representing different geographic regions of the State, appointed by the Governor. Both full-time and part-time teachers at the school may vote in the election of a faculty member to serve on the board of trustees, and the election must be by secret ballot;

**Sec. 7. 20-A MRSA §8204, sub-§1, ¶I,** as enacted by PL 1993, c. 706, Pt. A, §4, is amended to read:

I. One student member who is a voting member and has been elected as the presiding officer of the student body. The student member may not participate as a board member in executive sessions and may not vote in a public proceeding on any matter that was discussed or considered during an executive session; and

**Sec. 8. 20-A MRSA §8204, sub-§4,** as enacted by PL 1993, c. 706, Pt. A, §4, is amended to read:

**4. Quorum.** A quorum for the transaction of business is constituted by the ~~members in~~ attendance of 1/3 of all voting members and all official actions of the board of trustees require a majority vote of those members present and voting.

**Sec. 9. 20-A MRSA §8204, sub-§7** is enacted to read:

**7. Conflict of interest.** A board of trustees member shall attempt to avoid conflicts of interest by disclosure or by abstention.

**Sec. 10. 20-A MRSA §8205, sub-§7,** as amended by PL 1997, c. 772, §1, is further amended to read:

**7. Property management.** To lease and to acquire by purchase any property, lands, buildings, structures, facilities or equipment and make improvements to facilities necessary to fulfill the purposes of this chapter. Any lease or lease-purchase agreement must have a term not to exceed 10 years and must be subject to annual appropriation of funds. The ~~community of Limestone~~ Eastern Aroostook Regional School Unit retains ownership of the Limestone Elementary School and the Limestone Junior Senior High School and shares those facilities with the school;

**Sec. 11. 20-A MRSA §8206, sub-§3,** as enacted by PL 1993, c. 706, Pt. A, §4, is amended to read:

**3. School admission.** Admittance of high school ~~juniors and seniors; early admittance of students whose abilities or special circumstances are so exceptional as to warrant early entry; and consideration by the board of trustees for admittance of sophomore students after the junior and senior year programs are fully implemented~~ students and students pursuing a postgraduate high school year of education based on the enrollment criteria established by the board of trustees as provided in section 8205, subsection 11. Students who apply and are accepted by the school are allowed to attend as provided in section 5205, subsection 6;

**Sec. 12. 20-A MRSA §8206, sub-§5,** as enacted by PL 1993, c. 706, Pt. A, §4, is amended to read:

**5. Telecommunications.** ~~Integration of the University of Maine System interactive television system~~ Utilization of distance learning technologies to allow transmission of certain specialty courses conducted at the school for the benefit of high-achieving students attending school units throughout the State.

See title page for effective date.

## CHAPTER 487

## H.P. 934 - L.D. 1330

### An Act Regarding Gaming by Charitable Organizations

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

## PART A

**Sec. A-1. 17 MRSA c. 14,** as amended, is repealed.

**Sec. A-2. 17 MRSA c. 62** is enacted to read:

## CHAPTER 62

## GAMES OF CHANCE

**§1831. Definitions**

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

**1. Agricultural society.** "Agricultural society" or "fair" means a nonprofit agricultural fair society eligible for a stipend under Title 7, chapter 4.

**2. Chief of State Police.** "Chief of the State Police" or "chief" means the Chief of the State Police or the chief's designee.

**3. Distributor.** "Distributor" means a person, firm, corporation, association or organization that sells, markets or otherwise distributes sealed tickets, gambling apparatus or any other implements of gambling that may be used in the conduct of a game of chance.

**4. Electronic video machine.** "Electronic video machine" means a machine, however operated, that has a video screen featuring an electronically simulated game and delivers or entitles the person playing or operating it to receive the privilege of playing the electronic video machine without charge, but does not deliver or entitle the person playing or operating the electronic video machine to receive cash, premiums, merchandise, tickets or something of value other than the privilege of playing the electronic video machine without charge. An electronic video machine is a machine that may be licensed in accordance with section 1832, subsection 8. A machine that has a video screen featuring an electronically simulated slot machine as a game is not an electronic video machine, but is a machine as defined in subsection 9.

**5. Game of chance.** "Game of chance" means a game, contest, scheme or device in which:

A. A person stakes or risks something of value for the opportunity to win something of value;

B. The rules of operation or play require an event the result of which is determined by chance, outside the control of the contestant or participant; and

C. Chance enters as an element that influences the outcome in a manner that cannot be eliminated through the application of skill.

For the purposes of this subsection, "an event the result of which is determined by chance" includes but is not limited to a shuffle of a deck of cards, a roll of a

die or dice or a random drawing or generation of an object that may include, but is not limited to, a card, a die, a number or simulations of any of these. A shuffle of a deck of cards, a roll of a die, a random drawing or generation of an object or some other event the result of which is determined by chance that is employed to determine impartially the initial order of play in a game, contest, scheme or device does not alone make a game, contest, scheme or device a game of chance. For purposes of this chapter, beano and bingo are not games of chance.

**6. Game of skill.** "Game of skill" means any game, contest, scheme or device in which a person stakes or risks something of value for the opportunity to win something of value and that is not a game of chance.

**7. Gross revenue.** "Gross revenue" means the total amount wagered in a game of chance less the prizes awarded.

**8. Licensee.** "Licensee" means a firm, corporation, association or organization licensed by the Chief of the State Police to operate a game of chance.

**9. Machine.** "Machine" means any machine, including electronic devices, however operated, the internal mechanism or components of which when set in motion or activated and by the application of the element of chance may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tickets or something of value as defined in subsection 17. A machine as defined by this subsection is not eligible to be licensed under this chapter.

**10. Member.** "Member" means a bona fide member of a firm, corporation, association, organization, department or class or a combination thereof who has been duly admitted as a member according to the laws, rules, regulations, ordinances or bylaws governing membership in the firm, corporation, association, organization, department, class or combination thereof.

**11. Net revenue.** "Net revenue" means gross revenue less allowable expenses as described in section 1838.

**12. Printer.** "Printer" means a person, firm, corporation, association or organization that reproduces in printed form, for sale or distribution, materials to be used in the conduct of a game of chance.

**13. Raffle.** "Raffle" means a game of chance in which:

A. A person pays or agrees to pay something of value for a chance, represented and differentiated by a number, to win a prize;

B. One or more of the chances is to be designated the winning chance; and

C. The winning chance is to be determined as a result of a drawing from a container holding numbers representative of all chances sold.

**14. Roulette.** "Roulette" means a game of chance in which players bet on the compartment of a revolving wheel into which a small ball will come to rest.

**15. Slot machine.** "Slot machine" means any machine that operates by insertion of a coin, token or similar object setting the internal mechanism of the machine in motion and that by the application of the element of chance may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tickets or something of value as defined in subsection 17. A slot machine as defined by this subsection is not eligible to be licensed in accordance with this chapter.

**16. Social gambling.** "Social gambling" means a contest of chance in which the only participants are players and from which no person or organization receives or becomes entitled to receive something of value or any profit whatsoever, directly or indirectly, other than as a player, from any source, fee, remuneration connected with gambling or such activity as arrangements or facilitation of the game, permitting the use of premises or selling or supplying for-profit refreshments, food, drink service or entertainment to participants, players or spectators.

**17. Something of value.** "Something of value" means:

A. Any money or property;

B. Any token, object or article exchangeable for money, property, amusement or entertainment; or

C. Any form of credit or promise directly or indirectly contemplating transfer of money or property, or of any interest therein, or involving extension of a service, entertainment or a privilege of playing at a game or scheme without charge.

**18. Tokens.** "Tokens" means distinctive objects, chips, tickets or other devices of no intrinsic value used as a substitute for cash in accounting for revenue from a game of chance.

**§1832. Licenses**

**1. License required.** Except as provided in section 1833, a person, firm, corporation, association or organization may not hold, conduct or operate a game of chance without a license issued by the Chief of the State Police in accordance with this section. A license is not required when a game of chance constitutes social gambling.

**2. Eligible organizations.** Notwithstanding other provisions of law, the Chief of the State Police may issue a license to operate a game of chance to an organization that submits a completed application as described in subsection 5 and has been founded, char-

tered or organized in this State for a period of not less than 2 consecutive years prior to applying for a license and is:

A. An agricultural society;

B. A bona fide nonprofit charitable, educational, political, civic, recreational, fraternal, patriotic or religious organization;

C. A volunteer fire department; or

D. An auxiliary of any of the organizations in paragraphs A to C.

**3. Must be 18 years of age.** The Chief of the State Police may not accept an application from or issue a license under this section to a representative of an eligible organization who is not 18 years of age or older.

**4. Municipal approval required.** An eligible organization described in subsection 2 applying for a license to conduct a game of chance shall obtain written approval from the local governing authority where the game of chance is to be operated or conducted. This written approval must be submitted with the application to the Chief of the State Police as described in subsection 5.

**5. Application.** An eligible organization described in subsection 2 wishing to operate or conduct a game of chance shall submit an application to the Chief of the State Police. The application must be in a form provided by the Chief of the State Police and must be signed by a duly authorized officer of the eligible organization. The application must include the full name and address of the organization, a full description of the game of chance, the location where the game is to be conducted and any other information determined necessary by the Chief of the State Police for the issuance of a license to operate a game of chance, including but not limited to membership lists, bylaws and documentation showing the organization's nonprofit status or charitable designation.

**6. Multiple licenses.** The Chief of the State Police may issue more than one license to conduct or operate a game of chance simultaneously to an eligible organization described in subsection 2. Each game of chance must have a separate license, the nature of which must be specified on the license.

**7. Agricultural fairs.** Notwithstanding any provision in this chapter to the contrary, in addition to games of chance, the Chief of the State Police may issue a license to conduct or operate games of chance known as "penny falls" or "quarter falls" at any agricultural fair, as long as the net revenue from those games is retained by the licensed agricultural society.

**8. Electronic video machines.** The Chief of the State Police may issue a game of chance license to operate an electronic video machine to any eligible organization described in subsection 2.

A. An electronic video machine licensed under this section may only be operated for the exclusive benefit of the licensee, except that up to 50% of the gross proceeds from the operation of the machine may be paid to the distributor as a rental fee and for service and repair of the machine. Notwithstanding other provisions of this chapter, a licensee may rent an electronic video machine from a distributor.

B. No more than 5 electronic video machines may be operated on the licensee's premises. A separate games of chance license is required for the operation of each electronic video machine.

C. A licensee may operate an electronic video machine only on the licensee's premises.

D. Two or more licensees may not share the use of any premises for the operation of electronic video machines.

E. A distributor or employee of the distributor may not be a member of the licensed organization.

F. An electronic video machine licensed under this subsection may not be operated in a manner that meets the definition of illegal gambling machine as described in Title 17-A, section 952, subsection 5-A.

**§1833. License exceptions for games of chance**

Notwithstanding section 1832, subsection 1, an organization that is eligible for a license to conduct games of chance may conduct games of chance without a license in accordance with this section.

**1. Organizations eligible.** An organization, other than an agricultural society, that raises $15,000 or less in gross revenue in a calendar year from the operation of games of chance is eligible to conduct games of chance without a license. When an organization raises more than $15,000 in gross revenue from the operation of games of chance in a calendar year, the organization must submit an application as described in section 1832 and any information and fees otherwise required for an application for licensure under this chapter. An organization that raised more than $15,000 in revenue during the previous calendar year from the operation of licensed games of chance is not eligible to conduct games of chance without a license in accordance with this section.

**2. Limits.** An organization that conducts a game of chance without a license in accordance with this section may not collect more than $10,000 in gross revenue from any one event at which games of chance are conducted. If an organization exceeds $10,000 in gross revenue at any one event, the organization must submit an application as described in section 1832 and

any information and fees otherwise required for an application for licensure under this chapter. An organization that exceeds $10,000 in gross revenue at any one event is not eligible to conduct games of chance without a license as provided by this section within one calendar year of the event at which the revenue limit was exceeded.

**3. Registration required.** In order to conduct games of chance without a license in accordance with this section, an organization must register with the Chief of the State Police. Registrations made in accordance with this section are valid for one event. The registration must include the following:

A. The name and tax identification number of the organization and the charitable purpose for which the games of chance are being conducted;

B. The names of the members of the organization who are responsible for overseeing the operation of the games of chance;

C. The date, time and location of the event at which games of chance will be conducted;

D. The number and types of games of chance to be conducted;

E. An oath and acknowledgement by the applicant that the information contained in the registration is true and accurate; and

F. A registration fee of $30.

**4. Licensed printers and distributors.** Equipment used to conduct games of chance in accordance with this section must be obtained from printers and distributors licensed as required by this chapter.

**5. Other provisions applicable.** An organization that conducts games of chance in accordance with this section is subject to applicable provisions of section 1835, section 1841, section 1842, subsection 3, paragraph E and section 1842, subsection 6.

**6. Revenue and disposition of funds report.** An organization that conducts games of chance in accordance with this section shall file a disposition of funds form prescribed and furnished by the Chief of the State Police reporting the total revenue from games of chance conducted within 12 calendar months of the date when the first game conducted without a license took place and the amount of revenue spent to support the charitable purposes for which the games were conducted. Every statement in the report must be made under oath by an officer of the organization or by the member in charge of the conduct of the games.

**7. Violation.** If an organization that has registered to conduct games of chance is found to have violated any provision of this section, the net revenue from any games of chance conducted is forfeited to the Chief of the State Police. If an organization is found to have violated any provision of this section, the Chief of the State Police is prohibited from accepting a registration as provided by this section from that organization or a person listed on the registration for that organization for a period of 10 years.

**8. Repeal.** This section is repealed January 1, 2012.

**§1834. Fees**

**1. Original application fee.** The original application for a license to operate a game of chance must be accompanied by a fee of $7.50. This is not a fee for a license and is not refundable.

**2. Operation of games of chance.** Except for electronic video games and games of cards as provided in this section, the fee for a license to operate a game of chance is $15 for each week computed on a Monday to Sunday basis or for a portion of a week. The fee for a license issued for a calendar month is $60 and the fee for licenses issued for a calendar year is $700.

The Chief of the State Police may issue any combination of weekly or monthly licenses for the operation of games of chance. Except for games of cards as provided in subsection 4, licenses to conduct any authorized game of chance may be issued for a period of up to 12 months on one application.

**3. Operation of electronic video machines.** The fee for a game of chance license to operate an electronic video machine in accordance with section 1832, subsection 8 is $15 for each week computed on a Monday to Sunday basis or for a portion of a week. The fee for a license issued for a calendar month is $60.

The Chief of the State Police may issue any combination of weekly or monthly licenses for the operation of electronic video machines. A license or combination of licenses to operate an authorized electronic video machine may not exceed a period of 6 months.

**4. Games of cards.** The fee for a license issued to an organization to operate a game of cards, when the organization charges no more than a $5 daily entry fee for participation in the games of cards and when no money or valuable thing other than the $5 daily entry fee is gambled by any person in connection with the game of cards, is $30 for each calendar year or portion of a calendar year. For card games that are played by placing the maximum bet of $1 per hand or deal, the license fee is the same as provided in subsection 2.

**5. Distributors.** The fee for a license issued to a distributor is $625 for each calendar year or portion of a calendar year.

**6. Printers.** The fee for a license issued to a printer is $15 for each calendar year or portion of a calendar year.

**7. Application.** A license to operate any authorized game of chance may be issued for a period of up to 12 months on one application.

All fees required by this section must accompany the application for any license issued by authority of this chapter.

Fees submitted as license fees must be refunded if the license is not issued. Rebates may not be given for any unused license or portion of an unused license. If any license is suspended or revoked as provided by this chapter, fees paid for that license may not be refunded.

**§1835. Conduct games of chance**

**1. Wagers or entry fees; exceptions.** The following limits apply to games of chance.

A. The maximum bet for a licensed game of chance including card games in which bets are placed per hand or per deal is $1.

B. Licensed card games that award part or all of the entry fees paid to participate in the game as prize money and in which no money or thing of value is wagered except for the entry fee are limited to a $5 daily entry fee and no more than 40 players at any one time at any one location.

C. If the licensee operates games of chance for less than 3 total days in a calendar year and contributes 100% of the gross revenue from those games of chance to charity, the amount wagered must be limited to:

(1) A $1 daily entry fee;

(2) Fifty cents per game; or

(3) Twenty-five cents per card received.

Prior to play of the game, the licensee shall determine which of the limits in subparagraphs (1), (2) and (3) is to be used and shall post the limit.

**2. Games conducted by members and bartenders of licensee only.** A game of chance licensed pursuant to this chapter must be operated and conducted for the exclusive benefit of the licensee and must be operated and conducted only by duly authorized members of the licensee or by persons employed by the licensee as bartenders, except that nonmembers employed by the licensee as bartenders may not operate or conduct any game of chance permitted under subsection 5, paragraph B. The requirements of this subsection do not apply to any agricultural society licensed to operate a game of chance.

**3. Games conducted at agricultural fair by members of the agricultural society or a bona fide nonprofit.** Games of chance operated and conducted solely by members of an agricultural society or games of chance operated and conducted by members of bona fide nonprofit organizations on the grounds of the agricultural society and during the annual fair of the agricultural society may use cash, tickets, tokens or other devices approved by the Chief of the State Police by rule.

Notwithstanding any other provision of this section, the tickets, tokens or other devices approved by the Chief of the State Police must be unique to the agricultural society and may be in denominations of 25¢, 50¢ or $1. The tickets, tokens or devices approved by the Chief of the State Police may be sold and redeemed only by a person who has been a member or active volunteer of the agricultural society for at least 2 fair seasons. The agricultural society has the burden of proof for demonstrating the qualification of members or active volunteers.

An agricultural society that uses tokens shall provide records and reports as required by section 1839.

**4. Persons under 18 years of age; exception.** Except as provided in this subsection, a licensee, game owner or operator may not permit a person under 18 years of age to take part in a game of chance, and a person under 18 years of age may not sell chances, except in relation to charitable, religious or recognized youth associations. Notwithstanding any rule to the contrary, upon receiving an application on a form provided by the Chief of the State Police and a determination by the chief that a game of chance licensed to be conducted at a festival-style event is designed to attract players under 18 years of age and awards a nonmonetary prize valued at less than $10 for every chance played, the chief may permit:

A. Persons under 18 years of age to conduct or operate the game of chance; and

B. Persons under 18 years of age to play the game of chance without being accompanied by an adult.

Nothing in this subsection permits games of chance to be operated without a license.

**5. Location.** A license issued pursuant to this section must specify the location where the organization may operate the licensed game of chance. A licensee may not operate games of chance in more than one location at the same time.

A. An agricultural society or a bona fide nonprofit organization may operate a game of chance on the grounds of an agricultural society and during the annual fair of the agricultural society.

B. No more than one licensee may operate a game of chance at a time on the same premises. In any room where a licensed game of chance is being conducted, there must be at least one member of the licensee present in that room for every 2 nonmembers who are present. That member must have been a member of the licensee for at least one year. A member of the licensee, either di-

rectly or through another member or guest, may not stake or risk something of value in the licensee's game of chance unless the member has been a member of the licensee for at least 14 days not including the day of admission into membership.

A bona fide nonprofit organization may operate a licensed game of chance to which the general public has access once every 3 months for a period not to exceed 3 consecutive days. The licensed game of chance may be operated at any location described in the license and may be conducted only by members of the licensee. This subsection does not apply to raffles conducted in accordance with section 1837.

**6. Door prizes.** Distribution of tickets to an event upon which appear details concerning any prize to be given away as a result of a drawing is a game of chance within the meaning of this chapter; a distribution of tickets containing only the words "Door Prize," without further description, is excluded from the provisions of this chapter, as long as no promotional materials or presentations, written or oral, describe the door prize.

**7. "Donation" not to provide an exclusion.** The word "donation" printed on a ticket does not exclude the sponsoring organization from complying with this chapter.

**§1836. Tournament games**

The Chief of the State Police may issue a license to conduct a tournament game as provided in this section to an organization eligible to conduct beano games under chapter 13-A and games of chance under this chapter. For purposes of this section, "tournament game" means a game of chance played using a deck of cards with rules similar to poker or other card games. The Chief of the State Police may not issue a tournament game license to an organization more than once per month.

**1. Local governing authority approval.** An organization applying for a tournament game license must first receive approval by the local governing authority where the game is to be conducted. Proof of approval from the local governing authority must be provided to the Chief of the State Police upon application for a tournament game license.

**2. License application.** An organization must submit a license application to the Chief of the State Police on a form provided by the Chief of the State Police. The license application must specify one or more charitable organizations that the proceeds of the tournament game are intended to benefit. For the purposes of this section, "charitable organization" means a person or entity, including a person or entity in a foreign state as defined in Title 14, section 8502, that is or purports to be organized or operated for any charitable purpose or that solicits, accepts or obtains contributions from the public for any charitable, educational, humane or patriotic purpose.

**3. License.** The license fee for a tournament game license is:

A. Two hundred dollars for a tournament game with up to 100 players;

B. Three hundred dollars for a tournament game with 101 to 150 players;

C. Four hundred dollars for a tournament game with 151 to 200 players;

D. Five hundred dollars for a tournament game with 201 to 250 players; and

E. Six hundred dollars for a tournament game with 251 to 300 players.

**4. Tournament.** The organization licensed to conduct a tournament game under this section shall display the rules of the tournament game and the license issued. The maximum number of players allowed is 100 unless the tournament game is held on premises owned by the licensee, in which case the maximum number of players allowed is 300. Winners are determined by a process of elimination. The use of currency is prohibited as part of tournament game play. The maximum entry fee to play in the tournament game is $100, except the organization may add to the player entry fee to defray the cost of the license fee, as long as the total additional amount collected from all players does not exceed $200. Only one entry fee is permitted per person. A tournament game must be completed within 48 hours. Other games of chance on the premises are prohibited, except for lucky seven or similar sealed tickets.

**5. Proceeds.** No less than 75% of the entry fees under subsection 4 must be paid as prizes to the winners of the tournament game.

**6. Cost of administration; surplus.** The Chief of the State Police may retain, from license fees collected in accordance with subsection 3, only an amount necessary to defray the costs of administering this section. All fees collected in excess of the amount necessary to defray the costs of administration must be allocated as follows:

A. Forty percent to the Fractionation Development Center; and

B. Sixty percent to the General Fund.

**§1837. Raffles**

**1. Raffles with prizes of $10,000 or less.** Notwithstanding section 1832, subsection 1, a license to conduct or operate a raffle in which the holder of the winning chance does not receive something of value worth more than $10,000 is not required of the following:

A. Any agricultural society or any bona fide nonprofit organization that is either charitable, educational, political, civic, recreational, fraternal, patriotic or religious or any auxiliary of such an organization;

B. Any volunteer police force, fire department or ambulance corps;

C. Any class or organization of an elementary, secondary or postsecondary educational institution operated or accredited by the State; or

D. Any state agency that conducts or operates a raffle for a donated item to benefit fish and wildlife conservation projects.

Any exempt organization, department or class or combination listed in paragraph A, B, C or D may sponsor, operate and conduct a raffle without a license only for the exclusive benefit of that organization, department or class or combination, and that raffle may be conducted only by duly authorized members of the sponsoring organization, department or class or combination.

A state agency may not conduct or operate more than 2 raffles per year pursuant to paragraph D.

**2. Special raffles; prizes more than $10,000 but not more than $75,000.** The following provisions apply to special raffles licensed under this subsection.

A. The Chief of the State Police may issue one special raffle license per year to any organization, department or class eligible to hold a raffle under subsection 1. The special raffle license entitles the licensee to hold one raffle in which the holder of a winning chance receives something of value worth more than $10,000 but not more than $75,000. A raffle licensed under this paragraph may be structured as a progressive raffle that is divided into a maximum of 12 multiple drawings with previous entries rolled into subsequent drawing pots and with the final drawing to be held within 12 months of the first. Drawings must be used to randomly select a smaller group to be eligible for the final prize to be awarded after the final drawing. Section 1835, subsection 1 does not apply to raffles licensed under this section.

B. The Chief of the State Police may not issue a license under this subsection to hold a raffle in which the holder of a winning chance receives a cash prize worth more than $10,000.

C. All tickets sold pursuant to a special raffle license must be purchased from a licensed distributor or licensed printer. Tickets must be sequentially numbered and have printed on their faces the following information: the name of the special raffle licensee; a description of the prize or prizes; the price of the ticket; and the date, time and place of the drawing. Any organization, department or class listed in subsection 1 that conducts a raffle under this section shall retain all unsold raffle tickets for 6 months after the raffle drawing and make those tickets available for inspection at the request of the Chief of the State Police.

**3. Charitable organizations; livestock raffling.** A license is required before a charitable organization may raffle livestock for fund-raising purposes under Title 7, section 3972, subsection 4. The Commissioner of Agriculture, Food and Rural Resources or the commissioner's designee shall make forms available for charitable organizations to apply for licenses for one-year or 3-year periods. If the commissioner or the commissioner's designee is satisfied that the charitable organization has not violated or will not violate the restrictions of Title 7, section 3972, a license must be issued.

**4. Raffle tickets sold by volunteers.** Notwithstanding section 1835, subsection 2, tickets for raffles licensed in accordance with this section may be sold by persons other than members of the licensed organization as long as the persons selling the tickets are uncompensated volunteers for the organization and the names of the volunteers who sell the tickets are provided to the Chief of the State Police within 10 days of issuance of the raffle license.

**§1838. Revenue and expenses**

**1. Compensation.** Those who conduct games of chance may not be paid for such services except according to this subsection.

A. An organization including a fair licensed to operate beano, bingo or lucky seven games may use up to 20% of the gross revenue to compensate those who conduct the games.

B. Each person who conducts a game of chance licensed to an agricultural society may be paid at a rate that does not exceed 3 times the State's minimum wage as established in Title 26, section 664, subsection 1, unless the game is one for which the limit in paragraph A applies.

**2. Exception.** Notwithstanding subsection 1, a licensee may use the proceeds of a game of chance to:

A. Defray the expenses or part of the expenses that further the purpose for which the organization is formed, except that the proceeds may not be:

(1) Used to purchase alcohol or to defray the cost of activities where alcohol is served; or

(2) Paid directly to organization members except as specifically allowed in this section; and

B. Defray the expenses or part of the expenses of a member, auxiliary member, officer or employee of the organization for a serious illness, injury or

casualty loss if the licensee makes an application pursuant to this section and the application is approved by the licensing division within the Bureau of State Police. An application must be made in the form and contain the information the licensing division requires.

(1) In the case of serious illness or injury, the licensing division may require certification by a licensed physician in support of the application.

(2) In the case of a casualty loss, the licensing division may require statements or reports from a law enforcement agency, rescue or other emergency services personnel or an insurance agency to support the application.

(3) The licensing division may deny an application if it appears that the person who would receive the proceeds has adequate means of financial support, including, but not limited to, insurance or workers' compensation benefits.

**3. Rules.** The Chief of the State Police shall adopt routine technical rules in accordance with Title 5, chapter 375 to carry out this section.

**4. Posting.** An organization licensed to conduct a game of chance pursuant to section 1832 shall post in a conspicuous place in the room or hall where games of chance are conducted a sign that states the net revenue earned from the operation of the game in dollars and cents, the amount of charitable donations from that net revenue in dollars and cents, what percentage in dollars and cents of the net revenue that amount represents in donations to nonprofit activities and what percentage of the net revenue was distributed from licensed games for the previous calendar year and has been distributed in the current calendar year. For the purposes of this subsection, "calendar year" means January to December.

**§1839. Licensee records and reports**

**1. Records required.** Each licensee shall keep a record of all financial transactions involving games of chance operated under each license granted to the licensee. The treasurer of the licensee or another officer designated by the treasurer is responsible for maintaining those records. The records must include an exact account of all gross revenue from the games, an itemization of all allowable expenses, including, but not limited to, the cost of prizes, printing, licenses and administration, and the disposition of all proceeds, including, but not limited to, all gifts, grants and payments to any person, firm, corporation, association or organization for any purpose whatsoever. All financial records involving games of chance must be separate and distinguishable from other records of the organization. Revenue from more than one game of chance may be entered into one account.

**2. Records required for licensee employing tokens.** If a licensee employs tokens to account for revenue from games of chance and if the licensee maintains direct control over the sale and redemption of the tokens and keeps accurate records of all tokens used, then the chief may by rule alter or reduce the record-keeping requirements of subsection 1 to the extent that a licensee's use of tokens renders those records unnecessary for adequate control of the licensee's games.

**3. Disposition of funds reports.** Within 10 business days after the last day of any period during which a licensed game of chance is conducted with other than an annual license or within 10 business days after the end of each calendar month during which a licensed game of chance is conducted with an annual license, the licensee shall file with the Chief of the State Police a disposition of funds form prescribed and furnished by the Chief of the State Police, detailing for the period the total receipts and expenditures of the game and the disposition of funds. Every statement must be made under oath by an officer of the licensee or by the member in charge of the conduct of the game.

**4. Disposition of funds reports from licensee using tokens.** If tokens are employed to account for revenue from games of chance, then the licensee shall report the number of tokens sold, the number redeemed and the disposition of funds from the proceeds of sale in addition to such other information as the chief may require under subsection 3.

**5. Records maintained for 3 years.** Every licensee that has conducted a game of chance shall maintain and keep for a period of 3 years reports as may be necessary to substantiate the records and reports required by this section or by the rules adopted under this chapter.

**6. Location.** All records maintained by a licensee pursuant to this section and pursuant to the rules adopted under this chapter must be kept and maintained on the premises where the game of chance has been conducted or at the primary business office of the licensee, which must be designated by the licensee in the license application. These records must be open to inspection by the Chief of the State Police or the chief's representative, and a licensee may not refuse the Chief of the State Police or the chief's representative permission to inspect or audit the records. Refusal to permit inspection or audit of the records does not constitute a crime under this chapter but constitutes grounds for revocation of license.

**§1840. Distributors and printers; records and reports**

**1. Printers licensed.** A printer in the State may not print materials to be used in the conduct of a licensed game of chance unless licensed by the Chief of

the State Police. A printer licensed under this section may act as a distributor without having to be licensed as a distributor as long as neither the printer nor anyone on the printer's behalf acts as a seller for services connected with a game of chance outside of the confines of the printer's premises described in that printer's license. If that printer or someone else acts as a seller for the printer's services in connection with a game of chance outside of the premises described on that printer's license, either that printer or any person or persons acting on that printer's behalf must be licensed as a distributor under subsection 2.

The applicant for a printer's license, or, if the applicant is a firm, corporation, association or other organization, its resident manager, superintendent or official representative shall file an application with the Chief of the State Police on a form provided by the Chief of the State Police. The Chief of the State Police shall furnish to each applicant a current copy of this chapter and the rules adopted under section 1843 and to each licensee a copy of any changes or additions to this chapter and the rules adopted under section 1843.

**2. Distributors licensed.** A distributor may not sell, lease, market or otherwise distribute gambling apparatus or implements unless licensed by the Chief of the State Police, except that a license is not required for the sale, marketing or distribution of raffle tickets when the holder of the winning chance receives something of value worth less than $10,000.

A nonresident manufacturer or distributor of gambling apparatus or implements doing business in the State must have an agent in this State who is licensed as a distributor. A distributor may not sell, market or otherwise distribute gambling apparatus or implements to a person or organization, except to persons or organizations licensed to operate or conduct games of chance under section 1832, licensed to conduct a special raffle under section 1837, subsection 2 or eligible to conduct a raffle pursuant to section 1837, subsection 1. A distributor may not lease or loan or otherwise distribute free of charge any gambling apparatus or implements to an organization eligible to operate a game of chance, except that a distributor may lease gambling apparatus or implements to an agricultural society licensed to operate games of chance on the grounds of the agricultural society and during the annual fair of the agricultural society as long as the distributor does not charge the agricultural society an amount in excess of 50% of the gross revenue from any licensed game of chance.

A licensee shall acquire gambling apparatus and implements from a distributor licensed under this section, unless the gambling apparatus or implements are printed, manufactured or constructed by the licensed organization. At no time may any licensee print, manufacture or construct any gambling apparatus or implements for distribution to any other licensee. The applicant for a distributor's license, or, if the applicant is a firm, corporation, association or other organization, its resident manager, superintendent or official representative shall file an application with the Chief of the State Police on a form provided by the Chief of the State Police. The Chief of the State Police shall furnish to each applicant a current copy of this chapter and the rules adopted under section 1843 and to each licensee a copy of any changes or additions to this chapter and the rules adopted under section 1843.

**3. Sales agreements.** A distributor shall forward to the Chief of the State Police, prior to delivery of any gambling machine to the purchaser, a copy of all sales agreements, sales contracts or any other agreements involving the sale of any gambling machine. The terms of the sales contract must include, but are not limited to, the name of seller, name of purchaser, address of seller, address of purchaser, description of the gambling machine including serial number and model name and number, total sale price, any arrangement or terms for payments and the date of final payment.

Any change, modification or alteration of these agreements must be reported to the Chief of the State Police by the purchaser within 6 days of the change, modification or alteration.

**4. Service agreements.** With the sale of any gambling machine involving a service agreement, the distributor shall forward to the Chief of the State Police a copy of the agreement prior to delivery of the machine. The terms of the service agreements must include, but are not limited to, the name of seller, name of purchaser, address of seller, address of purchaser, description of machine to be serviced including serial number and model name and number and all prices and payments for that service.

Any change, modification or alteration of the agreement must be reported to the Chief of the State Police by the purchaser within 6 days of the change, modification or alteration.

**5. Agricultural societies; lease agreements.** When a gambling apparatus or implement is leased as provided in subsection 2 to an agricultural society, the distributor shall forward to the Chief of the State Police a copy of the lease agreement prior to delivery of the gambling apparatus or implement. The terms of the lease must include, but are not limited to, the name of the lessor; address of the lessor; name of the lessee; address of the lessee; description of the gambling apparatus or implement; serial number, model name or number of the gambling apparatus or implement; and all prices and payments for the lease. Each lease must be for a specific period of time no longer than the duration of the annual fair of that lessee, and each gambling apparatus must have its own separate lease. Gambling apparatus or implements leased under this section:

A. May be operated only for the exclusive benefit of the agricultural society, except that the agricultural society may pay a distributor up to 50% of gross gaming revenue in accordance with subsection 2; and

B. Must bear the name and address of the distributor.

**6. Reports.** At the end of each calendar month, a distributor or printer shall file with the Chief of the State Police a report indicating:

A. The names and addresses of all persons or organizations to which the distributor or printer has distributed equipment and the dates of the distribution;

B. A description of the equipment distributed, including serial number and model name and number; and

C. The quantities of any equipment distributed.

**7. Retention and inspection of records.** A distributor or printer shall maintain and keep for a period of 3 years, on the premises of the distributor or printer, any records that may be necessary to substantiate the reports required by this section or by the rules adopted under this chapter. The records must be open to inspection, and a licensee may not refuse the Chief of the State Police or the chief's representative permission to inspect or audit the records. Refusal to permit inspection or audit of the records does not constitute a crime under this chapter but constitutes grounds for revocation of license.

**8. Reports generally.** The Chief of the State Police shall require from any licensed printer or distributor, or from any organization authorized to operate a game of chance, whatever reports determined necessary by the chief for the purpose of the administration and enforcement of this chapter.

**§1841. Prohibited acts**

**1. Schemes prohibited.** A license may not be issued under this chapter for the conduct or operation of a machine, a slot machine, roulette or games commonly known as policy or numbers, except that a license may be issued for an electronic video machine. An electronic video machine that constitutes a game of chance is fully governed by this chapter.

**2. Prohibited games.** The following games are prohibited:

A. A game that uses objects that are constructed, designed or altered to be other than what they appear to be and to respond in a way other than that in which the average player would assume that they would respond, unless that construction, design or alteration is permitted in the rules governing that game and the construction, design or alteration meets the requirements of those rules;

B. A game in which the operator either partially or entirely controls the outcome of the game by the operator's manner of operating or conducting the game;

C. A game in which the outcome depends upon the word of the operator against the word of the player; and

D. A game of skill that includes any mechanical or physical device that directly or indirectly impedes, impairs or thwarts the skill of the player.

**3. Glass prohibited.** The use of glass is prohibited in games of skill pursuant to Title 32, section 1873.

**§1842. Investigations and actions on licenses; evidence**

**1. Investigation.** The Chief of the State Police shall investigate or cause to be investigated all complaints made to the chief and all violations of this chapter or the rules adopted pursuant to section 1843.

**2. Refusal to issue, modify or renew; modification; suspension; revocation.** Each of the following is grounds for an action to refuse to issue, modify or renew or to modify, suspend or revoke the license of a distributor or printer licensed under this chapter:

A. The distributor or printer or its resident manager, superintendent or official representative made or caused to be made a false statement of material fact in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued;

B. The distributor or printer or its resident manager, superintendent or official representative violated any provision of this chapter or any rule adopted by the Chief of the State Police under section 1843.

(1) Except as provided in subparagraph (2), the Chief of the State Police shall give written notice of any violation to the distributor or printer who then has 14 days to comply. Failure to comply within the 14-day period is grounds for an action under this section.

(2) If a distributor or printer violates section 1840, subsection 1 or 2, the Chief of the State Police is not required to give the notice or allow the compliance period provided in subparagraph (1); or

C. The distributor or printer or its resident manager, superintendent or official representative has been:

(1) Convicted of a crime under this chapter or Title 17-A, chapter 39; or

(2) Convicted within the prior 10 years of any crime for which imprisonment for more than one year may be imposed.

**3. Chief of the State Police.** The Chief of the State Police may:

A. Investigate all aspects of this chapter including the direct and indirect ownership or control of any licenses;

B. Suspend, revoke or refuse to issue a license, after notice and the opportunity for a hearing, if the applicant, applicant's agent or employee, licensee or licensee's agent or employee violates a provision of this chapter or Title 17-A, chapter 39 or fails to meet the statutory requirements for licensure pursuant to this chapter;

C. Immediately suspend or revoke a license if there is probable cause to believe that the licensee or the licensee's agent or employee violated section 1832, subsection 8, paragraph C; section 1841, subsection 2; or a provision of Title 17-A, chapter 39;

D. Issue a subpoena in the name of the State Police in accordance with Title 5, section 9060, except that this authority applies to any stage of an investigation under this chapter and is not limited to an adjudicatory hearing. This authority may not be used in the absence of reasonable cause to believe a violation has occurred. If a witness refuses to obey a subpoena or to give any evidence relevant to proper inquiry by the chief, the Attorney General may petition the Superior Court in the county where the refusal occurred to find the witness in contempt. The Attorney General shall cause to be served on that witness an order requiring the witness to appear before the Superior Court to show cause why the witness should not be adjudged in contempt. The court shall, in a summary manner, hear the evidence and, if it is such as to warrant the court in doing so, punish that witness in the same manner and to the same extent as for contempt committed before the Superior Court or with reference to the process of the Superior Court; and

E. Require such evidence as the chief determines necessary to satisfy the chief that an applicant or organization licensed to conduct games of chance conforms to the restrictions and other provisions of this chapter. Charters, organizational papers, bylaws or other such written orders of founding that outline or otherwise explain the purpose for which an organization was founded, must, upon request, be forwarded to the Chief of the State Police. The Chief of the State Police may require of any licensee or of any person operating, conducting or assisting in the operation of a licensed game of chance evidence as the chief may determine necessary to satisfy the chief that the person is a duly authorized member of the licensee or a person employed by the licensee as a bartender as required by section 1835, subsection 2. Upon request, this evidence must be forwarded to the Chief of the State Police. The Chief of the State Police may require such evidence as the chief may determine necessary regarding the conduct of games of chance by a licensee to determine compliance with this chapter.

**4. Licensing actions after notice and opportunity for hearing.** The Chief of the State Police shall notify the applicant or licensee in writing, before a license is denied, suspended or revoked pursuant to subsection 3, paragraph B, of the intended denial or commencement date of the suspension or revocation, which may not be made any sooner than 96 hours after the licensee's receipt of the notice, of the duration of the suspension or revocation and of the right to a hearing pursuant to this subsection. The applicant or licensee has the right to request a hearing before the Commissioner of Public Safety or the commissioner's designee. Upon the applicant's or licensee's request for a hearing, the Commissioner of Public Safety shall provide a hearing. The hearing must comply with the Maine Administrative Procedure Act. The purpose of the hearing is to determine whether a preponderance of the evidence establishes that the applicant, applicant's agent or employee or the licensee or licensee's agent or employee violated a provision of this chapter or Title 17-A, chapter 39. A request for a hearing may not be made any later than 10 days after the applicant or licensee is notified of the proposed denial, suspension or revocation. The suspension or revocation must be stayed pending the hearing; the hearing may not be held any later than 30 days after the date the commissioner receives the request unless otherwise agreed by the parties or continued upon request of a party for cause shown.

**5. Immediate suspension or revocation.** A licensee whose license is immediately suspended or revoked by the Chief of the State Police pursuant to subsection 3, paragraph C must be notified in writing of the duration of the suspension or revocation and the licensee's right to request a hearing before the Commissioner of Public Safety or the commissioner's designee. Upon the licensee's request for a hearing, the Commissioner of Public Safety shall provide a hearing. The hearing must comply with the Maine Administrative Procedure Act. The purpose of the hearing is to determine whether a preponderance of the evidence establishes that the licensee or the licensee's agent or employee violated section 1832, subsection 8, paragraph C; section 1841, subsection 2; or a provision of Title 17-A, chapter 39. A request for a hearing may not be made any later than 48 hours after the licensee is notified of the suspension or revocation. A hearing

may not be held any later than 10 days after the date the commissioner receives the request.

**6. Access to premises.** A person, firm, corporation, association or organization making application to the Chief of the State Police to conduct or operate a game of chance or any such person, firm, corporation, association or organization authorized under this chapter to conduct or operate a game of chance shall permit inspection of any equipment, prizes, records or items and materials used or to be used in the conduct or operation of a game of chance by the Chief of the State Police or the chief's authorized representative.

A firm, corporation, association or organization licensed to conduct or operate a game of chance shall permit at any time the Department of Public Safety or the city or town fire inspectors of the municipality in which the licensed game is being conducted to enter and inspect the licensed premises.

**§1843. Rules**

The Chief of the State Police may adopt routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A necessary for the administration and enforcement of this chapter and for the licensing, conduct and operation of games of chance. The Chief of the State Police may regulate, supervise and exercise general control over the operation of such games. In establishing such rules, the Chief of the State Police must, in addition to the standards set forth in other provisions of this chapter, set forth conduct, conditions and activity considered undesirable, including:

**1. Fraud.** The practice of any fraud or deception upon a participant in a game of chance;

**2. Unsafe premises.** The conduct of a game of chance in or at premises that may be unsafe due to fire hazard or other such conditions;

**3. Advertising and solicitation.** Advertising that is obscene or solicitation on a public way of persons to participate in a game of chance;

**4. Organized crime.** Infiltration of organized crime into the operation of games of chance or into the printing or distributing of gambling materials;

**5. Disorderly persons.** Presence of disorderly persons in a location where a game of chance is being conducted;

**6. Leasing of equipment.** Leasing of equipment by a licensee used in the operation of games of chance not in accordance with this chapter; and

**7. Bona fide nonprofit organization.** The establishment of organizations that exist primarily to operate games of chance and do not have a bona fide nonprofit charitable, educational, political, civic, recreational, fraternal, patriotic, religious or public safety purpose.

The Chief of the State Police shall provide a mechanism for individuals and businesses to request a determination from the State Police as to whether a particular game, contest, scheme or device qualifies as a game of chance or a game of skill.

**§1844. Violations**

A person who violates this chapter or rules adopted in accordance with this chapter commits a Class D crime.

**§1845. Administration expenses**

The expenses of administering this chapter must be paid out of the fees received in accordance with this chapter.

**§1846. Vending machines**

Nothing in this chapter applies to vending machines the primary purpose of which is to dispense beverages, candy, fruit or other food items when a coin or bills are inserted into the machine.

## PART B

**Sec. B-1. 7 MRSA §3972, sub-§4,** as amended by PL 1997, c. 690, §41, is further amended to read:

**4. Exception.** Notwithstanding subsection 1, paragraph C, livestock may be raffled by charitable organizations licensed under Title 17, section ~~332~~ 1837, subsection ~~6~~ 3 for fund-raising purposes. For the purposes of this section, "charitable organization" has the same meaning as defined in Title 9, section 5003, subsection 1. Proceeds from a raffle under this subsection must be used for charitable purposes.

The animal must be awarded in freezer-ready form.

**Sec. B-2. 8 MRSA §1001, sub-§19,** as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is amended to read:

**19. Game of chance.** "Game of chance" has the same meaning as set forth in Title 17, section ~~330~~ 1831, subsection ~~2~~ 5.

**Sec. B-3. 8 MRSA §1016, sub-§2, ¶D,** as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is amended to read:

D. Has not engaged in conduct in this State or any other jurisdiction that would constitute a violation of this chapter, chapter 11 involving gambling, Title 17, chapter 13-A or ~~14~~ 62 or Title 17-A, chapter 39 or substantially similar offenses in other jurisdictions;

**Sec. B-4. 8 MRSA §1064,** as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is amended to read:

**§1064. Applicability of Title 17, chapter 62**

Except as expressly provided in this chapter, the provisions of Title 17, chapter ~~14~~ 62 do not apply to the ownership, distribution or operation of slot machines in the State.

**Sec. B-5. 17 MRSA §314, first ¶,** as amended by PL 1999, c. 63, §1, is further amended to read:

The Chief of the State Police may issue licenses to operate beano or bingo games to any volunteer fire department or any agricultural fair association or bona fide nonprofit charitable, educational, political, civic, recreational, fraternal, patriotic, religious or veterans' organization that was in existence and founded, chartered or organized in the State at least 2 years prior to its application for a license, when sponsored, operated and conducted for the exclusive benefit of that organization by duly authorized members. The Chief of the State Police may also issue a license to any auxiliary associated with an organization, department or association qualified for a license under this section if the auxiliary was founded, chartered or organized in this State and has been in existence at least 2 years before applying for a license and the games are sponsored, operated and conducted for the exclusive benefit of the auxiliary by duly authorized members of the auxiliary. Proceeds from any game conducted by the auxiliary or the auxiliary's parent organization may not be used to provide salaries, wages or other remuneration to members, officers or employees of the auxiliary or its parent organization, except as provided in sections 326 and ~~335~~ 1838. The 2 years' limitation does not apply to any organizations in this State having a charter from a national organization, or auxiliaries of those organizations, even though the organizations have not been in existence for 2 years prior to their application for a license. The 2 years' limitation does not apply to any volunteer fire department or rescue unit or auxiliary of that department or unit. A license may be issued to an agricultural fair association when sponsored, operated and conducted for the benefit of such agricultural fair association.

**Sec. B-6. 17 MRSA §314-A, sub-§1, ¶B,** as enacted by PL 1991, c. 426, §3, is amended to read:

B. In conjunction with the operation of high-stakes beano, federally recognized Indian tribes holding a license under this section may advertise and offer prizes for attendance with a value of up to $25,000 under the terms prescribed for raffles in section ~~331, subsection 6~~ 1837. Any prize awarded under this paragraph ~~must~~ may be awarded only on the basis of a ticket of admission to the high-stakes beano game and may only be awarded to a person who holds an admission ticket.

**Sec. B-7. 17 MRSA §314-A, sub-§2-A,** as enacted by PL 2003, c. 452, Pt. I, §4 and affected by Pt. X, §2, is amended to read:

**2-A. Attendance prizes.** In conjunction with the operation of high-stakes beano, a federally recognized Indian tribe holding a license under this section may advertise and offer prizes for attendance with a value of up to $25,000 under the terms prescribed for raffles in section ~~331, subsection 6~~ 1837. A prize awarded under this subsection may be awarded only on the basis of a ticket of admission to the high-stakes beano game and may be awarded only to a person who holds an admission ticket.

**Sec. B-8. 17 MRSA §324-A, sub-§2, ¶B,** as enacted by PL 2003, c. 452, Pt. I, §10 and affected by Pt. X, §2, is amended to read:

B. Raffle tickets may be sold in accordance with chapter ~~14~~ 62.

**Sec. B-9. 17 MRSA §2306,** as amended by PL 1989, c. 502, Pt. A, §46, is further amended to read:

**§2306. Exemptions; lotteries**

Any person, firm, corporation, association or organization licensed by the Chief of the State Police as provided in chapter ~~14~~ 62 or authorized to conduct a raffle without a license as provided in section ~~331, subsection 6~~ 1837, ~~shall be~~ is exempt from the application of this chapter insofar as the possession of raffle tickets, gambling apparatus and implements of gambling ~~which~~ that are permitted within the scope of ~~said~~ the license or licenses issued, and all persons ~~shall be~~ are exempt from this chapter insofar as gambling or possession of raffle tickets is concerned, if the gambling and possession is in connection with a game of chance licensed as provided in chapter ~~14~~ 62 or a raffle conducted without a license as authorized by section ~~331, subsection 6~~ 1837.

**Sec. B-10. 17-A MRSA §951,** as amended by PL 1989, c. 502, Pt. A, §48, is further amended to read:

**§951. Inapplicability of chapter**

Any person licensed by the Chief of the State Police as provided in Title 17, chapter 13-A or chapter ~~14~~ 62, or authorized to operate or conduct a raffle pursuant to Title 17, section ~~331, subsection 6~~ 1837, ~~shall be~~ is exempt from the application of the provisions of this chapter insofar as that person's conduct is within the scope of the license.

**Sec. B-11. 17-A MRSA §952, sub-§5-A, ¶C,** as amended by PL 2003, c. 687, Pt. A, §6 and affected by Pt. B, §11, is further amended to read:

C. That is not a machine that a person may lawfully operate pursuant to a license that has been issued under Title 17, chapter ~~14~~ 62 or that is operated by the Department of Administrative and

Financial Services, Bureau of Alcoholic Beverages and Lottery Operations; and

**Sec. B-12. 26 MRSA §773, 6th ¶,** as enacted by PL 1997, c. 353, §2, is amended to read:

Notwithstanding other provisions of this section, a minor under 16 years of age may be employed at a commercial place of amusement operating at a permanent location, except that minors under 16 years of age may not be employed at games of chance as defined in Title 17, chapter ~~14~~ 62 or hazardous occupations as determined by the director.

**Sec. B-13. 32 MRSA §1873,** as enacted by PL 1991, c. 251, §2, is amended to read:

**§1873. Glass-breaking games**

A person, firm, corporation, association or organization may not hold, conduct or operate games of skill, as defined in Title 17, section ~~330~~ 1831, subsection ~~2-A~~ 6, that involve the breaking of glass. A violation of this section is a Class E crime.

**Sec. B-14. 36 MRSA §691, sub-§1, ¶A,** as amended by PL 2007, c. 437, §8, is further amended to read:

A. "Eligible business equipment" means qualified property that, in the absence of this subchapter, would first be subject to assessment under this Part on or after April 1, 2008. "Eligible business equipment" includes, without limitation, repair parts, replacement parts, replacement equipment, additions, accessions and accessories to other qualified business property that first became subject to assessment under this Part before April 1, 2008 if the part, addition, equipment, accession or accessory would, in the absence of this subchapter, first be subject to assessment under this Part on or after April 1, 2008. "Eligible business equipment" also includes inventory parts.

"Eligible business equipment" does not include:

(1) Office furniture, including, without limitation, tables, chairs, desks, bookcases, filing cabinets and modular office partitions;

(2) Lamps and lighting fixtures used primarily for the purpose of providing general purpose office or worker lighting;

(3) Property owned or used by an excluded person;

(4) Telecommunications personal property subject to the tax imposed by section 457;

(5) Gambling machines or devices, including any device, machine, paraphernalia or equipment that is used or usable in the playing phases of any gambling activity as that term is defined in Title 8, section 1001, subsection 15, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. "Gambling machines or devices" includes, without limitation:

(a) Associated equipment as defined in Title 8, section 1001, subsection 2;

(b) Computer equipment used directly and primarily in the operation of a slot machine as defined in Title 8, section 1001, subsection 39;

(c) An electronic video machine as defined in Title 17, section ~~330~~ 1831, subsection ~~1-A~~ 4;

(d) Equipment used in the playing phases of lottery schemes; and

(e) Repair and replacement parts of a gambling machine or device;

(6) Property located at a retail sales facility and used primarily in a retail sales activity unless the property is owned by a business that operates a retail sales facility in the State exceeding 100,000 square feet of interior customer selling space that is used primarily for retail sales and whose Maine-based operations derive less than 30% of their total annual revenue on a calendar year basis from sales that are made at a retail sales facility located in the State. For purposes of this subparagraph, the following terms have the following meanings:

(a) "Primarily" means more than 50% of the time;

(b) "Retail sales activity" means an activity associated with the selection and purchase of goods or services or the rental of tangible personal property. "Retail sales activity" does not include production as defined in section 1752, subsection 9-B; and

(c) "Retail sales facility" means a structure used to serve customers who are physically present at the facility for the purpose of selecting and purchasing goods or services at retail or for renting tangible personal property. "Retail sales facility" does not include a separate structure that is used as a warehouse or call center facility; or

(7) Property that is not entitled to an exemption by reason of the additional limitations imposed by subsection 2.

**Sec. B-15. 36 MRSA §6652, sub-§1-B, ¶C,** as repealed and replaced by PL 2005, c. 218, §61 and affected by §63, is amended to read:

C. Gambling machines or devices, including any device, machine, paraphernalia or equipment that is used or usable in the playing phases of any gambling activity as that term is defined in Title 8, section 1001, subsection 15, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. "Gambling machines or devices" includes, without limitation:

(1) Associated equipment as defined in Title 8, section 1001, subsection 2;

(2) Computer equipment used directly and primarily in the operation of a slot machine as defined in Title 8, section 1001, subsection 39;

(3) An electronic video machine as defined in Title 17, section ~~330~~ 1831, subsection ~~1-A~~ 4;

(4) Equipment used in the playing phases of lottery schemes; and

(5) Repair and replacement parts of a gambling machine or device.

See title page for effective date.

## CHAPTER 488

## S.P. 116 - L.D. 352

### An Act To Encourage Veterinary Practice in Maine and Make Revisions to Related Medical Education Programs Administered by the Finance Authority of Maine

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

**Sec. 1. 20-A MRSA §12102,** as enacted by PL 1991, c. 830, §4 and c. 832, §10, is amended to read:

**§12102. Comprehensive programs**

The chief executive officer shall administer the comprehensive programs established in this chapter and chapter 424-A to address the shortage of primary health care professionals and veterinarians in ~~underserved areas of~~ the State. With the assistance of the Advisory Committee on Medical Education, established by Title 5, section 12004-I, subsection 7, the chief executive officer shall plan, evaluate and update the programs to ensure that Maine residents have access to medical education and veterinary education and that Maine residents have access to primary health care and to veterinary care for their animals.

**Sec. 2. 20-A MRSA §12103, sub-§1,** as amended by PL 2009, c. 410, §2, is further amended to read:

**1. Positions.** The Access to Medical Education Program is established under this section. Under this program, the chief executive officer shall secure up to 21 positions annually for Maine students at schools of allopathic, osteopathic or veterinary medical education up to an aggregate of 84 positions. Five positions are for students of osteopathic medicine, 15 positions are for students of allopathic medicine and one position is for students of veterinary medicine. If there is an insufficient number of qualified applicants for positions in either allopathic or osteopathic medicine, the chief executive officer may increase or decrease the number of positions available in either discipline. The allopathic and osteopathic medicine positions are available only to eligible students commencing professional education on or after January 1, 1993 and on or before September 30, 2009. The veterinary medicine positions are available only to eligible students commencing professional education on or after January 1, 1999 and on or before September 30, 2010. Commencing January 1, 2010, the chief executive officer may not secure any new positions for students at schools of allopathic or osteopathic medicine and shall secure only the number of positions necessary to allow students already occupying such positions as of January 1, 2010 to complete their remaining medical education, up to 3 years, at the institution. Commencing January 1, 2011, the chief executive officer may not secure a new position for a student at a school of veterinary medicine and shall secure only the number of positions necessary to allow students occupying such positions as of January 1, 2011 to complete their remaining medical education, up to 3 years, at the institution. Commencing July 1, 2013, the chief executive officer may not secure any further positions at schools of allopathic or osteopathic medicine under this section. ~~The veterinary medicine position is available to a student commencing medical education on or after January 1, 1999.~~ Commencing July 1, 2014, the chief executive officer may not secure any further positions at a school of veterinary medicine under this section.

**Sec. 3. 20-A MRSA §12104, sub-§1,** as enacted by PL 1991, c. 830, §4 and c. 832, §10, is amended to read:

**1. Eligibility.** Loans are available to Maine residents pursuing allopathic, osteopathic, ~~optometric,~~ veterinary and dentistry education ~~who~~ and to Maine residents obtaining a first loan under this section for the pursuit of an education in optometry prior to January 1, 2011. To be eligible for a loan under this section, a person must meet eligibility criteria, established by rule of the authority, which at a minimum must require:

A. That the student show financial need for a loan; and

B. That priority be given to students:

(1) Who have previously received a loan pursuant to this section and who exhibit financial need as determined by the authority; ~~or~~

(2) Who are participants in the ~~access to medical education program~~ Access to Medical Education Program established in ~~this chapter.~~ section 12103; or

(3) Who are participants in the Maine Veterinary Medicine Loan Program established in chapter 424-A.

~~Loans under this section are available only to eligible students on or after January 1, 1993.~~

**Sec. 4. 20-A MRSA §12104, sub-§2,** as enacted by PL 1991, c. 830, §4 and c. 832, §10, is repealed.

**Sec. 5. 20-A MRSA §12104, sub-§2-A,** as enacted by PL 2009, c. 410, §4, is amended to read:

**2-A. Access to Medical Education Program students.** As long as the student is otherwise eligible, a student occupying a position at a school of allopathic or osteopathic medicine pursuant to section 12103 that was secured by the chief executive officer on or before ~~June 30, 2009~~ January 1, 2010 continues to be eligible for loans under the program under this section through June 30, ~~2012~~ 2013. As long as the student is otherwise eligible, a student occupying a position at a school of veterinary medicine pursuant to section 12103 that was secured by the chief executive officer on or before January 1, 2011 continues to be eligible for loans under the program under this section through June 30, 2014.

**Sec. 6. 20-A MRSA §12104, sub-§4,** as enacted by PL 1991, c. 830, §4 and c. 832, §10, is repealed.

**Sec. 7. 20-A MRSA §12104, sub-§5,** as amended by PL 1995, c. 117, Pt. D, §2 and affected by §3 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

**5. Loan agreement for students obtaining first program loans prior to January 1, 2010 or January 1, 2011.** This subsection applies to allopathic and osteopathic students under section 12103 who obtained their first program loan prior to January 1, 2010 and to all other students who obtained their first program loan prior to January 1, 2011. The student shall enter into a loan agreement that provides for the following.

A. Upon completion of professional education the student shall repay the loan in accordance with the following schedule.

(1) A loan recipient who does not obtain loan forgiveness pursuant to this section shall repay the entire principal portion of the loan plus simple interest at a rate to be determined by rule of the authority. Interest does not begin to accrue until the loan recipient completes medical education, including residency and internship. The authority may establish differing interest rates to encourage loan recipients to practice primary health care medicine in the State.

(2) Primary health care physicians and dentists practicing in a designated health professional shortage area, any physician practicing in an underserved specialty or any physician providing services to a designated underserved group are forgiven the larger of 25% of the original outstanding indebtedness plus any accrued interest or $7,500 for each year of practice.

Primary health care physicians and dentists practicing in the State, but not practicing in a designated health professional shortage area, are forgiven the larger of 12.5% of the original outstanding indebtedness plus any accrued interest or $3,750 for each year of practice.

(3) Veterinarians providing services to Maine residents with insufficient veterinary services are forgiven the larger of 25% of the original outstanding indebtedness plus any accrued interest or $7,500 for each year of practice.

(4) Any student completing an entire residency at any primary health care residency program in the State is forgiven 50% of the original outstanding indebtedness for each year of practice in a designated health professional shortage area, as a physician practicing in an underserved specialty or as a physician providing services to an underserved group or 25% of the original outstanding indebtedness for each year of primary health care practice in the State.

B. Loans must be repaid over a term no greater than 10 years, except that the chief executive officer may extend an individual's term as necessary to ensure repayment of the loan. Repayment must commence when the loan recipient completes, withdraws from or otherwise fails to continue medical education.

C. ~~Any~~ The Department of Health and Human Services may require a loan recipient requesting forgiveness or an interest rate ~~reduction~~ benefit under this section, excluding veterinarians, ~~shall~~ to report annually to the Department of Health and Human Services, ~~Office of Rural Health~~ office of rural health and primary care the following:

(1) The number of Medicaid patients served by the loan recipient and the percentage of the loan recipient's overall service provided to Medicaid patients;

(2) The number of instances in which a loan recipient accepted a Medicare assignment and the number of and basis for any rejections during the period of the report; and

(3) The amount of time devoted by the loan recipient to practice in a public health clinic during the period of the report.

~~The Department of Health and Human Services, Office of Rural Health and the Finance Authority of Maine shall determine whether the level of service provided by the loan recipient to Medicaid and Medicare patients and in public health clinics was reasonable.~~ If the ~~Office of Rural Health and the Finance Authority of Maine determine~~ office of rural health and primary care determines that the level of service provided was not reasonable or if the loan recipient fails to provide the report by the date required, the loan recipient is not entitled to any loan forgiveness or interest rate ~~reduction~~ benefit under this section for the year of the report.

**Sec. 8. 20-A MRSA §12104, sub-§5-A** is enacted to read:

**5-A. Loan agreement for students obtaining first program loans after January 1, 2010 or January 1, 2011.** This subsection applies to students who are not eligible for loan agreements under subsection 5. The student shall enter into a loan agreement that provides for the following.

A. Upon completion of professional education the student shall repay the entire principal portion of the loan plus simple interest at a rate that may range from 0% up to a maximum to be determined by rule of the authority and depending upon the type and location of medical practice undertaken by the loan recipient. Interest does not begin to accrue until the loan recipient completes medical education, including residency and internship. The authority may establish differing interest rates to encourage loan recipients to provide primary health care or dentistry in certain areas of the State, or to certain underserved groups, to practice in underserved specialties or to provide veterinary services in areas of the State with insufficient veterinary services as defined in chapter 424-A.

B. Loans must be repaid over a term no greater than 10 years, except that the chief executive officer may extend an individual's term as necessary to ensure repayment of the loan. Repayment must commence when the loan recipient completes, withdraws from or otherwise fails to continue medical education.

C. The Department of Health and Human Services may require a loan recipient requesting an interest rate benefit under this section, excluding veterinarians, to report annually to the Department of Health and Human Services, office of rural health and primary care the following:

(1) The number of Medicaid patients served by the loan recipient and the percentage of the loan recipient's overall service provided to Medicaid patients;

(2) The number of instances in which a loan recipient accepted a Medicare assignment and the number of and basis for any rejections during the period of the report; and

(3) The amount of time devoted by the loan recipient to practice in a public health clinic during the period of the report.

If the Department of Health and Human Services, office of rural health and primary care determines that the level of service provided was not reasonable or if the loan recipient fails to provide the report by the date required, the loan recipient is not entitled to any interest rate benefit under this section for the year of the report.

**Sec. 9. 20-A MRSA §12104, sub-§6,** as enacted by PL 1991, c. 830, §4 and c. 832, §10, is amended to read:

**6. Deferments.** Deferments may be granted for causes established by rule of the authority. Interest at a rate to be determined by rule of the authority must be assessed during the deferment. The student's total debt to the authority, including principal and interest, must be repaid either through return service, if eligible, or cash payments. The chief executive officer shall make determinations of deferment on a case-by-case basis. The decision of the chief executive officer is final.

**Sec. 10. 20-A MRSA §12105, sub-§1,** as amended by PL 2009, c. 410, §5, is repealed and the following enacted in its place:

**1. Fund created.** A nonlapsing, interest-earning, revolving fund under the jurisdiction of the authority is created to carry out the purposes of this chapter and chapter 424-A. The fund may be used only for the following purposes:

A. Prior to July 1, 2013, to secure positions under section 12103 and make loans under section 12104 for allopathic and osteopathic medical students;

B. Prior to July 1, 2014, to secure positions under section 12103 and make loans under section 12104 for veterinary students;

C. Beginning January 1, 2011, to make loans under the Maine Veterinary Medicine Loan Program established in chapter 424-A;

D. Prior to July 1, 2014, to make loans under section 12104 to students who are not occupying positions secured under section 12103 and who obtain their first loan under section 12104 prior to January 1, 2011; and

E. Beginning January 1, 2011, to make loans under section 12104 to students who have not received a loan under section 12104 prior to January 1, 2011.

Beginning July 1, 2009, the authority shall use any unexpended balance of funds previously designated for the purchase of positions of allopathic or osteopathic medicine under section 12103 to fund scholarships awarded under section 12103-A. Any unexpended balance in the fund after the unused portion is redesignated to support the scholarships described in section 12103-A carries over for use under section 12104.

The authority may receive, invest and expend, on behalf of the fund, money from gifts, grants, bequests and donations, or other sources in addition to money appropriated or allocated by the State. Loan repayments under this chapter or chapter 424-A or other repayments to the authority under section 12103 or 12104 must be invested by the authority, as provided by law, with the earned income to be added to the fund. Money received by the authority on behalf of the fund, except interest income, must be used for such purposes; interest income may be used for such purposes or to pay student financial assistance administrative costs incurred by the authority.

**Sec. 11. 20-A MRSA §12105, sub-§2,** as amended by PL 2009, c. 410, §6, is further amended to read:

**2. Separate account authorized.** The authority may divide each of the funds under subsection 1 and section 12103-A, subsection 6 into separate accounts it determines necessary or convenient for implementing this chapter or chapter 424-A, including, but not limited to, accounts reserved for the purchase of positions and accounts reserved for loans under this chapter or chapter 424-A and accounts reserved for scholarships under this chapter.

**Sec. 12. 20-A MRSA §12105, sub-§3,** as amended by PL 2009, c. 410, §7, is further amended to read:

**3. Allocation of repayments.** The authority may allocate a portion of the annual loan repayments received under section 12104 for the purpose of recruiting primary health care physicians for designated health professional shortage areas and a portion of any loan repayments received under chapter 424-A for the purpose of recruiting veterinarians to areas of the State with insufficient veterinary services as defined in chapter 424-A. ~~That portion~~ Those portions may be used:

A. To generate additional matching funds for recruitment of physicians for designated health professional shortage areas or veterinarians to areas with insufficient veterinary services as defined in chapter 424-A; or

B. In accordance with criteria established by the authority, to encourage primary health care physicians to practice medicine in health professional shortage areas or to encourage veterinarians to practice in areas of the State with insufficient veterinary services as defined in chapter 424-A, as applicable.

**Sec. 13. 20-A MRSA §12106, sub-§2,** as amended by PL 2001, c. 417, §§21 to 24 and PL 2003, c. 689, Pt. B, §7, is further amended to read:

**2. Members.** The Advisory Committee on Medical Education consists of the following ~~19~~ members:

A. Nine members appointed by the chief executive officer and subject to approval by the joint standing committee of the Legislature having jurisdiction over education matters. Of these members:

(1) One must be a representative of a major statewide agency representing allopathic physicians;

(2) One must be a representative of a major statewide agency representing osteopathic physicians;

(3) One must be a representative of a major statewide agency representing family physicians;

(4) One must be a member of the major statewide agency representing hospitals;

(5) One must be a representative of the major statewide agency representing community health centers;

(7) One must be a representative of an association of commercial health insurance companies doing business in the State;

(8) One must be a representative of a statewide area health education center program; and

(9) Two must be at-large members;

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

D. Three at-large members from areas of the State lacking reasonable access to health care: one appointed by the Governor; one appointed by the President of the Senate; and one appointed by the Speaker of the House of Representatives, all of whom are subject to approval by the joint

standing committee of the Legislature having jurisdiction over education matters; and

E. ~~Six~~ The following members appointed by the chief executive officer and subject to approval by the joint standing committee of the Legislature having jurisdiction over education matters. ~~These members must include~~:

(1) A chief executive of a family practice residency in the State;

~~(2) A representative of an institution of allopathic medical education at which the authority secures positions for students;~~

~~(3) A representative of an institution of osteopathic medical education at which the authority secures positions for students;~~

(4) A Maine student, resident or practicing physician who has obtained a position secured by the authority at an institution of allopathic medical education under section 12103 or who has obtained a scholarship under section 12103-A;

(5) A Maine student, resident or practicing physician who has obtained a position secured by the authority at an institution of osteopathic medical education under section 12103 or who has obtained a scholarship under section 12103-A; and

(6) A representative of ~~a major teaching hospital in the State~~ each qualifying Maine-based medical school program with students receiving scholarships under section 12103-A.

**Sec. 14. 20-A MRSA c. 424-A** is enacted to read:

## CHAPTER 424-A

## MAINE VETERINARY MEDICINE LOAN PROGRAM

### §12121. Definitions

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

**1. Authority.** "Authority" means the Finance Authority of Maine.

**2. Chief executive officer.** "Chief executive officer" means the Chief Executive Officer of the Finance Authority of Maine.

**3. Insufficient veterinary services.** "Insufficient veterinary services" means an insufficient number of practitioners of veterinary medicine in a veterinary specialty related to livestock, as determined by the Commissioner of Agriculture, Food and Rural Resources.

**4. Maine resident.** "Maine resident" means a person who has been a resident of the State for a minimum of 2 years for purposes other than education at the time of the person's entry to a school of veterinary medicine as determined by rule of the authority. In determining residency, the authority shall consider:

A. Length of residence in the State for other than tuition purposes;

B. Secondary school attended;

C. Legal residence of parents;

D. Place of voting registration, if registered to vote;

E. Place where taxes are paid; and

F. Other indicators established by the authority.

**5. Program.** "Program" means the Maine Veterinary Medicine Loan Program established under section 12122.

### §12122. Maine Veterinary Medicine Loan Program

**1. Establishment.** The Maine Veterinary Medicine Loan Program is established. The authority shall administer the program. Beginning January 1, 2011, the chief executive officer shall, as resources allow, award up to 2 loans annually up to an aggregate of 8. Loans are available to Maine residents enrolled in a school of veterinary medicine.

**2. Application process.** Application for participation in the program must be made directly to the authority.

**3. Eligibility.** To be eligible to participate in the program, a person must be a Maine resident, be enrolled in a school of veterinary medicine and meet additional eligibility criteria established in rules adopted under section 12124. In selecting recipients, priority must be given to a student who:

A. Previously received a loan pursuant to this section;

B. Exhibits financial need; and

C. Demonstrates an interest in practicing in an area of the State with insufficient veterinary services.

**4. Maximum amount.** The maximum loan amount available under the program to each participant is $25,000 per year for a period of up to 4 years.

**5. Loan agreement; forgiveness.** A student selected as a loan recipient shall enter into a loan agreement as set out in this subsection.

A. Upon completion of professional education, the loan recipient shall repay the loan in accordance with this paragraph.

(1) A loan recipient who does not obtain loan forgiveness pursuant to subparagraph (2) shall repay the entire principal of the loan plus simple interest at a rate to be determined by rule of the authority. Interest does not begin to accrue until the loan recipient completes veterinary medical education.

(2) A loan recipient who, upon conclusion of the loan recipient's professional education, including any fellowships, elects to serve as a veterinarian in an area of the State with insufficient veterinary services is forgiven 25% of the original outstanding indebtedness for each year of that practice. A loan recipient who practices in an area of the State with insufficient veterinary services less than full time may receive prorated loan forgiveness. A loan recipient who devotes less than 50% of the recipient's practice to the care of livestock may receive prorated loan forgiveness.

(3) A loan recipient must make a commitment to undertake specific training, including clinical experiences in livestock medicine.

B. Loans must be repaid over a term no longer than 10 years, except that the chief executive officer may extend an individual's term as necessary to ensure repayment of the loan. Repayment must commence within 6 months of when the loan recipient completes, withdraws from or otherwise fails to continue veterinary medical education.

C. A veterinarian requesting forgiveness or an interest rate benefit under this section shall report annually to the Department of Agriculture, Food and Rural Resources on the portion of the veterinarian's practice dedicated to livestock.

**6. Default.** A loan recipient under the program who agrees to practice in an area of the State with insufficient veterinary services and who fails to complete the period of service required to pay off the loan is liable to the authority for an amount equal to the sum of the total amount paid by or on behalf of the authority to or on behalf of the recipient under the agreement plus interest at a rate determined by the authority. Credit for practicing in an area with insufficient veterinary services is awarded for each consecutive 12-month period served. Exceptions may be made by the authority in accordance with subsection 7.

**7. Deferments.** Deferments on the repayment of a loan under the program may be granted for causes established by rule of the authority. Interest at a rate to be determined by rule of the authority must be assessed during the deferment. The loan recipient's total debt to the authority, including principal and interest, must be repaid either through return service or cash payments. The chief executive officer shall make determinations of deferment on a case-by-case basis. The decision of the chief executive officer is final.

**§12123. Selection committee for students of veterinary medicine**

The chief executive officer shall annually convene a selection committee of not fewer than 3 members to advise the authority in developing application materials designed to identify students likely to practice livestock veterinary medicine in the State and to make recommendations to the authority regarding the priority of applicants for loans to students of veterinary medicine. The selection committee must include the state veterinarian and a representative of a statewide association of veterinarians.

**§12124. Rules**

The authority shall establish rules necessary to implement this chapter. The Commissioner of Agriculture, Food and Rural Resources shall adopt rules to establish criteria for determining areas of insufficient veterinary services for livestock, a definition of livestock and a method for determining the percent of a practice that is devoted to livestock. 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 489

## H.P. 776 - L.D. 1121

### An Act To Protect Elderly Residents from Losing Their Homes Due to Taxes or Foreclosure

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

**Sec. 1. 36 MRSA §941, 2nd ¶** is amended to read:

The tax collector may, after the expiration of 8 months and within one year from the date of original commitment of the tax or, in the case of deferred taxes pursuant to chapter 908-A, after the due and payable date established pursuant to section 6271, subsection 5, give to the person against whom ~~said~~ the tax is assessed, or leave at ~~his~~ the person's last and usual place of abode, or send by registered mail to ~~his~~ the person's last known address, a notice in writing signed by said tax collector stating the amount of the tax, describing the real estate on which the tax is assessed and demanding the payment of such tax within 10 days after service of such notice.

**Sec. 2. 36 MRSA §942, 2nd ¶,** as amended by PL 1983, c. 407, §2, is further amended to read:

The tax collector may, after the expiration of 8 months and within one year after the date of original commitment of a tax or, in the case of deferred taxes pursuant to chapter 908-A, after the due and payable date established pursuant to section 6271, subsection 5, give to the person against whom the tax is assessed, or leave at ~~his~~ the person's last and usual place of abode, or send by certified mail, return receipt requested, to ~~his~~ the person's last known address, a notice in writing signed by the tax collector or bearing ~~his~~ the tax collector's facsimile signature, stating the amount of the tax, describing the real estate on which the tax is assessed, alleging that a lien is claimed on the real estate to secure the payment of the tax, and demanding the payment of the tax within 30 days after service or mailing of the notice with $3 for the tax collector for making the demand together with the certified mail, return receipt requested, fee. In the case of taxes supplementally assessed, the tax collector may give that notice after the expiration of 8 months and within one year after the date of commitment of the supplementally assessed taxes. If an owner or occupant of real estate to whom the real estate is taxed dies before that demand is made on ~~him~~ that owner or occupant, the demand may be made upon the personal representative of ~~his~~ that owner's or occupant's estate or upon any of ~~his~~ that owner's or occupant's heirs or devisees.

**Sec. 3. 36 MRSA §942, 5th ¶,** as amended by PL 1991, c. 846, §9, is further amended to read:

The costs to be paid by the taxpayer are the sum of the fees for recording and discharge of the lien as established by Title 33, section 751, plus $13, plus the fee established by section 943 for sending a notice 30 to 45 days prior to the foreclosing date of the tax lien mortgage if that notice is actually sent and all certified mail, return receipt requested, fees. In the case of a lien in effect pursuant to chapter 908-A, the costs to be paid include interest in the amount established under section 6271, subsection 3. Upon redemption, the municipality shall prepare and record a discharge of the tax lien mortgage.

**Sec. 4. 36 MRSA §943-B** is enacted to read:

**§943-B. Credit reporting; payment during redemption period**

If a municipality takes action under sections 942 or 943 to enforce a lien in effect pursuant to chapter 908-A that results in a record of a lien in a party's name being placed in that party's file with a consumer reporting agency, that lien must be considered inaccurate information under Title 10, section 1317 if the party submits proof to the consumer reporting agency that the deferred taxes were paid during the 18-month redemption period provided for in section 943.

**Sec. 5. 36 MRSA c. 908-A** is enacted to read:

## CHAPTER 908-A

## MUNICIPAL PROPERTY TAX DEFERRAL FOR SENIOR CITIZENS

**§6271. Municipal authority**

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

A. "Eligible homestead" means the owner-occupied principal dwelling, either real or personal property, owned by a taxpayer and the land upon which it is located. If the dwelling is located in a multiunit building, the eligible homestead is the portion of the building actually used as the principal dwelling and its percentage of the value of the common elements and of the value of the tax lot upon which it is built. The percentage is the value of the dwelling compared to the total value of the building exclusive of the common elements, if any.

B. "Federal poverty level" means the nonfarm income official poverty line for a family of the size involved, 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.

C. "Household income" has the meaning set out in section 6201, subsection 7.

D. "Program" means a tax deferral program adopted by a municipality pursuant to subsection 2.

E. "Tax-deferred property" means the property upon which taxes are deferred under this chapter.

F. "Taxes" or "property taxes" means ad valorem taxes, assessments, fees and charges entered on the assessment and tax roll.

G. "Taxpayer" means an individual who is responsible for payment of property taxes and has applied to participate or is currently participating in the program under this chapter.

**2. Authority.** The legislative body of a municipality may by ordinance adopt a property tax deferral program for senior citizens, referred to in this section as "the program." Upon application by a taxpayer, a municipality may defer property taxes on property if the following conditions are met:

A. The property is an eligible homestead where the taxpayer has resided for at least 10 years prior to application;

B. The taxpayer is an owner of the eligible homestead, is at least 70 years of age on April 1st of the first year of eligibility and occupies the eligible homestead; and

C. The household income of the taxpayer does not exceed 300% of the federal poverty level.

An application, information submitted in support of an application and files and communications relating to an application for deferral of taxes under the program are confidential. Hearings and proceedings held by a municipality on an application must be held in executive session unless otherwise requested by the applicant. Nothing in this paragraph applies to the recording of liens or lists under subsection 3 or any enforcement proceedings undertaken by the municipality pursuant to this chapter or other applicable law.

The municipality shall make available upon request the most recent list of tax-deferred properties of that municipality required to be filed under subsection 3. The municipality may publish and release as public information statistical summaries concerning the program as long as the release of the information does not jeopardize the confidentiality of individually identifiable information.

**3. Effect of deferral.** If property taxes are deferred under the program, the lien established on the eligible homestead under section 552 continues for the purpose of protecting the municipal interest in the tax-deferred property. Interest on the deferred taxes accrues at the rate of 0.5% above the otherwise applicable rate for delinquent taxes. In order to preserve the right to enforce the lien, the municipality shall record in the county registry of deeds a list of the tax-deferred properties of that municipality. The list must contain a description of each tax-deferred property as listed in the municipal valuation together with the name of the taxpayer listed on the valuation. The list must be updated annually to reflect the addition or deletion of tax-deferred properties, the amount of deferred taxes accrued for each property and payments received.

The recording of the tax-deferred properties under this subsection is notice that the municipality claims a lien against those properties in the amount of the deferred taxes plus interest together with any fees paid to the county registry of deeds in connection with the recording. For a property deleted from the list, the recording serves as notice of release or satisfaction of the lien, even though the amount of taxes, interest or fees is not listed.

**4. Notice.** The State Tax Assessor shall prepare a one-page notice of the effect of the deferral of property taxes under this section, of the right of the municipality to file a tax lien mortgage pursuant to chapter 105 and that the deferred taxes become due and payable as established in subsection 5. This notice must have a readability score, as determined by a recognized instrument for measuring adult literacy levels, equivalent to no higher than a 6th grade reading level. A municipality that adopts the program shall provide a copy of this notice to each taxpayer applying to the program at the time of application and shall also annually provide to each taxpayer in the program, in lieu of a property tax bill, a copy of this notice together with an accounting of taxes deferred and interest accrued.

**5. Lien.** When it is determined that one of the events set out in subsection 6 has occurred and that a property is no longer eligible for property tax deferral under this chapter, the municipality shall send notice by certified mail to the taxpayer, or the taxpayer's heirs or devisees, listing the total amount of deferred property taxes, including accrued interest and costs of all the years and establishing a due and payable date. For events listed in subsection 6, paragraphs A, B and C, payment is due within 45 days of the date of the notice. When the event listed in subsection 6, paragraph D occurs, the total amount of deferred taxes is due and payable 5 days before the date of removal of the property from the State. The municipality shall include in the notice a statement that the lien enforcement procedures pursuant to chapter 105, subchapter 9 apply.

If the deferred tax liability of a property has not been satisfied by the date established pursuant to this subsection, the municipality may enforce the lien according to procedures in chapter 105, subchapter 9.

Partial payments accepted during the 18-month redemption period provided for in section 943 may not interrupt or extend the redemption period or in any way affect foreclosure procedures.

**6. Events requiring the payment of deferred tax and interest.** Subject to subsection 7, all deferred taxes and accrued interest must be paid pursuant to subsection 5 when:

A. The taxpayer dies;

B. Some person other than the taxpayer becomes the owner of the property;

C. The tax-deferred property is no longer occupied by the taxpayer as a principal residence, except that this paragraph does not apply if the taxpayer is required to be absent from the eligible homestead for health reasons; or

D. The tax-deferred property, a mobile home, is moved out of the State.

**7. Election to continue deferral.** If one of the events listed in subsection 6 occurs, and the ownership of the eligible homestead is transferred to another member of the same household, the transferee may apply to the municipality for continuation of the deferral of taxes if the transferee meets the conditions in subsection 2, paragraphs B and C.

**8. Repeal of program.** A municipality that has adopted the program under this section may discontinue it through the same procedure by which the program was adopted; however, any taxes deferred under

the program continue to be deferred under the conditions of the program on the date it was ended.

See title page for effective date.

## CHAPTER 490

## H.P. 1127 - L.D. 1589

### An Act To Authorize Sanitary Districts, Water Utilities and Sewer Districts To Waive an Automatic Lien Foreclosure

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

**Sec. 1. 35-A MRSA §6111-A, sub-§4** is enacted to read:

**4. Waiver of water lien foreclosure.** The treasurer of a consumer-owned water utility, when authorized by the trustees of the utility, may waive the foreclosure of a lien mortgage created pursuant to this section by recording in the registry of deeds a waiver of foreclosure before the period for the right of redemption from the lien mortgage has expired. The lien mortgage remains in full effect after the recording of a waiver. Other methods established by law for the collection of any unpaid rate, toll, rent or other charges are not affected by the filing of a waiver under this section. The waiver of foreclosure must be substantially in the following form:

The foreclosure of the water lien mortgage on real estate for charges against ..... (NAME) to ..... (NAME OF WATER UTILITY) dated ..... and recorded in the ..... County Registry of Deeds in Book ....., Page ..... is hereby waived.

The form must be dated, signed by the treasurer of the water utility and notarized. A copy of the form must be provided to the party named on the lien mortgage and each record holder of a mortgage on the real estate.

**Sec. 2. 38 MRSA §1208-A** is enacted to read:

**§1208-A. Waiver of automatic foreclosure of lien mortgage**

**1. Waiver of sanitary district lien foreclosure.** The treasurer of a district, when authorized by the trustees of the district, may waive the foreclosure of a sanitary district lien mortgage created under section 1208 by recording in the registry of deeds a waiver of foreclosure before the period for the right of redemption from the sanitary district lien mortgage has expired. The sanitary district lien mortgage remains in full effect after the recording of a waiver. Other methods established by law for the collection of any unpaid rate, toll, rent or other charges are not affected by the filing of a waiver under this section.

**2. Form.** The waiver of foreclosure under subsection 1 must be substantially in the following form:

STATE OF MAINE .....SANITARY DISTRICT

WAIVER OF AUTOMATIC FORECLOSURE OF SEWER LIEN

Title 38, M.R.S.A., section 1208-A

The foreclosure of the sewer lien mortgage on real estate for charges against ..... (NAME) to ..... (NAME OF SANITARY DISTRICT) dated ..... and recorded in the ..... County Registry of Deeds in Book ....., Page ..... is hereby waived.

The form must be dated, signed by the treasurer of the district and notarized. A copy of the form must be provided to the party named on the sanitary district lien mortgage and each record holder of a mortgage on the real estate.

**Sec. 3. 38 MRSA §1257** is enacted to read:

**§1257. Waiver of sewer district lien foreclosure**

**1. Waiver.** The treasurer of a sewer district, when authorized by the trustees of the district, may waive the foreclosure of a district lien mortgage created pursuant to the district's charter by recording in the registry of deeds a waiver of foreclosure before the period for the right of redemption from the lien mortgage has expired. The lien mortgage remains in full effect after the recording of a waiver. Other methods established by law for the collection of any unpaid rate, toll, rent or other charges are not affected by the filing of a waiver under this section.

**2. Form.** The waiver of foreclosure under subsection 1 must be substantially in the following form:

The foreclosure of the sewer lien mortgage on real estate for charges against ..... (NAME) to ..... (NAME OF SEWER DISTRICT) dated ..... and recorded in the ..... County Registry of Deeds in Book ....., Page ..... is hereby waived.

The form must be dated, signed by the treasurer of the district and notarized. A copy of the form must be provided to the party named on the lien mortgage and each record holder of a mortgage on the real estate.

See title page for effective date.

## CHAPTER 491

## H.P. 1165 - L.D. 1637

### An Act To Change the Requirements for the Sales Tax Exemption for Snowmobile Trail Grooming Equipment

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

**Sec. 1. 36 MRSA §1760, sub-§90,** as enacted by PL 2007, c. 429, §2 and affected by §3, is amended to read:

**90. Qualified snowmobile trail grooming equipment.** Sales to ~~incorporated nonprofit~~ snowmobile clubs incorporated under the provisions of Title 13-B of snowmobiles and snowmobile trail grooming equipment used directly and exclusively for the grooming of snowmobile trails.

See title page for effective date.

## CHAPTER 492

## S.P. 652 - L.D. 1680

### An Act To Assist in Reviewing Wind Energy Applications

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

**Whereas,** creating consistency in the application and permitting process for wind energy developments before the Maine Land Use Regulation Commission and the Department of Environmental Protection will improve the application process; and

**Whereas,** in order to move quickly and fairly in processing wind energy development applications, the Maine Land Use Regulation Commission needs the authority to charge applicants fees for necessary consulting expertise, studies or materials; 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 §685-B, sub-§2-C,** as enacted by PL 2007, c. 661, Pt. C, §2, is repealed and the following enacted in its place:

**2-C. Wind energy development; determination deadline.** 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 a use requiring a permit, but not a special exception, within the affected districts or subdistricts. 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. The commission shall render its determination on an application for such a development 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 nonvoting member of the commission and may participate fully but is not required to attend hearings when the commission considers an application for an expedited wind energy development. 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. For purposes of this subsection, "expedited permitting area," "expedited wind energy development" and "wind energy development" have the same meanings as in Title 35-A, section 3451.

B. 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 A does not apply to the associated facilities, as defined in Title 35-A, section 3451, subsection 1, of the wind energy development 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.

**Sec. 2. 12 MRSA §685-B, sub-§4, ¶C,** as amended by PL 2007, c. 661, Pt. C, §3, is further amended to read:

C. Adequate provision has been made for fitting the proposal harmoniously into the existing natural environment in order to ~~assure~~ 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, the commission shall consider the development'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 effects on scenic character and existing uses relating to scenic character in the manner provided for in Title 35-A, section 3452;

**Sec. 3. 12 MRSA §685-F, sub-§1,** as amended by PL 2007, c. 541, Pt. B, §3 and affected by §6, is further amended to read:

**1. Designation as extraordinary project.** The director of the Maine Land Use Regulation 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. 4. Appropriations and allocations.** The following appropriations and allocations are made.

**CONSERVATION, DEPARTMENT OF**

**Land Use Regulation Commission 0236**

Initiative: Provides funding associated with application processing of wind energy development projects.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $20,000 | $40,000 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $20,000 | $40,000 |

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

Effective March 5, 2010.

## CHAPTER 493

## H.P. 1140 - L.D. 1612

### An Act To Amend the Laws Regarding the Unlawful Use of License or Identification Card

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

**Sec. 1. 29-A MRSA §2069, sub-§3,** as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

**3. Vehicle used in connection with a crime or operating after suspension traffic infraction.** A law enforcement officer may cause the removal to a suitable parking place of a vehicle connected with the arrest of the operator or owner of a vehicle or with the issuance of a summons for a traffic infraction as described in section 2412-A, subsection 8 or used in connection with the commission of a crime.

**Sec. 2. 29-A MRSA §2102,** as amended by PL 2003, c. 452, Pt. Q, §§54 to 57 and affected by Pt. X, §2, is further amended to read:

**§2102. Unlawful use of license or identification card; unlawful dissemination of protected information**

~~A person commits a Class E crime if that person:~~ The following provisions govern the unlawful use of a license or identification card and the unlawful dissemination of information that is protected by a state law or rule that implements the federal Driver's Privacy Protection Act of 1994, 18 United States Code, Sections 2721 to 2725 (2006).

**1. Display revoked, mutilated, fictitious or fraudulently altered driver's license or identification card.** ~~Displays~~ A person commits a Class E crime if that person displays a revoked, ~~suspended,~~ mutilated, fictitious or fraudulently altered driver's license or identification card issued or represented to be issued by this State or any other state or province~~;~~.

**1-A. Possess revoked, mutilated, fictitious or fraudulently altered driver's license or identification card.** ~~Possesses~~ A person commits a Class E

crime if that person possesses a revoked, ~~suspended,~~ mutilated, fictitious or fraudulently altered driver's license or identification card issued or represented to be issued by this State or any other state or province~~;~~.

**1-B. Display suspended driver's license; crime.** A person commits a Class E crime if that person displays a suspended driver's license issued by this State or any other state or province when the operation of the motor vehicle by that person is punishable as a crime.

**1-C. Display suspended driver's license; traffic infraction.** A person commits a traffic infraction if that person displays a suspended driver's license issued by this State or any other state or province when the operation of the motor vehicle by that person is punishable as a traffic infraction.

**1-D. Possess suspended driver's license; crime.** A person commits a Class E crime if that person possesses a suspended driver's license issued by this State or any other state or province when the operation of the motor vehicle by that person is punishable as a crime.

**1-E. Possess suspended driver's license; traffic infraction.** A person commits a traffic infraction if that person possesses a suspended driver's license issued by this State or any other state or province when the operation of the motor vehicle by that person is punishable as a traffic infraction.

**2. Loan.** ~~Knowingly~~ A person commits a Class E crime if that person knowingly permits another person to use that person's driver's license or identification card issued ~~or represented to be issued~~ by this State or any other state or province~~;~~.

**3. Representation.** ~~Displays~~ A person commits a Class E crime if that person displays or represents as ~~one's~~ that person's own a driver's license or identification card issued to another by this State or any other state or province~~;~~.

**4. Use.** ~~Knowingly~~ A person commits a Class E crime if that person knowingly permits an unlawful use of a driver's license or identification card issued ~~or represented to be issued~~ by this State or any other state or province~~; or~~.

**5. Privacy laws or rules; violation.** ~~Knowingly~~ A person commits a Class E crime if that person knowingly disseminates information that is protected by a state law or rule that implements the ~~Federal~~ federal Driver's Privacy Protection Act of 1994.

Violation of ~~this section~~ subsection 1, 1-A, 1-B, 1-D or 3 is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

**Sec. 3. 29-A MRSA §2412-A, sub-§8,** as enacted by PL 2009, c. 297, §2, is amended to read:

**8. Traffic infraction.** A person commits a traffic infraction operating while license suspended as described in subsection 1-A, paragraph A if the person has not been convicted or adjudicated of a prior offense under this section and the sole basis for the suspension is:

A. Failure to pay a fine;

B. Failure to pay a license reinstatement fee; or

C. Suspension for a dishonored check.

See title page for effective date.

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## CHAPTER 494

## H.P. 1210 - L.D. 1709

### An Act To Enhance Public Awareness of Lyme Disease

**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 Department of Health and Human Services, Maine Center for Disease Control and Prevention reports that in 2008 and 2009 there were over 900 confirmed cases of Lyme disease in the State and the United States Department of Health and Human Services, Centers for Disease Control and Prevention indicates that the actual incidence of Lyme disease is approximately 10 times the amount reported; and

**Whereas,** this Act designates the month of May as Lyme Disease Awareness Month to raise public awareness and improve education for the prevention, diagnosis and treatment of Lyme disease; and

**Whereas,** immediate enactment is necessary so that public awareness and education efforts related to Lyme disease and other tick-borne illnesses are conducted throughout the State this May; 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. 1 MRSA §150-E** is enacted to read:

**§150-E. Lyme Disease Awareness Month**

The month of May of each year is designated as Lyme Disease Awareness Month, and the Governor shall annually issue a proclamation inviting and urging the people of the State to observe the month through appropriate activities. During the month, the Depart-

ment of Health and Human Services, Maine Center for Disease Control and Prevention shall make information available to the public to improve education and awareness about the prevention, diagnosis and treatment of Lyme disease that is consistent with the recommendations of the United States Department of Health and Human Services.

**Sec. 2. 22 MRSA §1645, sub-§1, ¶B,** as enacted by PL 2007, c. 561, §1, is amended to read:

B. The diagnosis and treatment guidelines for Lyme disease recommended by the Maine Center for Disease Control and Prevention and the ~~federal~~ United States Department of Health and Human Services, Centers for Disease Control and Prevention;

**Sec. 3. 22 MRSA §1645, sub-§1, ¶C,** as enacted by PL 2007, c. 561, §1, is amended to read:

C. A summary or bibliography of peer-reviewed medical literature and studies related to the diagnosis, medical management and ~~the~~ treatment of Lyme disease and other tick-borne illnesses, including, but not limited to, the recognition of chronic Lyme disease and the use of long-term antibiotic treatment;

**Sec. 4. 22 MRSA §1645, sub-§3** is enacted to read:

**3. Publicly accessible website.** The Maine Center for Disease Control and Prevention shall maintain a publicly accessible website to provide public awareness and education on Lyme disease and other tick-borne illnesses. The website must provide information on the prevention, diagnosis and treatment of Lyme disease and other tick-borne illnesses for use by health care providers and the public, including, but not limited to, links to resources made available and recommended by the United States Department of Health and Human Services.

**Sec. 5. 24-A MRSA §4302, sub-§5,** as enacted by PL 2007, c. 561, §2, is amended to read:

**5. Annual report; claims for diagnosis and treatment of Lyme disease and other tick-borne illnesses.** By February 1st of each year, all carriers shall file with the superintendent for the most recent calendar year for all covered individuals in the State the total claims made for the diagnosis and treatment of Lyme disease and other tick-borne illnesses. The filing must include information on the number of claims made for the diagnosis and treatment of Lyme disease and other tick-borne illnesses, the total dollar amount of those claims, the number of claim denials and the reasons for those denials, the number and outcome of internal appeals and the number of external appeals related to the diagnosis and treatment of Lyme disease and other tick-borne illnesses. The superintendent shall compile from all carriers this data in an annual report and submit the report by March 15th of each year to the joint standing committee of the Legislature having jurisdiction over health insurance matters. The superintendent shall consult with the Department of Health and Human Services, Maine Center for Disease Control and Prevention to determine any additional information to be collected from carriers, beginning with data for calendar year 2011.

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

Effective March 8, 2010.

## CHAPTER 495

## H.P. 1126 - L.D. 1588

### An Act To Change the Penalties for Writing Bad Checks

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

**Sec. 1. 14 MRSA §6071, sub-§2,** as amended by PL 1995, c. 288, §1, is further amended to read:

**2. Attorney's fees.** If the person liable does not pay the amount of the check, plus costs and interest, before the hearing, then the court may award reasonable attorney's fees to the prevailing party. In addition, the court may award to the holder of the check a civil penalty, not to exceed ~~$50~~ $150, to be paid by the person liable for the check.

**Sec. 2. 14 MRSA §6073, sub-§5,** as enacted by PL 1995, c. 288, §3, is amended to read:

**5.** A penalty not to exceed ~~$50~~ $150.

See title page for effective date.

## CHAPTER 496

## H.P. 1083 - L.D. 1539

### An Act Concerning Technical Changes to the Tax Laws

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

**Sec. 1. 36 MRSA §112, sub-§5-A,** as amended by PL 1997, c. 526, §7, is further amended to read:

**5-A. Agreements with other governments.** The assessor may enter into agreements with ~~the tax departments of~~ other ~~states that the assessor considers appropriate~~ governments for assistance in the administration and enforcement of this Title if the disclosure

of information to duly authorized officers of those governments is permitted by section 191, subsection 2, paragraph D.

**Sec. 2. 36 MRSA §112, sub-§8, ¶D,** as enacted by PL 2009, c. 434, §7, is amended to read:

D. Administration of the premium imposed on bulk motor vehicle oil and prepackaged motor vehicle oil under Title 10, section 1020.

**Sec. 3. 36 MRSA §141, sub-§1,** as enacted by PL 1979, c. 378, §4, is amended to read:

**1. General provisions.** ~~Unless~~ Except as otherwise provided, ~~any~~ an amount of tax ~~which~~ that a person declares on a return filed ~~by him~~ with the State Tax Assessor to be due to the State ~~shall be~~ is deemed to be assessed at the time the return is filed and ~~shall be~~ is payable on or before the date prescribed for filing the return, determined without regard to ~~any~~ an extension of time granted for filing the return. When a return is filed, the ~~State Tax Assessor~~ assessor shall cause it to be examined and may conduct ~~such~~ audits or investigations ~~as he believes necessary~~ to determine the correct tax liability. If ~~he~~ the assessor determines that the amount of tax shown on the return is less than the correct amount, the ~~State Tax Assessor~~ assessor shall assess the tax due the State. ~~No such~~ Except as provided in subsection 2, an assessment ~~shall~~ may not be made after 3 years from the date the return was filed or 3 years from the date the return was required to be filed, whichever is later. ~~At any time~~ The assessor may make a supplemental assessment within the ~~appropriate~~ assessment period prescribed by this section~~, the State Tax Assessor may make a supplemental assessment~~ for the same period, periods or partial periods previously assessed if ~~he finds~~ the assessor determines that ~~any~~ a previous assessment understates the tax due or otherwise is imperfect or incomplete in any material ~~aspect~~ respect.

**Sec. 4. 36 MRSA §175, sub-§2,** as amended by PL 1993, c. 377, §1, is further amended to read:

**2. Failure to file or pay taxes; determination to prevent renewal, reissuance or other extension of license or certificate.** If the ~~State Tax Assessor~~ assessor determines that ~~any~~ a person who holds a ~~state-issued~~ license or certificate of authority issued by this State to conduct a profession, trade or business has neglected or refused to file ~~any returns~~ a return at the time required under this Title or to pay a tax liability due under this Title that has been demanded, other than taxes due pursuant to Part 2, and the person continues to fail to file or pay after at least 2 specific written notices, each giving 30 days to respond, ~~are~~ have been sent by certified mail or served by a civil officer, then the assessor shall notify the person in writing that ~~refusal~~ continued failure to file the required tax return or to pay the overdue tax liability may result in loss of the person's license or certificate of authority. If the person continues for a period in excess of 30 days from notice of possible denial of renewal or reissuance of a license or certificate of authority to fail to file or show reason why the person is not required to file or if the person continues not to pay, the ~~State Tax Assessor~~ assessor shall notify the person in writing of the assessor's determination to prevent renewal, reissuance or extension of the license or certificate of authority by the issuing agency. A review of this determination is available by requesting ~~a petition for~~ reconsideration under section 151, subject to appeal to the Superior Court ~~in accordance with the Maine Administrative Procedure Act~~ as provided in section 151. Either by failure to proceed to the next step of appeal or by exhaustion of the steps of appeal, the determination ~~of the assessor's right~~ to prevent renewal or reissuance of the license or certificate of authority becomes final unless otherwise determined ~~by~~ on appeal. In any event, the license or certificate of authority ~~in question~~ remains in effect until all appeals ~~are~~ have been taken to their final conclusion.

**Sec. 5. 36 MRSA §175, sub-§6,** as enacted by PL 1993, c. 377, §2, is amended to read:

**6. Certificate of good standing.** The ~~State Tax Assessor~~ assessor must issue a certificate of good standing to the ~~licensee~~ person conditioned upon ~~an~~ the person's agreement to complete obligations under this Title. If the ~~licensee~~ person fails to ~~honor the~~ complete obligations under this Title in accordance with that agreement, the ~~State Tax Assessor~~ assessor may notify the ~~licensee~~ person and the ~~licensing authority to~~ issuing agency of the assessor's determination to revoke the license or certificate of authority. A review of this determination is available by requesting ~~a petition for~~ reconsideration under section 151, subject to appeal to the Superior Court ~~in accordance with the Maine Administrative Procedure Act~~ as provided in section 151. Either by failure to proceed to the next step of appeal or by exhaustion of the steps of appeal, the determination ~~of the assessor's right~~ to revoke the license or certificate of authority becomes final unless otherwise determined ~~by~~ on appeal. The ~~licensing board shall~~ issuing agency, on receipt of ~~the finalized~~ notice that the determination to revoke the license or certificate of authority has become final, shall revoke the license or certificate of authority within 30 days. The ~~bureau~~ assessor and the licensee may agree to nonbinding mediation for an agreement to complete obligations under this Title.

**Sec. 6. 36 MRSA §191, sub-§2, ¶D,** as amended by PL 1991, c. 546, §7, is further amended to read:

D. The disclosure of information to duly authorized officers of the United States and of other states, districts and territories of the United States and of ~~the provinces of~~ Canada and its provinces for use in administration and enforcement of this

Title or of the tax laws of those jurisdictions. ~~The~~ With respect to enforcement of the tax laws of other jurisdictions, the information may not be given ~~only~~ to the duly authorized officer ~~when~~ unless the officer's government permits a substantially similar ~~exchange~~ disclosure of information ~~with~~ to the taxing officials of this State and ~~when the government~~ provides for the ~~secrecy~~ confidentiality of information in a manner substantially similar to the manner ~~set out~~ provided in this section;

**Sec. 7. 36 MRSA §191, sub-§4,** as enacted by PL 1977, c. 668, §2, is amended to read:

**4. Penalties.** ~~Any~~ A person who willfully violates this section ~~shall be guilty of~~ commits a Class E crime. ~~If the~~ An offender who is an officer or employee of the State~~, he shall~~ must be dismissed from office.

**Sec. 8. 36 MRSA §272, sub-§4, ¶B,** as enacted by PL 1985, c. 764, §8 and amended by PL 1997, c. 526, §14, is further amended to read:

B. Raise, lower or sustain the ~~Bureau of Revenue Services'~~ bureau's determination of the municipality's achieved assessing standards and then, if the achieved standards were inadequate under the provisions of ~~this~~ chapter 102, subchapter 5, and upon receiving from both the bureau and the municipality recommended solutions to the ~~inaccurate~~ inadequate assessing practices, order the municipality to take the corrective steps the board considers necessary.

**Sec. 9. 36 MRSA §1113,** as repealed and replaced by PL 1977, c. 467, §13, is amended to read:

**§1113. Enforcement provision**

~~There shall be a tax~~ A lien is created to secure the payment of the penalties provided in ~~sections 1112 and~~ section 1109, subsections 2 and ~~6. Such a lien~~ 5 and section 1112, which may be enforced in the same manner as liens ~~on real estate~~ created by section 552.

**Sec. 10. 36 MRSA §1115,** as amended by PL 1989, c. 748, §7, is further amended to read:

**§1115. Transfer of portion of parcel of land**

Transfer of a portion of a parcel of farmland subject to taxation under this subchapter does not affect the taxation under this subchapter of the resulting parcels unless they do not meet the minimum acreage requirements of this subchapter. Transfer of a portion of a parcel of open space land subject to taxation under this subchapter does not affect the taxation under this subchapter of the resulting parcels unless either or both of the parcels no longer provide a public benefit ~~as required~~ in one of the areas enumerated in section 1102, subsection 6. Each resulting parcel must be taxed to the owners under this subchapter until ~~such a parcel~~ it is withdrawn from taxation under this subchapter, in which case~~,~~ the penalties provided ~~for~~ in section 1112 apply only to the owner of that parcel. If the transfer of a portion of a parcel of farmland ~~resulting from the transfer of~~ subject to taxation under this subchapter results in the creation of a parcel that is less than the minimum acreage ~~requirement of~~ required by this subchapter or~~,~~ if the transfer of a portion of a parcel of open space land ~~resulting from a transfer~~ subject to taxation under this subchapter results in the creation of a parcel that no longer provides a public benefit in one of the areas enumerated in section 1102, subsection 6, that parcel ~~must be considered as~~ is deemed to have been withdrawn from taxation under this subchapter as a result of the transfer and is subject to the penalties ~~as~~ provided in section 1112.

**Sec. 11. 36 MRSA §1132, sub-§1,** as enacted by PL 2007, c. 466, Pt. A, §58, is amended to read:

**1. Commercial aquacultural production.** "Commercial ~~aquaculture~~ aquacultural production" has the same meaning as in section 2013, subsection 1, paragraph A-1.

**Sec. 12. 36 MRSA §1132, sub-§3,** as enacted by PL 2007, c. 466, Pt. A, §58, is amended to read:

**3. Commercial fishing activities.** "Commercial fishing activities" means commercial ~~aquaculture~~ aquacultural production and commercial fishing. "Commercial fishing activities" does not include retail sale to the general public of marine organisms or their byproducts, or of other products or byproducts of commercial ~~aquaculture~~ aquacultural production or commercial fishing.

**Sec. 13. 36 MRSA §1506,** as amended by PL 1987, c. 196, §10 and PL 1997, c. 526, §14, is further amended to read:

**§1506. Rulemaking**

~~The Bureau of Revenue Services, after~~ After consultation with the Commissioner of Marine Resources, the Commissioner of Inland Fisheries and Wildlife and the Director of the Division of Licensing ~~and~~, Registration and Engineering within the Department of Inland Fisheries and Wildlife, the State Tax Assessor may adopt rules and establish ~~such~~ forms and procedures as ~~are~~ necessary for the efficient administration and enforcement of the excise tax ~~established~~ imposed by this chapter. Rules adopted pursuant to this section are routine technical rules for the purposes of Title 5, chapter 375, subchapter 2-A.

**Sec. 14. 36 MRSA §1752, sub-§5-A,** as enacted by PL 1981, c. 163, §1, is amended to read:

**5-A. Products for internal human consumption.** "Products for internal human consumption" ~~mean~~ means edible products sold for human nutrition or refreshment and containers or ~~instruments~~ utensils provided simultaneously for the consumption of these products. It does not include spirituous, malt or vinous

liquors, medicines, tonics, vitamins, dietary supplements or cigarettes.

**Sec. 15. 36 MRSA §1752, sub-§14, ¶B,** as amended by PL 2007, c. 627, §43, is further amended to read:

B. "Sale price" does not include:

(1) Discounts allowed and taken on sales;

(2) Allowances in cash or by credit made upon the return of merchandise pursuant to warranty;

(3) The price of property returned by customers, when the full price is refunded either in cash or by credit;

(4) The price received for labor or services used in installing or applying or repairing the property sold, if separately charged or stated;

(5) Any amount charged or collected, in lieu of a gratuity or tip, as a specifically stated service charge, when that amount is to be disbursed by a hotel, restaurant or other eating establishment to its employees as wages;

(6) The amount of any tax imposed by the United States on or with respect to retail sales, whether imposed upon the retailer or the consumer, except any manufacturers', importers', alcohol or tobacco excise tax;

(7) The cost of transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, provided that those charges are separately stated and the transportation occurs by means of common carrier, contract carrier or the United States mail;

(8) The fee imposed by Title 10, section 1169, subsection 11;

(9) The fee imposed by section 4832, subsection 1;

(10) The lead-acid battery deposit imposed by Title 38, section 1604, subsection 2-B;

(11) Any amount charged or collected by a person engaged in the rental of living quarters as a forfeited room deposit or cancellation fee if the prospective occupant of the living quarters cancels the reservation on or before the scheduled date of arrival; or

(12) The premium imposed on bulk motor vehicle oil ~~changes imposed~~ and prepackaged motor vehicle oil by Title 10, section 1020, subsection ~~6~~ 6-A.

**Sec. 16. 36 MRSA §1752, sub-§14, ¶B,** as amended by PL 2009, c. 382, Pt. B, §17 and affected by §52, is further amended to read:

B. "Sale price" does not include:

(1) Discounts allowed and taken on sales;

(2) Allowances in cash or by credit made upon the return of merchandise pursuant to warranty;

(3) The price of property returned by customers, when the full price is refunded either in cash or by credit;

(5) Any amount charged or collected, in lieu of a gratuity or tip, as a specifically stated service charge, when that amount is to be disbursed by a hotel, restaurant or other eating establishment to its employees as wages;

(6) The amount of any tax imposed by the United States on or with respect to retail sales, whether imposed upon the retailer or the consumer, except any manufacturers', importers', alcohol or tobacco excise tax;

(7) The cost of transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, provided that those charges are separately stated and the transportation occurs by means of common carrier, contract carrier or the United States mail;

(8) The fee imposed by Title 10, section 1169, subsection 11;

(9) The fee imposed by section 4832, subsection 1;

(10) The lead-acid battery deposit imposed by Title 38, section 1604, subsection 2-B;

(11) Any amount charged or collected by a person engaged in the rental of living quarters as a forfeited room deposit or cancellation fee if the prospective occupant of the living quarters cancels the reservation on or before the scheduled date of arrival; or

(12) The premium imposed on bulk motor vehicle oil ~~changes imposed~~ and prepackaged motor vehicle oil by Title 10, section 1020, subsection ~~6~~ 6-A.

**Sec. 17. 36 MRSA §1754-B, sub-§2,** as amended by PL 2003, c. 673, Pt. AAA, §1, 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 statement as to the type or types of ~~items~~ 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 ~~items~~ tangible personal property that it purchases for resale or to the type or types of taxable services that it sells.

~~When a~~ If the retailer maintains a place of business in this State, the registration certificate must be conspicuously displayed at that place of business. ~~In~~ If the ~~case of a~~ retailer ~~that~~ does not have a fixed place of business and makes sales from one or more motor vehicles, each motor vehicle ~~constitutes~~ is deemed to be a place of business.

**Sec. 18. 36 MRSA §3203, sub-§1,** as amended by PL 2007, c. 650, §1, is repealed.

**Sec. 19. 36 MRSA §3203, sub-§4,** as amended by PL 2007, c. 538, Pt. L, §2, is further amended to read:

**4. Highway Fund.** All taxes and fines collected under this chapter must be credited to the Highway Fund, except that beginning July 1, 2009 the Treasurer of State shall deposit monthly into the TransCap Trust Fund established in Title 30-A, section 6006-G 7.5% of the excise tax imposed under subsection ~~1~~ 1-B.

**Sec. 20. 36 MRSA §3203-C,** as amended by PL 2009, c. 413, Pt. W, §3 and affected by §6 and amended by c. 434, §51 and affected by §84, is repealed and the following enacted in its place:

**§3203-C. Inventory tax**

On the date that any increase in the rate of tax imposed under this chapter takes effect, an inventory tax is imposed upon all distillates that are held in inventory by a supplier, wholesaler or retail dealer as of the end of the day prior to that date on which the tax imposed by section 3203, section 1-B has been paid. The inventory tax is computed by multiplying the number of gallons of tax-paid fuel held in inventory by the difference between the tax rate already paid and the new tax rate. Suppliers, wholesalers and retail dealers that hold such tax-paid inventory shall make payment of the inventory tax on or before the 15th day of the next calendar month, accompanied by a form prescribed and furnished by the State Tax Assessor. In the event of a decrease in the tax rate, the supplier, wholesaler or retail dealer is entitled to a refund or credit, which must be claimed on a form designed and furnished by the assessor.

**Sec. 21. 36 MRSA §5122, sub-§1, ¶Z,** as amended by PL 2009, c. 213, Pt. BBBB, §2 and c. 434, §66 and affected by §84, is repealed and the following enacted in its place:

Z. For income tax years beginning on or after January 1, 2008, the amount of any qualified state and local tax benefit and any qualified payment excluded from gross income pursuant to the Code, Section 139B;

**Sec. 22. 36 MRSA §5122, sub-§2, ¶AA,** as amended by PL 2009, c. 213, Pt. BBBB, §6 and amended by c. 434, §67, is repealed and the following enacted in its place:

AA. For taxable years beginning on or after January 1, 2009, an amount equal to the net increase in the depreciation deductions allowable under sections 167 and 168 of the Code 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 on or after January 1, 2008 for which an addition was required under subsection 1, paragraph AA in a prior year.

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 AA and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed for property under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph AA for the same property;

**Sec. 23. 36 MRSA §5200-A, sub-§2, ¶R,** as amended by PL 2009, c. 213, Pt. ZZZ, §11 and Pt. BBBB, §13, is repealed and the following enacted in its place:

R. For taxable years beginning on or after January 1, 2009, an amount equal to the net increase in the depreciation deductions allowable under sections 167 and 168 of the Code 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 on or after January 1, 2008 for which an addition was required under subsection 1, paragraph T in a prior year.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal 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 T and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed for property under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph T for the same property;

**Sec. 24. 36 MRSA §5219-E,** as amended by PL 1997, c. 24, Pt. C, §11, is repealed.

**Sec. 25. 36 MRSA §5228, sub-§3,** as corrected by RR 2009, c. 1, §29, is amended to read:

**3. Amount of estimated tax to be paid.** Every person required to make payment of estimated tax is liable for an estimated tax that is no less than the smaller of the amounts determined pursuant to paragraphs A and B, except that large corporations as defined in the Code, Section 6655(g), are subject only to paragraph B, except as provided in subsection 5, paragraph C and individual taxpayers encountering an unusual event are subject only to paragraph B with respect to the unusual event, except as provided in subsection 5, paragraph D:

A. An amount equal to the person's tax liability under this Part for the preceding taxable year, if that preceding year was a taxable year of 12 months; or

B. An amount equal to 90% of the person's tax liability under this Part for the current taxable year ~~determined without taking into account the current year's investment tax credit set forth in section 5219-E,~~ except that, for farmers and persons who fish commercially, this amount is equal to 66 2/3% of the person's tax liability under this Part for the current taxable year.

**Sec. 26. 36 MRSA §5278, sub-§4,** as amended by PL 2003, c. 588, §21, is further amended to read:

**4. Notice of change or correction.** If a taxpayer is required by section 5227-A to file an amended Maine return, a claim for credit or refund of any resulting overpayment of the tax must be filed by the taxpayer within 2 years from the time the filing of the amended return was required. The claim for credit or refund is limited to issues included in the federal amendment or adjustment and the amount of the credit or refund may not exceed the amount of the reduction in tax attributable to the federal amendment or adjustment. This subsection does not affect the time within which or the amount for which a claim for credit or refund may be filed apart from this subsection.

**Sec. 27. 36 MRSA §6652, sub-§1,** as amended by PL 2009, c. 213, Pt. U, §1, is further amended to read:

**1. Generally.** A person against whom taxes have been assessed pursuant to Part 2, except for chapters 111 and 112, with respect to eligible property and who has paid those taxes is entitled to reimbursement of a portion of those taxes from the State as provided in this chapter. The reimbursement under this chapter is the percentage of the taxes assessed and paid with respect to eligible property specified in subsection 4, ~~except that for claims filed for application periods that begin on August 1, 2006, August 1, 2009 and August 1, 2010 the reimbursement is limited to 90% of the taxes assessed and paid with respect to eligible property~~. For purposes of this chapter, a tax applied as a credit against a tax assessed pursuant to chapter 111 or 112 is a tax assessed pursuant to chapter 111 or 112. A taxpayer that included eligible property in its investment credit base under section ~~5219-E or~~ 5219-M and claimed the credit provided in ~~one or more of those sections~~ section 5219-M on its income tax return may not be reimbursed under this chapter for taxes assessed on that same eligible property in a year in which ~~one or more of those credits are~~ that credit is taken. A successor in interest of a person against whom taxes have been assessed with respect to eligible property is entitled to reimbursement pursuant to this section, whether the tax was paid by the person assessed or by the successor, as long as a transfer of the property in question to the successor has occurred and the successor is the owner of the property as of August 1st of the year in which a claim for reimbursement may be filed pursuant to section 6654. For purposes of this subsection, "successor in interest" includes the initial successor and any subsequent successor. When an eligible successor in interest exists, the successor is the only person to whom reimbursement under this chapter may be made with respect to the transferred property. For an item of eligible property that is first subject to assessment under Part 2 on or after April 1, 2008, and for any item of eligible property for which reimbursement is paid under subsection 4, paragraph B, the reimbursement otherwise payable under this section ~~with respect to that item of eligible property must be reduced by an amount equal to the amount, if any, by which the reimbursement otherwise payable under this section plus payments received by the taxpayer under a tax increment financing arrangement pursuant to Title 30-A, chapter 206, subchapter 1 with respect to that item of eligible property exceeds 100% of the property taxes assessed with respect to that item of eligible property~~ may not exceed the actual property taxes paid less any tax increment financing refund received with respect to that property.

**Sec. 28. 36 MRSA §6652, sub-§4,** as enacted by PL 2005, c. 623, §5, is amended to read:

**4. Reimbursement percentage.** ~~Reimbursements~~ The reimbursement under this chapter ~~are for the following~~ is an amount equal to the percentage specified in paragraphs A and B of taxes assessed and paid with respect to each item of eligible property, except that for claims filed for application periods that begin on August 1, 2006, August 1, 2009 or August 1, 2010 the reimbursement is 90% of that amount.

A. For each of the first to 12th years for which reimbursement is made, the percentage is 100%.

B. Pursuant to section 699, subsection 2, reimbursement under this chapter after the 12th year for which reimbursement is made is according to the following percentages of taxes assessed and paid with respect to each item of eligible property.

(1) For the 13th year for which reimbursement is made, the percentage is 75%.

(2) For the 14th year for which reimbursement is made, the percentage is 70%.

(3) For the 15th year for which reimbursement is made, the percentage is 65%.

(4) For the 16th year for which reimbursement is made, the percentage is 60%.

(5) For the 17th year for which reimbursement is made, the percentage is 55%.

(6) For the 18th year for which reimbursement is made and for subsequent years, the percentage is 50%.

**Sec. 29. 36 MRSA §6754, sub-§1,** as amended by PL 2009, c. 434, §83 and c. 461, §27, is repealed and the following enacted in its place:

**1. Generally.** Subject to the provisions of subsection 2, a qualified business is entitled to reimbursement of Maine income tax withheld during the calendar year for which reimbursement is requested and attributed to qualified employees after July 1, 1996 in the following amounts.

A. For qualified employees employed by a qualified business in labor market areas in this State in which the labor market unemployment rate is at or below the State's unemployment rate at the time of application, the reimbursement is equal to 30% of Maine income tax withheld during each of the first 5 calendar years for which reimbursement is requested and attributed to those qualified employees. The percentage of reimbursement for the 6th to 10th years of the employment tax increment financing development program is established based upon the labor market unemployment rate at the beginning of the 6th year.

B. For qualified employees employed by a qualified business in labor market areas in this State in which the labor market unemployment rate is greater than the State's unemployment rate at the time of application, the reimbursement is equal to 50% of Maine income tax withheld during each of the first 5 calendar years for which reimbursement is requested and attributed to those qualified employees. The percentage of reimbursement for the 6th to 10th years of the employment tax increment financing development program is established based upon the labor market unemployment rate at the beginning of the 6th year.

C. For qualified employees employed by a qualified business in labor market areas in this State in which the labor market unemployment rate is greater than 150% of the State's unemployment rate at the time of application, the reimbursement is equal to 75% of Maine income tax withheld during each of the first 5 calendar years for which reimbursement is requested and attributed to those qualified employees. The percentage of reimbursement for the 6th to 10th years of the employment tax increment financing development program is established based upon the labor market unemployment rate at the beginning of the 6th year.

D. For qualified Pine Tree Development Zone employees, as defined in Title 30-A, section 5250-I, subsection 18, employed directly in the qualified business activity of a qualified Pine Tree Development Zone business, as defined in Title 30-A, section 5250-I, subsection 17, for whom a certificate of qualification has been issued in accordance with Title 30-A, section 5250-O, the reimbursement under this subsection is equal to 80% of Maine income tax withheld each year for which reimbursement is requested and attributed to those qualified employees for a period of no more than 10 years for tier 1 locations and no more than 5 years for tier 2 locations. Reimbursement under this paragraph may not be paid for years beginning after December 31, 2028.

**Sec. 30. Contingent effective date.** That section of this Act that amends the Maine Revised Statutes, Title 36, section 1752, subsection 14, paragraph B, as amended by Public Law 2007, chapter 627, section 43, takes effect only if Public Law 2009, chapter 382 is not ratified by a majority of the electors voting on that measure pursuant to the Constitution of Maine, Article IV, Section 17.

**Sec. 31. Contingent effective date.** That section of this Act that amends the Maine Revised Statutes, Title 36, section 1752, subsection 14, paragraph B, as amended by Public Law 2009, chapter 382, Part B, section 17 and affected by section 52, takes effect only if Public Law 2009, chapter 382 is ratified by a majority of the electors voting on that measure pursuant to the Constitution of Maine, Article IV, Section 17.

See title page for effective date, unless otherwise indicated.

## CHAPTER 497

## H.P. 1146 - L.D. 1618

### An Act To Amend the Loan Originator Registration Laws

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

**Sec. 1. 9-A MRSA §13-120,** as enacted by PL 2009, c. 362, Pt. B, §1, is amended to read:

**§13-120. Effective date**

This Article takes effect ~~July 31, 2010~~ January 1, 2011.

See title page for effective date.

## CHAPTER 498

## H.P. 1114 - L.D. 1576

### An Act To Improve the Ability of the Commissioner of Corrections To Respond in Special Situations

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

**Sec. 1. 34-A MRSA §3013** is enacted to read:

**§3013. Special response teams**

The commissioner may establish ongoing special response teams consisting of personnel from more than one facility or division of the department to assist, as determined by the commissioner, in responding to special situations anywhere in the department.

See title page for effective date.

## CHAPTER 499

## S.P. 597 - L.D. 1560

### An Act To Eliminate the 3-trap Limit in the Waters of the State

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

**Sec. 1. 12 MRSA §6439,** as amended by PL 2001, c. 272, §3, is repealed.

**Sec. 2. 12 MRSA §6447, sub-§5,** as amended by PL 1999, c. 187, §3, is further amended to read:

**5. Council authority.** Upon approval in a referendum under subsection 6, a lobster management policy council may propose to the commissioner rules for a zone to place the following limitations on lobster and crab fishing license holders that fish in that zone, ~~provided~~ as long as the proposed limitations are equal to or stricter than the limitations under section 6431-A, ~~6439,~~ 6439-A or 6440:

A. The number of lobster traps fished and the time periods allowed for complying with that number;

B. The number of lobster traps allowed on a trawl; and

C. The time of day when lobster fishing may occur.

**Sec. 3. Effective date.** This Act takes effect January 1, 2011.

Effective January 1, 2011.

## CHAPTER 500

## H.P. 1147 - L.D. 1619

### An Act To Facilitate Uniformity Regarding Exemption from Registration of Certain Securities Offerings

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

**Sec. 1. 32 MRSA §16202, sub-§26,** as enacted by PL 2005, c. 65, Pt. A, §2, is amended to read:

**26. Nonpublic offerings under 4(2).** A security offered in a nonpublic offering under Section 4(2) of the federal Securities Act of 1933, 15 United States Code, Section 77d(2) if, no later than 15 days after the first sale in this State, a notice on "Form D," ~~including the Appendix,~~ as promulgated by the Securities and Exchange Commission, is filed with the administrator together with a consent to service of process complying with section 16611, signed by the issuer, and the payment of a nonrefundable filing fee of $300 for each type or class of security sold. If the Form D includes a consent to service of process, a separate document need not be filed for this purpose, and if the consent to service of process on the Form D is executed in a manner accepted by the Securities and Exchange Commission, it is deemed to comply with the requirement in this section and section 16611, subsection 1 that the consent be signed. An additional nonrefundable late filing fee of $500 must be paid for a filing made between 16 and 30 days after the first sale in this State.

**Sec. 2. 32 MRSA §16302, sub-§3, ¶A,** as enacted by PL 2005, c. 65, Pt. A, §2, is amended to read:

A. A notice on "Form D," ~~including the Appendix,~~ as promulgated by the Securities and Exchange Commission;

**Sec. 3. 32 MRSA §16302, sub-§3, ¶B,** as enacted by PL 2005, c. 65, Pt. A, §2, is amended to read:

B. A consent to service of process complying with ~~Section~~ section 16611, signed by the issuer, except that if the Form D includes a consent to service of process, a separate document need not be filed for this purpose, and if the consent to service of process on the Form D is executed in a manner accepted by the Securities and Exchange Commission, it is deemed to comply with the requirement in this section and in section 16611, subsection 1 that the consent be signed; and

See title page for effective date.

## CHAPTER 501

## S.P. 610 - L.D. 1603

### An Act To Amend Laws Administered by the Department of Environmental Protection

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

**Sec. 1. 23 MRSA §3105,** as repealed and replaced by PL 2009, c. 239, §4, is repealed.

**Sec. 2. 23 MRSA §3105-A** is enacted to read:

**§3105-A. Use of town equipment**

The inhabitants of any town or village corporation at a legal town or village corporation meeting may authorize the municipal officers of the town or assessors of the village corporation to use its highway equipment on private ways within such town or village corporation whenever such municipal officers or assessors consider it advisable in the best interest of the town or village corporation for fire and police protection.

**Sec. 3. 23 MRSA §3106, sub-§1,** as enacted by PL 2009, c. 225, §1, is amended to read:

**1. Repairs to a private road.** ~~A municipality may~~ For the purpose of protecting or restoring a great pond, as defined in Title 38, section 480-B, subsection 5, a municipality may appropriate funds to repair a private road, way or bridge to prevent storm water runoff pollution from reaching a great pond ~~as defined in Title 38, section 480-B, subsection 5 through the expenditure of public funds~~ if:

A. The private road, way or bridge is within the watershed of the great pond;

B. The great pond:

(1) Is listed on the Department of Environmental Protection's list of bodies of water most at risk pursuant to Title 38, section 420-D, subsection 3;

(2) Has been listed as impaired in an integrated water quality monitoring and assessment report submitted by the Department of Environmental Protection to the United States Environmental Protection Agency pursuant to the federal Clean Water Act, 33 United States Code, Section 1315(b) at least once since 2002; or

(3) Is identified as having threats to water quality in a completed watershed survey that uses a protocol accepted by the Department of Environmental Protection;

C. The Department of Environmental Protection or the municipality determines that the private road, way or bridge is contributing to the degradation of the water quality of the great pond based upon an evaluation of the road, way or bridge using a protocol accepted by the department;

D. The repair complies with best management practices required by the Department of Environmental Protection; and

E. The private road, way or bridge is maintained by a road association organized under this subchapter or Title 13-B.

**Sec. 4. 38 MRSA §548, first ¶,** as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §114, is further amended to read:

Any person discharging or suffering the discharge of oil in the manner prohibited by section 543 shall immediately undertake to remove that discharge to the commissioner's satisfaction. Notwithstanding the above requirement, the commissioner may undertake the removal or cleanup of that discharge and may retain agents and contractors for those purposes who shall operate under the direction of the commissioner. The commissioner may implement remedies to restore or replace water supplies contaminated by a discharge of oil prohibited by section 543, including all discharges from interstate pipelines, using the most cost-effective alternative that is technologically feasible and reliable and ~~which~~ that effectively mitigates or minimizes damages to, and provides adequate protection of, the public health, welfare and the environment. The commissioner may investigate and sample sites where an oil discharge has or may have occurred to identify the source and extent of the discharge. During the course of the investigation, the commissioner may require submission of information or documents that relate or may relate to the discharge under investigation from any person who the commissioner has reason to believe may be a responsible party. If the commissioner finds, after investigation, that a discharge of oil has occurred and may create a threat to public health or the environment, the commissioner

may issue a clean-up order in accordance with section 568, subsection 3.

**Sec. 5. 38 MRSA §551, sub-§5, ¶E,** as amended by PL 1985, c. 496, Pt. A, §13, is further amended to read:

E. Payment of costs of ~~arbitration and arbitrators~~ hearings, independent hearing examiners and independent claims adjusters for 3rd-party damage claims;

**Sec. 6. 38 MRSA §551, sub-§6-A,** as enacted by PL 1997, c. 364, §28, is amended to read:

**6-A. Lien.** All costs incurred by the State in the removal, abatement and remediation of a prohibited discharge of oil and interest are a lien against the real estate of the responsible party. The lien does not apply to the real estate of a licensee if the discharge was caused or suffered by a carrier destined for the licensee's facilities.

A certificate of lien signed by the commissioner must be sent by certified mail to the responsible party prior to being recorded and may be filed in the office of the clerk of the municipality in which the real estate is located. The lien is effective when the certificate is recorded with the registry of deeds for the county in which the real estate is located. The certificate of lien must include a description of the real estate, the amount of the lien and the name of the owner as grantor.

When the amount for which a lien has been recorded under this subsection has been paid or reduced, the commissioner, upon request by any person of record holding interest in the real estate that is the subject of the lien, shall issue a certificate discharging or partially discharging the lien. The certificate must be recorded in the registry in which the lien was recorded. Any action of foreclosure of the lien must be brought by the Attorney General in the name of the State in the Superior Court for the judicial district in which the real estate subject to the lien is located.

**Sec. 7. 38 MRSA §566-A, sub-§1,** as enacted by PL 1987, c. 491, §14, is amended to read:

**1. Abandonment.** All underground oil storage facilities and tanks that have been, or are intended to be, taken out of service for a period of more than 12 months ~~shall~~ must be properly abandoned by the owner or operator of the facility or tank or, if the owner or operator is unknown, dissolved or insolvent, by the current owner of the property where the facility or tank is located. All abandoned facilities and tanks ~~shall~~ must be removed, except where removal is not physically possible or practicable because the tank or other component of the facility to be removed is:

A. Located beneath a building or other permanent structure;

B. Of a size and type of construction that it cannot be removed;

C. Otherwise inaccessible to heavy equipment necessary for removal; or

D. Positioned in such a manner that removal will endanger the structural integrity of nearby tanks.

**Sec. 8. 38 MRSA §566-A, sub-§1-A,** as amended by PL 2007, c. 655, §5, is further amended to read:

**1-A. Abandoned tanks brought back into service.** Underground oil storage tanks and facilities that have been out of service for a period of more than 12 months may not be brought back into service without the written approval of the commissioner. The commissioner may approve the return to service if the owner demonstrates to the commissioner's satisfaction that:

A. The facility is in compliance with this subchapter and rules adopted pursuant to this subchapter;

B. The underground oil storage ~~tank~~ tanks and piping have successfully passed testing as directed by the commissioner;

C. The underground oil storage ~~tank~~ tanks and piping are constructed of fiberglass, cathodically protected steel or other equally noncorrosive material approved by the commissioner;

D. The facility has conforming suction or double-walled pressurized piping; and

E. The return of the facility to service does not pose an unacceptable risk to groundwater resources. In determining if the facility poses an unacceptable risk to groundwater resources, the commissioner may consider the age and maintenance history of the storage tanks and piping, the number and consequences of past oil discharges from the tanks and piping, the proximity of the facility to drinking water supplies and the proximity of the facility to sensitive geologic areas.

The commissioner may not approve the return to service of a single-walled underground oil storage tank that has been out of service for more than 12 consecutive months.

**Sec. 9. 38 MRSA §568-A, sub-§2, ¶C,** as amended by PL 2005, c. 330, §21, is further amended to read:

C. Conditional deductibles for aboveground facilities and tanks are as follows.

(1) For aboveground tanks subject to the jurisdiction of the State Fire Marshal pursuant to 16-219 CMR, chapter 34, the deductibles are:

(a) Five thousand dollars for failure to obtain a construction permit from the Office of the State Fire Marshal, when required under Title 25, chapter 318 and 16-219 CMR, chapter 34 or under prior applicable law;

(b) Five thousand dollars for failure to design and install piping in accordance with section 570-K and rules adopted by the department;

(c) Five thousand dollars for failure to comply with an existing consent decree, court order or outstanding deficiency statement regarding violations at the aboveground facility;

(d) Five thousand dollars for failure to implement a certified spill prevention control and countermeasure plan, if required;

(e) Five thousand dollars for failure to install any required spill control measures, such as dikes;

(f) Five thousand dollars for failure to install any required overfill equipment;

(g) Five thousand dollars if the tank is not approved for aboveground use; and

(h) Ten thousand dollars for failure to report any leaks at the facility.

(2) For aboveground tanks subject to the jurisdiction of the Oil and Solid Fuel Board, the deductibles are:

(a) One hundred and fifty dollars for failure to install the facility in accordance with rules adopted by the Oil and Solid Fuel Board and in effect at the time of installation;

(b) Two hundred and fifty dollars for failure to ~~conform an upgraded facility to the requirements provided in~~ comply with the rules of the Oil and Solid Fuel Board;

(c) Two hundred and fifty dollars for failure to make a good faith effort to properly maintain the facility; and

(d) Five hundred dollars for failure to notify the department of a spill.

**Sec. 10. 38 MRSA §569-A, sub-§8, ¶B,** as amended by PL 1995, c. 399, §14 and affected by §21, is further amended to read:

B. All costs involved in the removal of a prohibited discharge, the abatement of pollution and the implementation of remedial measures, including restoration of water supplies, related to the discharge of oil ~~to ground water, whether~~ from an ~~aboveground or underground~~ oil storage facility~~,~~ not paid by a responsible party or an applicant for coverage by the fund;

**Sec. 11. 38 MRSA §569-A, sub-§10-A,** as amended by PL 1999, c. 334, §4, is further amended to read:

**10-A. Lien.** All costs incurred by the State in the removal, abatement and remediation of a prohibited discharge of oil from an ~~aboveground or underground~~ oil storage facility and all costs incurred by the State in the abandonment of an underground oil storage facility or tank under section 566-A, subsection 4 and interest are a lien against the real estate of the responsible party. For a responsible party determined eligible for coverage under section 568-A, subsection 1, the lien is for the amount of any unpaid deductible assigned under section 568-A, subsection 2 ~~or for~~ and any eligible clean-up costs and 3rd-party damage claims above $1,000,000.

A certificate of lien signed by the commissioner must be sent by certified mail to the responsible party prior to being recorded and may be filed in the office of the clerk of the municipality in which the real estate is located. The lien is effective when the certificate is recorded with the registry of deeds for the county in which the real estate is located. The certificate of lien must include a description of the real estate, the amount of the lien and the name of the owner as grantor.

When the amount for which a lien has been recorded under this subsection has been paid or reduced, the commissioner, upon request by any person of record holding interest in the real estate that is the subject of the lien, shall issue a certificate discharging or partially discharging the lien. The certificate must be recorded in the registry in which the lien was recorded. Any action of foreclosure of the lien must be brought by the Attorney General in the name of the State in the Superior Court for the judicial district in which the real estate subject to the lien is located.

**Sec. 12. 38 MRSA §569-B, sub-§5, ¶B,** as amended by PL 1995, c. 399, §19 and affected by §21, is further amended to read:

B. All costs involved in the removal of a prohibited discharge, the abatement of pollution and the implementation of remedial measures, including restoration of water supplies, related to the discharge of oil, petroleum products and their by-products ~~to ground water~~ from an ~~aboveground or underground~~ oil storage facility;

**Sec. 13. 38 MRSA §1296,** as amended by PL 2005, c. 330, §25, is further amended by adding after the 4th paragraph a new paragraph to read:

The commissioner may initiate enforcement action under section 347-A in lieu of issuing an order under this section.

**Sec. 14. 38 MRSA §1298, sub-§3,** as enacted by PL 2007, c. 628, Pt. B, §4, is amended to read:

**3. Application.** The application under subsection 2 must be submitted together with a report by a lead inspector that indicates that the leased residential dwelling has been tested for the presence of lead-based paint and lead-contaminated dust ~~and~~ or a report by a lead dust sampling technician that indicates the leased residential dwelling has been tested for lead-contaminated dust. The report must indicate that the dwelling meets the requirements for ~~certification as lead-safe~~ inclusion on the registry in accordance with the standards and procedures established by ~~rules adopted by the commissioner~~ the department.

**Sec. 15. 38 MRSA §1319-C, sub-§3** is enacted to read:

**3. Responsible party.** "Responsible party" means any person who could be held liable under section 1319-J.

**Sec. 16. 38 MRSA §1319-G, sub-§1-A** is enacted to read:

**1-A. Lien.** All costs incurred by the State in the removal, abatement and remediation of an unlicensed discharge or threatened discharge of hazardous waste, waste oil or biomedical waste under this subchapter and interest are a lien against the real estate of the responsible party.

A certificate of lien signed by the commissioner must be sent by certified mail to the responsible party prior to being recorded and may be filed in the office of the clerk of the municipality in which the real estate is located. The lien is effective when the certificate is recorded with the registry of deeds for the county in which the real estate is located. The certificate of lien must include a description of the real estate, the amount of the lien and the name of the owner as grantor.

When the amount for which a lien has been recorded under this subsection has been paid or reduced, the commissioner, upon request by any person of record holding interest in the real estate that is the subject of the lien, shall issue a certificate discharging or partially discharging the lien. The certificate must be recorded in the registry in which the lien was recorded. Any action of foreclosure of the lien must be brought by the Attorney General in the name of the State in the Superior Court for the judicial district in which the real estate subject to the lien is located.

**Sec. 17. 38 MRSA §1393, sub-§2,** as enacted by PL 2007, c. 569, §6, is amended to read:

**2. Exceptions.** Subsection 1 does not apply to:

A. A facility in existence or under construction on the effective date of the prohibition established under subsection 1. As used in this paragraph, "under construction" means that a substantial amount of money or effort has been expended toward completion of the facility as determined by the commissioner. The test of substantiality involves an assessment of the amount of money or effort expended in relation to the amount required to complete the facility;

B. The replacement or expansion of an underground oil storage facility in existence on September 30, 2001 or a facility identified in subsection 1, paragraph B in existence on September 30, 2008 as long as the replacement or expansion occurs on the same property and the facility meets all applicable requirements of law;

C. The conversion of an aboveground oil storage facility in existence on September 30, 2001 to an underground oil storage facility or vice versa, as long as the conversion occurs on the same property and the facility to be converted meets all applicable requirements of law;

D. The installation of an oil storage facility used solely to store heating oil for consumption on the premises, including the installation of an aboveground heating oil supply tank; or

E. The installation of a facility located on the same property as a well serving only users of that property.

This subsection may not be interpreted to allow the conversion, replacement or expansion of an underground oil storage tank or underground oil storage facility subject to the abandonment requirement under section 566-A.

**Sec. 18. 38 MRSA §1661-C, sub-§1,** as enacted by PL 2001, c. 373, §3, is repealed.

**Sec. 19. 38 MRSA §1661-C, sub-§2,** as enacted by PL 2001, c. 373, §3, is repealed.

**Sec. 20. 38 MRSA §1661-C, sub-§6, ¶F,** as enacted by PL 2003, c. 221, §4, is amended to read:

F. A manometer ~~other than a manometer prohibited from sale under subsection 2~~;

**Sec. 21. 38 MRSA §1661-C, sub-§6, ¶I,** as enacted by PL 2003, c. 221, §4, is amended to read:

I. A thermometer ~~other than a thermometer prohibited from sale under subsection 1~~.

**Sec. 22. 38 MRSA §1661-C, sub-§9, ¶A,** as enacted by PL 2009, c. 86, §1, is amended to read:

A. After June 30, 2011, a person may not sell or offer to sell or distribute for promotional purposes a mercury-added button cell battery identified in this paragraph or a product that contains a

mercury-added button cell battery identified in this paragraph:

(1) A zinc-air button cell battery;

(2) An alkaline manganese button cell battery; or

(3) A silver oxide button cell battery stamped with the designation ~~SR357, SR364, SR371, SR377 or SR395~~ 357, 364, 371, 377, 395, SR44W, SR621SW, SR626SW, SR920SW or SR927SW or a silver oxide button cell battery that is interchangeable with a battery that is stamped with one of those designations; and

**Sec. 23. 38 MRSA §1664, sub-§2,** as repealed and replaced by PL 2003, c. 640, §1, is repealed.

**Sec. 24. 38 MRSA §1665-B, sub-§2-A,** as enacted by PL 2009, c. 277, §10, is amended to read:

**2-A. Wholesaler responsibility.** A wholesaler may not sell a thermostat in the State unless the wholesaler acts as a collection site for thermostats that contain mercury. A wholesaler may meet the requirements of this subsection by participating as a collection site in a manufacturer collection and recycling program under subsection 2. A wholesaler shall post in a prominent location open to public view a notice about the financial incentive plan developed pursuant to subsection 4. The notice must be approved by the department and supplied by the manufacturer at no cost to the wholesaler.

**Sec. 25. PL 1995, c. 704, Pt. A, §24, 2nd ¶** is amended to read:

Unless a transfer of the permit-granting authority to the Department of Transportation occurs earlier, and notwithstanding any other provision of law, beginning June 30, 1999, the Department of Transportation has permit-granting authority relating to traffic. In the event of a transfer, a proposed development subject to review under the Maine Revised Statutes, Title 38, chapter 3, subchapter I, article 6, solely because it meets the traffic threshold provisions of Title 38, section 482, subsection 2, is subject only to the jurisdiction of the ~~Maine~~ Department of Transportation. ~~Projects subject to review under Title 38, chapter 3, subchapter I, article 6 on grounds including, but not limited to, the traffic threshold are subject to the joint jurisdiction of the Department of Environmental Protection and the Department of Transportation and this joint jurisdiction must be exercised through a consolidated proceeding.~~

See title page for effective date.

# CHAPTER 502

## H.P. 1085 - L.D. 1541

## An Act To Protect Consumers from Charges after a Free Trial Period

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

**Sec. 1. 10 MRSA §1210,** as enacted by PL 2001, c. 210, §1 and amended by c. 471, Pt. E, §1, is repealed and the following enacted in its place:

**§1210. Charges after free trial period**

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

A. "Established business relationship" means a prior or existing relationship formed by a voluntary 2-way communication between a seller and a consumer with an exchange of consideration on the basis of the consumer's purchase from or transaction with the seller within the 18 months immediately preceding the date of a free offer.

B. "Free offer" means an offer of a rebate or of products or services without cost to a consumer by a seller under which, as a result of accepting the rebate, products or services, the consumer is required to contact the seller to avoid incurring a financial obligation for receiving additional products or services.

**2. Prohibition.** A seller may not make a free offer to a consumer in the State unless, at the time the consumer agrees to the free offer:

A. The seller obtains directly from the consumer information necessary for billing the consumer; and

B. The seller provides the consumer with clear and conspicuous information regarding the terms of the free offer, including any additional financial obligations that may be incurred as a result of accepting the free offer.

**Sec. 2. 10 MRSA §1210-A,** as enacted by PL 2001, c. 210, §1, is amended to read:

**§1210-A. Violation**

A ~~merchant who~~ seller that violates this chapter commits an unfair and deceptive act and a violation of Title 5, section 207.

**Sec. 3. 10 MRSA §1210-B, sub-§1,** as enacted by PL 2001, c. 471, Pt. E, §2, is repealed.

**Sec. 4. 10 MRSA §1210-B, sub-§1-A** is enacted to read:

**1-A. Established business relationships.** A free offer when the seller and the consumer have an established business relationship. The consumer's established business relationship with the seller does not extend to affiliates of the seller, unless the consumer would reasonably expect an affiliate to be included given the nature and type of goods or services offered by the affiliate and the identity of the affiliate;

See title page for effective date.

## CHAPTER 503

## H.P. 1072 - L.D. 1522

### An Act To Streamline the Renewal Process for a Permit To Carry a Firearm

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

**Sec. 1. 15 MRSA §393, sub-§2,** as amended by PL 2007, c. 670, §7, is further amended to read:

**2. Application after 5 years.** A person subject to the provisions of subsection 1, paragraph A-1 or C as a result of a conviction or adjudication may, after the expiration of 5 years from the date that the person is finally discharged from the sentences imposed as a result of the conviction or adjudication, apply to the commissioner for a permit to carry a firearm subject to subsection 4. That person may not be issued a permit to carry a concealed firearm pursuant to Title 25, chapter 252. A permit issued pursuant to this subsection is valid for 4 years from the date of issue unless sooner revoked for cause by the commissioner. For purposes of this subsection, "firearm" does not include a firearm defined under 18 United States Code, Section 921(3).

**Sec. 2. 15 MRSA §393, sub-§4,** as amended by PL 2007, c. 670, §8, is further amended to read:

**4. Notification, objection and decision.** Upon receipt of an application, the commissioner shall determine if ~~it~~ the application is in proper form. If the application is proper, the commissioner shall within 30 days notify in writing the sentencing or presiding judge, the Attorney General, the district attorney for the county where the applicant resides, the district attorney for the county where the conviction occurred, the law enforcement agency that investigated the crime, the chief of police and sheriff in the municipality and county where the crime occurred and the chief of police and sheriff in the municipality where the applicant resides as of the filing of the application. The commissioner may direct any appropriate investigation to be carried out. ~~If, within 30 days of the sending of notice, any person so notified objects in writing to the issuance of a permit, a permit may not be issued. The commissioner may deny an application even if no objection is filed.~~

A. If, within 30 days of the sending of notice, a person notified objects in writing to the commissioner regarding the initial issuance of a permit and provides the reason for the objection, the commissioner may not issue a permit. The reason for the objection must be communicated in writing to the commissioner in order for it to be the sole basis for denial.

B. If, within 30 days of the sending of notice, a person notified objects in writing, including the reason for the objection, to the commissioner regarding a 2nd or subsequent issuance of a permit, the commissioner shall take the objection and its reason into consideration when determining whether to issue a 2nd or subsequent permit to the applicant, but need not deny the issuance of a permit based on an objection alone.

The commissioner may deny any application for a permit even if no objection is filed.

See title page for effective date.

## CHAPTER 504

## H.P. 1158 - L.D. 1630

### An Act To Clarify the Laws Governing Instant Redeemable Coupons Included with a Spirits Product

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

**Sec. 1. 28-A MRSA §708, sub-§7,** as enacted by PL 2009, c. 145, §1, is amended to read:

**7. Instant marketing promotions.** A manufacturer or supplier of spirits listed for sale by the commission may offer monetary rebates in the form of instant redeemable coupons attached to the spirits product as approved by the commission in accordance with conditions or rules established by the commission. Agency store licensees may redeem the coupons only upon proof of purchase and in accordance with the terms listed on the coupon. Instant redeemable coupons included with a spirits product must be inserted in the package by the manufacturer or attached to the package by the manufacturer, manufacturer's agent or manufacturer's sales representative. Instant redeemable coupons provided by the manufacturer's agent or manufacturer's sales representative must be made available to all agency store licensees electing to offer the coupon in an amount equal to the agency store's inventory of spirits products that are subject to the coupon promotion. Instant redeemable coupons attached to spirits sold to on-premise retail licensees

by reselling agents are for the benefit of the on-premise retail licensee. An instant redeemable coupon attached to a spirits product sold by an agency store licensee to a consumer is for the benefit of the consumer who purchases the spirits product.

See title page for effective date.

## CHAPTER 505

## H.P. 1229 - L.D. 1731

### An Act To Modernize the Bingo Laws

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

**Sec. 1. 17 MRSA §314-A, sub-§1-A,** as enacted by PL 2003, c. 452, Pt. I, §4 and affected by Pt. X, §2, is amended to read:

**1-A. Sealed tickets.** The Chief of the State Police may also issue to any federally recognized Indian tribe licenses to sell lucky seven or other similar sealed tickets in accordance with section 324-A. The licensee may operate a dispenser to sell the lucky seven or other similar tickets. As used in this subsection, "dispenser" means a mechanical or electrical device or machine that, upon the insertion of money, credit or something of value, dispenses printed lucky seven or other similar tickets. The element of chance must be provided by the ticket itself, not by the dispenser. The Chief of the State Police may adopt rules to facilitate the use of dispensers. 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.

**PUBLIC SAFETY, DEPARTMENT OF**

**Licensing and Enforcement - Public Safety 0712**

Initiative: Provides one-time funding for training related to lucky seven dispensers.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $4,000 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $4,000 |

See title page for effective date.

## CHAPTER 506

## H.P. 1095 - L.D. 1553

### An Act To Facilitate Establishment of Watershed Districts

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

**Whereas,** under the authority of the federal Clean Water Act, the United States Environmental Protection Agency has required permits for storm water discharges in the Long Creek watershed; and

**Whereas,** the United States Environmental Protection Agency has delegated the administration of the permit program to the Department of Environmental Protection; and

**Whereas,** the Department of Environmental Protection has issued a general permit that will provide affected property owners or operators with permit coverage if they are participating in implementation of the Long Creek Watershed Management Plan; and

**Whereas,** affected property owners or operators will be required to have permit coverage by July 2010; and

**Whereas,** an entity to administer the implementation of the Long Creek Watershed Management Plan must be formed and this Act facilitates the formation of such an entity; 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 §484, sub-§4-A,** as amended by PL 1997, c. 502, §8 and affected by c. 603, §§8 and 9, 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. 2. 38 MRSA §2014** is enacted to read:

**§2014. Alternative method**

This chapter may not be construed to limit a municipality's home rule authority or its ability to form a watershed district through its interlocal cooperation authority under Title 30-A, chapter 115 but provides an additional and alternative method for the formation of a watershed district and provides powers supplemental and additional to powers conferred by other laws, and may not be regarded as in derogation of or repealing any powers existing under any other law, either general, special or local.

**Sec. 3. Retroactivity.** This Act applies retroactively to July 1, 2009.

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

Effective March 15, 2010.

## CHAPTER 507
## H.P. 1217 - L.D. 1716

### An Act To Expedite Rulemaking Concerning Agronomic Utilization of Sludge

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

**Sec. 1. 38 MRSA §1304, sub-§1-C,** as enacted by PL 1999, c. 393, §2, is amended to read:

**1-C. Rules; agronomic utilization of sludge.** Rules adopted by the board relating to the agronomic utilization of sludge are ~~major substantive~~ routine technical rules as defined in Title 5, chapter 375, subchapter ~~II-A~~ 2-A. ~~This subsection takes effect January 1, 2000.~~

See title page for effective date.

## CHAPTER 508
## S.P. 588 - L.D. 1532

### An Act To Align Education Laws with Certain Federal Laws

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

**Sec. 1. 20-A MRSA §5205, sub-§3-A** is enacted to read:

**3-A. Students placed by the Department of Health and Human Services.** Notwithstanding subsection 3, a student who is placed by the Department of Health and Human Services with an adult who is not the child's parent or legal guardian in accordance with the educational stability provisions of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008, Public Law 110-351, 122 Stat. 3949 is considered a resident of either the school administrative unit where the student resides during the placement or the school administrative unit where the student resided prior to the placement based on the best interest of the student. The Department of Health and Human Services, in consultation with the department and the school administrative units, shall determine which of the 2 units is appropriate and notify that unit in writing of its determination. The school administrative unit that provides public education for the student shall count the student as a resident student for subsidy purposes.

**Sec. 2. 20-A MRSA §6004, sub-§2, ¶B,** as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

B. Students who attend school under section 5205, subsections 2, 3-A, 4, 5 and 6, ~~shall~~ must be counted in the school administrative unit in which they attend school.

**Sec. 3. 20-A MRSA §7201, sub-§5,** as corrected by RR 2005, c. 2, §13, is amended to read:

**5. Accessible instructional materials; visual impairment including blindness; Braille instruction.** All students must have access to accessible instructional materials and may receive instruction in Braille ~~reading and writing~~ as part of their individualized family service plans or individualized education programs. A student may not be denied the opportunity of instruction in Braille ~~reading and writing~~ solely because the student has some remaining vision. If Braille is not provided to a child who is blind, the reason for not incorporating Braille in the individualized family service plan or individualized education program must be documented in the individualized family service plan or individualized education program. Accessible instructional materials and provisions for the accessibility of online learning programs for indi-

viduals with disabilities must be in alignment with the accessible instructional materials provisions of the federal Individuals with Disabilities Education Improvement Act of 2004, Public Law 108-446, 118 Stat. 2647 and in alignment with the universal design provisions of the 1998 amendments to the federal Higher Education Act of 1965, 20 United States Code, Chapter 28 contained in the federal Higher Education Amendments of 1998, Public Law 105-244, 112 Stat. 1581.

**Sec. 4. 20-A MRSA §7205,** as amended by PL 1987, c. 395, Pt. A, §72, is further amended to read:

**§7205. Review and assistance**

It is the intent of the Legislature that a representative of the commissioner visit ~~each~~ special education ~~program at least once every 5 years~~ programs for the purpose of review and assistance and as necessary to comply with federal general supervision requirements. Nothing in this section prohibits a school administrative unit from requesting that a representative of the commissioner visit a particular special education program for the purpose of review and assistance whenever necessary. The commissioner shall comply with each request in a timely fashion.

See title page for effective date.

## CHAPTER 509

## H.P. 1219 - L.D. 1718

### An Act To Amend the Laws Relating to Government Records

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

**Sec. 1. 5 MRSA §92-A, sub-§5,** as amended by PL 1997, c. 636, §3, is further amended to read:

**5. Record.** "Record" means all documentary material, regardless of media or characteristics and regardless of when it was created, made or received ~~and~~ or maintained by an agency in accordance with law or rule or in the transaction of its official business. "Record" does not include extra copies of printed or processed material of which official or record copies have been retained, stocks of publications and processed documents intended for distribution or use or records relating to personal matters that may have been kept in an office for convenience.

"Record" includes records of historic and archival value to the State, regardless of the date of their generation, including all documents determined to have such value to the State by statute and, when appropriate, by the State Archivist.

**Sec. 2. 5 MRSA §95, sub-§12,** as amended by PL 1991, c. 837, Pt. A, §9, is further amended to read:

**12. Copies.** To furnish copies of archival material upon the request of any person, on payment in advance of such fees as may be required. Copies of state records transferred pursuant to law from the office of their origin to the custody of the State Archivist, when certified by the State Archivist, under the seal of that office, have the same legal force and effect as if certified by their original custodian. A facsimile of the signature of the State Archivist imprinted by or at the direction of the State Archivist upon any certificate issued by the State Archivist has the same validity as the written signature of the State Archivist; ~~and~~

**Sec. 3. 5 MRSA §95, sub-§13,** as amended by PL 1991, c. 837, Pt. A, §9, is further amended to read:

**13. Photoreproduction and restoration.** To provide centralized photoreproduction and records preservation services for government agencies to the extent the State Archivist determines advisable in the administration of the state program and facilities. Such services must be furnished to such agencies at cost.

Fees collected under this subsection must be deposited in the General Fund.; and

**Sec. 4. 5 MRSA §95, sub-§14** is enacted to read:

**14. Records explanation available.** To prepare a detailed explanation of what constitutes a "record" pursuant to section 92-A, subsection 5 and "records belonging to the State or to a local government or any agency of the State" pursuant to section 95-A, subsection 1. The State Archivist shall include in the explanation practical examples of such records in plain language. Upon request, the State Archivist shall provide the explanation to interested parties at no cost to the requestor and shall post the explanation on a publicly accessible website.

**Sec. 5. 5 MRSA §95-A, sub-§1,** as amended by PL 1997, c. 636, §7, is further amended to read:

**1. Ownership and possession; notice and demand of return.** A record created by or belonging to the State, to a local or county government in the State or to any agency of the State remains the property of the State until ownership and possession are formally relinquished in accordance with statute and rules. Whenever the State Archivist has reasonable grounds to believe that records belonging to the State or to a local government or any agency of the State or to which the State or its agencies have a lawful right of possession are in the possession of a person or entity not authorized by the State Archivist, other lawful custodian or by law to possess those records, the State Archivist may issue a written notice and demand to that person or entity for the immediate return of the records. The notice and demand must be sent by certi-

fied or registered mail, return receipt requested. The notice and demand must identify the records claimed to belong to the State or local government with reasonable specificity. Upon receipt of the notice and demand, the person or entity in the possession of records claimed to belong to the State or local government may not destroy, alter, transfer, convey or otherwise alienate those records unless authorized in writing by the State Archivist or by an order issued by a court of competent jurisdiction. The notice and demand must specifically state that any transfer, conveyance or other alienation of the records after receipt of the notice and demand constitutes a Class E crime in violation of section 97.

See title page for effective date.

## CHAPTER 510

## H.P. 1156 - L.D. 1628

### An Act To Amend the Laws Governing the Taste Testing of Alcoholic Beverages

**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 is prohibitive to retail establishments that wish to conduct tastings of alcoholic beverages; 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 §460, sub-§2, ¶J,** as enacted by PL 2009, c. 459, §1, is amended to read:

J. The agency liquor store may conduct up to 3 tastings per month but no more than ~~12~~ 24 taste-testing events per year, including tastings conducted under sections 1205 and 1207.

**Sec. 2. 28-A MRSA §460, sub-§2, ¶N,** as enacted by PL 2009, c. 459, §1, is amended to read:

N. ~~Taste-testing activities must be conducted in a manner that precludes the possibility of observation by children.~~ Prior to a taste-testing event, the agency liquor store shall post prominently at the entrance to the store a sign that announces the date and time of the event. The Department of Public Safety shall report ~~annually~~ by January ~~15th~~ 15, 2011 to the joint standing committee of the Legislature having jurisdiction over alcohol regulation matters regarding the ~~operation and~~ effectiveness of this paragraph in providing proper notice to adults who may wish to preclude minors from observing the taste testing of alcoholic beverages.

**Sec. 3. 28-A MRSA §460, sub-§2, ¶O** is enacted to read:

O. An agency liquor store, with prior approval from the bureau, may conduct an invitation-only taste-testing event at the agency liquor store's premises in place of or to coincide with a taste-testing event that is open to the public. A taste-testing event that is exclusively invitation only is not subject to the posting requirement in paragraph N.

**Sec. 4. 28-A MRSA §1205, sub-§2, ¶H,** as amended by PL 2009, c. 459, §2, is further amended to read:

H. The retail licensee may conduct up to 3 tastings per month but no more than ~~12~~ 24 taste-testing events per year, including tastings conducted under sections 460 and 1207;

**Sec. 5. 28-A MRSA §1205, sub-§2, ¶L,** as enacted by PL 2009, c. 459, §2, is amended to read:

L. ~~Taste-testing activities must be conducted in a manner that precludes the possibility of observation by children.~~ Prior to a taste-testing event, the retail licensee shall post prominently at the entrance to the store a sign that announces the date and time of the event. The Department of Public Safety shall report ~~annually~~ by January ~~15th~~ 15, 2011 to the joint standing committee of the Legislature having jurisdiction over alcohol regulation matters regarding the ~~operation and~~ effectiveness of this paragraph in providing proper notice to adults who may wish to preclude minors from observing the taste testing of alcoholic beverages.

**Sec. 6. 28-A MRSA §1205, sub-§2, ¶M** is enacted to read:

M. An off-premise retail licensee, with prior approval from the bureau, may conduct an invitation-only taste-testing event at the off-premise retail licensee's premises in place of or to coincide with a taste-testing event that is open to the public. A taste-testing event that is exclusively invitation only is not subject to the posting requirement in paragraph L.

**Sec. 7. 28-A MRSA §1207,** as enacted by PL 2009, c. 438, §5, is reallocated to 28-A MRSA §1208.

**Sec. 8. 28-A MRSA §1207, sub-§1,** as enacted by PL 2009, c. 459, §4, is amended to read:

**1. Taste testing on off-premise retail licensee's premises.** Subject to the conditions in subsection 2,

the bureau may authorize an off-premise retail licensee stocking at least 100 different ~~brands~~ labels of malt liquor to conduct taste testing of malt liquor on that licensee's premises. Any other consumption of alcoholic beverages on an off-premise retail licensee's premises is prohibited, except as permitted under section 460 or 1205.

**Sec. 9. 28-A MRSA §1207, sub-§2, ¶H,** as enacted by PL 2009, c. 459, §4, is amended to read:

H. The retail licensee may conduct up to 3 tastings per month but no more than ~~12~~ 24 taste-testing events per year, including tastings under section 460 or 1205.

**Sec. 10. 28-A MRSA §1207, sub-§2, ¶L,** as enacted by PL 2009, c. 459, §4, is amended to read:

L. ~~Taste-testing activities must be conducted in a manner that precludes the possibility of observation by children.~~ Prior to a taste-testing event, the retail licensee shall post prominently at the entrance to the store a sign that announces the date and time of the event. The Department of Public Safety shall report ~~annually~~ by January ~~15th~~ 15, 2011 to the joint standing committee of the Legislature having jurisdiction over alcohol regulation matters regarding the ~~operation and~~ effectiveness of this paragraph in providing proper notice to adults who may wish to preclude minors from observing the taste testing of alcoholic beverages.

**Sec. 11. 28-A MRSA §1207, sub-§2, ¶M** is enacted to read:

M. An off-premise retail licensee, with prior approval from the bureau, may conduct an invitation-only taste-testing event at the off-premise retail licensee's premises in place of or to coincide with a taste-testing event that is open to the public. A taste-testing event that is exclusively invitation only is not subject to the posting requirement in paragraph L.

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

Effective March 16, 2010.

## CHAPTER 511

## H.P. 1059 - L.D. 1510

### An Act To Maintain Compliance of Maine's Insurance Laws with National Standards

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

### PART A

**Sec. A-1. 24-A MRSA §221-A, sub-§3,** as amended by PL 1999, c. 113, §5, is further amended to read:

**3. Audits required.** All insurers, excepting insurers transacting business in this State pursuant to the terms of chapter 51, shall cause to be conducted an annual audit by an independent certified public accountant. Each domestic insurer shall file an audited financial report with the superintendent on or before June 1st for the year ending December 31st preceding. An extension of the filing deadline may be granted by the superintendent upon a showing by the insurer or its accountant that there exists valid justification for such an extension. A foreign or alien insurer shall file an audited financial report upon the superintendent's request. A firm of independent certified public accountants engaged to perform an audit of an insurer shall substitute the appointed audit partner in charge with another audit partner in charge at least once every ~~7~~ 5 years. An accountant substituted for pursuant to this subsection may not serve as a partner in charge of that audit until ~~2~~ 5 years after the date of substitution, unless the superintendent waives this requirement on the basis of unusual circumstances upon application by the insurer.

**Sec. A-2. 24-A MRSA §221-A, sub-§7,** as amended by PL 1999, c. 113, §7, is repealed and the following enacted in its place:

**7. Exemptions.** Upon written application of any insurer subject to this section, the superintendent may grant an exemption of the filing requirements under this section if the superintendent finds upon review of the application that compliance would constitute a financial hardship upon the insurer.

An insurer is exempt from the filing requirements of this section for any year in which the insurer's annual statement reflects:

A. Nationwide business in an amount less than $1,000,000 in written premium plus reinsurance assumed; and

B. Outstanding loss reserves in an amount less than $1,000,000.

**Sec. A-3. 24-A MRSA §222, sub-§11-A,** as amended by PL 1999, c. 113, §12, is repealed.

**Sec. A-4. 24-A MRSA §222, sub-§11-B,** as enacted by PL 1993, c. 313, §12, is repealed.

**Sec. A-5. 24-A MRSA §222, sub-§11-C** is enacted to read:

**11-C. Dividends and distributions.** The superintendent shall review all dividends and distributions declared or paid by any insurer registered under subsection 8 at least annually.

A. An insurer shall notify the superintendent within 5 days after the declaration of any dividend or distribution. If the dividend or distribution is not disapproved pursuant to paragraph B and is not an extraordinary dividend as defined in paragraph C, the insurer may pay the dividend or distribution once the superintendent has approved the payment or 10 days have elapsed after the superintendent's receipt of notice.

B. The superintendent shall issue an order restricting or disallowing the payment of dividends and distributions if the superintendent determines that the insurer's surplus would not be reasonable in relation to the insurance company's outstanding liabilities, that the insurer's surplus would be inadequate to that company's financial needs or that the insurer's financial condition would constitute a condition hazardous to policyholders, claimants or the public.

C. An extraordinary dividend may not be paid until affirmatively approved by the superintendent or until at least 60 days after the superintendent has received a request to pay an extraordinary dividend.

(1) For purposes of this subsection, "extraordinary dividend" means any dividend or distribution, other than a pro rata distribution of a class of the insurer's own securities, that:

(a) Exceeds 10% of the insurer's surplus to policyholders as of December 31st of the preceding year or the net gain from operations for the preceding calendar year, whichever is greater;

(b) Is declared within 5 years after any acquisition of control of a domestic insurer or of any person controlling that insurer, unless it has been approved by a number of continuing directors equal to a majority of the directors in office immediately preceding that acquisition of control; or

(c) Is not paid entirely from unassigned funds. For purposes of this division, 50% of the net of unrealized capital gains and unrealized capital losses, reduced, but not to less than zero, by that portion of the asset valuation reserve attributable to equity investments, must be excluded from the calculation of unassigned funds.

(2) An insurer may declare an extraordinary dividend on a conditional basis, subject to the superintendent's approval. A declaration pursuant to this subparagraph does not confer any rights upon stockholders until the superintendent has approved the payment or the 60-day review period has elapsed.

**Sec. A-6. 24-A MRSA §788,** as amended by PL 2007, c. 386, §16, is further amended to read:

**§788. Dividends**

The special purpose reinsurance vehicle may not declare or pay dividends in any form to its owners unless the dividends do not cause the reinsurance vehicle or any of its protected cells to become impaired and, after giving effect to the dividends, the assets of the reinsurance vehicle, including assets held in trust pursuant to the terms of the insurance securitization, must be sufficient to meet its obligations. Except for dividends specifically provided for in the approved plan of operation under section 782, subsection 2, paragraph H, the prior approval of the superintendent is required for any dividend paid during the term of coverage or while the reinsurance vehicle has undischarged obligations to the ceding insurer. The dividends may be declared by the board of directors of the reinsurance vehicle if the dividends would not violate the provisions of this subchapter or the approved plan of operation and would not jeopardize the fulfillment of the obligations of the reinsurance vehicle or the trustee pursuant to the special purpose reinsurance vehicle insurance securitization, the special purpose reinsurance vehicle contract or any related transaction. The provisions of section 222, ~~subsections 11-A and 11-B~~ subsection 11-C do not apply to such dividends.

## PART B

**Sec. B-1. 24-A MRSA §952-A, sub-§5** is enacted to read:

**5. Applicability to health carriers.** A health carrier not otherwise subject to this section or section 993 shall file an actuarial opinion in accordance with the applicable National Association of Insurance Commissioners annual statement instructions. For purposes of this section, "health carrier" means an insurer, health maintenance organization, nonprofit corporation subject to Title 24 or fraternal benefit society that provides health insurance or comparable health benefits. This section and rules adopted pursuant to this section apply to health carriers to the extent that they specifically refer to health carriers or impose requirements that are consistent with and no more stringent than the annual statement instructions.

**Sec. B-2. 24-A MRSA §994, sub-§1,** as enacted by PL 2007, c. 281, §2 and affected by §3, is amended to read:

**1. Statement of actuarial opinion.** The statement of actuarial opinion under section 993, subsection 1 must be provided with the annual ~~actuarial opinion~~ statement under section ~~993, subsection 2~~ 423 in accordance with the appropriate NAIC property and casualty annual statement instructions and is a public record subject to disclosure pursuant to Title 1, chapter 13.

## PART C

**Sec. C-1. 24-A MRSA §1402, sub-§1, ¶B,** as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:

B. ~~Employees~~ Property and casualty insurance adjusters who are employees of insurers;

**Sec. C-2. 24-A MRSA §1402, sub-§9-A** is enacted to read:

**9-A. Multiple peril crop insurance adjuster.** "Multiple peril crop insurance adjuster" means a person who adjusts crop insurance claims under the federal crop insurance program administered by the United States Department of Agriculture.

**Sec. C-3. 24-A MRSA §1402, sub-§11-A** is enacted to read:

**11-A. Property and casualty insurance adjuster.** "Property and casualty insurance adjuster" means a person who adjusts property and casualty claims of any kind except for multiple peril crop insurance claims.

**Sec. C-4. 24-A MRSA §1410, sub-§9** is enacted to read:

**9. Multiple peril crop insurance adjuster examination.** An individual applying for a resident multiple peril crop insurance adjuster license must either pass a crop adjuster examination administered by the superintendent under this section or provide proof of federal crop insurance certification pursuant to a process that includes passing a crop adjuster proficiency examination.

**Sec. C-5. 24-A MRSA §1415, sub-§3,** as enacted by PL 1997, c. 592, §21, is amended to read:

**3. Adjuster authorities.** A resident or nonresident adjuster may receive the ~~property and casualty authority~~ following authorities under the license.:

A. Property and casualty insurance adjuster; and

B. Multiple peril crop insurance adjuster.

**Sec. C-6. 24-A MRSA §1472, sub-§2, ¶C,** as amended by PL 2001, c. 259, §44, is further amended to read:

C. Must pass any written examination required for the license under subchapter ~~II~~ 2 or maintain federal crop insurance certification in the case of multiple peril crop insurance adjusters who established license qualification through such certification.

## PART D

**Sec. D-1. 24-A MRSA §2849-B, sub-§4-A,** as enacted by PL 1997, c. 445, §27 and affected by §32, is amended to read:

**4-A. Alternative method.** The superintendent may adopt rules that substitute for the requirement of subsection ~~4~~ 3-A a requirement that prohibits application of a medical underwriting or preexisting condition exclusion with respect to classes or categories of benefits that are covered under the replaced contract or policy. The rules must define those classes or categories consistent with any federal regulations adopted pursuant to the federal Public Health Service Act, Title XXVII, Section 2701(c)(3)(B).

## PART E

**Sec. E-1. 24-A MRSA §6451-A,** as enacted by PL 1999, c. 113, §24, is repealed and the following enacted in its place:

**§6451-A. Applicability to other regulated entities**

This chapter applies to fraternal benefit societies authorized to do business in this State pursuant to section 4124, to health maintenance organizations authorized to do business in this State pursuant to section 4204 and to nonprofit hospital or medical service organizations authorized to do business in this State pursuant to Title 24, section 2305.

**1. Fraternal benefit societies providing life or annuity benefits.** Fraternal benefit societies providing life or annuity benefits are subject to the provisions of this chapter applicable to life or health insurers.

**2. Fraternal benefit societies providing health benefits.** Fraternal benefit societies providing health benefits are considered health organizations for purposes of this chapter.

**3. Other licensees.** Health maintenance organizations and nonprofit hospital or medical service organizations are considered health organizations for purposes of this chapter.

**4. Provisions applicable to health organizations.** Except as otherwise expressly provided in this chapter, health organizations are subject to the provisions of this chapter applicable to property and casualty insurers.

**Sec. E-2. 24-A MRSA §6453, sub-§1, ¶A,** as amended by PL 1997, c. 81, §7, is further amended to read:

A. The filing of a risk-based capital report by an insurer that indicates that:

(1) The insurer's total adjusted capital is greater than or equal to its regulatory action level risk-based capital but less than its company action level risk-based capital; or

(2) ~~A life or health~~ The insurer has total adjusted capital that is greater than or equal to its company action level risk-based capital but ~~less than the product of its authorized~~

~~control level risk-based capital and 2.5 and~~ has a negative trend~~;~~, if its total adjusted capital is less than the product of its authorized control level risk-based capital and:

(a) If the insurer is a life or health insurer, 2.5; or

(b) If the insurer is a health organization as described in section 6451-A, subsection 2, 3.0;

See title page for effective date.

## CHAPTER 512

## H.P. 1203 - L.D. 1702

### An Act To Amend the Laws Governing Advanced Practice Registered Nurses

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

**Sec. 1. 32 MRSA §2205-B, sub-§3,** as enacted by PL 1995, c. 379, §8 and affected by §11, is repealed.

See title page for effective date.

## CHAPTER 513

## S.P. 595 - L.D. 1558

### An Act Regarding Accidental Death Benefits for Beneficiaries of Deceased Firefighters

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

**Sec. 1. 5 MRSA §18601,** as enacted by PL 1985, c. 801, §§5 and 7, is repealed and the following enacted in its place:

**§18601. Definitions**

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

**1. Professional firefighter.** "Professional firefighter" means an employee of a municipal fire department who is a member of the Participating Local District Retirement Program or who is a participating member under chapter 425 and who aids in the extinguishment of fires, whether or not the employee has other administrative duties.

**2. Qualifying member.** "Qualifying member" means:

A. A member who dies as a result of an injury arising out of and in the course of employment as an employee;

B. After October 31, 2004, an active member who is a professional firefighter who dies as a result of an injury or disease as described in Title 39-A, section 328 if the injury or disease that causes the death is the result of a condition that develops within 30 days of the active member's participating in firefighting or training or a drill that involves firefighting. If the professional firefighter dies after 30 days but within 6 months of participating in firefighting or training or a drill that involves firefighting, there is a rebuttable presumption that the death is the result of an injury arising out of and in the course of employment as a professional firefighter; or

C. A former member receiving a disability retirement benefit who dies as a result of an injury arising out of and in the course of employment as an employee.

**Sec. 2. Rules.** The Board of Trustees of the Maine Public Employees Retirement System shall adopt rules to implement this Act. These rules must be submitted to the joint standing committee of the Legislature having jurisdiction over labor matters at least 30 days prior to final adoption. Rules adopted pursuant to this section are routine technical as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

**Sec. 3. Retroactivity.** This Act applies retroactively to November 1, 2004.

See title page for effective date.

## CHAPTER 514

## H.P. 1144 - L.D. 1616

### An Act To Enhance Newborn Blood Spot Screening To Conform to Federal Newborn Screening Standards

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

**Sec. 1. 22 MRSA §42, sub-§5,** as amended by PL 2007, c. 508, §1, is further amended to read:

**5. Confidentiality of records containing certain medical information.** Department records that contain personally identifying medical information that are created or obtained in connection with the department's public health activities or programs are confidential. These records include, but are not limited to, information on genetic, communicable, occupational or environmental disease entities, and information

gathered from public health nurse activities, or any program for which the department collects personally identifying medical information.

The department's confidential records may not be open to public inspection, are not public records for purposes of Title 1, chapter 13, subchapter 1 and may not be examined in any judicial, executive, legislative or other proceeding as to the existence or content of any individual's records obtained by the department.

Exceptions to this subsection include release of medical and epidemiologic information in such a manner that an individual can not be identified; disclosures that are necessary to carry out the provisions of chapter 250; disclosures made upon written authorization by the subject of the record, except as otherwise provided in this section; and disclosures that are specifically provided for by statute or by departmental rule. The department may participate in a regional or national tracking system as provided in ~~section~~ sections 1533 and 8824 ~~or both~~.

Nothing in this subsection precludes the department, during the data collection phase of an epidemiologic investigation, from refusing to allow the inspection or copying of any record or survey instrument, including any redacted record or survey instrument, containing information pertaining to an identifiable individual that has been collected in the course of that investigation. The department's refusal is not reviewable.

**Sec. 2. 22 MRSA §1532,** as amended by PL 2007, c. 450, Pt. A, §7, is further amended to read:

**§1532. Detection of serious conditions**

The department shall require hospitals, ~~maternity homes~~ birthing centers and other ~~maternity~~ birthing services to test newborn infants, or to cause them to be tested, by means of blood spot screening for the presence of treatable congenital, genetic or metabolic ~~abnormalities~~ conditions that may be expected to result in subsequent cognitive disabilities, serious illness or death. The department shall adopt rules to define this requirement and the approved testing methods, materials, procedure and testing sequences. Reports and records of those making these tests may be required to be submitted to the department in accordance with departmental rules. The department may, on request, offer consultation, training and evaluation services to those testing facilities. The department shall adopt rules according to which it shall in a timely fashion refer newborn infants with confirmed treatable congenital, genetic or metabolic ~~abnormalities~~ conditions to the Child Development Services System as defined in Title 20-A, section 7001, subsection 1-A. The department shall also adopt rules according to which it shall in a timely fashion refer a newborn infant to the Child Development Services System if at least 6 months have passed since an initial positive test result of a treatable congenital, genetic or metabolic ~~abnormality~~ condition without the specific nature of the ~~metabolic abnormality's~~ condition having been confirmed. The department and the Department of Education shall execute an interagency agreement to facilitate all referrals in this section. In accordance with the interagency agreement, the Department of Education shall offer a single point of contact for the Department of Health and Human Services to use in making referrals. Also in accordance with the interagency agreement, the Child Development Services System may make direct contact with the families who are referred. The referrals may take place electronically. For purposes of quality assurance and improvement, the Child Development Services System shall supply to the department aggregate data at least annually on the number of children referred to the Child Development Services System under this section who are found eligible for early intervention services and on the number of children found not eligible for early intervention services. In addition, the department shall supply data at least annually to the Child Development Services System on how many children in the ~~metabolic abnormality detection~~ newborn blood spot screening program as established by rule of the department under section 1533, subsection 2, paragraph G were screened and how many were found to have a ~~metabolic~~ disorder. The requirement in this section that a newborn infant be tested for the presence of treatable congenital, genetic or metabolic ~~abnormalities~~ conditions that may be expected to result in subsequent cognitive disability does not apply to a child if the parents of that child object on the grounds that the test conflicts with their religious tenets and practices.

**Sec. 3. 22 MRSA §1533, sub-§2,** as enacted by PL 1983, c. 848, §2, is amended to read:

**2. Responsibility for the program.** The commissioner shall designate personnel within the ~~Division~~ department's division of ~~Maternal and Child Health~~ family health to:

A. Coordinate matters pertaining to detection, prevention and treatment of genetic conditions and metabolic disorders;

A-1. Establish, maintain and operate a tracking system to assess and coordinate treatment related to congenital, genetic and metabolic disorders;

A-2. Evaluate the effectiveness of screening, counseling and health care services in reducing the morbidity and mortality caused by heritable disorders in newborns and children;

A-3. Collect, analyze and make available to families data on certain heritable disorders;

A-4. Ensure access to treatment and other services that will improve clinical and developmental outcomes. To accomplish this, the department is authorized to share data with other states' public health newborn blood spot screening programs;

B. Cooperate with and stimulate public and private not-for-profit associations, agencies, corporations, institutions or other entities involved in developing and implementing eligible programs and activities designed to provide services for genetic conditions and metabolic disorders;

C. Administer any funds ~~which~~ that are appropriated for the services and expenses of a genetic screening, counseling and education program;

D. Enter into agreements and contracts for the delivery of genetic services;

E. Establish, promote and maintain a public information program on genetic conditions and metabolic disorders and the availability of counseling and treatment services;

F. Publish, from time to time, the results of any relevant research, investigation or survey conducted on genetic conditions and metabolic disorders and, from time to time, collate those publications for distribution to scientific organizations and qualified scientists and physicians; and

G. ~~Promulgate regulations~~ Adopt rules necessary to carry out the purposes of this ~~section~~ chapter.

See title page for effective date.

## CHAPTER 515

## S.P. 622 - L.D. 1657

### An Act Regarding Maine Public Employees Retirement System Life Insurance Policies

**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 provide beneficiaries of the Maine Public Employees Retirement System's group life insurance and group accidental death insurance benefits 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. 5 MRSA §18057,** as amended by PL 1991, c. 480, §5, is further amended to read:

**§18057. Payments on death**

Any amount of group life insurance and group accidental death insurance in force on any employee at the date of ~~his~~ the employee's death ~~shall~~ must be paid, upon the establishment of a valid claim, in the following order of precedence.

**1. Designated beneficiary.** First, to the beneficiary or beneficiaries whom the employee designated in writing, if the written designation was received in the retirement system office or postmarked before the employee's death.

**2. Widow or widower.** Second, if no beneficiary qualifies under subsection 1, to the widow or widower of the employee.

**2-A. Executor or personal representative.** Third, if no one qualifies under subsection 1 or 2, to the employee's duly appointed executor or personal representative for distribution according to the provisions of a lawfully executed will. This subsection is applicable only if the retirement system is notified of the appointment of the executor or personal representative within 6 months of the date of death of the employee.

**3. Children.** ~~Third~~ Fourth, if no one qualifies under subsection 1 ~~or~~, 2 or 2-A, to the child or children of the employee and descendants of deceased children by representation.

**4. Parents.** ~~Fourth~~ Fifth, if no one qualifies under subsection 1, 2, 2-A or 3, to the surviving parent or parents of the employee.

~~**5. Executor or conservator.** Fifth, if no one qualifies under subsection 1, 2, 3 or 4, to the duly appointed executor or conservator or the estate of the employee.~~

**6. Next of kin.** Sixth, if no one qualifies under subsection 1, 2, 2-A, 3, or 4 ~~or 5~~, to other next of kin of the employee entitled under the laws of domicile of that employee at the time of ~~his~~ the employee's death.

**Sec. 2. 5 MRSA §18657,** as amended by PL 1991, c. 480, §10, is further amended to read:

**§18657. Payments on death**

Any amount of group life insurance and group accidental death insurance in force on any employee at the date of ~~his~~ the employee's death ~~shall~~ must be paid, upon the establishment of a valid claim, in the following order of precedence.

**1. Designated beneficiary.** First, to the beneficiary or beneficiaries whom the employee designated in writing, if the written designation was received in the retirement system office or postmarked before the employee's death.

**2. Widow or widower.** Second, if ~~there is~~ no beneficiary ~~qualifying~~ qualifies under subsection 1, to the widow or widower of the employee.

**2-A. Executor or personal representative.** Third, if no one qualifies under subsection 1 or 2, to the employee's duly appointed executor or personal representative for distribution according to the provisions of a lawfully executed will. This subsection is applicable only if the retirement system is notified of the appointment of the executor or personal representative within 6 months of the date of death of the employee.

**3. Children.** ~~Third~~ Fourth, if no one qualifies under subsection 1 ~~or~~, 2 or 2-A, to the child or children of the employee and descendants of deceased children by representation.

**4. Parents.** ~~Fourth~~ Fifth, if no one qualifies under subsection 1, 2, 2-A or 3, to the surviving parent or parents of the employee.

~~**5. Executor or conservator.** Fifth, if no one qualifies under subsection 1, 2, 3 or 4, to the duly appointed executor or conservator or the estate of the employee.~~

**6. Next of kin.** Sixth, if no one qualifies under subsection 1, 2, 2-A, 3~~,~~ or 4 ~~or 5~~, to other next of kin of the employee entitled under the laws of domicile of that employee at the time of ~~his~~ the employee's death.

**Sec. 3. Retroactivity; application.** This Act applies retroactively to January 1, 2009 to group life insurance and group accidental death insurance claims that have not been paid by the Maine Public Employees Retirement System on the effective date of this Act.

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

Effective March 17, 2010.

## CHAPTER 516

## H.P. 1159 - L.D. 1631

### An Act To Provide Leadership Regarding the Responsible Recycling of Consumer Products

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

**Sec. 1. 38 MRSA c. 18** is enacted to read:

## CHAPTER 18

## PRODUCT STEWARDSHIP

### §1771. Definitions

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

**1. Brand.** "Brand" means a name, symbol, word or mark that identifies a product, rather than its components, and attributes the product to the owner of the brand.

**2. Producer.** "Producer" means a person that:

A. Has legal ownership of the brand of a product sold in or into the State;

B. Imports a product branded by a person that meets the requirements of paragraph A and has no physical presence in the United States; or

C. Sells a product in the State at wholesale or retail, does not have legal ownership of the brand of the product and elects to fulfill the responsibilities of the producer for that product.

**3. Product.** "Product" means an item intended for sale within the State that is identified pursuant to section 1772 as appropriate for a product stewardship program.

**4. Product category.** "Product category" means a group of similar products designated pursuant to section 1772 for the purpose of establishing product stewardship programs.

**5. Product stewardship.** "Product stewardship" means a producer's taking responsibility for managing and reducing the life-cycle impacts of the producer's product, from product design to end-of-life management.

**6. Product stewardship program.** "Product stewardship program" means a program financed without a visible fee at purchase either managed or provided by producers and includes, but is not limited to, the collection, transportation, reuse and recycling or disposal, or both, of unwanted products.

**7. Recycling.** "Recycling" means the transforming or remanufacturing of an unwanted product or the unwanted product's components and by-products into usable or marketable materials. "Recycling" does not include landfill disposal, incineration or energy recovery or energy generation by means of combusting unwanted products, components and by-products with or without other waste.

**8. Reuse.** "Reuse" means a change in ownership of a product or component in a product for use in the same manner and purpose for which it was originally produced.

**9. Unwanted product.** "Unwanted product" means a product that is no longer wanted by its owner or that has been abandoned or discarded or is intended to be discarded by its owner.

**§1772. Identification of candidate products; report**

**1. Policy; report.** It is the policy of the State, consistent with its duty to protect the health, safety and welfare of its citizens, to promote product stewardship to support the State's solid waste management hierarchy under chapter 24. In furtherance of this policy, the department may collect information available in the public domain regarding products in the waste stream and assist the Legislature in designating products or product categories for product stewardship programs in accordance with this chapter. By January 15, 2011, and annually thereafter, the department may submit to the joint standing committee of the Legislature having jurisdiction over natural resources matters a report on products and product categories that when generated as waste may be appropriately managed under a product stewardship program.

**2. Recommendations.** The report submitted under subsection 1 may include recommendations for establishing new product stewardship programs and changes to existing product stewardship programs. The department may identify a product or product category as a candidate for a product stewardship program if the department determines one or more of the following criteria are met:

A. The product or product category is found to contain toxics that pose the risk of an adverse impact to the environment or public health and safety;

B. A product stewardship program for the product will increase the recovery of materials for reuse and recycling;

C. A product stewardship program will reduce the costs of waste management to local governments and taxpayers;

D. There is success in collecting and processing similar products in programs in other states or countries; and

E. Existing voluntary product stewardship programs for the product in the State are not effective in achieving the policy of this chapter.

**3. Draft legislation.** The report submitted under subsection 1 must include draft legislation if any is necessary to implement a product stewardship program requirement for the product or product category.

**4. Public comments.** At least 30 days before submitting the report under subsection 1 to the joint standing committee of the Legislature having jurisdiction over natural resources matters, the department shall post the report on its publicly accessible website. Within that period of time, a person may submit to the department written comments regarding the report. The department shall submit all comments received to the committee with the report.

**§1773. Establishment of product stewardship programs**

Annually, after reviewing the report submitted by the department pursuant to section 1772, the joint standing committee of the Legislature having jurisdiction over natural resources matters may submit a bill to implement recommendations included in the department's report to establish new product stewardship programs or revise existing product stewardship programs.

**§1774. Exclusions**

This chapter does not apply to:

**1. Motor vehicles and watercraft.** Motor vehicles as defined in Title 29-A, section 101, subsection 42 and watercraft as defined in Title 12, section 13001, subsection 28 or their component parts; and

**2. Pulp and paper manufacturers.** Pulp and paper manufacturers except conversion facilities for consumer product packaging.

**§1775. No limitation of municipal authority**

Nothing in this chapter changes or limits municipal authority to regulate collection of solid waste, including curbside collection of residential recyclable materials.

See title page for effective date.

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## CHAPTER 517

## S.P. 590 - L.D. 1530

### An Act To Facilitate Recovery Zone Facility Bonds, Recovery Zone Economic Development Bonds and Qualified Energy Conservation 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 United States Congress has enacted the American Recovery and Reinvestment Act of 2009; and

**Whereas,** the American Recovery and Reinvestment Act of 2009 provides for the issuance by or on behalf of counties of recovery zone facility bonds on or before December 31, 2010, the interest on which

will be exempt from federal income tax pursuant to the United States Internal Revenue Code; and

**Whereas,** the American Recovery and Reinvestment Act of 2009 provides for the issuance by or on behalf of counties of recovery zone economic development bonds before December 31, 2010, which bonds provide for federal subsidies in the form of a refundable tax credit to be paid to state or local government issuers of a portion of the total interest payable to bondholders; and

**Whereas,** the American Recovery and Reinvestment Act of 2009 provides for the increase of the limit on issuance by or on behalf of counties of qualified energy conservation bonds, which bonds provide for federal subsidies in the form of a refundable tax credit to be paid to bondholders in lieu of a portion of the interest otherwise payable by state or local government issuers; and

**Whereas,** the purpose of the American Recovery and Reinvestment Act of 2009, including its provisions regarding recovery zone facility bonds, recovery zone economic development bonds and qualified energy conservation bonds, is to provide immediate benefit to the economies of the states; and

**Whereas,** the State's priority is to ensure full use of the aggregated volume cap allocations of recovery zone facility bonds, recovery zone economic development bonds and qualified energy conservation bonds within the State before December 31, 2010, or such later time as federal law may allow, and a mechanism must be established to enable reallocation of the unused volume cap in time to enable its use in another area of the State before December 31, 2010, or such later time as federal law may allow; 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 §963-A, sub-§10,** as amended by PL 2009, c. 372, Pt. D, §§1 to 3, is further amended to read:

**10. Eligible project.** "Eligible project" means any of the following:

A. Any eligible enterprise;

D. Any vessel registered under the law of the United States or a state;

E. Any energy conservation project;

F. Any energy distribution system project;

G. Any energy generating system project;

H. Any pollution-control project;

I. Any water supply system project;

J. Any underground oil storage facility replacement project, including equipment installed to meet requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery;

K. Any overboard discharge replacement project;

L. Any hazardous waste or solid waste recycling or reduction project;

M. Any aboveground oil replacement or upgrade project, including equipment installed to meet requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery;

N. Any electric rate stabilization project;

O. Any major business expansion project;

P. Any workers' compensation residual market mechanism project;

Q. Any clean fuel vehicle project;

R. Any paper industry job retention project;

S. Any transmission facilities project; and

T. An Efficiency Maine project.

~~In addition to and without limiting this subsection, "eligible~~ "Eligible project" ~~also means~~ includes any project, the financing of which through the issuance of revenue obligation securities would result in the interest on the revenue obligation securities qualifying, as of the date of issuance, as tax-exempt under ~~the~~ 26 United States Code, ~~Title 26,~~ Section 103, as amended.

"Eligible project" also includes any "recovery zone property," as defined under 26 United States Code, Section 1400U-3, as amended, the financing of which through the issuance of revenue obligation securities would result in the interest on the revenue obligation securities qualifying, as of the date of issuance, as tax-exempt under 26 United States Code, Section 103, as amended. "Eligible project" also includes any project that qualifies for financing with a qualified energy conservation bond.

**Sec. 2. 10 MRSA §963-A, sub-§39-A** is enacted to read:

**39-A. Municipal officers.** "Municipal officers" means municipal officers as defined in Title 30-A, section 2001, subsection 10. "Municipal officers" also means the county commissioners of any county but solely for the purpose of authorizing and facilitating the issuance of recovery zone facility bonds.

**Sec. 3. 10 MRSA §963-A, sub-§40-A** is enacted to read:

**40-A. Municipality.** "Municipality" means any municipality as defined in Title 30-A, section 2001, subsection 8. "Municipality" also means any county but solely for the purpose of issuing recovery zone facility bonds.

**Sec. 4. 10 MRSA §963-A, sub-§44-A** is enacted to read:

**44-A. Qualified energy conservation bond.** "Qualified energy conservation bond" has the same meaning as in 26 United States Code, Section 54D(a), as amended.

**Sec. 5. 10 MRSA §963-A, sub-§44-B** is enacted to read:

**44-B. Recovery zone facility bond.** "Recovery zone facility bond" has the same meaning as in 26 United States Code, Section 1400U-3, as amended.

**Sec. 6. 10 MRSA §963-A, sub-§49,** as enacted by PL 1985, c. 344, §7, is amended to read:

**49. Revenue obligation security.** "Revenue obligation security" or "security" means a note, bond, interim certificate, debenture or other evidence of indebtedness, including any recovery zone facility bond or qualified energy conservation bond, payment of which is secured by a pledge of revenues, as provided in section 1045-A or 1065, or by assignment or pledge of other eligible collateral.

**Sec. 7. 10 MRSA §1043, sub-§2, ¶L,** as amended by PL 2009, c. 372, Pt. D, §6, is further amended to read:

L. In the case of transmission facilities projects, the applicant is creditworthy and there is a strong likelihood that the revenue obligation securities will be repaid through the revenues of the project and any other source of revenues and collateral pledged to the repayment of those securities. In order to make this determination, 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 to measure and evaluate the project and the sufficiency of the pledged revenues to repay the obligations, including:

(1) 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 strong probability that those revenues will continue to be available for the term of the revenue obligation securities;

(2) Whether the applicant demonstrates a strong 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;

(3) Whether the applicant demonstrates that the benefits projected to be created by the project are enhanced through the use of financing assistance from the authority;

(4) 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;

(5) Whether the applicant meets or exceeds industry average financial performance ratios commonly accepted in determining creditworthiness in that industry;

(6) 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;

(7) Whether collateral securing the repayment obligation is reasonably sufficient under the circumstances;

(8) Whether the proposed project enhances the opportunities for economic development;

(9) The effect that the proposed project financing has on the authority's financial resources; and

(10) Whether the Northern Maine Transmission Corporation, as established in section 9202, has recommended the project.

Upon request by the authority, state agencies, including but not limited to the Public Utilities Commission, shall provide necessary assistance to the authority in evaluating the feasibility of the project and its importance for northern Maine. In providing assistance, the Public Utilities Commission shall consider whether the proposed project enhances the competitiveness of the wholesale and retail energy market; how the proposed project is likely to affect energy prices for Maine residents; whether the proposed project will augment or enhance the reliability and stability of the grid; and whether there is likely to be a long-term need for the product as produced by the proposed project.

The authority may establish, pursuant to rules adopted in accordance with Title 5, chapter 375, subchapter 2, application procedures, approval criteria and reasonable fees for transmission facilities projects. Rules adopted by the authority under this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. In addition, the authority may require the applicant

to pay the reasonable costs of an evaluation of the project risks by an independent consultant. If the authority directs the applicant to pay for such an independent evaluation of the project, the authority shall make every reasonable effort, in its discretion, to minimize the cost of the evaluation and any delay such an evaluation may cause in authority action.

The authority may not finance any project involving an electric transmission line capable of operating at 69 kilovolts or more unless the Public Utilities Commission has issued a certificate of public convenience for the construction of the line pursuant to Title 35-A, section 3132; ~~and~~

**Sec. 8. 10 MRSA §1043, sub-§2, ¶M,** as enacted by PL 2009, c. 372, Pt. D, §7, is amended to read:

M. In the case of an Efficiency Maine project, as defined in section 963-A, subsection 10-A, there is a reasonable likelihood that the income, proceeds, revenues and funds of Efficiency Maine Trust derived from or held for activities under Title 35-A, chapter 97 or otherwise pledged to payment of the bonds will be sufficient to pay the principal, the interest and all other amounts that may at any time become due and payable under the bonds. In making this determination, the authority shall consider Efficiency Maine Trust's analysis of the proposed bond issue and the revenues to make payments on the bonds and may require such information, projections, studies and independent analyses as it considers necessary or desirable and may charge Efficiency Maine Trust reasonable fees and expenses. The authority may require that it be indemnified, defended and held harmless by Efficiency Maine Trust for any liability or cause of action arising out of or with respect to the bonds. The principal and interest of bonds must be made payable solely from the income, proceeds, revenues and funds of Efficiency Maine Trust derived from or held for activities under Title 35-A, chapter 97 or other provision of law. Payment of the principal and interest of bonds may be further secured by a pledge of a loan, grant or contribution from the Federal Government or other source in aid of activities of Efficiency Maine Trust under Title 35-A, chapter 97~~.~~; and

**Sec. 9. 10 MRSA §1043, sub-§2, ¶N** is enacted to read:

N. In the case of recovery zone facility bonds, the project will benefit the county or counties in which it is located.

**Sec. 10. 10 MRSA §1061-B** is enacted to read:

**§1061-B. Designation of issuer of recovery zone facility bonds and qualified energy conservation bonds**

To the extent permitted by federal law, and to the extent not previously reallocated pursuant to section 1074-A or 1074-B, the county commissioners of any county may authorize the authority to issue recovery zone facility bonds or qualified energy conservation bonds on behalf of that county pursuant to subchapter 3 or a municipality to issue recovery zone facility bonds or qualified energy conservation bonds on behalf of that county pursuant to this subchapter.

**Sec. 11. 10 MRSA §1074-A** is enacted to read:

**§1074-A. Recovery zone facility bonds**

**1. Recovery zones; statewide designation.** The Legislature finds that the entire State is experiencing significant poverty, unemployment, increasing rate of home foreclosures and general distress and, as a result, to the extent permitted by federal law, designates the entire State as a recovery zone as defined under 26 United States Code, Section 1400U-1, as amended.

**2. Reallocation.** To the extent permitted by federal law, the entire allocation to the counties of the State of the national recovery zone facility bond limitation established pursuant to 26 United States Code, Section 1400U-1, as amended, and as described in Internal Revenue Service Notice 2009-50, Section 6.03 is reallocated to the authority, as long as one half of each such allocation is further reallocated by the authority to projects located within and identified by the county commissioners of the county to which such allocation was originally made, if so identified on or before June 1, 2010. The remaining one half of such allocations, together with any portion of an allocation initially subject to reallocation at the direction of the applicable county before June 1, 2010, but not so reallocated, may be reallocated by the authority for any project in any county of the State. Reallocations pursuant to this subsection are considered voluntary and affirmative waivers by the affected counties for the purposes of 26 United States Code, Section 1400U-1 et seq. and any regulations or guidance provided by the United States Department of the Treasury, Internal Revenue Service thereunder.

**Sec. 12. 10 MRSA §1074-B** is enacted to read:

**§1074-B. Qualified energy conservation bonds**

**1. Reallocation.** To the extent permitted by federal law, 30% of the allocation to the State and to the counties of the State of the national qualified energy conservation bond volume limitation established pursuant to 26 United States Code, Section 54D(e), as amended, and as described in Internal Revenue Service Notice 2009-29, Section 4 is reallocated to the

authority as the issuer of qualified energy conservation bonds, for further reallocation by the authority for any project in any county of the State. Reallocations pursuant to this subsection are considered voluntary and affirmative waivers by the affected counties for the purposes of 26 United States Code, Section 54D et seq. and any regulations or guidance provided by the United States Department of the Treasury, Internal Revenue Service thereunder.

**Sec. 13. 10 MRSA §1074-C** is enacted to read:

**§1074-C. Allocation of certain national bond limitations**

To the extent permitted by federal law, the Governor may establish by executive order a procedure for the reallocation of any allocation of a portion of a national bond limitation to the State or to any issuer or governmental entity within the State pursuant to 26 United States Code, Sections 54D, 54E, 54F and 1400U-1 and for the reallocation of any portion of a national bond limitation that is not used within the applicable time period specified in federal law or that has been waived by an issuer or governmental entity within the State, except that allocation of the national recovery zone facility bond limitation established pursuant to 26 United States Code, Section 1400U-1, as amended, and as described in Internal Revenue Service Notice 2009-50, Section 6.03, must be carried out pursuant to section 1074-A, and the allocation of the national qualified energy conservation bond volume limitation established pursuant to 26 United States Code, Section 54D, as amended, and as described in Internal Revenue Service Notice 2009-29, Section 4 must be carried out pursuant to section 1074-B and Title 30-A, section 5953-F.

**Sec. 14. 30-A MRSA §934,** as amended by PL 1999, c. 717, §1, is further amended to read:

**§934. Loans**

The county commissioners may obtain loans of money for the use of their county and cause notes, obligations or bonds, with coupons for lawful interest, to be issued for payment of the loans. These loans may not exceed $10,000, except in Franklin County and Aroostook County as provided in sections 935 and 935-A and except to the extent authorized pursuant to Title 10, chapter 110, without first obtaining the consent of the county, substantially as provided in section 122 or by countywide referendum pursuant to section 938.

**Sec. 15. 30-A MRSA §5903, sub-§8-B** is enacted to read:

**8-B. Qualified energy conservation bond.** "Qualified energy conservation bond" has the same meaning as in 26 United States Code, Section 54D(a), as amended.

**Sec. 16. 30-A MRSA §5903, sub-§8-C** is enacted to read:

**8-C. Recovery zone economic development bond.** "Recovery zone economic development bond" has the same meaning as in 26 United States Code, Section 1400U-2, as amended.

**Sec. 17. 30-A MRSA §5953-F** is enacted to read:

**§5953-F. Recovery zone economic development bonds; qualified energy conservation bonds**

To the extent permitted by federal law, the county commissioners of any county may authorize the bank to issue recovery zone economic development bonds or qualified energy conservation bonds on behalf of that county.

**1. Recovery zone economic development bonds.** To the extent permitted by federal law, the allocation to counties of the national recovery zone economic development bond limitation established pursuant to 26 United States Code, Section 1400U-1, as amended, and as described in Internal Revenue Service Notice 2009-50, Section 6.03, is reallocated to the bank for further reallocation by the bank for any project in any county of the State, as long as one half of each such allocation is further reallocated by the bank to projects located within and identified by the county commissioners of the county to which such allocation was originally made, if so identified on or before July 1, 2010. The remaining one half of such allocations, together with any portion of an allocation initially subject to reallocation at the direction of the applicable county before July 1, 2010, but not so reallocated, may be reallocated by the bank for any project in any county of the State.

**2. Qualified energy conservation bonds.** To the extent permitted by federal law, 70% of the allocation to the State and to the counties of the State of the national qualified energy conservation bond volume limitation established pursuant to 26 United States Code, Section 54D(e), as amended, and as described in Internal Revenue Service Notice 2009-29, Section 4, is reallocated to the bank for further reallocation by the bank for any project in any county of the State, as long as one half of each such allocation is further reallocated by the bank to projects located within and identified by the county commissioners of the county to which such allocation was originally made, if so identified on or before July 1, 2011. The remaining one half of such allocations, together with any portion of an allocation initially subject to reallocation at the direction of the applicable county before July 1, 2011, but not so reallocated, may be reallocated by the bank for any project in any county of the State.

**3. Waivers.** Reallocations pursuant to this section are considered voluntary and affirmative waivers

by the affected counties for the purposes of 26 United States Code, Section 54D et seq. and Section 1400U-1 et seq. and any regulations or guidance provided by the United States Department of the Treasury, Internal Revenue Service thereunder.

**Sec. 18. 30-A MRSA §5957,** 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:

**§5957. Allocation of state ceiling; recovery zone economic development bonds; qualified energy conservation bonds**

By rulemaking under Title 5, chapter 375, subchapter ~~II~~ 2, the bank may establish a process for allocation and carry-forward of that portion of the state ceiling on issuance of tax-exempt bonds allocated to the bank under Title 10, chapter 9. The executive director of the Maine Municipal Bond Bank is designated as the state official authorized to issue the certification under the United States Code, Title 26, Section 149(e)(2)(F), as amended, for allocations of the state ceiling allocated to the bank pursuant to Title 10, chapter 9.

By routine technical rulemaking defined under Title 5, chapter 375, subchapter 2-A the bank may establish a process for allocation of that portion of the national recovery zone economic development bond limitation established pursuant to 26 United States Code, Section 1400U-1, or that portion of the national qualified energy conservation bond limitation established pursuant to 26 United States Code, Section 54D, waived by any county or reallocated pursuant to section 5953-F and for designation by the bank of recovery zone economic development bonds and qualified energy conservation bonds.

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

Effective March 17, 2010.

## CHAPTER 518

## H.P. 1175 - L.D. 1647

### An Act To Enhance Maine's Clean Energy Opportunities

**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 ensure the proper implementation of the Efficiency Maine Trust 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:**

**Sec. 1. 35-A MRSA §3210-C, sub-§1, ¶F** is enacted to read:

F. "Renewable energy credit" means a tradable instrument that represents an amount of electricity generated from eligible resources as defined in section 3210, subsection 2, paragraph B or renewable capacity resources.

**Sec. 2. 35-A MRSA §3210-C, sub-§1, ¶G** is enacted to read:

G. "Triennial plan" has the same meaning as in section 10102, subsection 9.

**Sec. 3. 35-A MRSA §3210-C, sub-§3,** as repealed and replaced by PL 2009, c. 415, Pt. A, §21, is amended to read:

**3. Commission authority.** The commission may direct investor-owned transmission and distribution utilities to enter into long-term contracts for:

A. Capacity resources; ~~and~~

B. Any available energy associated with capacity resources contracted under paragraph A:

(1) To the extent necessary to fulfill the policy of subsection 2, paragraph A; or

(2) If the commission determines appropriate for purposes of supplying or lowering the cost of standard-offer service or otherwise lowering the cost of electricity for the ratepayers in the State. Available energy contracted pursuant to this subparagraph may be sold into the wholesale electricity market in conjunction with solicitations for standard-offer supply bids.~~;~~ and

C. Any available renewable energy credits associated with capacity resources contracted under paragraph A to the extent the cost of the renewable energy credits is below market value or the purchase of renewable energy credits adds value to the transaction.

If at any time after July 1, 2011 the commission determines that the assessments on transmission and distribution utilities under section 10110, subsections 4 and 5 will not provide sufficient funds to meet the energy efficiency program budget allocations articulated in the triennial plan approved by the commission pursuant to section 10104, subsection 4 or any annual update plan approved by the commission pursuant to

section 10104, subsection 6, the commission may, after providing notification to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters, direct investor-owned transmission and distribution utilities to enter into long-term contracts for energy efficiency capacity resources and any available energy associated with such resources to the extent necessary to meet the energy efficiency program budget allocations articulated in the triennial plan or annual update plan.

The commission may direct investor-owned transmission and distribution utilities to enter into contracts under this subsection only as agents for their customers, only when such contracts are in the best interest of customers and only in accordance with this section. The commission may permit, but may not require, investor-owned transmission and distribution utilities to enter into contracts for differences that are designed and intended to buffer ratepayers in the State from potential negative impacts from transmission development. To the greatest extent possible, the commission shall develop procedures for long-term contracts for investor-owned transmission and distribution utilities under this subsection having the same legal and financial effect as the procedures used for standard-offer service pursuant to section 3212 for investor-owned transmission and distribution utilities.

The commission may enter into contracts for interruptible, demand response or energy efficiency capacity resources. These contracts are not subject to the rules of the State Purchasing Agent. In a competitive solicitation conducted pursuant to subsection 6, the commission shall allow transmission and distribution utilities to submit bids for interruptible~~,~~ or demand response ~~or energy efficiency~~ capacity resources.

Capacity resources contracted under this subsection may not exceed the amount necessary to ensure the reliability of the electric grid of this State, to meet the energy efficiency program budget allocations articulated in the triennial plan as approved by the commission pursuant to section 10104, subsection 4 or any annual update plan approved by the commission pursuant to section 10104, subsection 6 or to lower customer costs as determined by the commission pursuant to rules adopted under subsection 10.

Unless the commission determines the public interest requires otherwise, a capacity resource may not be contracted under this subsection unless the commission determines that the capacity resource is recognized as a capacity resource for purposes of any regional or federal capacity requirements.

The commission shall ensure that any long-term contract authorized under this subsection is consistent with the State's goals for greenhouse gas reduction under Title 38, section 576 and the regional greenhouse gas initiative as described in the state climate action plan required in Title 38, section 577.

**Sec. 4. 35-A MRSA §3210-C, sub-§6,** as enacted by PL 2005, c. 677, Pt. C, §1, is amended to read:

**6. Competitive solicitation process and contract negotiation.** ~~For~~ Except as provided in paragraph A, for purposes of selecting potential capacity resources for contracting pursuant to subsection 3, the commission shall conduct a competitive solicitation no less often than every 3 years if the commission determines that the likely benefits to ratepayers resulting from any contracts entered into as a result of the solicitation process will exceed the likely costs. Following review of bids, the commission may negotiate with one or more potential suppliers. When only one bid has been offered, the commission shall ensure that negotiations are based on full project cost disclosure by the potential supplier. The commission shall negotiate contracts that are commercially reasonable and that commit all parties to commercially reasonable behavior.

A. The commission shall, for purposes of selecting energy efficiency capacity resources and available energy associated with such resources for contracting pursuant to subsection 3, conduct a competitive solicitation in accordance with this subsection or contract with the Efficiency Maine Trust established in section 10103 to deliver those resources through a competitive solicitation process administered by the trust.

**Sec. 5. 35-A MRSA §3210-C, sub-§7,** as repealed and replaced by PL 2009, c. 415, Pt. A, §22, is amended to read:

**7. Disposition of resources.** An investor-owned transmission and distribution utility shall sell capacity resources ~~and~~, energy or renewable energy credits purchased pursuant to subsection 3 or take other action relative to such capacity resources ~~and~~, energy or renewable energy credits as directed by the commission.

**Sec. 6. 35-A MRSA §3210-C, sub-§9,** as enacted by PL 2005, c. 677, Pt. C, §1, is amended to read:

**9. Contract payments.** ~~Contracts~~ Except as provided in paragraphs A and B, contracts for capacity ~~and~~ resources, related energy or renewable energy credits entered into pursuant to this section must provide that payments will be made only after contracted amounts of capacity ~~and~~ resources, related energy or renewable energy credits have been provided.

A. Contracts with the Efficiency Maine Trust established in section 10103 for energy efficiency capacity resources and related energy entered into pursuant to this section may provide that up to 20% of the total payment be made at the start of the contract. Such contracts must provide that the remaining payments will be made only after the supplier has demonstrated, according to meas-

urement and verification protocols specified in rules adopted by the Efficiency Maine Trust Board pursuant to section 10105, subsection 5, that physical installations have been completed and contracted amounts of capacity resources and related energy have been substantiated.

B. Contracts with any entity other than the Efficiency Maine Trust established in section 10103 for energy efficiency capacity resources and related energy must provide that payments will be made only after the supplier has demonstrated, according to measurement and verification protocols specified in rules adopted by the Efficiency Maine Trust Board pursuant to section 10105, subsection 5, that physical installations have been completed and contracted amounts of capacity resources and related energy have been substantiated.

**Sec. 7. 35-A MRSA §10103, sub-§1, ¶C,** as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

C. Ensure that all expenditures of the trust are cost-effective in terms of avoided energy costs as provided by rules adopted pursuant to section 10105, subsection 5, paragraph A; and

**Sec. 8. 35-A MRSA §10104, sub-§4,** as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

**4. Triennial plan.** The board shall vote on a detailed, triennial, energy efficiency, alternative energy resources and conservation plan that includes the quantifiable measures of performance developed under subsection 3 and make a full report of the vote to the commission in accordance with this subsection. The triennial plan must provide integrated planning, program design and implementation strategies for all energy efficiency, alternative energy resources and conservation programs administered by the trust, including but not limited to the electric efficiency and conservation programs under section 10110, the natural gas efficiency and conservation programs under section 10111, the Regional Greenhouse Gas Initiative Trust Fund under section 10109, the Heating Fuels Efficiency and Weatherization Fund under section 10119 and any state or federal funds or publicly directed funds accepted by or allocated to the trust for the purposes of this chapter. The triennial plan must include provisions for the application of appropriate program funds to support workforce development efforts that are consistent with and promote the purposes of the trust. Beginning January 1, 2011, the triennial plan must specify the appropriate participation of the State in national and regional carbon markets. The plan must be consistent with the comprehensive state energy plan pursuant to Title 2, section 9, subsection 3, paragraph C.

A. The triennial plan must be developed by the trust, in consultation with entities and agencies engaged in delivering efficiency programs in the State, to authorize and govern or coordinate implementation of energy efficiency and weatherization programs in the State.

(1) Transmission and distribution utilities and natural gas utilities shall furnish data to the trust that the trust requests under this subsection subject to such confidential treatment as a utility may request and the board determines appropriate pursuant to section 10106. The costs of providing the data are deemed reasonable and prudent expenses of the utilities and are recoverable in rates.

B. In developing the triennial plan, the staff of the trust shall consult the board and provide the opportunity for the board to provide input on drafts of the plan.

C. The board shall review and approve the triennial plan by affirmative vote of 2/3 of the trustees upon a finding that the plan is consistent with the statutory authority for each source of funds that will be used to implement the plan, the state energy efficiency targets in paragraph F and the best practices of program administration under subsection 2. The plan must include, but is not limited to, efficiency and conservation program budget allocations, objectives, targets, measures of performance, program designs, program implementation strategies, timelines and other relevant information.

D. Prior to submission of the triennial plan to the commission, the trust shall offer to provide a detailed briefing on the draft plan to the joint standing committee of the Legislature having jurisdiction over energy matters and, at the request of the committee, shall provide such a briefing and opportunity for input from the committee. After providing such opportunity for input and making any changes as a result of any input received, the board shall deliver the plan to the commission for its review and approval. The commission shall open a proceeding and issue an order either approving the plan or rejecting the plan and stating the reasons for the rejection. The commission shall reject elements of the plan that propose to use funds generated pursuant to sections 3210-C, 10110, 10111 or 10119 if the plan fails to reasonably explain how these elements of the program would achieve the objectives and implementation requirements of the programs established under those sections or the measures of performance under subsection 3. Funds generated under these statutory authorities may not be used pursuant to the triennial plan unless those elements of the plan proposing to use the funds have been ap-

proved by the commission. The commission shall approve or reject any elements of the triennial plan within 60 days of its delivery to the commission. The board, within 15 days of final commission approval of its plan, shall submit the plan to the joint standing committee of the Legislature having jurisdiction over energy matters together with any explanatory or other supporting material as the committee may request and, at the request of the committee, shall provide a detailed briefing on the final plan. After receipt of the plan, the joint standing committee of the Legislature having jurisdiction over energy matters may submit legislation relating to the plan.

E. The trust shall determine the period to be covered by the triennial plan except that the period of the plan may not interfere with the delivery of any existing contracts to provide energy efficiency services that were previously procured pursuant to efficiency and conservation programs administered by the commission.

F. It is an objective of the triennial plan to design, coordinate and integrate sustained energy efficiency and weatherization programs that are available to all energy consumers in the State, regardless of fuel type, that advance the targets of:

(1) Weatherizing 100% of residences and 50% of businesses by 2030;

(2) Reducing peak-load electric energy consumption by 100 megawatts by 2020;

(3) Reducing the State's consumption of liquid fossil fuels by at least 30% by 2030;

(4) By 2020, achieving electricity and natural gas savings of at least 30% and heating fuel savings of at least 20% as defined in and determined pursuant to the measures of performance ratified by the commission under section 10120;

(5) Capturing all cost-effective energy efficiency resources available for electric and natural gas utility ratepayers;

(6) Saving residential and commercial heating consumers not less than $3 for every $1 of program funds invested by 2020 in cost-effective heating and cooling measures that cost less than conventional energy supply;

(7) Building stable private sector jobs providing clean energy and energy efficiency products and services in the State by 2020; and

(8) Reducing greenhouse gas emissions from the heating and cooling of buildings in the State by amounts consistent with the State's goals established in Title 38, section 576.

The trust shall preserve when possible and appropriate the opportunity for carbon emission reductions to be monetized and sold into a voluntary carbon market. Any program of the trust that supports weatherization of buildings must be voluntary and may not constitute a mandate that would prevent the sale of emission reductions generated through weatherization measures into a voluntary carbon market.

As used in this paragraph, "heating fuel" means a fossil fuel used for the purposes of heating buildings or for domestic water heating, including liquefied petroleum gas, kerosene or #2 heating oil, but not including fuels when used for industrial or manufacturing processes, and "liquid fossil fuel" means any liquid fossil fuel or heating fuel used for a purpose other than for transportation.

**Sec. 9. 35-A MRSA §10107,** as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

**§10107. Conflicts of interest; financial disclosure statements**

Each trustee is an "executive employee" for purposes of Title 5, sections 18, 18-A and 19. A trustee or employee of the trust or a spouse or dependent child of any of those individuals may not receive any direct personal benefit from the activities of the trust in assisting any private entity. This section does not prohibit corporations or other entities with which a trustee is associated by reason of ownership or employment from participating in program activities with the trust if ownership or employment is made known to the board and the ~~board or director~~ trustee abstains from voting on matters relating to that participation.

**Sec. 10. 35-A MRSA §10110, sub-§5,** as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

**5. Other assessments on transmission and distribution utilities.** In accordance with the triennial plan, the commission shall assess each transmission and distribution utility based on the utility's gross operating revenue as necessary to realize all available energy efficiency and demand reduction resources in this State that are cost-effective, reliable and feasible after consideration of the following:

A. The amount of assessments pursuant to subsection 4 and their payment schedule;

B. The funding for conservation programs provided by the Regional Greenhouse Gas Initiative Trust Fund pursuant to section 10109;

C. The amount of payments received from a forward capacity market as a result of conservation programs funded under this chapter; and

D. Any other predictable sources of funding for or investment in conservation programs.

For the purposes of this subsection, "gross operating revenue" means revenue derived from filed rates, except from sales for resale. The commission may correct any errors in the assessments under this subsection by means of a credit or debit to the following year's assessment rather than reassessing all utilities in the current year. The commission shall determine the assessments under this subsection annually prior to ~~May~~ June 1st and assess each utility for its pro rata share for expenditure, including funds for energy conservation programs, during the fiscal year beginning July 1st. The commission may not ~~charge~~ increase any assessment under this subsection until the Legislature has approved the ~~commission's~~ Efficiency Maine Trust's budget ~~in accordance with section 116~~. ~~The~~ Following the commission's approval of the triennial plan pursuant to section 10104, subsection 4 or any update plan pursuant to section 10104, subsection 6, the commission shall ~~separately identify~~ present any recommended increase in the assessment under this subsection ~~in its presentation of 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 ~~pursuant to section 116~~. Each utility shall pay the assessment charged to that utility under this subsection on the same schedule that payment of assessments under subsection 4 is required.

**Sec. 11. 35-A MRSA §10115, sub-§3** is enacted to read:

**3. Use of funds.** All funds received pursuant to this section must be expended in accordance with the requirements of sections 10103, 10104 and 10105, unless specifically prohibited by federal law or regulation. Funds to be expended for programs or projects related to weatherization and energy-efficient use of fossil fuels for heating must be deposited in the Heating Fuels Efficiency and Weatherization Fund established in section 10119 and expended in accordance with that section. The trust may transfer any federal funds received pursuant to 42 United States Code, Sections 6321 to 6326 (2009) to the appropriate state agency as it considers necessary to the extent that such funds are designated for a purpose that falls outside the energy efficiency and alternative energy programs that the trust oversees and administers.

**Sec. 12. Review of long-term contracting.** By January 15, 2012, the Public Utilities Commission shall report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters regarding long-term contracts implemented pursuant to the Maine Revised Statutes, Title 35-A, section 3210-C, including the number, types and lengths of contracts. After review of the commission's report, the joint standing committee of the Legislature having jurisdiction over utilities and energy matters may submit a bill regarding long-term contracts to the Second Regular Session of the 125th Legislature.

**Sec. 13. Transmission and subtransmission voltage level electricity customers; participation in energy efficiency programs.** The Efficiency Maine Trust established in the Maine Revised Statutes, Title 35-A, section 10103 shall convene a working group to examine options regarding the participation of electricity customers receiving service at transmission and subtransmission voltage levels in the energy efficiency programs of the trust, particularly those programs funded by assessments on transmission and distribution utilities. The working group shall, at a minimum, consider the opportunity for these customers to self-direct funding and other strategies. The Efficiency Maine Trust shall, at a minimum, invite the Office of the Public Advocate, the Public Utilities Commission, representatives of transmission and distribution utilities, representatives of industrial energy consumers and representatives of environmental interests to participate in the working group. No later than January 31, 2011, the Efficiency Maine Trust shall submit a report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters regarding the findings and recommendations of the working group. Following receipt and review of the report, the committee may submit a bill related to the report to the First Regular Session of the 125th Legislature.

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

Effective March 17, 2010.

## CHAPTER 519

## S.P. 576 - L.D. 1498

### An Act To Adopt a Drug Benefit Equity Law

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

**Sec. 1. 24-A MRSA §4317** is enacted to read:

**§4317. Pharmacy providers**

**1. Contracts with pharmacy providers.** Notwithstanding section 2672, section 4307, subsection 3 and Title 32, chapter 117, subchapter 8, a carrier that provides coverage for prescription drugs as part of a health plan may not refuse to contract with a pharmacy provider that is qualified and is willing to meet the terms and conditions of the carrier's criteria for pharmacy participation as stipulated in the carrier's contractual agreement with its pharmacy providers.

This subsection may not be construed to limit a carrier's ability to offer an enrollee incentives, including variations in premiums, deductibles, copayments or coinsurance or variations in the quantities of medications available to the enrollee, to encourage the use of certain preferred pharmacy providers as long as the carrier makes the terms applicable to the preferred pharmacy providers available to all pharmacy providers. For purposes of this subsection, a preferred pharmacy provider is any pharmacy willing to meet the specified terms, conditions and price that the carrier may require for its preferred pharmacy providers.

**2. Prompt payment of claims.** Notwithstanding section 2436, the following provisions apply to the payment of claims submitted to a carrier by a pharmacy provider.

A. For purposes of this subsection, the following terms have the following meanings.

(1) "Applicable number of calendar days" means:

(a) With respect to claims submitted electronically, 21 days; and

(b) With respect to claims submitted otherwise, 30 days.

(2) "Clean claim" means a claim that has no defect or impropriety, including any lack of any required substantiating documentation, or particular circumstance requiring special treatment that prevents timely payment from being made on the claim under this section.

B. A contract entered into by a carrier with a pharmacy provider with respect to a prescription drug plan offered by a carrier must provide that payment is issued, mailed or otherwise transmitted with respect to all clean claims submitted by a pharmacy provider, other than a pharmacy that dispenses drugs by mail order only or a pharmacy located in, or under contract with, a long-term care facility, within the applicable number of calendar days after the date on which the claim is received. For purposes of this subsection, a claim is considered to have been received:

(1) With respect to claims submitted electronically, on the date on which the claim is transferred; and

(2) With respect to claims submitted otherwise, on the 5th day after the postmark date of the claim or the date specified in the time stamp of the transmission of the claim.

C. If payment is not issued, mailed or otherwise transmitted by the carrier within the applicable number of calendar days after a clean claim is received, the carrier shall pay interest to the pharmacy provider at the rate of 18% per annum.

D. A claim is considered to be a clean claim if the carrier involved does not provide notice to the pharmacy provider of any deficiency in the claim within 10 days after the date on which an electronically submitted claim is received or within 15 days after the date on which a claim submitted otherwise is received.

E. If a carrier determines that a submitted claim is not a clean claim, the carrier shall immediately notify the pharmacy provider of the determination. The notice must specify all defects or improprieties in the claim and list all additional information or documents necessary for the proper processing and payment of the claim. If a pharmacy provider receives notice from a carrier that a claim has been determined to not be a clean claim, the pharmacy provider shall take steps to correct that claim and then resubmit the claim to the carrier for payment.

F. A claim resubmitted to a carrier with additional information pursuant to paragraph E is considered to be a clean claim if the carrier does not provide notice to the pharmacy provider of any defect or impropriety in the claim within 10 days of the date on which additional information is received if the claim is resubmitted electronically or within 15 days of the date on which additional information is received if the claim is resubmitted otherwise.

G. A claim submitted to a carrier that is not paid by the carrier or contested by the plan sponsor within the applicable number of calendar days after the date on which the claim is received by the carrier is considered to be a clean claim and must be paid by the carrier.

H. Payment of a clean claim under this subsection is considered to have been made on the date on which the payment is transferred with respect to claims paid electronically and on the date on which the payment is submitted to the United States Postal Service or common carrier for delivery with respect to claims paid otherwise.

I. A carrier shall pay all clean claims submitted electronically by electronic transfer of funds if the pharmacy provider so requests or has so requested previously. In the case when the payment is made electronically, remittance may be made by the carrier electronically.

**3. Exception.** This section does not apply to any medical assistance or public health programs administered by the Department of Health and Human Services, including, but not limited to, the Medicaid program and the elderly low-cost drug program under Title 22, section 254-D.

**Sec. 2. Application.** This Act applies to all policies, contracts and certificates executed, delivered,

issued for delivery, continued or renewed in this State on or after the effective date of this Act. 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.

## CHAPTER 520

## S.P. 586 - L.D. 1528

### An Act To Enhance Cooperation between the Workers' Compensation Board's Abuse Investigation Unit and Other State Agencies and To Ensure Equal Application of the Requirement To Obtain Coverage

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

**Sec. 1. 39-A MRSA §153, sub-§5, ¶B,** as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

B. The unit shall, at the direction of the board, investigate all complaints or allegations of fraud, illegal or improper conduct or violation of this Act or rules of the board relating to workers' compensation insurance, benefits or programs, including those acts by employers, employees or insurers. All records, correspondence and reports of investigation in connection with actual or alleged fraud, illegal or improper conduct or violation of this Act or rules of the board and all records, correspondence and reports of criminal prosecution or civil action are confidential. The confidential nature of any such record, correspondence or report does not limit or affect the use of those materials in any prosecution or action or prevent the board, upon request, from providing information to another state agency for use by the agency in enforcing laws and rules.

**Sec. 2. 39-A MRSA §324, sub-§3,** as amended by PL 2003, c. 344, Pt. D, §28, is further amended to read:

**3. Failure to secure payment.** If any employer who is required to secure the payment to that employer's employees of the compensation provided for by this Act fails to do so, the employer is subject to the penalties set out in paragraphs A, B and C. The failure of any employer to procure insurance coverage for the payment of compensation and other benefits to the employer's employees in compliance with sections 401 and 403 constitutes a failure to secure payment of compensation within the meaning of this subsection.

A. The employer is guilty of a Class D crime.

B. The employer is liable to pay a civil penalty of up to $10,000 or an amount equal to 108% of the premium, calculated using Maine Employers' Mutual Insurance Company's standard discounted standard premium, that should have been paid during the period the employer failed to secure coverage, whichever is larger, payable to the Employment Rehabilitation Fund.

C. The employer, if organized as a corporation, is subject to administrative dissolution as provided in Title 13-C, section 1421 or revocation of its authority to do business in this State as provided in Title 13-C, section 1532. The employer, if organized as a domestic limited liability company, is subject to administrative dissolution as provided in Title 31, section 608-B. The employer, if licensed, certified, registered or regulated by any board authorized by Title 5, section 12004-A or whose license may be revoked or suspended by proceedings in the District Court or by the Secretary of State, is subject to revocation or suspension of the license, certification or registration.

Prosecution under paragraph A does not preclude action under paragraph B or C.

If the employer is a corporation, partnership, limited liability company, professional corporation or any other legal business entity recognized under the laws of the State, any agent of the corporation or legal business entity having primary responsibility for obtaining insurance coverage is liable for punishment under this section. Criminal liability must be determined in conformity with Title 17-A, sections 60 and 61.

See title page for effective date.

## CHAPTER 521

## S.P. 587 - L.D. 1529

### An Act To Amend the Maine Workers' Compensation Act of 1992 Regarding Coordination of Benefits

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

**Sec. 1. 39-A MRSA §221, sub-§2,** as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is repealed and the following enacted in its place:

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

A. "After-tax amount" means 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).

B. "Disability insurance policy" does not include a life insurance policy that includes a disability feature if the policy was put in place as a result of collective bargaining.

**Sec. 2. Retroactivity.** This Act applies retroactively to all injuries including pending cases and cases on appeal.

See title page for effective date.

## CHAPTER 522

## H.P. 1200 - L.D. 1699

### An Act To Update and Modernize Maine's Floodplain Mapping

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

**Whereas,** many properties in the State are either erroneously placed in or excluded from maps of flood hazard areas due to floodplain mapping inaccuracies; and

**Whereas,** the State has collaborated with other states to submit a grant proposal to the United States Geological Survey to acquire light detection and ranging elevation data and the State is awaiting final approval of the grant funding; and

**Whereas,** the grant proposal addresses a very small percentage of the data needed for improved floodplain mapping; and

**Whereas,** private funding sources are currently available to contribute toward floodplain mapping 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. 5 MRSA §3307-G** is enacted to read:

**§3307-G. Floodplain Mapping Fund**

**1. Fund established.** The Floodplain Mapping Fund, referred to in this section as "the fund," is established as a dedicated nonlapsing fund administered by the office for the purpose of providing funds for the mapping of floodplains using light detection and ranging technology in the State.

**2. Sources of money.** 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 office 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. 2. Appropriations and allocations.** The following appropriations and allocations are made.

**STATE PLANNING OFFICE**

**Floodplain Mapping Fund N091**

Initiative: Provides a base allocation to establish the Floodplain Mapping Fund.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $500 | $500 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $500 | $500 |

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

Effective March 18, 2010.

## CHAPTER 523
## H.P. 1131 - L.D. 1593

### An Act To Amend the Lobster Meat Laws and Expand Economic Opportunity for Maine's Lobster 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,** this legislation must take effect July 1, 2010; 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 §6301, sub-§2, ¶Q,** as amended by PL 1999, c. 491, §1 and affected by §9, is further amended to read:

Q. A lobster transportation supplemental license issued under section 6854 expires on March 31st of each year; ~~and~~

**Sec. 2. 12 MRSA §6301, sub-§2, ¶R,** as enacted by PL 1999, c. 491, §2 and affected by §9, is amended to read:

R. A wholesale seafood license with a shrimp permit issued under section 6851 expires on March 31st of each year~~.~~; and

**Sec. 3. 12 MRSA §6301, sub-§2, ¶S** is enacted to read:

S. A lobster processor license issued under section 6851-B expires on March 31st of each year.

**Sec. 4. 12 MRSA §6302, sub-§2,** as amended by PL 1997, c. 544, §1, is further amended to read:

**2. Common carrier.** Carry any marine organism by a common carrier; or

**Sec. 5. 12 MRSA §6302, sub-§3,** as amended by PL 1997, c. 544, §1, is further amended to read:

**3. Hermetically sealed containers.** Buy, sell, ship or transport within or beyond the state limits or possess any marine organism that is in a hermetically sealed container~~; or~~.

**Sec. 6. 12 MRSA §6302, sub-§4,** as enacted by PL 1997, c. 544, §1, is repealed.

**Sec. 7. 12 MRSA §6431, sub-§4,** as amended by PL 1985, c. 129, §1, is further amended to read:

**4. Mutilation.** It shall be unlawful to possess any lobster, or part thereof, which is mutilated in a manner which makes accurate measurement impossible, except that any person, firm or corporation may possess lobster tails removed under section ~~6862~~ 6851-B.

**Sec. 8. 12 MRSA §6851, sub-§2-A,** as amended by PL 2007, c. 615, §21, is further amended to read:

**2-A. Wholesale seafood license with lobster permit.** At the request of the applicant, the commissioner shall issue a wholesale seafood license with a lobster permit. A person holding a wholesale seafood license with a lobster permit may engage in all the activities in subsection 2 and may buy, sell, process or ship lobster or properly ~~permitted~~ licensed or lawfully imported lobster meat or parts. A person holding a wholesale seafood license with a lobster permit may transport lobster or properly ~~permitted~~ licensed or lawfully imported lobster meat or parts anywhere within the state limits. A license under this subsection does not authorize a person to possess or transport lobster that person has taken unless that person is in possession of a license issued under section 6421, subsection 3-A, paragraph A, B, C or E. A license under this subsection does not authorize a person to remove lobster meat from the shell unless a ~~permit~~ license under section ~~6857~~ 6851-B is held.

**Sec. 9. 12 MRSA §6851-B** is enacted to read:

**§6851-B. Lobster processor license**

**1. License required.** A person may not engage in the activities authorized under this section without a current wholesale seafood license with a lobster permit as required under section 6851 and a current lobster processor license.

**2. Licensed activity.** A lobster processor license authorizes a person to process lobsters and lobster meat for sale in accordance with rules adopted by the commissioner, including, but not limited to, the appropriate fee for the license, which may not exceed $750, and under the following conditions:

A. The lobster and lobster meat may be processed only at the fixed place of business named on the license;

B. The lobster meat or lobster parts may come from only legal-sized lobsters;

C. All containers in which lobster meat is packed after removal and that are to be sold, shipped or transported must be clearly labeled with the lobster processor license number of the packer; and

D. Records must be maintained at the fixed place of business named on the license.

The commissioner may grant waivers for specific lobster products not addressed in rules that are produced by holders of lobster processor licenses. Such a waiver must be in writing and must describe in detail the product that is not specified in rule.

**3. Exception.** A license is not required to remove lobster meat for serving in hotels and restaurants if the meat is removed from the shell in a hotel or restaurant for serving on the premises.

**4. License limited.** A lobster processor license authorizes activities under this section at only one fixed place of business.

**5. Violation.** A person who violates this section commits a civil violation for which a fine of not less than $100 nor more than $2,000 may be adjudged.

**Sec. 10. 12 MRSA §6852, sub-§2, ¶C,** as amended by PL 2005, c. 434, §11, is further amended to read:

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;

**Sec. 11. 12 MRSA §6852, sub-§3-A** is enacted to read:

**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.

**Sec. 12. 12 MRSA §6854, sub-§2,** as amended by PL 2001, c. 421, Pt. B, §58 and affected by Pt. C, §1, is further amended to read:

**2. License activity.** The holder of a lobster transportation license may buy from a licensed wholesale seafood dealer and transport beyond the state limits lobsters or their parts or meat. Lobster parts or meat may be transported only if they are properly permitted under section 6851-B or 6857 or have been lawfully imported.

**Sec. 13. 12 MRSA §6858,** as amended by PL 2003, c. 452, Pt. F, §§30 and 31 and affected by Pt. X, §2, is repealed.

**Sec. 14. 12 MRSA §6861-A, sub-§1, ¶B,** as amended by PL 2003, c. 452, Pt. F, §32 and affected by Pt. X, §2, is further amended to read:

B. It is prima facie evidence that lobster or crayfish meat is illegal lobster meat if the crayfish or lobster meat is outside the shell; is not in its original container and clearly labeled as crayfish, with the country or state of origin clearly disclosed; and:

~~(1) Does not meet the legal length requirements for lobster established in section 6858; or~~

(2) Is unmixed with any other food and there are no receipts available to prove the product is crayfish.

**Sec. 15. 12 MRSA §6862,** as amended by PL 2005, c. 239, §10, is repealed.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect July 1, 2010.

Effective July 1, 2010.

## CHAPTER 524

## S.P. 592 - L.D. 1546

## An Act To Improve Disclosure of Campaign Finance Information and the Operation of the Maine Clean Election Act

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

**Sec. 1. 5 MRSA §19, sub-§1, ¶E,** as repealed and replaced by PL 1989, c. 561, §13, is amended to read:

E. "Gift" means anything of value, including forgiveness of an obligation or debt, given to a person without that person providing equal or greater consideration to the giver. "Gift" does not include:

(1) Gifts received from a single source during the reporting period with an aggregate value of $300 or less;

(2) A bequest or other form of inheritance; and

(3) A gift received from a relative or from an individual on the basis of a personal friendship as long as that individual is not a regis-

tered lobbyist or lobbyist associate under Title 3, section 313, unless the employee has reason to believe that the gift was provided because of the employee's official position and not because of a personal friendship.

**Sec. 2. 5 MRSA §19, sub-§2,** as amended by PL 2007, c. 704, §5, is further amended to read:

**2. Statement of sources of income.** Each executive employee shall annually file with the Commission on Governmental Ethics and Election Practices a ~~sworn and notarized~~ statement of finances for the preceding calendar year. The statement must indicate:

A. If the executive employee is an employee of another person, firm, corporation, association or organization, the name and address of the employer and each other source of income of $1,000 or more;

B. If the executive employee is self-employed, the name and address of the executive employee's business and the name of each source of income derived from self-employment that represents more than 10% of the employee's gross income or $1,000, whichever is greater, except that, if this form of disclosure is prohibited by statute, rule or an established code of professional ethics, the employee shall specify the principal type of economic activity from which the income is derived. With respect to all other sources of income, a self-employed executive employee shall name each source of income of $1,000 or more. The employee shall also indicate major areas of economic activity and, if associated with a partnership, firm, professional association or similar business entity, the major areas of economic activity of that entity;

C. The specific source of each gift received;

D. The type of economic activity representing each source of income of $1,000 or more that any member of the immediate family of the executive employee received and the name of the spouse or domestic partner of the executive employee. The disclosure must include the job title of the executive employee and immediate family members if the source of income is derived from employment or compensation;

E. The name of each source of honoraria that the executive employee accepted;

F. Each executive branch agency before which the executive employee or any immediate family member has represented or assisted others for compensation; and

G. Each executive branch agency to which the executive employee or the employee's immediate family has sold goods or services with a value in excess of $1,000.

In identifying the source of income, it is sufficient to identify the name and address and principal type of economic activity of the corporation, professional association, partnership, financial institution, nonprofit organization or other entity or person directly providing the income to the individual.

With respect to income from a law practice, it is sufficient for attorneys-at-law to indicate their major areas of practice and, if associated with a law firm, the major areas of practice of the firm.

**Sec. 3. 5 MRSA §19, sub-§2-A,** as enacted by PL 2007, c. 704, §6, is amended to read:

**2-A. Statement of interests.** Beginning in 2010, each executive employee shall annually file with the Commission on Governmental Ethics and Election Practices a ~~sworn and notarized~~ statement of those positions set forth in this subsection for the preceding calendar year. The statement must include:

A. Any offices, trusteeships, directorships or positions of any nature, whether compensated or uncompensated, held by the executive employee with any for-profit or nonprofit firm, corporation, association, partnership or business; and

B. Any offices, trusteeships, directorships or positions of any nature, whether compensated or uncompensated, held by a member of the immediate family of the executive employee with any for-profit or nonprofit firm, corporation, association, partnership or business and the name of that member of the executive employee's immediate family.

**Sec. 4. 21-A MRSA §1003, sub-§1,** as amended by PL 2005, c. 301, §5, is further amended to read:

**1. Investigations.** The commission may undertake audits and investigations to determine the facts concerning the registration of a candidate, treasurer, political committee or political action committee and contributions by or to and expenditures by a person, candidate, treasurer, political committee or political action committee. For this purpose, the commission may subpoena witnesses and records whether located within or without the State and take evidence under oath. A person or political action committee that fails to obey the lawful subpoena of the commission or to testify before it under oath must be punished by the Superior Court for contempt upon application by the Attorney General on behalf of the commission.

**Sec. 5. 21-A MRSA §1017, sub-§3-B,** as amended by PL 2009, c. 190, Pt. A, §6, is further amended to read:

**3-B. Accelerated reporting schedule.** Additional reports are required from nonparticipating candidates, as defined in section 1122, subsection 5, pursuant to this subsection.

A. In addition to other reports required by law, any candidate for Governor, State Senate or State House of Representatives who is not certified as a Maine Clean Election Act candidate under chapter 14 and who receives, spends or obligates more than the primary or general election distribution amounts for a Maine Clean Election Act candidate in the same race shall file by any means acceptable to the commission, within 48 hours of that event, a report with the commission detailing the candidate's total campaign contributions, including any campaign balance from a previous election, obligations and expenditures to date.

B. A nonparticipating candidate who is required to file a report under paragraph A shall file no later than 5:00 p.m.:

(1) For legislative candidates in a primary election only, a report on the 42nd day before the date on which a primary election is held that is complete as of the 44th day before that date;

(2) For gubernatorial candidates only, a report on the 25th day before the date on which an election is held that is complete as of the 27th day before that date;

(3) A report on the 18th day before the date on which an election is held that is complete as of the 20th day before that date; and

(4) A report on the 6th day before the date on which an election is held that is complete as of the 8th day before that date.

The reports must contain the candidate's total campaign contributions, including any campaign balance from a previous election, obligations and expenditures as of the end date of the reporting period.

The nonparticipating candidate shall file only those reports that are due after the date on which the candidate filed the report required under paragraph A.

C. A candidate who is required to file a report under paragraph A must file with the commission an updated report that reports single expenditures in the following amounts that are made after the 14th day before an election and more than 24 hours before 11:59 p.m. on the date of that election:

(1) For a candidate for Governor, a single expenditure of $1,000;

(2) For a candidate for the state Senate, a single expenditure of $750; and

(3) For a candidate for the state House of Representatives, a single expenditure of $500.

A report filed pursuant to this paragraph must be filed within 24 hours of the expenditure.

The commission shall provide forms to facilitate compliance with this subsection. The commission shall notify a candidate within 48 hours if an amount reported on any report under paragraph B exceeds the primary or general election distribution amounts for a Maine Clean Election Act candidate in the same race and no report has been received under paragraph A. If all Maine Clean Election Act candidates in the same race have received authorization to spend the maximum matching funds under section 1125, section 9, the commission may waive the reports required by this section.

**Sec. 6. 21-A MRSA §1019-B, sub-§3,** as enacted by PL 2003, c. 448, §3 and amended by PL 2009, c. 366, §5 and affected by §12, is repealed and the following enacted in its place:

**3. Report required; content; rules.** A person, party committee, political committee or political action committee that makes independent expenditures aggregating in excess of $100 during any one candidate's election shall file a report with the commission. In the case of a municipal election, a copy of the same information must be filed with the municipal clerk.

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.

B. A report required by this subsection must contain an itemized account of each expenditure aggregating in excess of $100 in any one candidate's election, the date and purpose of each expenditure and the name of each payee or creditor. The report must state whether the expenditure is in support of or in opposition to the candidate and must include, under penalty of perjury, as provided in Title 17-A, section 451, a statement under oath or affirmation whether the expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate or an authorized committee or agent of the candidate.

C. A report required by this subsection must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form.

This subsection is repealed August 1, 2011.

**Sec. 7. 21-A MRSA §1019-B, sub-§4** is enacted to read:

**4. Report required; content; rules.** A person, party committee, political committee or political action committee that makes independent expenditures aggregating in excess of $100 during any one candidate's election shall file a report with the commission. In the case of a municipal election in a town or city that has chosen to be governed by this subchapter, a copy of the same information must be filed with the municipal clerk.

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.

B. A report required by this subsection must contain an itemized account of each expenditure aggregating in excess of $100 in any one candidate's election, the date and purpose of each expenditure and the name of each payee or creditor. The report must state whether the expenditure is in support of or in opposition to the candidate and must include, under penalty of perjury, as provided in Title 17-A, section 451, a statement under oath or affirmation whether the expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate or an authorized committee or agent of the candidate.

C. A report required by this subsection must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form.

This subsection takes effect August 1, 2011.

**Sec. 8. 21-A MRSA §1056-B, first ¶,** as amended by PL 2009, c. 190, Pt. A, §20 and c. 366, §7 and affected by §12, is repealed and the following enacted in its place:

A person not defined as a political action committee who receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of $5,000 for the purpose of initiating, promoting, defeating or influencing in any way a campaign as defined by section 1052, subsection 1, must file reports with the commission in accordance with this section. For the purposes of this section, "campaign" does not include activities to promote or defeat or in any way influence the nomination or election of a candidate. Within 7 days of receiving contributions or making expenditures that exceed $5,000, the person shall register with the commission as a ballot question committee. For the purposes of this section, expenditures include paid staff time spent for the purpose of influencing in any way a campaign. The commission must prescribe forms for the registration, and the forms must include specification of a treasurer for the committee, any other principal officers and all individuals who are the primary fundraisers and decision makers for the committee. Until July 31, 2011, in the case of a municipal election, the registration and reports must be filed with the clerk of that municipality. Beginning August 1, 2011, in the case of a municipal election, the registration and reports must be filed with the commission.

**Sec. 9. 21-A MRSA §1056-B, sub-§2,** as amended by PL 2009, c. 190, Pt. A, §20, is further amended to read:

**2. Content.** A report must contain an itemized account of each expenditure made to and contribution received from a single source aggregating in excess of $100 in any election; the date of each contribution; the date and purpose of each expenditure; the name and address of each contributor, payee or creditor; and the occupation and principal place of business, if any, for any person who has made contributions exceeding $100 in the aggregate. The filer is required to report only those contributions made to the filer for the purpose of initiating, promoting, defeating or influencing in any way a ~~ballot question~~ campaign and only those expenditures made for those purposes. The definitions of "contribution" and "expenditure" in section 1052, subsections 3 and 4, respectively, apply to persons required to file ballot question reports.

**Sec. 10. 21-A MRSA §1056-B, sub-§2-A, ¶A,** as enacted by PL 2007, c. 477, §4, is amended to read:

A. Funds that the contributor specified were given in connection with a ~~ballot question~~ campaign;

**Sec. 11. 21-A MRSA §1056-B, sub-§2-A, ¶B,** as enacted by PL 2007, c. 477, §4, is amended to read:

B. Funds provided in response to a solicitation that would lead the contributor to believe that the funds would be used specifically for the purpose of initiating, promoting, defeating or influencing in any way a ~~ballot question~~ campaign;

**Sec. 12. 21-A MRSA §1056-B, sub-§2-A, ¶C,** as enacted by PL 2007, c. 477, §4, is amended to read:

C. Funds that can reasonably be determined to have been provided by the contributor for the purpose of initiating, promoting, defeating or influencing in any way a ~~ballot question~~ campaign when viewed in the context of the contribution and the recipient's activities regarding a ~~ballot question~~ campaign; and

**Sec. 13. 21-A MRSA §1056-B, sub-§4, ¶A,** as enacted by PL 2007, c. 477, §4, is amended to read:

A. The filer shall keep a detailed account of all contributions made to the filer for the purpose of initiating, promoting, defeating or influencing in any way a ~~ballot question~~ campaign and all expenditures made for those purposes.

**Sec. 14. 21-A MRSA §1125, sub-§2-B,** as enacted by PL 2009, c. 363, §3, is amended to read:

**2-B. Seed money required for gubernatorial candidates; documentation.** For seed money contributions that a candidate for Governor collects to satisfy the requirement in subsection 5, paragraph C-1, the candidate shall obtain the contributor's name, residence address, mailing address, telephone number if provided by the contributor and other information required for reporting under section 1017, subsection 5. For these contributions, the candidate shall submit to the commission during the qualifying period:

A. A contribution acknowledgment form as determined by the commission, to be completed by each person that contributes seed money, that includes the name, residence address, mailing address, optional telephone number and signature of the person making the seed money contribution acknowledging that the contribution was made with the person's personal funds and will not be reimbursed by any source;

B. A list of the seed money contributions in a format determined by the commission that includes the name and mailing address of the contributor;

C. For seed money contributions received by check or money order, photocopies of the check or money order; and

D. For seed money contributions received by debit or credit card, a bank or merchant account statement that contains the cardholder's name and that otherwise meets the requirements specified by the commission in order to verify compliance with subsection 5, paragraph C-1.

The commission may permit the submission of an online or electronic acknowledgment form as required by paragraph A for seed money contributions made via the Internet. The telephone numbers, e-mail addresses and bank account and credit card information of contributors that candidates have submitted to the commission pursuant to this subsection are confidential, except that the commission may disclose this information in a final audit or investigation report or determination if the information or record is materially relevant to a finding of fact or violation.

**Sec. 15. 21-A MRSA §1125, sub-§12-A, ¶D,** as enacted by PL 2009, c. 302, §21, is repealed.

**Sec. 16. 21-A MRSA §1125, sub-§12-A, ¶E** is enacted to read:

E. A document such as an invoice, contract or timesheet that specifies in detail the services provided by a vendor who was paid $500 or more for the election cycle for providing campaign staff or consulting services to a candidate.

**Sec. 17. 21-A MRSA §1125, sub-§13,** as enacted by IB 1995, c. 1, §17 and amended by PL 2009, c. 302, §22 and affected by §24, is repealed and the following enacted in its place:

**13. 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 or 9, the commission may permit certified candidates to accept and spend contributions, reduced by any seed money contributions, aggregating no more than $750 per donor per election for gubernatorial candidates and $350 per donor per election for State Senate and State House candidates, up to the applicable amounts set forth in subsections 8 and 9 according to rules adopted by the commission.

This subsection is repealed September 1, 2011.

**Sec. 18. 21-A MRSA §1125, sub-§13-A** is enacted 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 $750 per donor per election for gubernatorial candidates and $350 per donor per election for State Senate and State House candidates, up to the applicable amounts set forth in subsections 8-A and 9 according to rules adopted by the commission.

This subsection takes effect September 1, 2011.

See title page for effective date.

# CHAPTER 525

## S.P. 577 - L.D. 1499

## An Act To Protect Confidential Consumer Records in Self-service Storage Facilities

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

**Sec. 1. 10 MRSA §1372, sub-§5-A** is enacted to read:

**5-A. Personal information.** "Personal information" means information about a person that readily identifies that person or is closely associated with that person. "Personal information" includes, but is not limited to, social security numbers, credit or debit card information, bank account numbers, medical information or passport information.

**Sec. 2. 10 MRSA §1372, sub-§6-A** is enacted to read:

**6-A. Reasonable belief.** "Reasonable belief" is the actual knowledge or belief a prudent person would have without making an investigation that a leased space contains personal information relating to clients, customers or others with whom the occupant does business.

**Sec. 3. 10 MRSA §1375, sub-§1,** as enacted by PL 1989, c. 62, is amended to read:

**1. Sale; use of proceeds.** ~~If~~ Except as provided in subsection 1-A, if the occupant is in default for a period of more than 45 days, the operator may enforce a lien by selling the property stored in the leased space at a public or private sale for cash. Proceeds ~~shall~~ must then be applied to satisfy the lien, with any surplus disbursed as provided in subsection 5.

**Sec. 4. 10 MRSA §1375, sub-§1-A** is enacted to read:

**1-A. Leased space containing personal information.** When the operator has a reasonable belief that the leased space contains personal information relating to clients, customers or others with whom the occupant does business, the operator may not hold a lien sale of the personal information and may destroy the personal information without liability to any person.

**Sec. 5. 10 MRSA §1375, sub-§1-B** is enacted to read:

**1-B. Operator may inspect contents of leased space.** After an occupant is in default pursuant to subsection 1, an operator may inspect the contents of a leased space to investigate the presence of personal information without liability to any person.

**Sec. 6. 10 MRSA §1375, sub-§3,** as enacted by PL 1989, c. 62, is amended to read:

**3. Redemption of property.** At any time before a sale under this section or before property is disposed of or destroyed under section 1373, subsection 3, paragraph C or under subsection 1-A, whichever occurs first, the occupant may pay the amount necessary to satisfy the lien and redeem the occupant's personal property.

**Sec. 7. 10 MRSA §1375, sub-§7,** as enacted by PL 1989, c. 62, is amended to read:

**7. Purchasers.** ~~A~~ Except as provided in subsection 7-A, a purchaser in good faith of any personal property sold under this Act takes the property free and clear of any rights of:

A. Persons against whom the lien was valid; and

B. Other lienholders.

**Sec. 8. 10 MRSA §1375, sub-§7-A** is enacted to read:

**7-A. Purchaser to sign contract.** Before taking possession of any personal property sold under this Act, a purchaser must sign a contract provided by the operator that contains provisions including, but not limited to, an agreement by the purchaser to return to the operator any personal information relating to clients, customers or others with whom the occupant does business.

**Sec. 9. 10 MRSA §1377** is enacted to read:

**§1377. Effects of violations**

It is a violation of the Maine Unfair Trade Practices Act if:

**1. Occupant fails to take measures to protect personal information.** An occupant fails to take appropriate measures to protect personal information of clients, customers or others with whom the occupant does business;

**2. Purchaser fails to return personal information.** A purchaser of any personal property under this Act intentionally fails to return to the operator any personal information of clients, customers or others with whom the occupant does business; and

**3. Operator conducts lien sale of personal information.** An operator has a reasonable belief that a leased space contains personal information relating to clients, customers or others with whom the occupant does business and nonetheless intentionally conducts a lien sale of personal information relating to clients, customers or others with whom the occupant does business.

See title page for effective date.

## CHAPTER 526

## S.P. 648 - L.D. 1676

### An Act To Protect Maine Citizens' Credit

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

**Sec. 1. 9-A MRSA §5-116-A** is enacted to read:

**§5-116-A. Debts owed to health care providers**

**1. Definition of "health care provider."** For purposes of this section, "health care provider" means a physician, health care practitioner, hospital, clinic, clinical laboratory, health care facility or other person or facility that provides health care services and is licensed or registered by the State.

**2. Agreement by or on behalf of health care provider.** An agreement by a health care provider, or by a debt collector on behalf of a health care provider, to accept partial payments over time without assessment of interest from a consumer on a debt for health care services is not a consumer credit transaction as defined by section 1-301, subsection 12.

**3. Disclosure of available payment arrangements.** A health care provider shall notify a consumer of the availability of any payment arrangements offered by the health care provider to satisfy a debt for health care services.

**4. Rehabilitation of defaulted medical debt.** A payment arrangement offered by a health care provider must provide a consumer the opportunity to reasonably rehabilitate, cure or remedy a defaulted status of a debt for health care services under terms and conditions established by the health care provider, including, but not limited to, making payment in full or making 6 consecutive monthly payments in a timely manner.

See title page for effective date.

## CHAPTER 527

## S.P. 657 - L.D. 1724

### An Act To Create a Commercial Pelagic and Anadromous Fishing License and Establish the Pelagic and Anadromous Fisheries Fund

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

**Sec. 1. 12 MRSA §6041** is enacted to read:

**§6041. Pelagic and Anadromous Fisheries Fund**

The Pelagic and Anadromous Fisheries Fund, referred to in this section as "the fund," is established within the department. Balances in the fund may not lapse and must be carried forward to the next fiscal year.

**1. Uses of fund.** The commissioner shall use the fund for research directly related to pelagic or anadromous fishery management and the processing of landings data. The commissioner may authorize the expenditure of money in the fund for research and development programs that address the restoration, development or conservation of pelagic or anadromous fish resources.

**2. Sources of revenue.** The fund is capitalized by surcharges assessed under section 6502-A, subsection 7. In addition to those revenues, the commissioner may accept and deposit in the fund money from any other source, public or private.

**Sec. 2. 12 MRSA §6502-A** is enacted to read:

**§6502-A. Commercial pelagic and anadromous fishing license**

**1. Definition.** As used in this section, "pelagic or anadromous fish" means Atlantic herring, Atlantic menhaden, whiting, spiny dogfish, alewife, Atlantic mackerel, blueback herring, squid, butterfish, scup, black sea bass, smelt and shad.

**2. License required.** A person may not engage in the activities authorized under this section without a current:

A. Commercial pelagic and anadromous fishing license for a resident operator;

B. Commercial pelagic and anadromous fishing license for a resident operator and all crew members; or

C. Commercial pelagic and anadromous fishing license for a nonresident operator and all crew members.

**3. Licensed activity.** The holder of a commercial pelagic and anadromous fishing license may fish for or take or possess, ship, transport or sell pelagic or anadromous fish that the holder has taken. The commissioner shall determine by rule what crew members may fish under a commercial pelagic and anadromous fishing license that provides for crew members. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**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 or hook and line and are only for personal use.

**5. Eligibility.** A commercial pelagic and anadromous fishing license may be issued only to an individual.

**6. Fees.** Fees for commercial pelagic and anadromous fishing licenses are:

A. Forty-eight dollars for a resident operator;

B. One hundred twenty-eight dollars for a resident operator and all crew members; and

C. Five hundred dollars for a nonresident operator and all crew members.

**7. Surcharges.** The following surcharges are assessed on holders of commercial pelagic and anadromous fishing licenses issued by the department:

A. For a commercial pelagic and anadromous fishing license for a resident operator, $50;

B. For a commercial pelagic and anadromous fishing license for a resident operator with crew, $200; and

C. For a commercial pelagic and anadromous fishing license for a nonresident operator with crew, $400.

The commissioner shall deposit surcharges collected pursuant to this subsection in the Pelagic and Anadromous Fisheries Fund established under section 6041.

**8. Violation.** A person who violates this section commits a civil violation for which a fine of not less than $100 nor more than $500 may be adjudged.

**Sec. 3. Appropriations and allocations.** The following appropriations and allocations are made.

**MARINE RESOURCES, DEPARTMENT OF**

**Bureau of Resource Management 0027**

Initiative: Establishes the Pelagic and Anadromous Fisheries Fund.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $38,800 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $38,800 |

See title page for effective date.

# CHAPTER 528

## S.P. 611 - L.D. 1604

## An Act To Clarify the Marine Resources Laws To Provide for the Protection of Public Safety and Welfare

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

**Sec. 1. 12 MRSA §6171-A,** as amended by PL 1987, c. 100, §§1 to 3, is repealed and the following enacted in its place:

**§6171-A. Protection of public health and safety and prevention of gear conflicts**

**1. Commissioner's powers.** The commissioner may investigate conditions affecting public safety, public health or property and conflicts among harvesters of marine organisms. The commissioner, with the advice and consent of the Marine Resources Advisory Council, may adopt or amend such rules as the commissioner considers necessary to:

A. Protect public health;

B. Protect public safety;

C. Prevent property damage; or

D. Prevent gear conflicts and promote the optimum development of marine organisms.

Rules adopted in accordance with this subsection may include, but are not limited to, rules governing area closures when necessary to address conflicts among persons who fish commercially that may cause a threat of harm to a person.

**2. Limitations.** The limitations of section 6171, subsection 2 also apply to rules to prevent gear conflicts.

**3. Considerations.** In adopting rules to prevent gear conflicts, the commissioner shall consider:

A. Traditional uses of the marine organisms;

B. Total economic benefits to the area in which the organisms are harvested; and

C. Promotion of the optimum economic and biological management of marine resources.

In each case, the commissioner shall accommodate the needs of all interested parties to the maximum extent possible, through provisions for joint use, alternate use or other methods.

**4-A. Emergency rules.** The commissioner may adopt or amend rules on an emergency basis if immediate action is necessary to protect the public health or public safety or to prevent property damage or serious economic harm to the area in which marine resources are harvested.

**5-A. Procedure.** The procedures of subchapter 2 must be used in adopting or amending rules authorized by this section.

Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 2. 12 MRSA §6171-C,** as enacted by PL 2005, c. 44, §1, is repealed.

**Sec. 3. 12 MRSA §6172, sub-§1-B,** as enacted by PL 2005, c. 44, §2, is amended to read:

**1-B. Advisory council.** Notwithstanding section ~~6171-C~~ 6171-A, the advice and consent of the Marine Resources Advisory Council is not required prior to adoption of a rule under this section.

**Sec. 4. 12 MRSA §6192, sub-§1,** as amended by PL 2005, c. 44, §3, is further amended to read:

**1. Procedures.** In an emergency adoption of a rule or amendment to a rule, the commissioner may modify the procedures required under the Maine Administrative Procedure Act and section 6191 in the following manner.

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 ~~6171-C~~ 6171-A and 6172, prior public notice and hearing is not required.

B. In an emergency adoption of a rule or amendment to a rule ~~relating to the general welfare, as~~ authorized by section 6171 or 6171-A, the rule is effective immediately, as provided in subsection 4. A public hearing must be held in the affected area ~~immediately thereafter~~ after the rule takes effect if requested of the commissioner in writing by 5 persons. The hearing must be held within 30 days of the commissioner receiving the written request. Notice of that hearing must be published once, not less than 5 days prior to the hearing, in a newspaper of general circulation in the affected area. In an emergency adoption of a rule or amendment to a rule relating to gear conflicts, as authorized by section 6171-A, the commissioner shall decide within 5 business days after the hearing whether to continue or repeal an emergency closure. The commissioner's findings of fact must include the justification for the repeal or continuance of the closure, an analysis of the objections expressed at the public hearing and the date for the end of the closure. Emergency rules under this paragraph may be repealed by the Marine Resources Advisory Council.

~~C. In an emergency adoption of a rule or amendment to a rule relating to gear conflicts, as authorized by section 6171-A, the rule is effective immediately, as provided in subsection 4. Prior public notice and hearing is not required. Notwithstanding any other provisions of law, a public hearing must be held in the affected area immediately if requested of the commissioner in writing by 5 persons. The hearing must be held within 30 days of the commissioner receiving the written request. Notice of that hearing must be published once, not less than 5 days prior to the hearing, in a newspaper of general circulation in the affected area. The commissioner shall decide within 5 business days after the hearing whether to continue or repeal the emergency closure. The commissioner's findings of fact must include the justification for the repeal or continuance of the closure, an analysis of the objections expressed at the public hearing and the date for the end of the closure. Emergency rules under this paragraph may be repealed by the advisory council.~~

D. Within 48 hours after the adoption of an emergency rule or an emergency amendment to a rule authorized under section 6171-A, subsection 1, paragraph B or C, the commissioner shall hold a public meeting in the area affected by the emergency rule. A public meeting convened pursuant to this paragraph is not a public hearing for purposes of the Maine Administrative Procedure Act.

See title page for effective date.

## CHAPTER 529

## H.P. 1212 - L.D. 1711

### An Act To Clarify the Status of Prisoners

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

**Sec. 1. 26 MRSA §663, sub-§3, ¶J,** as amended by PL 2007, c. 22, §2, is further amended to read:

J. Members of the family of the employer who reside with and are dependent upon the employer; ~~and~~

**Sec. 2. 26 MRSA §663, sub-§3, ¶K,** as amended by PL 2005, c. 255, §1, is further amended to read:

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

**Sec. 3. 26 MRSA §663, sub-§3, ¶L** is enacted to read:

L. A person who is a sentenced prisoner in actual execution of a term of incarceration imposed in this State or any other jurisdiction for a criminal offense, except a prisoner who is:

(1) Employed by a private employer;

(2) Participating in a work release program;

(3) Sentenced to imprisonment with intensive supervision under Title 17-A, section 1261;

(4) Employed in a program established under a certification issued by the United States Department of Justice under 18 United States Code, Section 1761;

(5) Employed while in a supervised community confinement program pursuant to Title 34-A, section 3036-A; or

(6) Employed while in a community confinement monitoring program pursuant to Title 30-A, section 1659-A.

**Sec. 4. 39-A MRSA §102, sub-§11, ¶E,** as amended by PL 2009, c. 142, §17, is further amended to read:

E. "Employee" does not include any person who is a sentenced prisoner in actual execution of a term of incarceration imposed in this State or any other jurisdiction for a criminal offense, except in relation to compensable injuries suffered by the prisoner during incarceration and while the prisoner is:

(1) A prisoner in a county jail under final sentence of 72 hours or less and is assigned to work outside of the county jail;

(2) Employed by a private employer;

(3) Participating in a work release program;

(4) Sentenced to imprisonment with intensive supervision under Title 17-A, section 1261;

(5) Employed in a program established under a certification issued by the United States Department of Justice under 18 United States Code, Section 1761; ~~or~~

(6) Employed while in a supervised community confinement program pursuant to Title 34-A, section 3036-A~~.~~; or

(7) Employed while in a community confinement monitoring program pursuant to Title 30-A, section 1659-A.

**Sec. 5. 39-A MRSA §203, sub-§1,** as amended by PL 2009, c. 142, §§18 to 20, is further amended to read:

**1. Compensation while incarcerated.** Compensation for incapacity under section 212 or 213 or under any prior workers' compensation laws may not be paid to any person during any period of incarceration imposed in this State or any other jurisdiction after conviction of a criminal offense, except in relation to compensable injuries suffered during incarceration and while the prisoner is:

A. Employed by a private employer;

B. Participating in a work release program;

C. Sentenced to imprisonment with intensive supervision under Title 17-A, section 1261;

D. Employed in a program established under a certification issued by the United States Department of Justice under 18 United States Code, Section 1761; ~~or~~

E. Employed while in a supervised community confinement program pursuant to Title 34-A, section 3036-A~~.~~;

F. A prisoner in a county jail under final sentence of 72 hours or less and is assigned to work outside of a county jail; or

G. Employed while in a community confinement monitoring program pursuant to Title 30-A, section 1659-A.

See title page for effective date.

## CHAPTER 530

## S.P. 596 - L.D. 1559

### An Act Regarding Liquor Licenses for Qualified Catering 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,** current law requires clarification with regard to licenses for qualified caterers who own free-standing event halls; and

**Whereas,** opportunities for business expansion and employment opportunities are hampered by this need for clarification; 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 §1076, sub-§10** is enacted to read:

**10. Self-sponsored event permit.** The bureau may issue a self-sponsored event permit to a qualified catering service in addition to a license issued in accordance with this section. A self-sponsored event permit authorizes the licensee to serve spirits, wine and malt liquor at an event sponsored by the licensee at the facility that is the licensee's principal place of business as a qualified catering service. The permit allows for up to 100 self-sponsored events per year under the following conditions:

A. The licensee submits an application as prescribed by the bureau;

B. The primary business of the licensee does not involve serving alcoholic beverages on a day-to-day basis at self-sponsored events;

C. The licensee notifies the bureau of a self-sponsored event a minimum of 3 business days prior to the event by first class mail, facsimile transmission, electronic mail or other method prescribed by the bureau;

D. The licensee provides at a self-sponsored event a diverse selection of food, primarily prepared from a complete kitchen at the licensee's facility and served at multiple food stations or a buffet service or passed by servers or served as a plated sit-down meal. The selection of food must include more than snack foods such as potato chips, crackers, pretzels or nuts, but snack foods may be used in the preparation of a meal or as an accompaniment to a prepared meal;

E. If liquor is served later than 9:00 p.m. at a self-sponsored event and after the service of food described in paragraph D is complete, the licensee continues to offer food, which may be lighter than a buffet service or a sit-down meal, such as sandwiches and pizza;

F. Self-sponsored events are public or private events requiring an admission fee for the service of food and beverages by the licensee that may include visual or participatory entertainment provided by the licensee in accordance with the laws and rules governing this Title; and

G. Self-sponsored events do not exceed 7 hours.

The license fee for a self-sponsored event permit is $700 annually. Renewal of a permit under this subsection must coincide with renewal of the license issued in accordance with this section.

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

Effective March 22, 1010.

# CHAPTER 531

## S.P. 606 - L.D. 1599

## An Act Regarding the Maternal and Infant Death Review Panel

**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 statute establishing the maternal and infant death review panel includes a repeal date of January 1, 2011; and

**Whereas,** unless action is taken in the 124th Legislature to prevent the repeal, the panel's work, which furthers the public health and welfare, will cease; 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 §261,** as enacted by PL 2005, c. 467, §1, is amended to read:

**§261. Maternal and infant death review panel**

The department shall establish the maternal and infant death review panel in accordance with this section.

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Center" means the Maine Center for Disease Control and Prevention.

B. "Deceased person" means a woman who died during pregnancy or within 42 days of giving birth or a child who died within 1 year of birth.

C. "Director" means the director of the center.

C-1. "Family" means a woman who has experienced a fetal death or the parent or parents or other authorized representative of a deceased person.

D. "Panel" means the maternal and infant death review panel established under this section.

E. "Panel coordinator" means an employee of the center who is appointed by the director or a person designated by the panel coordinator. The panel coordinator must be a licensed physician or

registered nurse or other health care professional licensed or registered in this State.

**2. Membership.** The panel consists of health care and social service providers, public health officials, law enforcement officers and other persons with professional expertise on maternal and infant health and mortality. The director shall appoint the members of the panel, who serve at the pleasure of the director. The director shall appoint an employee of the center to serve as panel coordinator.

**3. Contact with family.** The first contact pursuant to this section with ~~a parent or parents or other authorized representative of a deceased person~~ the family may not occur prior to 4 months after the death and must:

A. Be by letter from the State Health Officer on letterhead of the center; and

B. Include ~~a separate~~ an invitation to participate in a review of the death of the deceased person or the fetal death from a statewide organization dedicated to improving the health of babies by preventing birth defects, premature birth and infant mortality.

**4. Duties and powers of panel coordinator.** The panel coordinator has the following duties and powers.

A. The panel coordinator shall review the deaths of all women during pregnancy or within 42 days of giving birth, the majority of cases in which a fetal death occurs after 28 weeks of gestation and the majority of deaths of infants under 1 year of age, with selection of cases of infant death based on the need to review particular causes of death or ~~obtaining~~ the need to obtain a representative sample of all deaths.

A-1. The panel coordinator may have access to the death certificates of deceased persons and to fetal death certificates of fetal deaths occurring after 28 weeks of gestation.

B. Prior to accessing medical records, the panel coordinator shall obtain permission in all cases for access to those records from the ~~parent or parents or other authorized representative of the deceased person~~ family.

C. Prior to conducting a voluntary interview, the panel coordinator shall obtain permission in all cases for the interview from the ~~parent or parents or other authorized representative of the deceased person~~ family.

D. The panel coordinator may conduct voluntary interviews with the ~~parent or parents of a deceased child or other relevant family members of a deceased person~~ family. The purpose of the voluntary interview is limited to gathering information or data for the purposes of the panel in summary or abstract form without family names or patient identifiers. A person who conducts interviews under this paragraph must meet the qualifications for panel coordinator and also have professional experience or training in bereavement services. A person conducting an interview under this paragraph may make a referral for bereavement counseling.

E. The panel coordinator shall prepare a summary or abstract of relevant information regarding the ~~deceased person~~ case, as determined to be useful to the panel, but without the name or identifier of the deceased person or the woman who experienced a fetal death, and shall present the summary or abstract to the panel.

**5. Duties and powers of panel.** The panel has the following duties and powers.

A. The panel shall conduct comprehensive multidisciplinary reviews of data presented by the panel coordinator.

B. The panel shall present an annual report to the department and to the joint standing committee of the Legislature having jurisdiction over health and human services matters. The report must identify factors contributing to maternal and infant death in the State, determine the strengths and weaknesses of the current maternal and infant health care delivery system and make recommendations to the department to decrease the rate of maternal and infant death.

The panel shall offer a copy of the annual report to the ~~parent or parents or other authorized representative of the deceased person~~ person or persons that granted permission to the panel coordinator for a voluntary interview under subsection 4, paragraph C.

C. The panel shall share the results of its data reviews and recommendations with the child death and serious injury review panel established pursuant to section 4004, subsection 1, paragraph E. The maternal and infant death review panel may request and review data from the child death and serious injury review panel, regardless of any prior work by the child death and serious injury review panel.

**6. Limitations.** The panel coordinator may not proceed with reviews of medical records or voluntary interviews without the permission of the ~~parent or parents or other authorized representative of the deceased person~~ family. The panel coordinator may not photocopy or retain copies of medical records or review cases of abortion. In performing work under this section, the panel coordinator shall minimize the burden imposed on health care practitioners, hospitals and facilities.

**7. Confidentiality.** All records created or maintained pursuant to this section, other than reports provided under subsection 5, paragraph B, are protected as provided in this subsection. The records are confidential under section 42, subsection 5. The records are not open to public inspection, are not public records for the purposes of Title 1, chapter 13, subchapter 1 and are not subject to subpoena or civil process nor admissible in evidence in connection with any judicial, executive, legislative or other proceeding.

**8. Immunity.** A health care practitioner, hospital or health care facility or the employee or agent of that person or entity is not subject to civil or criminal liability arising from the disclosure or furnishing of records or information to the panel pursuant to this section.

**9. Funding.** The department may accept any public or private funds to carry out the purposes of this section.

**10. Rulemaking.** The department shall adopt rules to implement this section, including rules on collecting information and data, selecting members of the panel, collecting and using individually identifiable health information and conducting reviews under this section. The rules must ensure that access to individually identifiable health information is restricted as much as possible while enabling the panel to accomplish its work. The rules must establish a protocol to preserve confidentiality, specify the manner in which the family ~~and authorized representatives~~ will be contacted for permission and maintain public confidence in the protection of individually identifiable information. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

~~**11. Repeal.** This section is repealed January 1, 2011.~~

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

Effective March 22, 2010.

## CHAPTER 532

## H.P. 1092 - L.D. 1550

### An Act To Promote Opportunity for Workers in the Maine Woods

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

**Sec. 1. 14 MRSA §4422, sub-§9-A** is enacted to read:

**9-A. Logging implements.** The debtor's interest in one of every type of professional logging implement reasonably necessary for the debtor to harvest and haul wood commercially, including any personal property incidental to its maintenance and operation.

See title page for effective date.

## CHAPTER 533

## H.P. 1145 - L.D. 1617

### An Act Enabling Expedited Partner Therapy

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

**Sec. 1. 22 MRSA c. 251, sub-c. 3, art. 5** is enacted to read:

**ARTICLE 5**

**EXPEDITED PARTNER THERAPY**

**§1241. Definitions**

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

**1. Department.** "Department" means the Department of Health and Human Services, Maine Center for Disease Control and Prevention.

**2. Expedited partner therapy.** "Expedited partner therapy" means prescribing, dispensing, furnishing or otherwise providing prescription antibiotic drugs to the sexual partner or partners of a person clinically diagnosed as infected with a sexually transmitted disease without physical examination of the partner or partners.

**3. Health care professional.** "Health care professional" means an allopathic physician licensed pursuant to Title 32, chapter 48, an osteopathic physician licensed pursuant to Title 32, chapter 36, a physician assistant who has been delegated the provision of sexually transmitted disease therapy or expedited partner therapy by that physician assistant's supervising physician, an advanced practice registered nurse who has a written collaborative agreement with a collaborating physician that authorizes the provision of sexually transmitted disease therapy or expedited partner therapy or an advanced practice registered nurse who possesses appropriate clinical privileges in accordance with Title 32, chapter 31.

**4. Sexually transmitted disease.** "Sexually transmitted disease" means a bacterial, viral, fungal or parasitic disease determined by rule of the department to be sexually transmitted, to be a threat to the public health and welfare and to be a disease for which a le-

gitimate public interest will be served by providing for its regulation and treatment.

**§1242. Expedited partner therapy**

Notwithstanding any other provision of law, a health care professional who makes a clinical diagnosis of a sexually transmitted disease may provide expedited partner therapy for the treatment of the sexually transmitted disease if in the judgment of the health care professional the sexual partner is unlikely or unable to present for comprehensive health care, including evaluation, testing and treatment for sexually transmitted diseases. Expedited partner therapy is limited to a sexual partner who may have been exposed to a sexually transmitted disease within the previous 60 days and who is able to be contacted by the patient.

**1. Counseling.** A health care professional who provides expedited partner therapy shall provide counseling for the patient, including advice that all women and symptomatic persons, and in particular women with symptoms suggestive of pelvic inflammatory disease, are encouraged to seek medical attention. The health care professional shall also provide written materials provided by the department to be given by the patient to the sexual partner that include at a minimum the following:

A. A warning that a woman who is pregnant or might be pregnant should not take certain antibiotics and should immediately contact a health care professional for an examination;

B. Information about the antibiotic and dosage provided or prescribed; clear and explicit allergy and side effect warnings, including a warning that a sexual partner who has a history of allergy to the antibiotic or the pharmaceutical class of antibiotic should not take the antibiotic and should be immediately examined by a health care professional;

C. Information about the treatment and prevention of sexually transmitted diseases;

D. The requirement of abstinence until a period of time after treatment to prevent infecting others;

E. Notification of the importance of the sexual partner's receiving examination and testing for the human immunodeficiency virus and other sexually transmitted diseases and information regarding available resources;

F. Notification of the risk to the sexual partner, others and the public health if the sexually transmitted disease is not completely and successfully treated;

G. The responsibility of the sexual partner to inform that person's sexual partners of the risk of sexually transmitted disease and the importance of prompt examination and treatment;

H. Advice to all women and symptomatic persons, and in particular women with symptoms suggestive of pelvic inflammatory disease, to seek medical attention; and

I. Information other than the information under paragraphs A to H as determined necessary by the department.

**2. Department to develop and disseminate materials.** Taking into account the recommendations of the federal Department of Health and Human Services, Centers for Disease Control and Prevention and other nationally recognized medical authorities, the department shall provide information and technical assistance as appropriate to health care professionals who provide expedited partner therapy. The department shall develop and disseminate in electronic and other formats the following written materials:

A. Informational materials for sexual partners, as described in subsection 1;

B. Informational materials for persons who are repeatedly diagnosed with sexually transmitted diseases; and

C. Guidance for health care professionals on the safe and effective provision of expedited partner therapy.

The department may offer educational programs about expedited partner therapy for health care professionals and pharmacists licensed under the Maine Pharmacy Act.

**3. Immunity for health care professional.** A health care professional who provides expedited partner therapy in good faith without fee or compensation under this section and provides counseling and written materials as required in subsection 1 is not subject to civil or professional liability in connection with the provision of the therapy, counseling and materials, except in the case of willful and wanton misconduct. A health care professional is not subject to civil or professional liability for choosing not to provide expedited partner therapy.

**4. Immunity for pharmacist or pharmacy.** A pharmacist or pharmacy is not subject to civil or professional liability for choosing not to fill a prescription that would cause that pharmacist or pharmacy to violate any provision of the Maine Pharmacy Act.

**5. Rules.** The department shall adopt rules, which are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A, to implement this section. The department shall consider designating certain diseases as sexually transmitted diseases, including, but not limited to, chancroid, gonorrhea, granuloma inguinale, lymphogranuloma venereum, genital herpes simplex, chlamydia, nongonococcal urethritis, pelvic inflammatory disease, acute salpingitis, syphilis, Acquired Immune Deficiency Syndrome and hu-

man immunodeficiency virus, and shall consider the recommendations and classifications of the federal Department of Health and Human Services, Centers for Disease Control and Prevention and other nationally recognized medical authorities.

**Sec. 2. 32 MRSA §2110** is enacted to read:

**§2110. Expedited partner therapy**

An individual licensed under this chapter may not be disciplined for providing expedited partner therapy in accordance with the provisions of Title 22, chapter 251, subchapter 3, article 5.

**Sec. 3. 32 MRSA §2600-B** is enacted to read:

**§2600-B. Expedited partner therapy**

An individual licensed under this chapter may not be disciplined for providing expedited partner therapy in accordance with the provisions of Title 22, chapter 251, subchapter 3, article 5.

**Sec. 4. 32 MRSA §3300-B** is enacted to read:

**§3300-B. Expedited partner therapy**

An individual licensed under this chapter may not be disciplined for providing expedited partner therapy in accordance with the provisions of Title 22, chapter 251, subchapter 3, article 5.

**Sec. 5. 32 MRSA §13794,** as amended by PL 1999, c. 130, §14, is further amended by adding at the end a new paragraph to read:

A drug dispensed in accordance with the provisions of Title 22, chapter 251, subchapter 3, article 5 does not require the name of the patient's sexual partner on the label.

**Sec. 6. 32 MRSA §13798** is enacted to read:

**§13798. Expedited partner therapy**

An individual licensed under this chapter may not be disciplined for dispensing drugs pursuant to a lawful prescription in accordance with the provisions of Title 22, chapter 251, subchapter 3, article 5.

**Sec. 7. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 22, chapter 251, subchapter 3, in the subchapter headnote, the words "venereal diseases" are amended to read "sexually transmitted diseases" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

# CHAPTER 534

## H.P. 1260 - L.D. 1770

## An Act To Extend the Temporary Reduction in High-stakes Beano License Fees

**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 reduces the annual license fee for high-stakes beano for this year and next year; 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. 17 MRSA §314-A, sub-§4,** as amended by PL 2007, c. 109, §1, is further amended to read:

**4. Term of license; fees.** A license issued under this section is valid for a period of one year. The annual license fee for a high-stakes beano license is $50,000, except that the annual license fee due in 2008 ~~and~~, 2009, 2010 and 2011 is $25,000. License fees may be paid in advance in quarterly installments. All license fees must be paid to the Treasurer of State to be credited to the General Fund.

**Sec. 2. Report.** By February 1, 2011, the Chief of the State Police, with input from holders of licenses issued pursuant to the Maine Revised Statutes, Title 17, section 314-A, shall submit a report to the joint standing committee of the Legislature having jurisdiction over legal and veterans affairs on the enforcement and administrative functions conducted with regard to the conduct of high-stakes beano during calendar year 2010, including any recommendations regarding the fees for a high-stakes beano license.

**Sec. 3. Appropriations and allocations.** The following appropriations and allocations are made.

**PUBLIC SAFETY, DEPARTMENT OF**

**Licensing and Enforcement - Public Safety 0712**

Initiative: Reduces allocation to reflect the extension of the reduction in license fees for high-stakes beano to fiscal years 2009-10 and 2010-11.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($25,000) | ($25,000) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($25,000) | ($25,000) |

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

Effective March 22, 2010.

## CHAPTER 535

## S.P. 681 - L.D. 1775

### An Act To Amend Mercury Stack Testing Requirements for Certain Air Emission Sources

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

**Sec. 1. 38 MRSA §585-B, sub-§5,** as amended by PL 2009, c. 338, §1, is further amended to read:

**5. Standards for mercury.** Notwithstanding subsection 1, an air emission source may not emit mercury in excess of 45.4 kilograms, or 100 pounds, per year after January 1, 2000; 22.7 kilograms, or 50 pounds, per year after January 1, 2004; 15.9 kilograms, or 35 pounds, after January 1, 2007; and 11.4 kilograms, or 25 pounds, after January 1, 2010. As an alternative to not emitting mercury in excess of 11.4 kilograms, or 25 pounds, after January 1, 2010, an air emission source may reduce mercury emissions by 90 percent by weight after January 1, 2010. Compliance with these limits must be specified in the license of the air emission source. The board shall establish by rule testing protocols and measurement methods for emissions sources for which the board has not established such protocols and methods for determining compliance with the emission standard for mercury. These rules are routine technical rules under Title 5, chapter 375, subchapter 2-A.

An air emission source may apply to the board for an extension or modification of the 11.4-kilogram, or 25-pound, limit as follows.

A. An emission source may submit an application to the board no later than January 1, 2009 for a 6-month extension of the January 1, 2010 deadline to meet the 11.4-kilogram, or 25-pound, limit. The board shall grant the extension if the board determines, based on information presented by the source, that compliance with the limit is not achievable by the deadline due to engineering constraints, availability of equipment or other justifiable technical reasons.

B. An emission source may submit an application to the board no later than January 1, 2009 for a license modification establishing an alternative emission limit for mercury. The board shall grant the license modification if the board finds that the proposed mercury emission limit meets the most stringent emission limitation that is achievable and compatible with that class of source, considering economic feasibility.

Pending a decision on an application for an extension or a license modification under this subsection, the 15.9-kilogram, or 35-pound, limit applies to the emission source.

Notwithstanding the January 1, 2000 compliance date in this subsection, a resource recovery facility that is subject to an emissions limit for mercury adopted by rule by the board before January 1, 2000 shall comply with the 45.4-kilogram, or 100-pound, mercury emissions limit after December 19, 2000.

For determining compliance with this subsection, the results of multiple stack tests may be averaged in accordance with guidance provided by the department.

**Sec. 2. 38 MRSA §585-B, sub-§6,** as amended by PL 2009, c. 338, §2, is further amended to read:

**6. Mercury reduction plans.** ~~Any~~ An air emission source emitting mercury in excess of 10 pounds per year after January 1, 2007 must develop a mercury reduction plan. ~~The~~ Except as provided in subsection 7, the mercury reduction plan must be submitted to the department no later than September 1, 2008. The mercury reduction plan must contain:

A. Identification, characterization and accounting of the mercury used or released at the emission source; and

B. Identification, analysis and evaluation of any appropriate technologies, procedures, processes, equipment or production changes that may be utilized by the emission source to reduce the amount of mercury used or released by that emission source, including a financial analysis of the costs and benefits of reducing the amount of mercury used or released.

The department may keep information submitted to the department under this subsection confidential as provided under section 1310-B.

The department shall submit a report to the joint standing committee of the Legislature having jurisdiction over natural resources matters no later than March 1, 2009 summarizing the mercury emissions and mercury reduction potential from those emission sources sub-

ject to this subsection. In addition, the department shall include an evaluation of the appropriateness of the 25-pound mercury standard established in subsection 5. The evaluation must address, but is not limited to, the technological feasibility, cost and schedule of achieving the standards established in subsection 5. The department shall submit an updated report to the committee by ~~January 1, 2010~~ March 1, 2013. The joint standing committee of the Legislature having jurisdiction over natural resources matters is authorized to report out to the ~~124th~~ 126th Legislature ~~legislation~~ a bill relating to the evaluation and the updated report.

**Sec. 3. 38 MRSA §585-B, sub-§7** is enacted to read:

**7. Stack tests for mercury.** An air emission source emitting mercury in excess of 10 pounds in calendar year 2010 must:

A. Conduct a stack test for mercury twice in calendar year 2011 and twice in calendar year 2012. The stack tests must be conducted at least 4 months apart; and

B. By January 1, 2013, develop a mercury reduction plan and submit the plan to the department in accordance with subsection 6. The plan must contain the results of the 4 stack tests conducted pursuant to paragraph A.

For determining compliance with subsection 5, the results of multiple stack tests under this subsection may be averaged in accordance with guidance provided by the department.

The department may approve an alternative to the stack testing requirements in this subsection, such as, but not limited to, mercury input data or a continuous mercury emission monitoring system.

See title page for effective date.

## CHAPTER 536

## H.P. 1211 - L.D. 1710

### An Act Concerning Litigation Brought by the Attorney General To Enforce Provisions of the Forest Practices Laws

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

**Sec. 1. 12 MRSA §8870, sub-§6** is enacted to read:

**6. Costs permitted.** In any action or proceeding brought by the Attorney General under this section, the court may award litigation costs, including court costs, reasonable attorney's fees and reasonable expert witness fees, to be deposited in the General Fund of the State if the State or any of its officers or agencies is a prevailing party in the action or proceeding and the defendant's defense was not substantially justified. For the purposes of this subsection, a defense is "substantially justified" if the defense had a reasonable basis in law or fact at the time it was raised.

**Sec. 2. 12 MRSA §9701,** as enacted by PL 1979, c. 545, §3, is amended to read by adding at the end a new paragraph to read:

In any action or proceeding brought by the Attorney General under this section, the court may award litigation costs, including court costs, reasonable attorney's fees and reasonable expert witness fees, to be deposited in the General Fund of the State if the State or any of its officers or agencies is a prevailing party in the action or proceeding and the defendant's defense was not substantially justified. For the purposes of this subsection, a defense is "substantially justified" if the defense had a reasonable basis in law or fact at the time it was raised.

See title page for effective date.

## CHAPTER 537

## H.P. 1082 - L.D. 1538

### An Act To Close Loopholes in Environmental Laws

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

**Sec. 1. 38 MRSA §414, sub-§8,** as enacted by PL 1997, c. 794, Pt. A, §21, is amended to read:

**8. Effect of license.** Issuance of a license under ~~this chapter~~ section 413 does not convey any property right of any sort, or exclusive privilege. Except for toxic effluent standards and prohibitions imposed under the Federal Water Pollution Control Act, Section 307, as amended, compliance with a license issued under section 413 during its terms constitutes compliance with ~~this chapter~~ sections 413 to 414-C and section 423-D. It is not a defense for a licensee in an enforcement action that it would have been necessary to halt or reduce the licensed activity in order to maintain compliance with the conditions of the license. The licensee shall take all reasonable steps to minimize or prevent any discharge in violation of a license that has a reasonable likelihood of adversely affecting human health or the environment.

**Sec. 2. 38 MRSA §420-D, sub-§7, ¶A,** as enacted by PL 1995, c. 704, Pt. B, §2 and affected by PL 1997, c. 603, §§8 and 9, is repealed and the following enacted in its place:

A. Forest management activities as defined in section 480-B, subsection 2-B, including associated road construction or maintenance, do not require review pursuant to this section as long as any road construction is used primarily for forest management activities that do not constitute a change in land use under rules adopted by the Department of Conservation, Bureau of Forestry concerning forest regeneration and clear-cutting and is not used primarily to access development, unless the road is removed and the site restored to its prior natural condition. Roads must be the minimum feasible width and total length consistent with forest management activities. This exemption does not apply to roads within a subdivision as defined in Title 30-A, section 4401, subsection 4, for the organized portions of the State.

**Sec. 3. 38 MRSA §480-Q, sub-§7-A, ¶A,** as enacted by PL 1989, c. 838, §6, is repealed.

**Sec. 4. 38 MRSA §480-Q, sub-§7-A, ¶D,** as amended by PL 2001, c. 618, §4, is further amended to read:

D. Any road construction is used primarily for forest management activities that do not constitute a change in land use under rules adopted by the Department of Conservation, Bureau of Forestry concerning forest regeneration and clear-cutting and is not used primarily to access development ~~but is used primarily for forest management activities~~, unless the road is removed and the site restored to its prior natural condition. Roads must be the minimum feasible width and total length consistent with forest management activities. This exemption does not apply to roads ~~that provide access to development in~~ within a subdivision as defined in Title 30-A, section 4401, subsection 4, for the organized portions of the State, or Title 12, section 682, subsection 2-A, including divisions of land exempted by Title 12, section 682-B, for portions of the State under the jurisdiction of the Maine Land Use Regulation Commission;

See title page for effective date.

## CHAPTER 538
## S.P. 632 - L.D. 1667

### An Act To Amend the Election Laws and Other Related Laws

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

**Sec. 1. 1 MRSA §353,** as amended by PL 2009, c. 462, Pt. D, §1, is further amended to read:

**§353. Explanation of proposed amendments and statewide referenda**

With the assistance of the Secretary of State, the Attorney General shall prepare a brief explanatory statement that must fairly describe the intent and content and what a "yes" vote favors and a "no" vote opposes for each constitutional resolution or statewide referendum that may be presented to the people and that must include any information prepared by the Treasurer of State under Title 5, section 152. The explanatory statement may not include comments of proponents or opponents as provided by section 354. In addition to the explanatory statement, the Office of Fiscal and Program Review shall prepare an estimate of the fiscal impact of each constitutional resolution or statewide referendum on state revenues, appropriations and allocations within ~~10~~ 15 business days after the receipt of the application and full text of the proposed law by the Secretary of State. The fiscal impact estimate must summarize the aggregate impact that the constitutional resolution or referendum will have on the General Fund, the Highway Fund, Other Special Revenue Funds and the amounts distributed by the State to local units of government.

**Sec. 2. 21-A MRSA §3,** as amended by PL 1997, c. 436, §8, is further amended to read:

**§3. Signatures and names**

When this Title requires a name or signature on a document, immaterial irregularities ~~shall~~ do not invalidate the name or signature if the identity of the person named is clear to the public official charged with reviewing that document.

**1. Immaterial irregularities.** Immaterial irregularities include, but are not limited to, misspelling, inclusion or omission of initials and substitution of initials or nicknames for given names.

**2. Application.** This policy ~~shall apply~~ applies to circumstances including, but not limited to, the following:

A. Absentee ballot applications;

B. Absentee ballot affidavits;

C. Signatures on petitions; and

D. Names appearing for write-in candidates on ballots.

**Sec. 3. 21-A MRSA §7,** as enacted by PL 1989, c. 166, §1, is amended to read:

**§7. Use of words**

When used in this Title, the words "shall" and "must" are used in a mandatory sense to impose an obligation to act ~~or refrain from acting~~ in the manner specified by the context. The word "may," when used in this Title, is used in a permissive sense to grant authority or permission, but not to create duty, to act in

the manner specified by the context. When used in this Title, the term "may not" indicates a lack of authority or permission to act or refrain from acting in the manner specified by the context~~, whereas the term "shall not" indicates a duty to refraim from action or omission in the manner specified by the context~~.

**Sec. 4. 21-A MRSA §101, sub-§1,** as amended by PL 2009, c. 253, §8, is repealed and the following enacted in its place:

**1. Qualifications.** The registrar must be a citizen of the United States, a resident of the State and at least 18 years of age. The registrar may not be an employee of a party or candidate or be an officer of a municipal, county or state party committee. In the electoral division in which the registrar is appointed, the registrar may not:

A. Hold or be a candidate for any state or county office;

B. Be a treasurer for a candidate; or

C. Be a municipal officer as defined by Title 30-A, section 2001.

**Sec. 5. 21-A MRSA §141, sub-§1,** as amended by PL 1989, c. 313, §2, is further amended to read:

**1. Influence prohibited.** The registrar ~~shall~~ may not attempt to influence an applicant in any aspect of the enrollment procedure and ~~shall~~ may not allow anyone else present to do so.

**Sec. 6. 21-A MRSA §501, sub-§3,** as amended by PL 2001, c. 310, §27, is further amended to read:

**3. Provisions applicable to both towns and cities.** A warden, ward clerk or any deputy warden may not be an officer of a municipal committee of a political party. Ward clerks or deputy wardens shall perform the duties of the warden when necessary and may not replace election clerks prescribed by this Title. The warden, ward clerk and deputy wardens must be registered voters of the municipality, except when a nonresident clerk is acting as either warden, ward clerk or deputy warden. When there is a vacancy in the office of warden, ward clerk or deputy warden, a person who is a resident of the county may serve as a replacement on a per election basis until the end of the vacated term. Before assuming the duties of office, the warden is sworn by the municipal clerk, and the ward clerk or deputy warden is sworn by the municipal clerk or by the warden.

**Sec. 7. 21-A MRSA §625,** as amended by PL 2009, c. 341, §2, is further amended to read:

**§625. Posting of sample ballots**

At least 7 days before an election, the clerk shall post a sample ballot, furnished to the clerk under section 603, ~~and the fiscal impact statement for direct initiatives of legislation furnished to the clerk under section 629, subsection 1, paragraph D-1~~ in a conspicuous, public place in each voting district.

**Sec. 8. 21-A MRSA §629, sub-§1, ¶D-1,** as enacted by PL 2009, c. 341, §3, is amended to read:

D-1. The Secretary of State shall provide adequate copies of the fiscal impact statement for each direct initiative of legislation prepared in accordance with Title 1, section 353, which must be ~~placed in each voting booth~~ posted with the sample ballots outside the guardrail so as to be visible to voters.

**Sec. 9. 21-A MRSA §756,** as amended by PL 2003, c. 447, §§32 and 33, is further amended to read:

**§756. Procedure on receipt**

When the clerk receives a return envelope apparently containing an absentee ballot, ~~he~~ the clerk shall observe the following procedures.

**1. Time of receipt noted.** ~~He~~ The clerk shall note the date and time of delivery on each return envelope. On request, ~~he~~ the clerk shall give the person who delivers the ballot a receipt, stating the exact time of delivery.

**2. Clerk to examine signatures and affidavit.** ~~He~~ The clerk shall compare the signature of the voter on the application, where required, with that on the corresponding return envelope. ~~He~~ The clerk shall examine the affidavit on the return envelope. If the signatures appear to have been made by the same person and if the affidavit is properly completed, ~~he~~ the clerk shall write "OK" and ~~his~~ the clerk's initials on the return envelope. Otherwise, ~~he~~ the clerk shall note any discrepancy on the return envelope.

A. If the signatures do not appear to have been made by the same person, but this discrepancy is apparently the result of the voter's having properly obtained assistance under either section 753-A, subsection 5, or section 754-A, subsection 3, or both, then the clerk shall note the discrepancy on the return envelope, but shall also write "OK" and the clerk's initials on the return envelope.

**3. Application attached.** The clerk shall attach each application, where required, to the corresponding envelope. ~~He shall~~ The clerk may not open any return envelope.

**5. Envelopes and lists delivered.** On election day, the clerk shall deliver or have delivered the return envelopes prescribed by section 752, subsection 3, with the applications, when required, attached and a copy of the list required by section 753-B, subsection 6, to the warden of the voting district in which the voter is registered, except in those municipalities where the clerk or the clerk's designee processes the

absentee ballots centrally. In those municipalities where the absentee ballots are processed centrally, the clerk shall deliver or have delivered the materials described in this subsection to the person authorized by the clerk to process absentee ballots at the designated central location. After processing the absentee ballots, the warden or the clerk shall attach the copy of the list of absentee voters to the incoming voting list and seal it as provided in section 698.

**6. Procedure when duplicate envelopes received from same voter.** If more than one return envelope is received from the same voter who was authorized to receive a 2nd state absentee ballot pursuant to section 753-B, then the clerk or warden shall process and count the ballot from the envelope marked "second ballot issued" or bearing the latest date and time and shall reject and keep sealed the first absentee envelope. If more than one return envelope is received from the same voter who was not authorized to receive a 2nd state absentee ballot pursuant to section 753-B, then the clerk or warden shall process and count the ballot from the envelope bearing the earliest date and time. If only one return envelope is received from a voter who was authorized to receive a 2nd state absentee ballot pursuant to section 753-B, then the clerk or warden shall process and count that ballot for all offices or questions for which the voter was entitled to vote.

**Sec. 10. 21-A MRSA §759, sub-§3,** as amended by PL 1999, c. 645, §9, is further amended to read:

**3. Rejected if incorrect.** The warden ~~shall~~ may not open the envelope and shall write "Rejected" on it, the reason why and ~~his~~ the warden's initials if ~~he~~ the warden finds that:

A. The signatures do not appear to have been made by the same person and the discrepancy is not the result of the voter's having obtained assistance under section 753-A, subsection 5 or section 754-A, subsection 3, in cases where an application is required;

B. The affidavit is not properly completed;

C. The person is not registered or enrolled where necessary;

D. The voter has voted in person; or

E. The ballot was received by the clerk after the deadline.

**Sec. 11. 21-A MRSA §759, sub-§8,** as repealed and replaced by PL 1999, c. 645, §10, is amended to read:

**8. Inspection of absentee envelopes before processing.** If a ~~candidate or the candidate's representative~~ member of the public notifies the clerk before 5 p.m. on the day before election day that the ~~candidate or the candidate's representative~~ person wishes to inspect absentee ballot applications and envelopes before they are processed, the warden or clerk shall allow the ~~candidate or representative~~ requestor to inspect the applications and envelopes of ballots before they are processed or for 30 minutes after the time specified in the notice for processing on election day. The warden may immediately proceed to process the ballots after the ~~candidate or representative~~ person has completed the review.

If the municipality processes absentee ballots only after the polls close on election day, then ~~the candidate or the candidate's representative~~ a member of the public who wishes to inspect absentee materials must notify the warden by 5 p.m. on election day that the ~~candidate or the candidate's representative~~ person wishes to inspect absentee ballot applications and envelopes after the polls close. The warden shall allow the ~~candidate or representative~~ requestor to inspect the applications and envelopes for 30 minutes after the polls close. The warden may immediately proceed to process the ballots after the ~~candidate or representative~~ person has completed the review.

**Sec. 12. 21-A MRSA §760-B, sub-§3,** as enacted by PL 2007, c. 455, §45, is amended to read:

**3. Inspection of absentee envelopes before processing.** A member of the public may make a written request of the clerk to inspect absentee ballot applications and envelopes before they are processed if the request is made by 9:00 a.m. on the day immediately prior to election day. The clerk shall make the absentee ballot applications and envelopes received by that time available for public inspection for one hour before the ~~first~~ starting time specified in the notice of election for processing the absentee ballots. The clerk may immediately proceed to process the ballots after the one-hour inspection time has elapsed.

**Sec. 13. 21-A MRSA §760-B, sub-§4,** as enacted by PL 2007, c. 455, §45, is amended to read:

**4. Processing and other procedures.** The clerk shall use the procedure described in this section when processing the absentee ballots during the designated times. Procedures for handling full ballot boxes, pollwatching and challenging ballots are conducted in the same manner as election day or as ~~nearly~~ close as practicable.

**Sec. 14. 21-A MRSA §828,** as enacted by PL 1985, c. 161, §6, is amended to read:

**§828. Security for keys**

The municipal clerk shall keep the keys to each voting machine in a vault or safe ~~which~~ that is kept securely locked when the keys are not being removed from or replaced in it. ~~He shall~~ The municipal clerk may not allow any unauthorized person to have possession of the keys to any voting machine.

**1. Keys returned.** A person who is authorized to have possession of the keys to a voting machine must return them to the clerk when ~~he~~ the person no longer needs them for the authorized purpose.

**Sec. 15. 21-A MRSA §850,** as enacted by PL 1985, c. 161, §6, is amended to read:

**§850. Secrecy preserved**

The warden at each voting place ~~shall~~ may not remain or allow any other person to remain where ~~he~~ the warden or person can see how anyone votes, except that a proper official may remain when ~~his~~ the official's assistance has been requested by a voter.

See title page for effective date.

## CHAPTER 539

## H.P. 1079 - L.D. 1535

### An Act To Create a Smart Grid Policy in 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,** the State currently lacks a comprehensive state policy on smart grid energy infrastructure but faces critical decisions regarding the implementation of smart grid technology and the creation of such a comprehensive smart grid policy; and

**Whereas,** the cost of electricity to consumers in the State is high compared with costs in similar markets elsewhere and impedes economic development in the State; and

**Whereas,** the State has recognized the consequences of climate change and has committed to policies to reduce emissions of greenhouse gases; and

**Whereas,** the State's electric grid and long-term infrastructure investment are vital to continued security and economic development, and a smart grid will deliver electricity from suppliers to consumers using modern technology to increase reliability, save energy, reduce costs and enable greater consumer choice; and

**Whereas,** smart grid functions hold great promise to reduce costs for consumers by improving efficiency and enhancing reliability for the benefit of ratepayers and the general public, and smart grid applications that are available now to serve the needs of customers in the State and other public interests should be implemented in a timely and responsible manner in consideration of all relevant factors; and

**Whereas,** it is vital that a comprehensive smart grid policy be developed to ensure that all ratepayers and the State as a whole are afforded the benefits of smart grid infrastructure; 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. 35-A MRSA §102, sub-§13,** as amended by PL 1999, c. 579, §3, is further amended to read:

**13. Public utility.** "Public utility" includes every gas utility, natural gas pipeline utility, transmission and distribution utility, telephone utility, water utility and ferry, as those terms are defined in this section, and each of those utilities is declared to be a public utility. "Public utility" does not include the operation of a radio paging service, as that term is defined in this section, or mobile telecommunications services unless only one entity or an affiliated interest of that entity, as defined in section 707, subsection 1, paragraph A, exclusively controls the use of the radio frequency spectrum assigned by the Federal Communications Commission to provide mobile service to the service area. "Public utility" includes a smart grid coordinator as defined in section 3143, subsection 1, paragraph B.

Nothing in this subsection precludes:

A. The jurisdiction, control and regulation by the commission pursuant to private and special act of the Legislature;

B. The commission's jurisdiction and control over and regulation of a public utility that provides, in addition to other services, radio paging service or mobile telecommunications services;

C. The commission's jurisdiction and control over and regulation of basic exchange telephone service offered by a provider of mobile telecommunications services if, after investigation and hearing, the commission determines that the provider is engaged in the provision of basic exchange telephone service; and

D. Negotiations for, or negates agreements or arrangements existing on the effective date of this paragraph relating to, rates, terms and conditions for interconnection provided by a telephone utility to a company providing radio paging or mobile telecommunications services.

**Sec. 2. 35-A MRSA §3143** is enacted to read:

**§3143. Declaration of policy on smart grid infrastructure**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Smart grid" means the integration of information and communications innovations and infrastructure with the electric system to enhance the efficiency, reliability and functioning of the system through smart grid functions.

B. "Smart grid coordinator" means an entity, authorized by the commission in accordance with subsection 5, that manages access to smart grid functions and associated infrastructure, technology and applications within the service territory of a transmission and distribution utility.

C. "Smart grid functions" means those functions that advance the policy of the United States as specified in the federal Energy Independence and Security Act of 2007, Public Law 110-140, Section 1301, including functions that enable consumers to access information about and to manage and adjust their electricity consumption or to generate and store electricity and functions specified in Section 1306(d) of that Act.

**2. Legislative findings.** The Legislature finds that:

A. The cost of electricity to consumers in this State is high in comparison to costs in similar markets and impedes economic development;

B. The State has recognized the consequences of climate change and has committed to policies to reduce emissions of greenhouse gases;

C. The State's electric grid and long-term infrastructure investment are vital to continued security and economic development, and smart grid functions will deliver electricity from suppliers to consumers using modern technology to increase reliability and reduce costs in a way that saves energy and to enable greater consumer choice;

D. The State currently lacks a comprehensive smart grid policy but faces critical decisions regarding the implementation of smart grid functions and associated infrastructure, technology and applications, and the commission and the Legislature will play central roles in making those decisions; and

E. It is vital that a smart grid policy be developed in order to ensure that all ratepayers and the State as a whole are afforded the benefits of smart grid functions and associated infrastructure, technology and applications.

**3. Smart grid policy; goals.** In order to improve the overall reliability and efficiency of the electric system, reduce ratepayers' costs in a way that improves the overall efficiency of electric energy resources, reduce and better manage energy consumption and reduce greenhouse gas emissions, it is the policy of the State to promote in a timely and responsible manner, with consideration of all relevant factors, the development, implementation, availability and use of smart grid functions and associated infrastructure, technology and applications in the State through:

A. Increased use of digital information and control technology to improve the reliability, security and efficiency of the electric system;

B. Deployment and integration into the electric system of renewable capacity resources, as defined in section 3210-C, subsection 1, paragraph E, that are interconnected to the electric grid at a voltage level less than 69 kilovolts;

C. Deployment and integration into the electric system of demand response technologies, demand-side resources and energy-efficiency resources;

D. Deployment of smart grid technologies, including real-time, automated, interactive technologies that optimize the physical operation of energy-consuming appliances and devices, for purposes of metering, communications concerning grid operation and status and distribution system operations;

E. Deployment and integration into the electric system of advanced electric storage and peak-reduction technologies, including plug-in electric and hybrid electric vehicles;

F. Provision to consumers of timely energy consumption information and control options; and

G. Identification and elimination of barriers to adoption of smart grid functions and associated infrastructure, technology and applications.

It is the policy of the State to promote the development, implementation, availability and use of smart grid functions in accordance with this subsection in a manner that is consistent with applicable standards for reliability, safety, security and privacy and that takes into account the implementation of smart grid functions in other jurisdictions.

The commission may adopt rules regarding the implementation of smart grid functions in the State in accordance with this subsection, including, but not limited to, rules regarding cybersecurity and protection of consumer privacy, and access to smart grid infrastructure and information, including, but not limited to, open access issues, coordination between smart grid users and methods to address financial disincentives for transmission and distribution utilities to promote smart grid functions. Rules adopted pursuant to

this subsection are routine technical rules as described in Title 5, chapter 375, subchapter 2-A.

**4. Resource assessment policy.** In order to meet the goals of the smart grid policy as specified in subsection 3, it is the policy of the State that all available energy resources be assessed, including but not limited to the following types of resources:

A. Energy efficiency;

B. Demand management, including but not limited to establishment of time-of-use tariffs and performance-based rates;

C. Renewable resources, as defined in section 3210, subsection 2, paragraph C;

D. Energy resources, other than those listed in paragraph C, that are located in the State and are interconnected to the electric grid at a voltage level of less than 69 kilovolts; and

E. Transmission lines for which a certificate of public convenience and necessity is required under section 3132, subsection 2.

**5. Smart grid coordinator; authorization by the Public Utilities Commission; rules.** Upon petition, the commission shall open an adjudicatory proceeding to determine whether it is in the public interest of the State to have one or more smart grid coordinators in order to achieve the purposes of and implement the policies specified in this section. If, in an adjudicatory proceeding conducted pursuant to this subsection, the commission finds that it is in the public interest, the commission may adopt, by rule or as part of the adjudicatory proceeding, standards regarding smart grid coordinators, including but not limited to:

A. Eligibility, qualification and selection criteria;

B. Duties and functions;

C. The application or exemption from any provisions of this Title otherwise applicable to public utilities;

D. The relationship between a smart grid coordinator and a transmission and distribution utility;

E. Access to information held by the smart grid coordinator by 2nd and 3rd parties; and

F. Data collection and reporting.

Pursuant to standards adopted by rule or in an adjudicatory proceeding pursuant to this subsection, the commission may authorize no more than one smart grid coordinator within each transmission and distribution utility service territory. A smart grid coordinator authorized under this subsection may operate as a transmission and distribution utility, under a commission-approved contract with a transmission and distribution utility or in some other manner approved by the commission. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**6. Transition plan; displaced employees.** If an investment in smart grid infrastructure by a transmission and distribution utility will lead to the displacement of 20 or more employees within a 3-year period, the transmission and distribution utility must file a transition plan for the displaced employees with the commission for approval and may not displace those employees unless the commission has approved a transition plan in accordance with this subsection.

A. If a transition plan filed with the commission has been agreed to by a collective bargaining agent representing the employees to be displaced, the commission must approve the plan. If a transition plan filed with the commission has not been agreed to by a collective bargaining agent representing the employees to be displaced, the commission may approve that plan only if the plan:

(1) Prioritizes the transition of the employees to employment within the transmission and distribution utility, to the extent feasible;

(2) Provides funds for worker education, training and support, including but not limited to tuition, fees, books, supplies, tools, equipment, child care, transportation and other assistance needed to obtain relevant remedial or prerequisite education or training, and maximizes the extent to which such education and training can be pursued while employed rather than after termination of employment;

(3) Demonstrates appropriate coordination with the Department of Labor; and

(4) Prevents unnecessary retraining and public assistance costs to the State, to the extent feasible.

B. In applying for federal or other grants for workforce training to support smart grid implementation, the commission, the Department of Labor, the Efficiency Maine Trust and any other agency or instrumentality of the State shall, to the extent permissible and feasible under the terms of the grant, give priority to assisting employees that are displaced as a result of the investment in smart grid infrastructure.

C. The commission shall permit a transmission and distribution utility to adjust its rates to recover costs incurred pursuant to this subsection.

For purposes of this subsection, "displaced employee" means an employee who is terminated from employment with a transmission and distribution utility; reduced to less than 75% of the hours traditionally required for the employee's position; involuntarily transferred to another position within the utility for less

pay; or transferred to another position within the utility at a site more than 50 miles away from the employee's current site of employment.

**7. Compliance with safety, security and reliability standards.** In implementing the policies specified in this section, the commission and other agencies and instrumentalities of the State shall ensure that applicable regional, national and international grid safety, security and reliability standards are met. The commission and other agencies and instrumentalities of the State shall seek to cause standards that promote cost-effective technologies and practices supporting smart grid functions to be integrated into national and international grid safety, security and reliability standards.

**8. Cost recovery.** The commission shall, upon petition, permit a transmission and distribution utility to adjust its rates to recover the utility's prudently incurred incremental costs associated with implementing smart grid functions and associated infrastructure, technology and applications or otherwise taking reasonable actions consistent with the policies of this section, to the extent that the costs are not already reflected in the utility's rates and the adjustment does not result in rates that are unjust or unreasonable. A grant by a utility in an amount approved by the commission to the University of Maine System for smart grid research and development is deemed to be a prudently incurred incremental cost associated with implementing smart grid functions.

**9. Report.** The commission, as part of its annual report pursuant to section 120, shall include a report on the progress of the State in achieving the purposes of this section. The commission may include in its report any recommendations for changes to law to promote the purposes of this section.

**10. Consumer education.** A transmission and distribution utility that implements smart grid functions shall, to the extent the commission determines appropriate, provide information to customers about the purpose and goals of smart grid functions, the ways in which smart grid functions, including but not limited to time-of-use pricing, may involve customer interaction and how the implementation of smart grid functions can benefit customers.

**11. Savings clause.** Nothing in this section limits any other authority of the commission with respect to smart grid implementation.

**Sec. 3. Report.** As part of the report regarding smart grid policy implementation that is due February 1, 2011, pursuant to the Maine Revised Statutes, Title 35-A, section 3143, subsection 9, the Public Utilities Commission shall report on the results or progress of any proceeding conducted pursuant to Title 35-A, section 3143, subsection 5 and any recommendations regarding smart grid policy to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters. Following review of the commission's recommendations, the joint standing committee may submit a bill regarding smart grid policy to the First Regular Session of the 125th Legislature.

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

Effective March 23, 2010.

## CHAPTER 540

## H.P. 1261 - L.D. 1771

### An Act To Include All Children in the Conditions of Education Report

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

**Sec. 1. 20-A MRSA §10, first ¶,** as enacted by PL 1995, c. 395, Pt. J, §1, is amended to read:

The Education Research Institute, referred to in this section as the "institute," is established to collect and analyze education information and perform targeted education research for the Legislature. The institute shall create and maintain an ~~education~~ information system that tracks important early care and education data for public preschool programs, kindergarten and grades one to 12. The institute shall also conduct exploratory, long-term research on education issues.

**Sec. 2. 20-A MRSA §10, sub-§2, ¶G,** as enacted by PL 1995, c. 395, Pt. J, §1, is amended to read:

G. The Maine Municipal Association; ~~and~~

**Sec. 3. 20-A MRSA §10, sub-§2, ¶H,** as enacted by PL 1995, c. 395, Pt. J, §1, is amended to read:

H. The Maine Principals Association~~.~~; and

**Sec. 4. 20-A MRSA §10, sub-§2, ¶I** is enacted to read:

I. The Maine Children's Growth Council.

See title page for effective date.

## CHAPTER 541

## H.P. 1173 - L.D. 1645

### An Act To Streamline Collections for Consumer-owned Consolidated Water and Wastewater Utilities

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

**Whereas,** to protect the public peace, health and safety and to address the financial needs of combined water and sewer districts, procedures governing the disconnection of water service for nonpayment of sewer service must be established 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. 35-A MRSA §6111-C** is enacted to read:

**§6111-C. Disconnection of water service for nonpayment of sewer services**

Except as provided in subsection 4, this section applies to any consumer-owned water utility that is authorized to provide sewer services, notwithstanding any provision in its charter. Notwithstanding any other provision of law, in the event a user of the consumer-owned water utility's sewer system fails within a reasonable time to pay the utility's rates, fees or charges for sewer service, the utility may disconnect water service to the user, as long as the disconnection is accomplished in accordance with procedures established in applicable law or rules governing disconnection of utility services and terms and conditions approved by the commission. In order to exercise this authority, the utility must apply to the commission and the commission must approve terms and conditions consistent with the requirements of this section.

**1. Annual filings.** The terms and conditions under this section must include a requirement that the consumer-owned water utility annually file with the commission a report that includes:

A. The total number of each of the following over the preceding 12 months:

(1) Disconnection notices issued;

(2) Disconnections completed; and

(3) Reconnections of disconnections; and

B. The reason for each disconnection.

**2. Assistance program information.** The terms and conditions under this section must include a requirement that the consumer-owned water utility provide to customers to whom the utility sends disconnection notices information about available assistance programs, including programs that offer assistance in paying for sewer or water service, programs that offer assistance in paying for other utility services or in paying for heating fuel or similar assistance programs that could provide sufficient support to the customer to allow the customer to pay the utility's rates, fees or charges for sewer service.

**3. Limitations.** The terms and conditions under this section must prohibit:

A. A disconnection based solely on a customer's nonpayment of a fee or charge for estimated sewer service usage; and

B. A disconnection of a multiunit rental facility greater than 2 units unless the owner of the facility occupies a unit that would be subject to the disconnection.

**4. Exception.** Subsection 3, paragraph B does not apply to a consumer-owned water utility that has authority pursuant to its charter to disconnect water service in the event a user of the consumer-owned water utility's sewer system fails to pay the utility's rates, fees or charges for sewer service, provided the charter provision establishing that authority was enacted prior to August 1, 2010.

**Sec. 2. Report.** The Public Utilities Commission shall provide a report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters by January 15, 2012 that includes the information submitted by consumer-owned water utilities authorized to provide sewer services, pursuant to the terms and conditions required under the Maine Revised Statutes, Title 35-A, section 6111-C as well as information on customer complaints to the commission regarding actions taken by utilities pursuant to Title 35-A, section 6111-C and any recommendations by the commission with regard to changes to Title 35-A, section 6111-C or other actions to address any issues identified by the commission.

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

Effective March 24, 2010.

## CHAPTER 542

## S.P. 654 - L.D. 1682

### An Act To Amend the Electric Utility Industry Laws as They Relate to Renewable Resources

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

**Sec. 1. 35-A MRSA §3210, sub-§2, ¶B-1,** as enacted by PL 2007, c. 403, §2, is repealed.

**Sec. 2. 35-A MRSA §3210, sub-§2, ¶B-2,** as enacted by PL 2007, c. 403, §3, is amended to read:

B-2. "Renewable energy credit" means a tradable instrument that represents an amount of electricity generated from eligible resources or renewable capacity resources ~~as defined in section 3210-C, subsection 1, paragraph E~~.

**Sec. 3. 35-A MRSA §3210, sub-§2, ¶B-3** is enacted to read:

B-3. "Renewable capacity resource" means a source of electrical generation:

(1) Whose total power production capacity does not exceed 100 megawatts and relies on one or more of the following:

(a) Fuel cells;

(b) Tidal power;

(c) Solar arrays and installations;

(d) Geothermal installations;

(e) Hydroelectric generators that meet all state and federal fish passage requirements applicable to the generator; or

(f) Biomass generators that are fueled by wood or wood waste, landfill gas or anaerobic digestion of agricultural products, by-products or wastes; or

(2) That relies on wind power installations.

**Sec. 4. 35-A MRSA §3210, sub-§2, ¶B-4** is enacted to read:

B-4. "New" as applied to any renewable capacity resource means a renewable capacity resource that:

(1) Has an in-service date after September 1, 2005;

(2) Was added to an existing facility after September 1, 2005;

(3) For at least 2 years was not operated or was not recognized by the New England independent system operator as a capacity resource and, after September 1, 2005, resumed operation or was recognized by the New England independent system operator as a capacity resource; or

(4) Was refurbished after September 1, 2005 and is operating beyond its previous useful life or is employing an alternate technology that significantly increases the efficiency of the generation process.

For the purposes of this paragraph, "capacity resource" has the same meaning as in section 3210-C, subsection 1, paragraph A.

**Sec. 5. 35-A MRSA §3210, sub-§2, ¶C,** as repealed and replaced by PL 1999, c. 398, Pt. I, §2, is amended to read:

C. "Renewable resource" means a source of electrical generation:

(1) That qualifies as a small power production facility under the Federal Energy Regulatory Commission rules, 18 Code of Federal Regulations, Part 292, Subpart B, as in effect on January 1, 1997; or

(2) Whose total power production capacity does not exceed 100 megawatts and that relies on one or more of the following:

(a) Fuel cells;

(b) Tidal power;

(c) Solar arrays and installations;

(d) Wind power installations;

(e) Geothermal installations;

(f) Hydroelectric generators;

(g) Biomass generators that are fueled by wood or wood waste, landfill gas or anaerobic digestion of agricultural products, by-products or wastes; or

(h) Generators fueled by municipal solid waste in conjunction with recycling.

**Sec. 6. 35-A MRSA §3210-C, sub-§1, ¶E,** as amended by PL 2007, c. 293, §1, is further amended to read:

E. "Renewable capacity resource" ~~means a renewable resource, as defined~~ has the same meaning as in section 3210, subsection 2, paragraph ~~C, except the maximum total power production capacity limit of 100 megawatts under section 3210, subsection 2, paragraph C does not apply and "renewable capacity resource" does not include:~~ B-3.

~~(1) A generator fueled by municipal solid waste in conjunction with recycling; or~~

~~(2) A hydroelectric generator unless it meets all state and federal fish passage requirements applicable to the generator.~~

**Sec. 7. 35-A MRSA §3212-A, sub-§1,** as amended by PL 2009, c. 329, Pt. B, §2, is further amended to read:

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Green power supply" means electricity or renewable energy credits for electricity generated from renewable capacity resources as defined in section ~~3210-C~~ 3210, subsection ~~1~~ 2, paragraph ~~E or from a generator fueled by landfill gas~~ B-3, including electricity generated by community-based renewable energy projects as defined in section 3602, subsection 1. ~~"Green power supply" includes a biomass generator, whose fuel may include, but is not limited to, anaerobic digestion of agricultural products, byproducts or wastes.~~

B. "Renewable energy credit" has the same meaning as in section 3210, subsection 2, paragraph ~~B-1, except that the total power production capacity limit of 100 megawatts under section 3210, subsection 2, paragraph C does not apply to wind power installations~~ B-2.

**Sec. 8. 35-A MRSA §3602, sub-§2,** as enacted by PL 2009, c. 329, Pt. A, §4, is amended to read:

**2. Eligible renewable resource.** "Eligible renewable resource" means a renewable capacity resource as defined in section 3210, subsection 2, paragraph ~~C, except that "eligible renewable resource" does not include a generator fueled by municipal solid waste in conjunction with recycling and does include a generator fueled by landfill gas. "Eligible renewable resource" includes a biomass generator whose fuel includes anaerobic digestion of agricultural products, byproducts or wastes~~ B-3.

See title page for effective date.

## CHAPTER 543

## S.P. 584 - L.D. 1519

### An Act To Ensure Search and Rescue Dogs Are Afforded Access to Public Accommodations without an Extra Charge

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

**Sec. 1. 12 MRSA §10105, sub-§4-A** is enacted to read:

**4-A. Search and rescue dogs.** A person assisting the commissioner under subsection 4 with a search and rescue dog certified by or in training with an organization recognized by the Bureau of Warden Service may be accompanied by the search and rescue dog in a place of public accommodation without being required to pay an extra charge or security deposit for the search and rescue dog. The owner of the search and rescue dog is liable for any damages done to the premises by that animal. For purposes of this subsection, "place of public accommodation" has the same meaning as in Title 5, section 4553, subsection 8, paragraph A.

See title page for effective date.

## CHAPTER 544

## H.P. 857 - L.D. 1238

### An Act Concerning the National Animal Identification System

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

**Sec. 1. 7 MRSA §1708** is enacted to read:

**§1708. National animal identification system**

**1. Mandatory system.** The commissioner may adopt rules to carry out the provisions of a national animal identification system, referred to in this section as "the system," only if the system becomes mandatory through final federal action pursuant to the Administrative Procedure Act, 5 United States Code, Section 500 et seq., as amended. If the system becomes mandatory but allows a farmer to opt out of the system, then the commissioner must inform the farmer of the farmer's right to opt out of the system. Rules adopted pursuant to this subsection may be no more stringent than federal law or regulation and are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

**2. Voluntary system.** If the system is voluntary, the commissioner may not:

A. Mandate or force participation in the system that regulates livestock or poultry as defined in section 1302, subsection 3, including premises registration, animal identification or the tracking or surveillance of livestock or poultry;

B. Withhold indemnity under section 1756 or 1757 based solely on nonparticipation in the system; or

C. Deny, revoke or limit a service, license, permit, grant or another benefit or incentive to a person if that person does not participate in the system.

**3. Municipal ordinance.** A municipality, county or other political subdivision may not adopt or maintain an ordinance, rule or regulation that requires participation in the system, including premises registration, animal identification or the tracking or surveillance of livestock or poultry as defined in section 1302, subsection 3, except in conformance with a program of the department. An ordinance, rule or regulation in violation of this subsection is void and unenforceable.

**4. Confidentiality.** Information provided to the commissioner for participation in the system, whether the system is mandatory or voluntary, is confidential and may not be disclosed, except that the commissioner may release a record, data or information collected under this section to another governmental entity as the commissioner determines necessary to prevent or control disease or to protect public health, safety or welfare. The commissioner may publish and release as public information summary reports using aggregate data that does not reveal the activities of an individual person or firm.

**5. Allowable acts.** This section does not prohibit:

A. The commissioner from establishing or participating in a disease control program specifically designed to address a known disease in a specific species of livestock;

B. The commissioner from implementing an animal identification, brand registration or inspection system or program authorized under state law; or

C. A private agricultural industry organization from establishing a voluntary source verification program for its own members or another person who elects to participate.

**6. Repeal.** This section is repealed January 1, 2013.

See title page for effective date.

## CHAPTER 545
## H.P. 575 - L.D. 839

### An Act To Authorize an Alternative Calculation of the Property Growth Factor for Municipalities with Exempt Personal Property

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

**Sec. 1. 30-A MRSA §5721-A, sub-§1, ¶C,** as enacted by PL 2005, c. 2, Pt. C, §1 and affected by §§3 and 5 and c. 12, Pt. WW, §16, is amended to read:

C. "Property growth factor" means the percentage equivalent to a fraction established by a municipality, whose denominator is the total valuation of the municipality, and whose numerator is the amount of increase in the assessed valuation of any real or personal property in the municipality that became subject to taxation for the first time, or taxed as a separate parcel for the first time for the most recent property tax year for which information is available, or that has had an increase in its assessed valuation over the prior year's valuation as a result of improvements to or expansion of the property. A municipality identified as having a personal property factor that exceeds 5%, as determined pursuant to Title 36, section 694, subsection 2, paragraph B, may calculate its property growth factor by including in the numerator and the denominator the value of personal and otherwise qualifying property introduced into the municipality notwithstanding the exempt status of that property pursuant to Title 36, chapter 105, subchapter 4-C.

See title page for effective date.

## CHAPTER 546
## H.P. 954 - L.D. 1364

### An Act To Stimulate the Economy by Expanding Opportunities for Direct Support Aides

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

**Sec. 1. 22 MRSA §7301, sub-§2, ¶C,** as amended by PL 2009, c. 279, §2 and c. 420, §1, is further amended to read:

C. That a variety of agencies, facilities and individuals must be encouraged to provide in-home and community support services and to increase the percentages of adults with long-term care needs receiving in-home and community support services provided by persons who are employed as personal care assistants or direct support aides or by other providers. For the purposes of this paragraph, "direct support aide" means a personal care worker or direct support worker who provides a range of services, including personal daily living supports, health supports and community supports, to adults with long-term care needs;

**Sec. 2. 22 MRSA §7301, sub-§2, ¶F,** as enacted by PL 2009, c. 279, §2 and c. 420, §1, is repealed and the following enacted in its place:

F. To establish the most efficient and cost-effective system for delivering a broad array of long-term care services.

**Sec. 3. Plan for developing direct support aide employment policies.** The Commissioner of Health and Human Services shall convene a work group of persons representing all of the significant parties, including but not limited to consumers and workers, interested in direct support aide employment policies, training programs and compensation rates. The work group shall review direct support aide employment to determine the extent to which the follow-

ing goals are being met in programs administered by the Department of Health and Human Services:

1. Development of a rational, equitable and clear framework for defining jobs, administering compensation, designing and delivering training and ensuring a sufficient and high-quality workforce;

2. Development of a logical sequence of employment tiers, showing employment and training links among long-term care and acute care jobs, in both facility-based and home-based services;

3. The establishment of a statewide job classification system of direct support job titles, including direct support aide, with an initial focus on personal care jobs within programs funded by the department;

4. The setting of rates for all jobs classified in the statewide job classification system for wages, benefits, training, travel, supervision and administrative costs, with a goal of achieving transparency and wage level parity across programs, with reimbursement rates that cover the cost of health insurance and workers' compensation, liability insurance, recruitment, background checks and motor vehicle violation checks; and

5. Consideration of a multidepartmental oversight entity to be established by statute or by executive action to be assigned responsibility and authority to implement and provide ongoing oversight of the recommendations regarding direct support aide employment policies that result from work undertaken pursuant to this section.

For the purposes of this section, "direct support aide" has the same meaning as defined in the Maine Revised Statutes, Title 22, section 7301, subsection 2, paragraph C.

See title page for effective date.

## CHAPTER 547

## H.P. 1124 - L.D. 1586

### An Act To Amend the Definition of "Farmers' Market"

**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 number of farmers' markets operating in the State increases abruptly in May; and

**Whereas,** it is desirable that revisions to statutes affecting farmers' markets go into effect prior to this seasonal increase; 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 §415, sub-§1,** as enacted by PL 1993, c. 138, §1, is amended to read:

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Farmers' market" means a building, structure or place used by 2 or more farmers for the direct sale of farm and food products to consumers, at which all sellers of farm and food products meet the requirements of subsection 2, paragraph B.

B. "Farm and food products" means any agricultural, horticultural, forest or other product of the soil or water, including, but not limited to, fruits, vegetables, eggs, dairy products, meat and meat products, poultry and poultry products, fish and fish products, grain and grain products, honey, nuts, maple products, apple cider, fruit juice, wine, ornamental or vegetable plants, nursery products, fiber or fiber products, firewood and Christmas trees.

**Sec. 2. 7 MRSA §415, sub-§2, ¶B,** as amended by PL 2005, c. 512, §5, is further amended to read:

B. A person may not sell farm and food products at a market labeled "farmers' market" unless at least 75% of the ~~product~~ products offered by that person ~~was~~ were grown or processed by that person or under that person's direction. A product not grown or processed by that person or under that person's direction must have been grown or processed by and purchased directly from another farmer and the name and location of the farm must be identified on the product or on a sign in close proximity to the displayed product.

**Sec. 3. 22 MRSA §2174** is enacted to read:

**§2174. Sale of baked goods at farmers' markets**

Notwithstanding section 2156 and rules adopted under section 2153, a person licensed under this subchapter and offering baked goods for sale at a farmers' market as defined in Title 7, section 415 may display and sell unpackaged baked goods in a manner that allows customers to directly select baked goods for purchase. For the purposes of this section, "baked goods" means breads, rolls, buns, flatbreads, cakes, cookies, pies and other pastries.

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

Effective March 25, 2010.

## CHAPTER 548
## H.P. 1125 - L.D. 1587

### An Act To Amend the Animal Welfare 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,** actions to increase funds available to both the State and municipalities charged with administering and enforcing the animal welfare and dog licensing laws will benefit administration and enforcement of those laws; and

**Whereas,** Public Law 2009, chapter 343, section 13 inadvertently reduced anticipated revenue to municipalities from the collection of late fees for dog licensing; 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 §3906-B, sub-§16,** as amended by PL 2005, c. 281, §4, is further amended to read:

**16. Animal welfare auxiliary fund.** The commissioner may accept gifts, donations, bequests, endowments, grants and matching funds from any private or public source for the purposes of ensuring the humane and proper treatment of animals and enhancing the administration and enforcement of this Part and Title 17, chapter 42. The commissioner shall deposit all funds accepted for these purposes and all proceeds from sales authorized under subsection 17 into a separate, nonlapsing account known as the animal welfare auxiliary fund. All gifts, donations, bequests, endowments, grants, proceeds and matching funds received must be used for the benefit of and accomplishment of the objectives in this Part and Title 17, chapter 42 and any gift, donation, bequest, endowment, grant or matching funds accepted with a stipulated purpose may be used only for that purpose.

All money deposited in the animal welfare auxiliary fund in accordance with section 1820-A, subsection 4 must be used for investigating alleged cases of mistreatment or abuse of equines and enhancing enforcement of this Part and Title 17, chapter 42 as these laws pertain to equines.

**Sec. 2. 7 MRSA §3906-B, sub-§17** is enacted to read:

**17. Fund-raising.** The commissioner may engage in the marketing and selling of general merchandise products to generate supplemental funds, which must be deposited in the animal welfare auxiliary fund established under subsection 16.

**Sec. 3. 7 MRSA §3923-A, sub-§4,** as amended by PL 2009, c. 343, §13, is further amended to read:

**4. Late fees.** An owner or keeper required to license a dog under section 3922, subsection 1 or section 3923-C, subsection 1 and applying for a license for that dog after January 31st shall pay to the municipal clerk or dog recorder a late fee of ~~$15~~ $25 in addition to the annual license fee paid in accordance with subsection 1 or 2 and section 3923-C, subsection 1. The clerk or dog recorder shall deposit all late fees collected under this subsection into the municipality's animal welfare account established in accordance with section 3945.

**Sec. 4. 7 MRSA §4041, sub-§1-A,** as amended by PL 2007, c. 439, §29, is further amended to read:

**1-A. Trespass.** An owner or keeper of an animal may not allow that animal to enter onto or remain on the property of another or unattended on any local, county or state road or highway after the owner or keeper has been informed by a law enforcement officer or animal control officer that that animal was found on ~~the~~ that property ~~of another~~ or on that local, county or state road or highway.

**Sec. 5. 7 MRSA §4041, sub-§4,** as amended by PL 1999, c. 254, §15, is further amended to read:

**4. Fine.** A ~~forfeiture~~ fine of not less than $50 nor more than $500 must be adjudged for a civil violation under subsection 3. In addition, the court may as part of the sentencing include an order of restitution for costs incurred in removing and controlling the animal. When appropriate, the court may order restitution to the property owner based on damage done and financial loss. Any restitution ordered and paid must be deducted from the amount of any judgment awarded in a civil action brought by the owner against the offender based on the same facts. When an owner or keeper violates this section 3 or more times within a 90-day period, the court shall order restitution of all costs incurred by the department in assisting an animal control officer or law enforcement officer responding to a violation of this section.

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

Effective March 25, 2010.

## CHAPTER 549
## H.P. 1106 - L.D. 1569

### An Act To Clarify the Informed Growth 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,** recent local interpretations of the Informed Growth Act have been inconsistent, resulting in unpredictability for developers; and

**Whereas,** it is important for economic growth to clarify the Informed Growth Act to encourage timely local economic development; 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 §4366, sub-§6,** as enacted by PL 2007, c. 347, §1, is amended to read:

**6. Large-scale retail development.** "Large-scale retail development" means any retail business establishment having a gross floor area of 75,000 square feet or more in one or more buildings at the same location, and any expansion ~~or renovation~~ of an existing building or buildings that results in a retail business establishment's having a gross floor area of 75,000 square feet or more in one or more buildings except when the expansion of an existing retail business establishment is less than 20,000 square feet. Other retail business establishments on the same site as the large-scale retail business establishment are not included in this definition unless they share a common check stand, management, controlling ownership or storage areas.

**Sec. 2. 30-A MRSA §4372** is enacted to read:

**§4372. Existing structure**

This subchapter does not apply to a retail business establishment proposing to occupy an existing building in which the most recent occupant was a large-scale retail development as long as no increase greater than 20,000 square feet in gross floor area is proposed.

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

Effective March 25, 2010.

## CHAPTER 550
## S.P. 615 - L.D. 1650

### An Act To Amend Provisions of Certain Laws Relating to Fish and Wildlife

**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 is intended to advance the date upon which the open water fishing season for 2010 begins; 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 §10351, sub-§2,** as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

**2. Deputy game wardens.** The commissioner may appoint, on a temporary basis, ~~assistant~~ deputy game wardens.

**Sec. 2. 12 MRSA §10352, sub-§2,** as amended by PL 2007, c. 421, §1, is further amended to read:

**2. Compensation.** The compensation of the wardens appointed pursuant to section 10351, subsection 1 is determined under the Civil Service Law. ~~Assistant~~ Deputy game wardens appointed pursuant to section 10351, subsection 2 are not entitled to compensation but, at the discretion of the Game Warden Colonel and approval of the commissioner, may be compensated for mandatory assignments and for attendance at mandatory training or other required meetings or classes and reimbursed for approved expenses.

**Sec. 3. 12 MRSA §11224, sub-§1,** as enacted by PL 2007, c. 168, §5, is amended to read:

**1. Prohibition.** A person may not waste a wild bird or wild animal that has been wounded or killed by that person while hunting. For purposes of this section, "waste" means to intentionally leave a wounded or killed animal in the field or forest without making a

reasonable effort to retrieve and render it for consumption or use. This subsection does not apply to coyote.

**Sec. 4. 12 MRSA §11302, sub-§1,** as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

**1. Limit on number of dogs.** A person may not, while either hunting alone or hunting with other persons, use more than ~~4~~ 6 dogs at any one time to hunt bear.

**Sec. 5. 12 MRSA §11801, sub-§2, ¶A,** as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

A. Employ the use of a dog or dogs in any manner while hunting wild turkeys except during the fall wild turkey hunting season;

**Sec. 6. 12 MRSA §12001, sub-§1,** as amended by PL 2009, c. 46, §1, is further amended to read:

**1. Open night hunting season.** Notwithstanding the night hunting prohibitions in section 11206-A, there is an open season for hunting coyotes at night in all counties of the State from December 16th to ~~June 1st~~ August 31st.

**Sec. 7. 12 MRSA §12051, sub-§1,** as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

**1. Open training season.** Unless otherwise provided in this Part, a person may not train dogs on wild birds and wild animals except as follows.

A. A person may train dogs on foxes, rabbits and raccoons from July 1st through the following March 31st, including Sundays.

B. A person may train sporting dogs on wild birds at any time, including Sundays.

C. A resident may train up to ~~4~~ 6 dogs at any one time on bear from ~~August~~ July 1st to the first day of the open season on hunting bear, except in those portions of Washington County and Hancock County that are situated south of Route 9.

A person may not engage in activities authorized under this subsection unless that person possesses a valid hunting license issued under section 11109.

A person who violates this subsection commits a Class E crime.

**Sec. 8. 12 MRSA §12457, sub-§1, ¶A,** as amended by PL 2005, c. 477, §15, is further amended to read:

A. The area within 150 feet of any operational fishway, except:

(1) At the following places, the fishway and the area within 75 feet of any part of the fishway are closed to fishing at all times:

(a) Grand Falls Powerhouse Dam on the St. Croix River in Baileyville; and

(b) Woodland Dam on the St. Croix River in Baileyville;

(2) At the following places, the area within the fishway and within 75 feet of the downstream mouth of the fishway is closed to fishing at all times:

(a) East Grand Lake Dam in Forest City Township, T9 R4 NBPP, except that fishing upstream from the dam at the top of the fishway is lawful;

(2-A) At the following places, the area within 75 feet of the mouth of the fishway is closed to fishing at all times:

(a) Spednic Lake Dam in Vanceboro;

(3) At the so-called ice control dam on the Narraguagus River in the Town of Cherryfield, the area within 100 feet of the dam must be closed to fishing at all times;

(4) At East Outlet Dam in Sapling Township, T1R7, in Somerset County and in Big Moose Township, T2R6, in Piscataquis County at the outlet of Moosehead Lake, the fishway and the area within 50 feet of any part of the fishway must be closed to fishing at all times; and

(5) There is no fishing in or from the fishway at the Sheepscot Lake Dam in the Town of Palermo in Waldo County, Chain of Ponds Dam in Chain of Ponds Township in Franklin County or Long Pond Dam in Seven Ponds Township in Franklin County;

**Sec. 9. 38 MRSA §571,** as repealed and replaced by PL 1977, c. 696, §344, is repealed and the following enacted in its place:

**§571. Corrupting waters forbidden**

**1. Prohibition.** A person may not:

A. Intentionally or knowingly poison, defile or in any way corrupt the water of any well, spring, brook, lake, pond, river or reservoir used for domestic drinking purposes;

B. Knowingly corrupt the sources of any public water supply, or the tributaries of those sources of supply, in a manner that affects the purity of the water supplied;

C. Knowingly defile waters identified in paragraphs A and B in any manner, whether the water is frozen or not; or

D. Put a carcass of any dead animal or other offensive material in waters identified in paragraphs A and B or on the ice of those waters. A person may place the carcass of a dead animal on the ice of a brook, great pond or river for purposes of coyote hunting as long as the carcass is removed before the ice supporting that carcass is gone. This paragraph does not authorize a person to enter the property owned by another person without the permission of the property owner.

**2. Penalty.** A person who violates this section commits a Class A crime.

**Sec. 10. Open water fishing season.** Except as otherwise provided in a rule adopted by the Department of Inland Fisheries and Wildlife that is specific to a particular body of water in the State, the open water fishing season for 2010 begins on the effective date of this Act. The rules adopted by the department governing open water fishing and ice fishing for the 2008-2009 season remain in effect until April 1, 2010. This section is repealed April 1, 2010.

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

Effective March 25, 2010.

## CHAPTER 551

## S.P. 575 - L.D. 1497

### An Act To Amend the Law Pertaining to Smoke Detectors and Carbon Monoxide Detectors

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

**Whereas,** smoke detectors and carbon monoxide detectors clearly save lives and property and widespread use must be promoted; 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 §2464, sub-§2,** as repealed and replaced by PL 2009, c. 162, §1, is repealed.

**Sec. 2. 25 MRSA §2464, sub-§2-A** is enacted to read:

**2-A. Smoke detectors required.** The owner shall properly install, or cause to be properly installed, in accordance with the manufacturer's requirements at the time of installation, smoke detectors in:

A. A single-family dwelling the construction of which is completed after January 1, 1982;

B. Each unit in a building of multifamily occupancy;

C. An addition to or restoration of an existing single-family dwelling that adds at least one bedroom to the dwelling and the construction of which is completed after September 19, 1985; and

D. A conversion of a building to a single-family dwelling completed after September 19, 1985.

A smoke detector installed or replaced, after the effective date of this subsection, within 20 feet of a kitchen or of a bathroom containing a tub or shower must be a photoelectric-type smoke detector except that ionization detectors are permitted within the bedrooms even if the bedroom is within 20 feet of a kitchen or bathroom containing a tub or shower.

**Sec. 3. 25 MRSA §2464, sub-§6,** as amended by PL 2009, c. 162, §2, is further amended to read:

**6. Liability.** Nothing in this section gives rise to any action against an owner required to comply with subsection ~~2~~ 2-A or subsection 9, paragraph A if the owner has conducted an inspection of the required smoke detectors immediately after installation and has reinspected the smoke detectors prior to occupancy by each new tenant, unless the owner has been given at least 24 hours' actual notice of a defect or failure of the smoke detector to operate properly and has failed to take action to correct the defect or failure.

**Sec. 4. 25 MRSA §2464, sub-§9,** as enacted by PL 2009, c. 162, §3, is amended to read:

**9. Rental units.** In ~~an apartment~~ a unit occupied under the terms of a rental agreement or under a month-to-month tenancy:

A. At the time of each occupancy, the landlord shall provide smoke detectors if they are not already present. The smoke detectors must be in working condition. After notification, in writing, of any deficiencies by the tenant, the landlord shall repair or replace the smoke detectors. If the landlord did not know and had not been notified of the need to repair or replace a smoke detector, the landlord's failure to repair or replace the smoke detector may not be considered as evidence of negligence in a subsequent civil action arising from death, property loss or personal injury; ~~and~~

B. The tenant shall keep the smoke detectors in working condition by keeping charged batteries in ~~battery-operated~~ the smoke detectors, by testing

the smoke detectors periodically and by refraining from disabling the smoke detectors.; and

C. The landlord may install 10-year sealed tamper-resistant battery-powered smoke detectors if the unit is a single-family dwelling.

**Sec. 5. 25 MRSA §2464, sub-§10,** as enacted by PL 2009, c. 162, §4, is amended to read:

**10. Transfer of dwelling.** A person who, after October 31, 2009, acquires by sale or exchange a single-family dwelling or a multiapartment building shall install smoke detectors in the acquired dwelling within 30 days of acquisition or occupancy of the dwelling, whichever is later, if smoke detectors are not already present, and shall certify at the closing of the transaction that ~~the dwelling or multiapartment building is provided with smoke detectors in accordance with this section~~ the purchaser will make the proper installation. This certification must be signed and dated by the purchaser. The smoke detectors must be installed in accordance with the manufacturer's requirements at the time of installation. The smoke detectors must be powered by the electrical service in the building or by battery.

A person may not have a claim for relief against a property owner, a property purchaser, an authorized agent of a property owner or purchaser, a person in possession of real property ~~or a smoke detector installer~~, a closing agent or a lender for any damages resulting from the ~~proper~~ operation, maintenance or effectiveness of a smoke detector.

Violation of this subsection does not create a defect in title.

**Sec. 6. 25 MRSA §2468, sub-§1, ¶B,** as enacted by PL 2009, c. 162, §5, is amended to read:

B. "~~Electrical~~ Powered by the electrical service" means ~~powered by a battery and~~ either ~~a device~~ plugged into an electrical outlet or hardwired.

**Sec. 7. 25 MRSA §2468, sub-§2,** as enacted by PL 2009, c. 162, §5, is amended to read:

**2. Carbon monoxide detectors required.** The owner shall install, or cause to be installed, by the manufacturer's requirements at least one approved carbon monoxide detector in each area within, or giving access to, bedrooms in:

A. Each ~~apartment~~ unit in any building of multifamily occupancy;

B. Any addition to or restoration of an existing single-family dwelling that adds at least one bedroom to the dwelling unit; and

C. Any conversion of a building to a single-family dwelling.

A carbon monoxide detector must be powered both by the electrical service in the building or dwelling and by battery.

**Sec. 8. 25 MRSA §2468, sub-§4,** as enacted by PL 2009, c. 162, §5, is amended to read:

**4. New construction.** A person who constructs a single-family dwelling shall install at least one carbon monoxide detector in each area within, or giving access to, any bedroom in the dwelling. The carbon monoxide detector must be powered both by the electrical service in the dwelling and by battery.

**Sec. 9. 25 MRSA §2468, sub-§5,** as enacted by PL 2009, c. 162, §5, is amended to read:

**5. Rental units.** In ~~an apartment~~ a unit occupied under the terms of a rental agreement or under a month-to-month tenancy:

A. At the time of each occupancy, the landlord shall provide carbon monoxide detectors if carbon monoxide detectors are not already present. The carbon monoxide detectors must be in working condition. After notification, in writing, of any deficiencies by the tenant, the landlord shall repair or replace the carbon monoxide detectors. If the landlord did not know and had not been notified of the need to repair or replace a carbon monoxide detector, the landlord's failure to repair or replace the carbon monoxide detector may not be considered as evidence of negligence in a subsequent civil action arising from death, property loss or personal injury; and

B. The tenant shall keep the carbon monoxide detectors in working condition by keeping the carbon monoxide detectors connected to the electrical service in the building, by keeping charged batteries in ~~battery-operated~~ carbon monoxide detectors backed up by batteries, by testing the carbon monoxide detectors periodically and by refraining from disabling the carbon monoxide detectors.

**Sec. 10. 25 MRSA §2468, sub-§6,** as enacted by PL 2009, c. 162, §5, is amended to read:

**6. Transfer of dwelling.** A person who, after October 31, 2009, acquires by sale or exchange a single-family dwelling or a multiapartment building shall install carbon monoxide detectors in the acquired dwelling within 30 days of acquisition or occupancy of the dwelling, whichever is later, if carbon monoxide detectors are not already present, and shall certify at the closing of the transaction that the ~~dwelling or multiapartment building is provided with carbon monoxide detectors in accordance with this section~~ purchaser will make the proper installation. This certification must be signed and dated by the purchaser. The carbon monoxide detectors must be installed in accordance with the manufacturer's requirements at the time

of installation in each area within, or giving access to, bedrooms and must be powered both by the electrical service in the dwelling or building and by battery.

A person may not have a claim for relief against a property owner, a property purchaser, an authorized agent of a property owner or purchaser, a person in possession of real property ~~or a carbon monoxide detector installer~~, a closing agent or a lender for any damages resulting from the ~~proper~~ operation, maintenance or effectiveness of a carbon monoxide detector.

Violation of this subsection does not create a defect in title.

**Sec. 11. PL 2009, c. 162, §6** is amended to read:

**Sec. 6. Transfer funds from Department of Public Safety, Office of the State Fire Marshal.** The Commissioner of Public Safety ~~shall~~ may transfer up to $100,000 from the Department of Public Safety, Office of the State Fire Marshal for the purpose of purchasing carbon monoxide detectors for distribution through the Maine State Housing Authority, community action agencies, local fire departments, associations representing realtors and any other organizations that could be used to promote the placement of carbon monoxide detectors in homes. Only organizations that are willing and have the ability to properly install these detectors are eligible to participate in this program. Purchase of carbon monoxide detectors may not be made, or a contract executed, without the approval of the Director of the Bureau of General Services within the Department of Administrative and Financial Services.

**Sec. 12. Appropriations and allocations.** The following appropriations and allocations are made.

**PUBLIC SAFETY, DEPARTMENT OF**

**Fire Marshal - Office of 0327**

Initiative: Provides one-time funding for the purchase of carbon monoxide detectors and educational materials.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $115,000 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $115,000 |

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

Effective March 25, 2010.

## CHAPTER 552

## H.P. 1293 - L.D. 1806

### An Act To Implement the Recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry Regarding Review of the Department of Agriculture, Food and Rural Resources 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 2005, c. 550, §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 ~~2009~~ 2017;

(2) Department of Conservation in 2011;

(3) Blueberry Advisory Committee in 2011;

(4) Board of Pesticides Control in 2011;

(5) Wild Blueberry Commission of Maine in 2011;

(6) Seed Potato Board in 2011;

(7) Maine Dairy and Nutrition Council in ~~2007~~ 2015;

(8) Maine Dairy ~~Promotions~~ Promotion Board in ~~2007~~ 2015;

(9) Maine Milk Commission in ~~2007~~ 2015;

(10) State Harness Racing Commission in ~~2007~~ 2015;

(11) Maine Agricultural Bargaining Board in ~~2009~~ 2017;

(12) Department of Agriculture, Food and Rural Resources in ~~2009~~ 2017; and

(14) Land for Maine's Future Board in ~~2007~~ 2015.

**Sec. 2. 5 MRSA §933, sub-§1, ¶K,** as enacted by PL 2005, c. 337, §2 and affected by §4, is repealed.

**Sec. 3. 5 MRSA §933, sub-§1, ¶L,** as amended by PL 2009, c. 462, Pt. K, §1, is repealed.

**Sec. 4. 5 MRSA §933, sub-§1, ¶N,** as enacted by PL 2005, c. 337, §2 and affected by §4, is amended to read:

N. Director, Division of Quality Assurance and Regulation.;

**Sec. 5. 5 MRSA §933, sub-§1, ¶O** is enacted to read:

O. Director, Division of Agriculture Resource Development; and

**Sec. 6. 5 MRSA §933, sub-§1, ¶P** is enacted to read:

P. Director, Division of Animal and Plant Health.

**Sec. 7. Resolve 2009, c. 63, Sec. 1** is amended to read:

**Sec. 1. Commissioner of Agriculture, Food and Rural Resources to develop best management practices for poultry production. Resolved:** That the Commissioner of Agriculture, Food and Rural Resources shall develop best management practices for the production and maintenance of poultry at facilities with more than 10,000 birds ~~and adopt rules to establish standards for these facilities based on the best management practices~~. The best management practices must be available on the Department of Agriculture, Food and Rural Resources' publicly accessible website and included in the next publication of the Manual of Best Management Practices for Maine Agriculture by the department's division of animal health and industry. ~~Rules adopted in accordance with this section are major substantive rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A~~; and be it further

See title page for effective date.

## CHAPTER 553

## H.P. 899 - L.D. 1296

### An Act To Strengthen the Job Creation Through Educational Opportunity Program

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

### PART A

**Sec. A-1. 20-A MRSA §12541, sub-§1,** as enacted by PL 2007, c. 469, Pt. A, §1, is amended to read:

**1. Accredited Maine community college, college or university.** "Accredited Maine ~~junior~~ community college, college or university" means an institution that is accredited by a regional accrediting association or by one of the specialized accrediting agencies recognized by the United States Secretary of Education and is:

A. Any campus of the Maine Community College System;

B. Any campus of the University of Maine System;

C. The Maine Maritime Academy;

D. Any educational institution that is located in this State and has authorization to confer an associate degree or a bachelor's degree, in accordance with sections 10704 and 10704-A;

E. Any educational institution that is located in this State and is exempted from chapter 409 under section 10708, subsections 1 and 2; and

F. Any educational institution that is located in this State and is operating under a certificate of temporary approval from the state board under section 10703, to the extent that a student is ultimately able either to obtain an associate or a bachelor's degree at that institution or to transfer to and obtain a degree from an institution described in paragraphs A to E.

**Sec. A-2. 20-A MRSA §12541, sub-§2,** as enacted by PL 2007, c. 469, Pt. A, §1, is amended to read:

**2. Benchmark loan payment.** "Benchmark loan payment" means the figure described in section 12542, subsection ~~2~~ 2-A, paragraph ~~C~~ D.

**Sec. A-3. 20-A MRSA §12541, sub-§2-A** is enacted to read:

**2-A. Educational cost-of-living adjustment.** "Educational cost-of-living adjustment" means for any calendar year an amount equal to the average tuition and fees at the University of Maine System for a bachelor's degree or at the Maine Community College System for an associate degree for the academic year beginning in the prior calendar year, divided by the average tuition and fees for that degree in that system for the academic year beginning in the calendar year immediately preceding the prior calendar year.

**Sec. A-4. 20-A MRSA §12541, sub-§4-A** is enacted to read:

**4-A. Financial aid package.** "Financial aid package" means all financial aid received by a student and includes any loans that are certified by an accredited Maine community college, college or university's financial aid office, subject to any changes made by that institution's financial aid office. These loans may include private loans for the cost of attendance at an accredited Maine community college, college or university or less than the full amount of loans under federal programs, depending on the practices of the ac-

credited Maine community college, college or university.

**Sec. A-5. 20-A MRSA §12541, sub-§5,** as enacted by PL 2007, c. 469, Pt. A, §1, is amended to read:

**5. Maine resident.** "Maine resident" means an individual who qualifies for Maine residence under Title 21-A, section 112. An individual is a Maine resident if, at the time the individual commences the relevant degree program, the individual is registered to vote in the State or occupies a dwelling in the State and continues to occupy a dwelling in the State during the school year, except periods when it is reasonably necessary for the individual to live elsewhere as part of an accredited Maine community college, college or university's academic programs.

**Sec. A-6. 20-A MRSA §12541, sub-§6,** as enacted by PL 2007, c. 469, Pt. A, §1, is repealed.

**Sec. A-7. 20-A MRSA §12541, sub-§7,** as enacted by PL 2007, c. 469, Pt. A, §1, is amended to read:

**7. Principal cap.** "Principal cap" means the cap described in section 12542, subsection ~~2~~ 2-A.

**Sec. A-8. 20-A MRSA §12542, sub-§2,** as enacted by PL 2007, c. 469, Pt. A, §1, is repealed.

**Sec. A-9. 20-A MRSA §12542, sub-§2-A** is enacted to read:

**2-A. Principal cap.** The principal cap limits the loan principal for purposes of claiming the educational opportunity tax credit. The University of Maine System and the Maine Community College System shall publish on their respective publicly accessible websites the average in-state tuition and mandatory fees applicable to their respective programs and provide those figures to the State Tax Assessor and all accredited Maine community colleges, colleges and universities by September 1st each year.

A. For an individual graduating in 2010, the individual's principal cap is $7,865 for a bachelor's degree earner or $3,300 for an associate degree earner, multiplied by the number of years of full-time attendance to obtain the relevant degree.

B. Beginning in 2010, by November 1st annually the State Tax Assessor shall multiply the educational cost-of-living adjustment by the principal cap applicable to individuals who graduate in that calendar year; the result is the principal cap for individuals who graduate during the following calendar year.

C. For an individual earning a degree from an accredited Maine community college, college or university, the relevant accredited Maine community college, college or university shall certify, once the individual has earned the degree, the total principal of loans the individual received as part of that individual's financial aid package.

D. For an individual whose student loans exceed the principal cap, 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. A-10. 20-A MRSA §12542, sub-§3,** as enacted by PL 2007, c. 469, Pt. A, §1, is amended to read:

**3. Eligibility for the program.** ~~The state board shall draft an opportunity contract for use in enrolling individuals in the program. The terms of the opportunity contract must require an individual who wishes~~ To be eligible to participate in the program ~~to~~:

A. ~~Certify that that~~ An individual ~~is~~ must be a Maine resident;

B. ~~Agree to~~ An individual must attend and ~~to~~ obtain ~~a specified degree, either~~ an associate degree or a bachelor's degree~~,~~ from an accredited Maine ~~junior~~ community college, college or university. The individual need not obtain the degree from the institution in which that individual originally enrolled, ~~so~~ as long as all course work toward the degree is performed at accredited Maine ~~junior~~ community colleges, colleges or universities;

C. ~~Agree to~~ 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. The individual ~~shall~~ 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

D. ~~Agree to~~ An individual must maintain records relating to loan payments claimed under the educational opportunity tax credit for 5 years after those payments are claimed~~; and~~.

~~E. With respect to educational loans, agree to the following:~~

~~(1) 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;~~

~~(2) If the individual in any way accelerates repayment, the individual forfeits any right to~~

~~claim an educational opportunity tax credit for that taxable year or any future taxable year; and~~

~~(3) The individual may refinance said loans only if they remain separate from other debt and if the effect of the refinancing is to decrease both the annual repayment and the total remaining indebtedness.~~

~~In exchange for the consideration outlined in paragraphs B to E, the State shall agree to permit the individual to take advantage of the educational opportunity tax credit.~~

~~The opportunity contract must leave space for the accredited Maine junior college, college or university to certify that the individual has obtained the relevant degree, and to certify whether or not the loan principal that the individual incurs in pursuing the relevant degree exceeds the principal cap.~~

**Sec. A-11. 20-A MRSA §12542, sub-§3-A** is enacted to read:

**3-A. Educational loans.** The following provisions apply with respect to an individual's educational loans.

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.

B. If the individual makes any prepayment, that prepayment is not eligible for the educational opportunity tax credit.

C. The individual, including an individual who has graduated from an accredited Maine community college, college or university after January 1, 2008, may refinance educational loans only if they remain separate from other debt, whether noneducational debt or educational debt incurred in a program other than the degree program for which the educational opportunity tax credit is claimed.

**Sec. A-12. 20-A MRSA §12542, sub-§4,** as enacted by PL 2007, c. 469, Pt. A, §1, is repealed.

**Sec. A-13. 20-A MRSA §12542, sub-§4-A** is enacted to read:

**4-A. Administration.** The program must be administered as described in this subsection.

A. The department, in consultation with the State Tax Assessor, shall make information about the program available on the department's publicly accessible website. The department shall refer any questions regarding the program to the relevant accredited Maine community college, college or university's financial aid office. The assessor shall provide to an accredited Maine community college, college or university information that is necessary to document a student's eligibility for the educational opportunity tax credit.

B. A Maine resident who enrolls in an accredited Maine community college, college or university who receives financial aid in the form of loans must have the opportunity to participate in the program. An accredited Maine community college, college or university shall, at a minimum, provide information about the program in financial aid award materials, entrance interviews, exit interviews, materials listing financial aid resources and, as appropriate, any promotional materials provided by state agencies, to the extent such contacts with students are already part of the accredited Maine community college, college or university's procedures.

C. An accredited Maine community college, college or university must document for the student information required for purposes of the educational opportunity tax credit. The accredited Maine community college, college or university shall provide an original or certified copy to the student and shall retain a copy of the documentation in its files for at least 10 years after the student graduates.

D. An individual may take advantage of any forbearance or deferment provisions in the relevant loan agreements without forfeiting the right to claim the educational opportunity tax credit when the individual resumes repayment. This paragraph applies to a student that obtained a bachelor's or associate degree from an accredited Maine community college, college or university after September 20, 2007.

**Sec. A-14. 20-A MRSA §12542, sub-§5,** as enacted by PL 2007, c. 469, Pt. A, §1, is amended to read:

**5. Effective date; participation by individual already enrolled in degree program.** The program must commence for the first semester that begins after the effective date of this chapter. A Maine ~~residents~~ resident who when the program commences ~~are~~ is enrolled in an associate or a bachelor's degree program at an accredited Maine ~~junior~~ community college, college or university may participate, subject to the same essential terms as other program participants. ~~When such an individual obtains the relevant degree, it must be specified in the individual's opportunity contract what percentage of the course work completed in pursuit of the degree was performed while the individual was participating in the program. The principal cap and benchmark loan payment must be calculated in the ordinary way as provided in this chapter, but the individual must then apply the percentage in this subsection to actual payments or to the benchmark loan payment, whichever applies, in determining the amount~~

~~the individual can claim under the educational opportunity tax credit for a given year.~~ Such an individual need only meet the eligibility requirements in subsection 3 from January 1, 2008 forward.

**Sec. A-15. 20-A MRSA §12542, sub-§6** is enacted to read:

**6. Promotion by state agencies.** The department, the Finance Authority of Maine, the Department of Economic and Community Development and any other agency engaging in education-related outreach shall integrate promotion of the program into existing educational opportunity outreach efforts to the extent possible in a manner consistent with the scope of the program and its centrality to the State's efforts to raise educational attainment.

**Sec. A-16. 20-A MRSA §12543,** as enacted by PL 2007, c. 469, Pt. A, §1, is amended to read:

**§12543. Effect on funding of higher education**

It is the intent of the Legislature that neither the existence of the program nor the benefits provided under the educational opportunity tax credit serve as justification to decrease other funds appropriated or allocated to accredited Maine ~~junior~~ community colleges, colleges or universities, including institutions in the Maine Community College System and the University of Maine System, or to other higher education programs.

**Sec. A-17. 20-A MRSA §12544,** as enacted by PL 2007, c. 469, Pt. A, §1, is repealed.

**Sec. A-18. Report on progress in implementation.** An accredited Maine community college, college or university, as defined in the Maine Revised Statutes, Title 20-A, section 12541, subsection 1, shall report to the Department of Education in writing by February 1, 2011 and by February 1, 2012 on efforts to promote and enroll individuals in the Job Creation Through Educational Opportunity Program and to train admissions and financial aid staff about the program. The department shall convey the information gathered pursuant to this section to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs by March 1, 2011 and March 1, 2012. The State Tax Assessor shall report on implementation of the program to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs by March 1, 2011 and March 1, 2012.

**Sec. A-19. Repeal of current rules.** The State Board of Education shall repeal Chapter 145 of Title 05-071 of the Code of Maine Rules.

## PART B

**Sec. B-1. 36 MRSA §5122, sub-§2, ¶FF** is enacted to read:

FF. To the extent included in federal adjusted gross income, student loan payments made by the taxpayer's employer in accordance with section 5217-D.

**Sec. B-2. 36 MRSA §5217-D, sub-§1, ¶F,** as enacted by PL 2007, c. 469, Pt. B, §1, is repealed.

**Sec. B-3. 36 MRSA §5217-D, sub-§1, ¶G,** as enacted by PL 2007, c. 469, Pt. B, §1, is amended to read:

G. "Opportunity program participant" means an individual who ~~enters into an opportunity contract with the State,~~ obtains the specified degree and complies with the requirements under Title 20-A, section 12542~~, subsections 3 to 5~~.

**Sec. B-4. 36 MRSA §5217-D, sub-§3,** as enacted by PL 2007, c. 469, Pt. B, §1, is amended to read:

**3. Calculation of the credit.** The ~~following provisions govern the calculation of the~~ credit in this section is determined on the basis of the amount under paragraph A or paragraph B, whichever is less, multiplied by the proration factor. For purposes of this subsection, the proration factor is the amount derived by dividing the total number of academic credit hours earned for a bachelor's or associate degree after December 31, 2007 by the total number of academic credit hours earned for the bachelor's or associate degree.

A. If the ~~relevant opportunity program participant's opportunity contract limits the amount of the credit to a~~ benchmark loan payment~~, and the relevant opportunity program participant's~~ is less than the actual monthly ~~payment due is higher than that~~ amount, then the credit claimed may not exceed the product of the benchmark loan payment and the number of months during the taxable year in which the taxpayer made loan payments.

B. If the ~~relevant~~ opportunity program participant's ~~opportunity contract certifies that the principal for the relevant loans is at or below the level of the principal cap, or if the relevant opportunity program participant's~~ actual monthly loan payment amount is ~~below~~ less than the benchmark loan payment, the ~~taxpayer may claim a~~ credit must be based ~~only~~ on ~~regularly scheduled~~ the actual loan payments ~~actually~~ made during the taxable year.

~~C. If the credit is claimed on behalf of an individual who was already enrolled in an associate or a bachelor's degree program at an accredited Maine junior college, college or university, as defined in Title 20-A, section 12541, subsection 1, on the commencement of the Job Creation Through Educational Opportunity Program under Title 20-A, chapter 428-C, the percentage figure~~

~~listed in the opportunity contract, as specified under Title 20-A, section 12542, subsection 5, must be applied to the amount determined under paragraph A or B.~~

**Sec. B-5. Application.** This Part applies to tax years beginning on or after January 1, 2010.

See title page for effective date.

## CHAPTER 554

## S.P. 581 - L.D. 1503

### An Act To Establish Emergency Zones on Public Ways To Minimize Accidents

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

**Sec. 1. 29-A MRSA §2074, sub-§1-A** is enacted to read:

**1-A. Emergency zone.** A person shall operate a vehicle at a careful and prudent speed not greater than is reasonable and proper when approaching or passing through an emergency zone, having due regard for the safety of any individual present in the emergency zone and the physical characteristics of the emergency zone.

For purposes of this subsection, "emergency zone" means any portion of a way where at least one stationary ambulance or emergency medical service, fire department, hazardous material response or police vehicle is located with emergency lights in use for the purpose of rendering medical assistance or responding to an event when the situation presents a risk of harm to a person using the way or an area immediately adjacent to the way. An emergency zone may be identified by any method reasonably visible to an approaching operator, including, but not limited to, vehicle emergency lights, signs, traffic cones, flaggers or mobile lighting.

A person who violates this subsection commits a traffic infraction punishable by a fine of not less than $250.

See title page for effective date.

## CHAPTER 555

## H.P. 1223 - L.D. 1722

### An Act To Strengthen Protection from Abuse and Protection from Harassment Laws

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

**Sec. 1. 5 MRSA §4654, sub-§8** is enacted to read:

**8. Service of order; use of electronic copies.** Notwithstanding any other provision of law, service of an order may be made pursuant to this section through the use of electronically transmitted printed copies of orders that have been transmitted directly from the court to the law enforcement agency or correctional facility making service. Return of proof of service may be made by electronic transmission of the proof of service directly to the court from the law enforcement officer making service or the chief administrative officer, or the chief administrative officer's designee, of the correctional facility making service.

In any subsequent criminal prosecution for violation of this section when the service of an order was made through the use of an electronically transmitted printed copy of the order, with 10 days' advance written notice to the prosecution, the defendant may request that the prosecution call as a witness the law enforcement officer who served the order or the chief administrative officer, or the chief administrative officer's designee, of the correctional facility that served the order.

**Sec. 2. 5 MRSA §4655, sub-§6, ¶A** is enacted to read:

A. Notwithstanding any other provision of law, service of an order may be made pursuant to this section through the use of electronically transmitted printed copies of orders that have been transmitted directly from the court to the law enforcement agency or correctional facility making service. Return of proof of service may be made by electronic transmission of the proof of service directly to the court from the law enforcement officer making service or the chief administrative officer, or the chief administrative officer's designee, of the correctional facility making service.

**Sec. 3. 5 MRSA §4655, sub-§6, ¶B** is enacted to read:

B. In any subsequent criminal prosecution for violation of this section when the service of an order was made through the use of an electronically transmitted printed copy of the order, with 10 days' advance written notice to the prosecution, the defendant may request that the prosecution call as a witness the law enforcement officer who served the order or the chief administrative officer, or the chief administrative officer's designee, of the correctional facility that served the order.

**Sec. 4. 19-A MRSA §4006, sub-§6, ¶A** is enacted to read:

A. Notwithstanding any other provision of law, service of an order may be made pursuant to this section through the use of electronically transmitted printed copies of orders that have been trans-

mitted directly from the court to the law enforcement agency or correctional facility making service. Return of proof of service may be made by electronic transmission of the proof of service directly to the court from the law enforcement officer making service or the chief administrative officer, or the chief administrative officer's designee, of the correctional facility making service.

**Sec. 5. 19-A MRSA §4006, sub-§6, ¶B** is enacted to read:

B. In any subsequent criminal prosecution for violation of this section when the service of an order was made through the use of an electronically transmitted printed copy of the order, with 10 days' advance written notice to the prosecution, the defendant may request that the prosecution call as a witness the law enforcement officer who served the order or the chief administrative officer, or the chief administrative officer's designee, of the correctional facility that served the order.

**Sec. 6. 19-A MRSA §4007, sub-§6, ¶A** is enacted to read:

A. Notwithstanding any other provision of law, service of an order may be made pursuant to this section through the use of electronically transmitted printed copies of orders that have been transmitted directly from the court to the law enforcement agency or correctional facility making service. Return of proof of service may be made by electronic transmission of the proof of service directly to the court from the law enforcement officer making service or the chief administrative officer, or the chief administrative officer's designee, of the correctional facility making service.

**Sec. 7. 19-A MRSA §4007, sub-§6, ¶B** is enacted to read:

B. In any subsequent criminal prosecution for violation of this section when the service of an order was made through the use of an electronically transmitted printed copy of the order, with 10 days' advance written notice to the prosecution, the defendant may request that the prosecution call as a witness the law enforcement officer who served the order or the chief administrative officer, or the chief administrative officer's designee, of the correctional facility that served the order.

See title page for effective date.

# CHAPTER 556

## H.P. 1129 - L.D. 1591

## An Act To Amend the Maine Certificate of Need Act of 2002 Concerning Right of Entry and Investigation

**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 imperative for the Department of Health and Human Services to have authority to enter and inspect a health care facility or other entity to investigate if the facility or entity has violated the Maine Certificate of Need Act of 2002; 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 §349-A** is enacted to read:

**§349-A. Compliance investigation**

To ensure compliance with this chapter or rules adopted under this chapter, the department may investigate a health care facility or other entity subject to this chapter when the department has a reasonable basis to suspect that a violation has occurred. The health care facility or other entity subject to this chapter may not interfere with or impede the investigation.

**1. Right of entry.** The department may enter and inspect the premises of a health care facility or other entity subject to this chapter with the permission of the owner or person in charge, or with an administrative inspection warrant issued pursuant to the Maine Rules of Civil Procedure, Rule 80E by the District Court authorizing entry and inspection, when the department has a reasonable basis to suspect that a provision of this chapter or a rule adopted under this chapter has been violated. The right of entry extends to any premises that the department has reason to believe is operated and maintained in violation of this chapter or rules adopted under this chapter. A letter of intent or an application for a certificate of need made pursuant to this chapter and rules adopted under this chapter constitutes permission for entry or inspection of the premises for which the certificate of need is sought in order to facilitate verification of the information submitted on or in connection with a letter of intent or an application for a certificate of need.

**2. Access to information.** The department, at any reasonable time, upon demand, has the right to inspect and copy books, accounts, papers, records and other documents or information, whether stored electronically, on paper or in other forms, including, but not limited to, documents and information regarding total capital expenditures and operating costs for a project, ownership or control of a health care facility or other entity subject to this chapter or health services provided, when the department has a reasonable basis to suspect that a provision of this chapter or a rule adopted under this chapter has been violated.

**3. Findings of fact.** Upon completion of an investigation pursuant to this section, the department shall prepare findings of fact and make a recommendation to the commissioner as to whether a provision of this chapter or a rule adopted under this chapter has been violated. If the commissioner determines that a violation has occurred, the commissioner may pursue one or more of the remedies authorized under this Act.

**4. Rules.** The department 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.

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

Effective March 26, 2010.

## CHAPTER 557

## H.P. 1151 - L.D. 1623

### An Act To Expand Options in Child Protection Proceedings for Children in Foster Care

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

**Sec. 1. 22 MRSA §4005, sub-§3** is enacted to read:

**3. Wishes of child.** The District Court shall consider the wishes of the child, in a manner appropriate to the age of the child, including, but not limited to, whether the child wishes to participate or be heard in court. In addition, when a child's expressed views are inconsistent with those of the guardian ad litem, the court shall consider whether to consult with the child directly, when the child's age is appropriate.

**Sec. 2. 22 MRSA §4038-B, sub-§4, ¶D** is enacted to read:

D. The permanency plan must ensure that all in-state and out-of-state placements are considered to provide the child with all possible permanency options.

**Sec. 3. 22 MRSA §4038-B, sub-§5,** as enacted by PL 2005, c. 372, §6, is amended to read:

**5. Wishes of child.** The District Court shall consider~~, but is not bound by,~~ the wishes of a child, in a manner appropriate to the age of the child, in making a determination under this section.

**Sec. 4. 22 MRSA §4055, sub-§3,** as amended by PL 1997, c. 715, Pt. A, §12, is further amended to read:

**3. Wishes of child.** The court shall consider~~, but is not bound by,~~ the wishes of a child ~~12 years of age or older~~, in a manner appropriate to the age of the child, in making an order under this section.

**Sec. 5. 22 MRSA §8101, sub-§1,** as amended by PL 2009, c. 211, Pt. B, §19, is further amended to read:

**1. Children's home.** "Children's home" means any residence maintained exclusively or in part for the board and care of one or more children under the age of 18~~, by anyone other than a relative by blood, marriage or adoption~~. "Children's home" does not include:

A. A facility established primarily to provide medical care;

B. A youth camp licensed under section 2495; or

C. A school established solely for educational purposes except as provided in subsection 4.

See title page for effective date.

## CHAPTER 558

## S.P. 609 - L.D. 1602

### An Act To Clarify the Child Abuse or Neglect Substantiation Process

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

**Sec. 1. 22 MRSA §4004, sub-§2, ¶C,** as amended by PL 2001, c. 559, Pt. CC, §1, is repealed.

**Sec. 2. 22 MRSA §4004, sub-§2, ¶C-1** is enacted to read:

C-1. Determine in each case investigated under paragraph B whether or not a child has been harmed and the degree of harm or threatened harm by a person responsible for the care of that child by deciding whether allegations are unsubstantiated, indicated or substantiated. Each allegation must be considered separately and may result in a combination of findings.

The department shall adopt rules that define "unsubstantiated," "indicated" and "substantiated"

findings for the purposes of this paragraph and that specify an individual's rights to appeal the department's findings. Rules adopted pursuant to this paragraph are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A;

See title page for effective date.

## CHAPTER 559

## S.P. 516 - L.D. 1432

### An Act To Create a Saltwater Recreational Fishing Registry

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

**Sec. 1. 12 MRSA §6032,** as enacted by PL 1999, c. 85, §3, is repealed and the following enacted in its place:

**§6032. 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. In addition to fees derived from the striped bass endorsement and the commercial operator's license pursuant to section 6312, subsections 4 and 5, 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. By February 1st of each year, the commissioner shall report to the joint standing committee of the Legislature having jurisdiction over marine resources matters on the amount of money collected in the fund and all expenditures made from the fund in the previous fiscal year.

**2. Uses of fund.** The commissioner may authorize the expenditure of money from the fund for the implementation, administration and enforcement of the saltwater recreational fishing registry under section 6312 and for research and conservation efforts related to the saltwater recreational fishery.

**Sec. 2. 12 MRSA §6312** is enacted to read:

**§6312. Saltwater recreational fishing registry, endorsement and license**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Disabled veteran" means a veteran of the Armed Forces of the United States who has a service-connected disability as determined by the United States Department of Veterans Affairs.

B. "Person with a disability" means a person who is physically or mentally incapacitated as determined by the commissioner.

C. "Registry" means the registry for persons engaged in saltwater recreational fishing established under subsection 2.

**2. Saltwater recreational fishing registry established.** The commissioner shall administer and maintain a registry of persons who engage in saltwater recreational fishing. The commissioner may designate by rule the methods of fishing or the saltwater areas for which registration is required under this section. The registry must at a minimum contain the name, address, date of birth and telephone number for each person registered. Only an individual may register.

**3. Registration required.** A person may not engage in saltwater recreational fishing or land or possess fish taken from salt water without registering pursuant to this section except the following persons are exempt from this prohibition and the endorsement requirement under subsection 4:

A. A person under 16 years of age;

B. A passenger on board a vessel captained by an individual who possesses a valid commercial operator's license pursuant to subsection 5;

C. A person renting a smelt fishing camp from an operator that possesses a valid commercial operator's license pursuant to subsection 5;

D. A person with a disability;

E. A disabled veteran;

F. A person that possesses a valid New Hampshire saltwater recreational fishing license that meets the requirements of 50 Code of Federal Regulations, Sections 600.1415 and 600.1416 (2009) engaging in recreational saltwater fishing from the State's southern border to Cape Neddick; and

G. A resident fishing on July 4th, Labor Day weekend or Memorial Day weekend.

Registration does not authorize a person registered on the registry to sell fish taken pursuant to the registry.

A person who has indicated on a valid freshwater fishing license issued under Part 13 that the person engaged in saltwater recreational fishing during the prior year or plans to engage in saltwater recreational fishing during the period covered by the freshwater fishing license is not required to register under this subsection, and residents of the State who make that indication are not required to obtain a striped bass endorsement un-

der subsection 4. The Department of Inland Fisheries and Wildlife shall provide registry data to the federal or state agency responsible for monitoring saltwater recreational fishing at a time and manner as determined by that agency.

**4. Striped bass endorsement.** A person required to register under subsection 3 may not engage in saltwater recreational fishing for striped bass or land or possess striped bass taken from salt water without a striped bass endorsement issued by the commissioner or a clerk or agent appointed by the commissioner pursuant to subsection 6. A striped bass endorsement is valid for one year and the fees are:

A. Five dollars for a resident;

B. Fifteen dollars for a nonresident; and

C. Ten dollars for a resident lifetime striped bass endorsement for an applicant who is 70 years of age or older. A resident lifetime striped bass endorsement is valid for one year and may be renewed free of charge.

Revenues collected pursuant to this subsection must be deposited in the Marine Recreation Fishing Conservation and Management Fund established under section 6032.

**5. Commercial operator's license.** The following persons must possess a valid commercial operator's license issued by the commissioner or a clerk or agent appointed by the commissioner pursuant to subsection 6:

A. A captain of a vessel licensed to carry passengers for hire for saltwater recreational fishing; and

B. A person operating a business that rents smelt fishing camps for saltwater recreational smelt fishing.

The annual fee for a commercial operator's license is $50. Revenues collected pursuant to this subsection must be deposited in the Marine Recreation Fishing Conservation and Management Fund established under section 6032.

**6. Agent fee.** A clerk or other agent appointed by the commissioner to register a person on the registry, issue a commercial operator's license or issue a striped bass endorsement under this section shall charge a person a fee of $2 for each registration, license or endorsement issued to that person by that clerk or agent. The commissioner shall charge a fee of $1 for each registration, license or endorsement taken by a department employee.

**7. Native American.** Upon application, the commissioner shall register a member of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians or the Aroostook Band of Micmacs on the registry without a charge or fee if the Native American presents a certificate from the respective reservation tribal clerk or the Aroostook Micmac Council stating that the person described is a Native American and a member of that nation, band or tribe. The commissioner may refuse to register a Native American that is otherwise prohibited from registering or from holding a recreational fishing license issued under Part 13. A registration under this subsection is valid for one year and may be renewed without a charge or fee.

**8. Penalty.** A person who violates this section commits a civil violation for which a fine of not less than $100 may be adjudged.

**9. Suspension.** A person on the registry or holding a striped bass endorsement or a license issued under this section is subject to the applicable suspension provisions under chapter 617.

**10. Collaboration on outreach efforts.** The commissioner shall work with fishing and hunting groups and interested parties in the commissioner's efforts to notify and educate the public about the registry.

**11. Report.** The commissioner shall report registry information to the United States Department of Commerce, National Oceanic and Atmospheric Administration in a form and manner as required by the National Oceanic and Atmospheric Administration.

**12. Rules.** The commissioner 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.

**MARINE RESOURCES, DEPARTMENT OF**

**Bureau of Resource Management 0027**

Initiative: Provides funding for 2 seasonal Marine Patrol Officer positions, one full-time Marine Patrol Officer position, one part-time Marine Resource Scientist IV position, one part-time Marine Resource Scientist III position, one full-time Marine Resource Specialist I position, one full-time Marine Resource Scientist I position, 2 part-time Marine Resource Specialist I positions and 4 Conservation Aide positions and related All Other costs to administer, maintain and enforce the newly created saltwater recreational fishing registry.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $76,882 |
| All Other | $0 | $85,434 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $162,316 |

**Sec. 4. Effective date.** This Act takes effect January 1, 2011.

Effective January 1, 2011.

## CHAPTER 560
## S.P. 649 - L.D. 1677

### An Act Regarding the Laws Governing Data Collection and Marketing Practices Directed at Minors

**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 concerns regarding the constitutionality of the Maine Revised Statutes, Title 10, chapter 1055 necessitating its earliest possible repeal; 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 c. 1055,** as amended, is repealed.

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

Effective March 29, 2010.

## CHAPTER 561
## H.P. 1104 - L.D. 1567

### An Act To Correct Errors and Inconsistencies in Marine Resources Laws

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

**Sec. 1. 3 MRSA §959, sub-§1, ¶G,** as amended by PL 2005, c. 477, §1, is further amended to read:

G. The joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters shall use the following list as a guideline for scheduling reviews:

(1) Department of Inland Fisheries and Wildlife in 2007; and

(2) Advisory Board for the Licensing of Taxidermists in 2007~~; and~~.

~~(3) Atlantic Salmon Commission in 2011.~~

**Sec. 2. 5 MRSA §12004-G, sub-§20-A,** as amended by PL 2007, c. 240, Pt. QQ, §1, is repealed.

**Sec. 3. 12 MRSA §6022, sub-§16** is enacted to read:

**16. Atlantic salmon powers and responsibilities.** The commissioner has the sole authority to introduce Atlantic salmon into the inland waters, other than in commercial aquaculture facilities. The commissioner has the sole authority to limit or prohibit the taking of Atlantic salmon and may adopt rules establishing the time, place and manner of Atlantic salmon fishing in all waters of the State. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 4. 12 MRSA §6071, sub-§1,** as amended by PL 2007, c. 695, Pt. C, §2, is further amended to read:

**1. Live importing for introduction into coastal waters.** Except for Atlantic salmon imported by the ~~Atlantic Salmon Commission under Part 9~~ commissioner, it is unlawful to import for introduction, possess for purposes of introduction or introduce into coastal waters a live marine organism without a permit issued by the commissioner pursuant to subsection 2.

**Sec. 5. 12 MRSA §6137,** as enacted by PL 2007, c. 240, Pt. QQ, §4, is repealed.

**Sec. 6. 12 MRSA §6138,** as enacted by PL 2007, c. 240, Pt. QQ, §5, is repealed.

**Sec. 7. 12 MRSA §6301, sub-§2, ¶Q,** as amended by PL 1999, c. 491, §1 and affected by §9, is further amended to read:

Q. A lobster transportation supplemental license issued under section 6854 expires on March 31st of each year; ~~and~~

**Sec. 8. 12 MRSA §6301, sub-§2, ¶R,** as enacted by PL 1999, c. 491, §2 and affected by §9, is amended to read:

R. A wholesale seafood license with a shrimp permit issued under section 6851 expires on March 31st of each year~~.~~;

**Sec. 9. 12 MRSA §6301, sub-§2, ¶S** is enacted to read:

S. An enhanced retail seafood license issued under section 6852-A expires on March 31st of each year;

**Sec. 10. 12 MRSA §6301, sub-§2, ¶T** is enacted to read:

T. A seaweed buyer's license issued under section 6803-A expires on March 31st of each year; and

**Sec. 11. 12 MRSA §6301, sub-§2, ¶U** is enacted to read:

U. A limited wholesale shellfish harvester's license issued under section 6851-A expires on March 31st of each year.

**Sec. 12. 12 MRSA §6371, sub-§2,** as amended by PL 2001, c. 421, Pt. B, §16 and affected by Pt. C, §1, is further amended to read:

**2. Suspension for refusal to allow a shellfish inspection or for violation of shellfish sanitation provisions.** Refusal to allow a shellfish inspection under section 6852-A or 6856 or violation of shellfish sanitation ~~regulations~~ rules adopted under section 6856 is grounds for suspension of any licenses or certificates issued under marine resources laws. In order to suspend a license or certificate for these reasons, the commissioner shall follow the procedures of section 6373.

**Sec. 13. 12 MRSA §6402, first ¶,** as amended by PL 2009, c. 151, §5 and c. 394, §3, is repealed and the following enacted in its place:

The commissioner shall suspend the lobster and crab fishing license of a license holder or the nonresident lobster and crab landing permit of a permit holder adjudicated in court of violating section 6434. This suspension is for 3 years from the date of adjudication. For a 3rd or subsequent adjudication, the commissioner may permanently revoke the license holder's license.

**Sec. 14. 12 MRSA §6409,** as reallocated by RR 1999, c. 2, §13, is amended to read:

**§6409. Suspension of license for failure to appear, answer or pay**

If a license is suspended pursuant to Title 14, section 3142, the suspension remains in effect and that person is ineligible to obtain or hold a license until the person pays the fine. On payment of the fine and on condition of payment of a $25 ~~reinstatement~~ administrative fee to the department, the ~~clerk of the court in which the~~ suspension ~~was ordered shall rescind the suspension and notify the department, which, upon receipt of the $25 reinstatement fee, shall delete any record of the suspension from that person's record~~ is rescinded and the eligibility to obtain or hold a license reinstated. For the purposes of this section, "fine" has the same meaning as in Title 14, section 3141, subsection 1.

**Sec. 15. 12 MRSA §6410,** as enacted by PL 2003, c. 520, §3, is amended to read:

**§6410. Suspension of license for failure to comply with court order of support**

If a person's eligibility to obtain or hold a license or registration is suspended pursuant to Title 19-A, section 2201, the suspension remains in effect until the person is in compliance with a court order of support. On condition of payment of a $25 ~~reinstatement~~ administrative fee to the department, the suspension is rescinded and the person's eligibility to obtain or hold a license reinstated.

**Sec. 16. 12 MRSA §6411** is enacted to read:

**§6411. Refusal to renew or reissue license for failure to file or failure to pay state tax obligations**

If a person's eligibility to obtain a license is suspended pursuant to Title 36, section 175, the suspension is in effect until the State Tax Assessor issues a certificate of good standing. On condition of payment of a $25 administrative fee to the department, the suspension is rescinded and the person's eligibility to obtain a license reinstated.

**Sec. 17. 12 MRSA §6434, sub-§4,** as repealed and replaced by PL 2007, c. 695, Pt. A, §15, is amended to read:

**4. Restitution.** If ~~the holder of a lobster and crab fishing license or a nonresident lobster and crab landing permit~~ a person violates this section by cutting a lobster trap line, the court shall:

A. Order that person to pay to the owner of the trap line that was cut an amount equal to twice the replacement value of all traps lost as a result of that cutting; and

B. Direct that person to provide proof of payment of that restitution to the commissioner as required by section 6402, subsection 1.

Restitution imposed under this subsection is in addition to any penalty imposed under subsection 3-A.

**Sec. 18. 12 MRSA §6451, sub-§1,** as amended by PL 2009, c. 213, Pt. G, §4, is further amended to read:

**1. Allocation of license fees.** Ten dollars of each $135.75 fee, $10 of each $132 fee, $10 of each $136 fee, $20 of each $203 fee, $20 of each $272.50 fee, $30 of each $407.25 fee, $30 of each $387 fee, $60 of each $785 fee, $60 of each $790.75 fee, $120 of each $1,587.50 fee, $180 of each $2,369.25 fee, $5 of each $65 fee and $5 of each $66 fee for each lobster and crab fishing license must be allocated to the Lobster Fund, which must be used for the purposes of lobster biology research, of propagation of lobsters by liberating seed lobsters and female lobsters in Maine coastal waters and of establishing and supporting lobster hatcheries.

**Sec. 19. 12 MRSA §6505-C, sub-§5,** as enacted by PL 1995, c. 536, Pt. A, §8, is amended to read:

**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 ~~$33~~ $50 must accrue to the General Fund for each license sold under this section.

**Sec. 20. 12 MRSA §6533,** as amended by PL 2009, c. 396, §2, is further amended to read:

**§6533. Training required to act as a scallop or sea urchin tender**

~~The commissioner may not issue a sea urchin and scallop diving tender license under section 6535 to a person or allow a~~ A person ~~to~~ may not act as a tender ~~under a license issued~~ pursuant to section 6535, section 6701, subsection 5, paragraph B or section 6748, subsection 4, paragraph B unless that person has met the diving tender safety requirements established in rule.

**Sec. 21. 12 MRSA §6535,** as amended by PL 2009, c. 213, Pt. G, §11 and c. 396, §3, is repealed and the following enacted in its place:

**§6535. Sea urchin and scallop diving tender license**

**1. License required.** A person may not act as a diving tender on a boat engaged as a platform for the harvesting of sea urchins and scallops by hand unless that person is licensed under this section.

**2. Licensed activity.** A person licensed under this section may tend divers who harvest sea urchins and scallops by hand and operate a boat as a platform for the harvesting of sea urchins and scallops by hand and may possess, ship, transport and sell sea urchins and scallops harvested by licensed harvesters the tender has tended. A sea urchin and scallop diving tender license does not authorize the holder to harvest sea urchins and scallops. As used in this subsection, "tend" means to assist the diver in any way, to operate a boat as a platform for harvesting or to cull or otherwise handle the harvested product.

As long as one person present on a boat engaged as a platform for the harvesting of sea urchins and scallops by hand has met the tender safety requirements adopted by rule pursuant to section 6533, all other persons present on the boat may operate the boat or engage in culling activities or otherwise handle the harvested product. An individual who engages in harvesting activities in accordance with a license issued under section 6701 or 6748 may not be considered as the person who has met the tender safety requirements adopted by rule pursuant to section 6533.

**3. Eligibility.** A sea urchin and scallop diving tender license may be issued only to an individual who is a resident.

**4. Fees.** The fee for a license issued under this section is $133.

**4-A. Exception.** A person acting as a tender under section 6701, subsection 5, paragraph B or section 6748, subsection 4, paragraph B does not need to possess a license issued under this Part.

**6. Violation.** A person who violates this section commits a civil violation for which a fine of not less than $100 nor more than $500 may be adjudged.

**Sec. 22. 12 MRSA §6701,** as amended by PL 2009, c. 213, Pt. G, §17 and c. 396, §§5 to 7, is repealed and the following enacted in its place:

**§6701. Scallop license**

**1. License required.** A person may not engage in the activities authorized under this section without a current hand fishing scallop license or other license issued under this Part authorizing the activities. A person acting as tender to an individual possessing a current individual hand fishing scallop license issued under subsection 5, paragraph A shall possess a scallop or sea urchin tender license issued under section 6535.

**2. Licensed activity.** The holder of a hand fishing scallop license may take scallops by hand or possess, ship, transport or sell shucked scallops the holder has taken. An unlicensed person acting as a tender for an individual licensed under subsection 5, paragraph B, in accordance with subsection 4, may possess, ship, transport and sell shucked scallops the hand fishing scallop license holder has taken. A person may not act as a tender under subsection 5, paragraph B unless that person has met the tender safety requirements adopted by rule pursuant to section 6533.

**3. Eligibility.** A hand fishing scallop license may be issued only to an individual who is a resident.

**4. Exception.** A person may act as a tender to an individual possessing a current hand fishing scallop license with tender issued under subsection 5, paragraph B without being licensed under this Part if that person has met the tender safety requirements adopted by rule pursuant to section 6533.

**5. Fees.** Fees for hand fishing scallop licenses are:

A. For an individual hand fishing scallop license, $143; and

B. For a hand fishing scallop license with tender, $193.

**6. Violation.** A person who violates this section commits a civil violation for which the following penalties apply:

A. For the first offense, a mandatory fine of $500 is imposed and all scallops on board may be seized;

B. For the 2nd offense, a mandatory fine of $750 is imposed and all scallops on board may be seized; and

C. For the 3rd and subsequent offenses, a mandatory fine of $750 is imposed and all scallops on board may be seized. This penalty is imposed in addition to the penalty imposed under section 6728-B.

**Sec. 23. 12 MRSA §6721-A, sub-§2,** as amended by PL 2007, c. 607, Pt. A, §5, is further amended to read:

**2. Prima facie evidence.** It is prima facie evidence of possession of illegal scallops if a vessel contains scallops less than the minimum shell size set by this section or the minimum shell size set by rules adopted pursuant to this section while a ~~scallop dragging license holder or crew member~~ person licensed under this subchapter or crew member of a person licensed under this subchapter is shucking scallops.

**Sec. 24. 12 MRSA §6729, sub-§1, ¶C,** as amended by PL 2007, c. 607, Pt. A, §12, is further amended to read:

C. For a sea urchin and scallop diving tender license, $50; ~~and~~

**Sec. 25. 12 MRSA §6729, sub-§1, ¶D,** as enacted by PL 2007, c. 607, Pt. A, §12, is amended to read:

D. For a noncommercial scallop license, $40.; and

**Sec. 26. 12 MRSA §6729, sub-§1, ¶E** is enacted to read:

E. For a hand fishing scallop license with tender, $100.

**Sec. 27. 12 MRSA §6729, sub-§2,** as enacted by PL 2003, c. 319, §2, is amended to read:

**2. Deposit.** The commissioner shall deposit surcharges assessed in this section in the Scallop Research Fund under section 6729-A, except that fees collected under subsection 1, paragraph C must be divided equally between the Scallop Research Fund and the Sea Urchin Research Fund established in section 6749-R.

**Sec. 28. 12 MRSA §6748,** as amended by PL 2009, c. 213, Pt. G, §23 and c. 396, §8, is repealed and the following enacted in its place:

**§6748. Handfishing sea urchin license**

**1. License required.** A person may not engage in the activities authorized under this section without a current handfishing sea urchin license or other license issued under this Part authorizing the activities. A person acting as tender to an individual possessing a current individual handfishing sea urchin license issued under subsection 4, paragraph A shall possess a sea urchin and scallop diving tender license issued under section 6535. The handfishing sea urchin license with tender issued under subsection 4, paragraph B authorizes a person to engage in the activities described in section 6535, subsection 2 aboard the licensee's boat when it is engaged in the harvesting of sea urchins.

**1-A. Exception.** A person may act as a tender to an individual possessing a current handfishing sea urchin license with tender issued under subsection 4, paragraph B without being licensed under this Part if that person has met the tender safety requirements adopted by rule pursuant to section 6533.

**2. Licensed activity.** The holder of a handfishing sea urchin license may take sea urchins by hand or possess, ship, transport or sell sea urchins taken by that licensee. An unlicensed person acting as a tender for an individual licensed under subsection 4, paragraph B, in accordance with subsection 1-A, may possess, ship, transport and sell sea urchins the handfishing sea urchin license holder has taken. A person may not act as a tender under subsection 4, paragraph B unless that person has met the tender safety requirements adopted by rule pursuant to section 6533.

**3. Eligibility.** A handfishing sea urchin license may be issued only to an individual who is a resident.

**4. Fees.** Fees for 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.

**4-A. Temporary Zone 1 fee.** Notwithstanding subsection 4, the fees for an individual handfishing sea urchin license and a handfishing sea urchin license with tender issued for calendar year 2010 or 2011 to handfish for sea urchins within the area designated as Zone 1 under section 6749-N are $25 and $50 per year, respectively.

This subsection is repealed December 31, 2011.

**5. Rebuttable presumption.** It is unlawful for an individual to dive from a vessel with sea urchins on board unless that individual is licensed under this section. It is a rebuttable presumption that an individual diving from a vessel with sea urchins on board at any time of the year is diving for the purpose of fishing for or taking sea urchins.

**6. Violation.** A person who violates this section commits a civil violation for which a fine of not less than $100 nor more than $500 may be adjudged.

**Sec. 29. 12 MRSA §6749-Q, sub-§1-B** is enacted to read:

**1-B. Handfishing sea urchin license with tender.** One hundred and sixty dollars on a handfishing sea urchin license with tender.

**Sec. 30. 12 MRSA §6803-A, sub-§1,** as enacted by PL 2009, c. 283, §1, is amended to read:

**1. License required.** A seaweed buyer's license is required for a person who purchases more than 10 wet tons or an equivalent number of dry tons annually directly from seaweed harvesters holding a permit under section 6803. A person may not engage in the activities authorized under this section without a current seaweed buyer's license.

**Sec. 31. 12 MRSA §6851, sub-§2-D,** as amended by PL 2003, c. 170, §4, 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, sell, process, ship or transport shrimp.

**Sec. 32. 12 MRSA §6856, sub-§3-A,** as enacted by PL 2007, c. 15, §2 and affected by §6, is amended to read:

**3-A. Municipal consultation and approval; depuration harvesting.** ~~Within~~ The following provisions apply within a municipality that has a municipal shellfish conservation committee established pursuant to section 6671~~, the following provisions~~. Paragraphs A and B apply to shellfish growing areas that have been ~~downgraded~~ reclassified after January 1, 2006 from an approved to a restricted classification for water quality as defined in rule. Paragraph B-1 applies to shellfish growing areas reclassified after January 1, 2010 from a prohibited to restricted classification.

A. Unless the commissioner obtains the approval of the affected municipality, the commissioner may not open an area ~~downgraded~~ reclassified from an approved to a restricted classification for depuration harvesting for 2 years from the date of the reclassification to allow the municipality to develop a pollution abatement plan under subsection 3-B.

B. ~~Beginning April 1, 2007, a~~ A municipality must notify the commissioner within 8 weeks of ~~the~~ a reclassification from an approved to a restricted classification of an area whether or not it intends to develop a pollution abatement plan. If the municipality does not wish to develop a pollution abatement plan in accordance with subsection 3-B or if it fails to notify the commissioner within the 8-week period, municipal approval is not required.

B-1. Unless the commissioner obtains the approval of the affected municipality, the commissioner may not open an area reclassified from a prohibited to a restricted classification for depuration harvesting. A municipality must document to the commissioner within 4 weeks of the reclassification from a prohibited to a restricted classification that the municipality intends to take significant measures following the reclassification to be incorporated in its pollution abatement plan. If the municipality fails to provide sufficient documentation or does not wish to develop a pollution abatement plan or if it fails to notify the commissioner within the 4-week period, municipal approval is not required. The municipality must provide the commissioner a progress report on activities under its abatement plan every 6 months.

C. If a municipal shellfish conservation committee has a pollution abatement plan as provided in subsection 3-B on file with the commissioner, the commissioner must obtain the approval of the committee before taking action to open an area within that municipality for depuration digging.

D. If a municipal shellfish conservation committee has a depuration management plan as provided in subsection 3-C approved by the commissioner, the municipality may manage the depuration harvesting over a shellfish growing area within that municipality.

**Sec. 33. 12 MRSA §12760, sub-§3,** as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

**3. Monitoring program.** The commissioner shall, in cooperation with the Department of Marine Resources ~~and the Atlantic Salmon Commission~~, 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 sole authority to take corrective action at fishways as prescribed under this section.

**Sec. 34. 12 MRSA §12804, sub-§1, ¶D,** as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

D. Transplantation. Prior to the transplantation, introduction or reintroduction of an endangered or threatened species in the State, the commissioner shall, in conjunction with the ~~Atlantic Salmon Commission~~ Department of Marine Resources, when appropriate, develop a recovery plan for that species, conduct a public hearing on that recovery plan pursuant to Title 5, Part 18 and submit that plan to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters. The introduction or reintroduction of that species must be conducted in accordance with the recovery plan developed under this

paragraph and may not begin sooner than 90 days after all conditions of this paragraph have been met; and

**Sec. 35. 37-B MRSA §1112,** as enacted by PL 2001, c. 460, §3, is 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, the Maine Land Use Regulation Commission~~, the Maine Atlantic Salmon Commission~~ and the State Planning Office, for their aid and assistance.

**Sec. 36. 37-B MRSA §1119, sub-§3,** as enacted by PL 2001, c. 460, §3, is 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 Department of Transportation, the Maine Land Use Regulation Commission~~, the Maine Atlantic Salmon 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. 37. 38 MRSA §480-B, sub-§10, ¶A,** as enacted by PL 2005, c. 116, §2, is amended to read:

A. The following areas to the extent that they have been mapped by the Department of Inland Fisheries and Wildlife or are within any other protected natural resource: habitat, as defined by the Department of Inland Fisheries and Wildlife, for species appearing on the official state or federal list of endangered or threatened animal species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; seabird nesting islands as defined by the Department of Inland Fisheries and Wildlife; and critical spawning and nursery areas for Atlantic salmon as defined by the ~~Atlantic Salmon Commission~~ Department of Marine Resources; and

**Sec. 38. 38 MRSA §480-U, sub-§2, ¶A,** as amended by PL 2005, c. 330, §17, is further amended to read:

A. The application must contain written certification by a knowledgeable professional that the cranberry cultivation project will not be located in a wetland that has one or more of the following characteristics:

(1) Is a coastal wetland or is located within 250 feet of a coastal wetland;

(2) Is a great pond;

(3) Contains endangered or threatened plant species as defined in Title 12, section 544;

(4) Contains any type of palustrine natural community of which there are 20 or fewer occurrences in the State;

(5) Contains any of the following resources:

(a) Habitat for species appearing on the official state or federal lists of endangered or threatened species when there is evidence that the species is present;

(b) As defined by rule by the Commissioner of Inland Fisheries and Wildlife, whether or not the resource has been mapped, high-value and moderate-value deer wintering areas; deer travel corridors; high-value and moderate-value waterfowl or wading bird habitats, including nesting and feeding areas; shorebird nesting, feeding or staging areas; or seabird nesting islands; or

(c) Critical spawning and nesting areas for Atlantic salmon as defined by rule by the ~~Atlantic Salmon Commission~~ Department of Marine Resources whether or not mapped;

(6) Is located within 250 feet of the normal high water line and within the same watershed of any lake or pond classified as GPA under section 465-A;

(7) Is a bog dominated by ericaceous shrubs, sedges and sphagnum moss and usually having a saturated water regime, except that applications proposing reclamation of previously mined peat bogs may be considered;

(8) Is land adjacent to the main stem of a major river, as classified in section 467, that is inundated with floodwater during a 100-year flood event and that under normal circumstances supports a prevalence of wetland

vegetation, typically adapted for life in saturated soils; or

(9) Contains at least 20,000 square feet of aquatic vegetation, emergent marsh vegetation or open water, except for artificial ponds or impoundments, during most of the growing season in most years; except that cranberry cultivation is allowed more than 250 feet from the edge of the area of aquatic vegetation, emergent marsh vegetation or open water.

A project to cultivate indigenous cranberries may be located in wetlands described in subparagraphs (6) and (7) only if the project location is a natural cranberry bog and provisions of paragraph D are met. For purposes of this paragraph, "natural cranberry bog" means an area with indigenous large cranberries, Vaccinium macrocarpon Ait., comprising more than 50% of the cover in the herbaceous layer; and "cover in the herbaceous layer" means all herbaceous or woody vegetation less than 10 inches in height.

**Sec. 39. 38 MRSA §636, sub-§7, ¶B,** as amended by PL 1999, c. 401, Pt. BB, §19, is further amended to read:

B. Whether the project will result in significant benefit or harm to fish and wildlife resources. In making its determination, the department shall consider other existing uses of the watershed and fisheries management plans adopted by the Department of Inland Fisheries and Wildlife~~,~~ and the Department of Marine Resources ~~and the Atlantic Salmon Commission~~;

See title page for effective date.

## CHAPTER 562

## S.P. 655 - L.D. 1683

### An Act Regarding the Law Governing Recreational Vehicle Manufacturers, Distributors and Dealers

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

**Sec. 1. 10 MRSA §1171, sub-§11,** as amended by PL 1997, c. 473, §1, is further amended to read:

**11. Motor vehicle.** "Motor vehicle" means any ~~motor driven vehicle~~ motor-driven vehicle, except motorcycles and recreational vehicles defined under section 1432, subsection 18-A, required to be registered under Title 29-A, chapter 5.

**Sec. 2. 10 MRSA §1361, sub-§8,** as amended by PL 1997, c. 427, §1, is further amended to read:

**8. Goods.** "Goods" means residential, recreational, agricultural, farm, commercial or business equipment, machinery or appliances that use electricity, gas, wood, a petroleum product or a derivative of a petroleum product for operation. "Goods" does not include motor vehicles as defined in section 1171, subsection 11 and recreational vehicles as defined in section 1432, subsection ~~18~~ 18-A.

**Sec. 3. 10 MRSA §1432, sub-§1-A** is enacted to read:

**1-A. Area of sales responsibility.** "Area of sales responsibility" means the geographical area agreed to by the dealer and the manufacturer in the dealer agreement within which the dealer has the exclusive right to display the manufacturer's new recreational vehicles of a particular line make to the retail public.

**Sec. 4. 10 MRSA §1432, sub-§2,** as enacted by PL 1997, c. 427, §2, is amended to read:

**2. Dealer.** "Dealer" means a person, firm, corporation or business entity licensed or required to be licensed under Title 29-A, including a recreational vehicle dealer to whom a dealer agreement is offered or granted.

**Sec. 5. 10 MRSA §1432, sub-§8-A** is enacted to read:

**8-A. Factory campaign.** "Factory campaign" means an effort on the part of a warrantor to contact recreational vehicle dealers or owners in order to address a part or equipment issue.

**Sec. 6. 10 MRSA §1432, sub-§10,** as enacted by PL 1997, c. 427, §2, is amended to read:

**10. Fifth-wheel trailer.** "Fifth-wheel trailer" means a ~~trailer~~ vehicle mounted on wheels designed to provide temporary living quarters for recreational, camping or travel use, of such size or weight as not to require special highway movement permits and designed to be towed by a motor vehicle that contains a towing mechanism mounted above or forward of the tow vehicle's rear axle.

**Sec. 7. 10 MRSA §1432, sub-§10-A** is enacted to read:

**10-A. Folding camping trailer.** "Folding camping trailer" means a vehicle mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold to provide temporary living quarters for recreational, camping or travel use.

**Sec. 8. 10 MRSA §1432, sub-§12-A** is enacted to read:

**12-A. Line make.** "Line make" means a specific series of recreational vehicles that:

A. Are identified by a common series trade name or trademark;

B. Are targeted to a particular market segment, as determined by their decor, features, equipment, size, weight and price range;

C. Have lengths and interior floor plans that distinguish the recreational vehicles from other recreational vehicles with substantially the same decor, equipment, features, equipment, size, weight and price range;

D. Belong to a single, distinct classification of recreational vehicle types having a substantial degree of commonality in the construction of the chassis, frame and body; and

E. A dealer agreement authorizes a dealer to sell.

**Sec. 9. 10 MRSA §1432, sub-§13-A** is enacted to read:

**13-A. Motor home.** "Motor home" means a motor vehicle designed to provide temporary living quarters for recreational, camping or travel use that contains at least 4 of the following as permanently installed independent systems that meet the National Fire Protection Association standard for recreational vehicles:

A. A cooking facility with an on-board fuel source;

B. A potable water supply system that includes at least a sink, a faucet and a water tank with an exterior service supply connection;

C. A toilet with exterior evacuation;

D. A gas or electric refrigerator;

E. A heating or air-conditioning system with an on-board power or fuel source separate from the vehicle engine; and

F. A 110-volt to 125-volt electric power supply.

**Sec. 10. 10 MRSA §1432, sub-§16-A** is enacted to read:

**16-A. Proprietary part.** "Proprietary part" means a part manufactured by or for the manufacturer and sold exclusively by the manufacturer.

**Sec. 11. 10 MRSA §1432, sub-§18,** as enacted by PL 1997, c. 427, §2, is repealed.

**Sec. 12. 10 MRSA §1432, sub-§18-A** is enacted to read:

**18-A. Recreational vehicle.** "Recreational vehicle" means a vehicle that is either self-propelled or towed by a consumer-owned tow vehicle, is primarily designed to provide temporary living quarters for recreational, camping or travel use, complies with all applicable federal vehicle regulations and does not require special highway movement permits to legally use the highways. "Recreational vehicle" includes motor homes, travel trailers, fifth-wheel trailers and folding camping trailers.

**Sec. 13. 10 MRSA §1432, sub-§19-A** is enacted to read:

**19-A. Supplier.** "Supplier" means a person, firm, corporation or business entity that engages in the manufacture of recreational vehicle parts, accessories or components.

**Sec. 14. 10 MRSA §1432, sub-§20-A** is enacted to read:

**20-A. Transient customer.** "Transient customer" means a customer who is temporarily traveling through an area of sales responsibility.

**Sec. 15. 10 MRSA §1432, sub-§21,** as enacted by PL 1997, c. 427, §2, is amended to read:

**21. Travel trailer.** "Travel trailer" means a ~~trailer~~ vehicle mounted on wheels designed to provide temporary living quarters for recreational, camping or travel use, of such size or weight as not to require special highway movement permits when towed by a motor vehicle.

**Sec. 16. 10 MRSA §1432, sub-§23** is enacted to read:

**23. Warrantor.** "Warrantor" means a person, firm, corporation or business entity, including a manufacturer or supplier, that provides a written warranty to the customer in connection with a new recreational vehicle or parts, accessories or components of a new recreational vehicle. For purposes of this subsection, "written warranty" does not include service contracts, mechanical or other insurance or extended warranties sold for separate consideration by a dealer or other person not controlled by a manufacturer.

**Sec. 17. 10 MRSA §1434, sub-§3, ¶J,** as enacted by PL 1997, c. 427, §2, is amended to read:

J. To compete with a recreational vehicle dealer operating under an agreement or dealer agreement from the manufacturer in a relevant market area that has been determined exclusively by equitable principles. A manufacturer is not considered to be competing when operating a dealership either temporarily for a reasonable period not to exceed ~~one year~~ 2 years or in a bona fide relationship in which an independent person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of the dealership on reasonable terms and conditions;

**Sec. 18. 10 MRSA §1434-A** is enacted to read:

**§1434-A. Termination, cancellation and nonrenewal of a dealer agreement**

**1. Termination; cancellation; nonrenewal.** A manufacturer or distributor, directly or through an authorized officer, agent or employee, may terminate, cancel or fail to renew a dealer agreement with or without good cause. If the manufacturer or distributor terminates, cancels or fails to renew the dealer agreement without good cause, the manufacturer or distributor must comply with subsection 4. The manufacturer or distributor has the burden of showing good cause for terminating, canceling or failing to renew a dealer agreement. For purposes of determining whether there is good cause for the proposed action, any of the following factors may be considered in a proceeding:

A. The extent of the affected dealer's penetration in the area of sales responsibility;

B. The nature and extent of the dealer's investment in the dealer's business;

C. The adequacy of the dealer's service facilities, equipment, parts, supplies and personnel;

D. The effect of the proposed action on the community;

E. The extent and quality of the dealer's service under recreational vehicle warranties;

F. The failure to follow agreed-upon procedures or standards related to the overall operation of the dealership; and

G. The dealer's performance under the terms of its dealer agreement.

**2. Notice to dealer; requirements.** Except as otherwise provided in this section, a manufacturer or distributor shall provide a dealer with at least 90 days' prior written notice of termination, cancellation or nonrenewal of a dealer agreement if the dealer agreement is being terminated for good cause.

A. A notice under this subsection must state all reasons for the proposed termination, cancellation or nonrenewal and must further state that if, within 30 days following receipt of the notice, the dealer provides to the manufacturer or distributor a written notice of intent to cure all claimed deficiencies, the dealer will then have 90 days following the manufacturer's or distributor's receipt of the notice to cure the deficiencies. If the deficiencies are cured within 90 days, the manufacturer's or distributor's notice is voided. If the dealer fails to provide the notice of intent to cure the deficiencies in the prescribed time period, the termination, cancellation or nonrenewal takes effect 30 days after the dealer's receipt of the notice unless the dealer has new and untitled inventory on hand that may be disposed of pursuant to subsection 4.

B. The notice period under this subsection may be reduced to not less than 30 days' prior written notice of termination, cancellation or nonrenewal if good cause exists. Good cause exists for purposes of this paragraph when:

(1) A dealer or one of its owners is convicted of or enters a plea of nolo contendere to murder or a Class A, Class B or Class C crime for which a sentence of imprisonment of one year or more is imposed under Title 17-A, section 1251 or 1252;

(2) A dealer abandons or closes the dealer's business operations for 10 consecutive business days unless the closing is due to an act of God, strike, labor difficulty or other cause over which the dealer has no control;

(3) There is a significant misrepresentation by the dealer materially affecting the business relationship between the dealer and the manufacturer or distributor;

(4) The dealer's license has been suspended or revoked or has not been renewed;

(5) There is a declaration by the dealer of bankruptcy or insolvency or the occurrence of an assignment for the benefit of creditors or bankruptcy; or

(6) A dealer fails to notify in writing the manufacturer or distributor at least 30 days prior to entering into a dealer agreement with a manufacturer or distributor of a competing, similar line make.

The notice requirements of this paragraph do not apply if the reason for termination, cancellation or nonrenewal is the dealer's insolvency, the occurrence of an assignment for the benefit of creditors or the dealer's bankruptcy.

**3. Notice to manufacturer or distributor; requirement.** A dealer may terminate, cancel or refuse to renew a dealer agreement with or without good cause by giving 30 days' written notice to the manufacturer or distributor.

A. If the termination, cancellation or refusal to renew is for good cause, the notice must state all reasons for the proposed termination, cancellation or nonrenewal and must further state that if, within 30 days following receipt of the notice, the manufacturer or distributor provides to the dealer a written notice of intent to cure all claimed deficiencies, the manufacturer or distributor will then have 90 days following receipt of the original notice to cure the deficiencies. If the deficiencies are cured within 90 days, the dealer's notice is voided. If the manufacturer or distributor fails to provide the notice of intent to cure the deficiencies in the time period prescribed in the original

notice of termination, cancellation or nonrenewal, the pending termination, cancellation or nonrenewal takes effect 30 days after the manufacturer's or distributor's receipt of the original notice.

B. If the dealer terminates, cancels or fails to renew the dealer agreement without good cause, subsection 4 does not apply. If the dealer terminates, cancels or fails to renew the dealer agreement with good cause, subsection 4 applies. The dealer has the burden of showing good cause.

C. For purposes of this subsection, good cause for termination, cancellation or nonrenewal exists when:

(1) A manufacturer or distributor is convicted of, or enters a plea of nolo contendere to, murder or a Class A, Class B or Class C crime for which a sentence of imprisonment of one year or more is imposed under Title 17-A, section 1251 or 1252;

(2) The business operations of the manufacturer or distributor have been abandoned or closed for 10 consecutive business days, unless the closing is due to an act of God, strike, labor difficulty or other cause over which the manufacturer or distributor has no control;

(3) There is a significant misrepresentation by the manufacturer or distributor materially affecting the business relationship between the dealer and the manufacturer or distributor; or

(4) There is a declaration by the manufacturer or distributor of bankruptcy or insolvency or the occurrence of an assignment for the benefit of creditors or bankruptcy.

**4. Repurchase of inventory.** If the dealer agreement is terminated, canceled or not renewed by the manufacturer or distributor without good cause, or if the dealer terminates or cancels the dealer agreement for good cause and the manufacturer or distributor fails to cure the claimed deficiencies, the manufacturer or distributor shall, at the election of the dealer and within 45 days after termination, cancellation or nonrenewal, repurchase:

A. All new, untitled recreational vehicles that were acquired from the manufacturer or distributor within 12 months before the effective date of the termination, cancellation or nonrenewal that have not been used, except for demonstration purposes, and that have not been damaged, at 100% of the net invoice cost, including transportation, less applicable rebates and discounts to the dealer. If any of the vehicles repurchased pursuant to this subsection are damaged, but do not trigger a consumer disclosure requirement, the amount due the dealer is reduced by the cost to repair the vehicle. Damage prior to delivery to the dealer that is disclosed at the time of delivery does not disqualify repurchase under this paragraph;

B. All undamaged accessories and proprietary parts sold to the dealer for resale within the 12 months prior to termination, cancellation or nonrenewal, if contained in the original packaging, at 105% of the original net price paid to the manufacturer or distributor to compensate the dealer for handling, packing and shipping the accessories or parts; and

C. All properly functioning diagnostic equipment, special tools, current signs and other equipment and machinery at 100% of the dealer's net cost plus freight, destination, delivery and distribution charges and sales taxes, if any, if purchased by the dealer within 5 years before termination, cancellation or nonrenewal upon the manufacturer's or distributor's request and the dealer establishes that the items can no longer be used in the normal course of the dealer's ongoing business. The manufacturer or distributor shall pay the dealer within 30 days after receipt of the returned items.

**Sec. 19. 10 MRSA §1437, sub-§1, ¶A,** as enacted by PL 1997, c. 427, §2, is amended to read:

A. Any designated family member of a deceased or incapacitated new recreational vehicle dealer who has been designated as successor to that dealer in writing to the manufacturer may succeed the dealer in the ownership or operation of the dealership under the existing dealer agreement or distribution agreement if the designated family member gives the manufacturer of new recreational vehicles a written notice of the intention to succeed to the dealership within ~~120~~ 90 days of the dealer's death or incapacity. The designated family member may not succeed the dealer if there exists good cause for refusal to honor the succession on the part of the manufacturer.

**Sec. 20. 10 MRSA §1439,** as enacted by PL 1997, c. 427, §2, is repealed.

**Sec. 21. 10 MRSA §1439-A** is enacted to read:

**§1439-A. Warranty**

**1. Warranty obligations.** A warrantor shall:

A. Specify in writing to a dealer the dealer's obligations, if any, for preparation, delivery and warranty service on products covered by the warrantor;

B. Compensate the dealer for warranty service required of a dealer by the warrantor; and

C. Provide a dealer the schedule of compensation to be paid and the time allowances for the performance of any work and service. The schedule of compensation must include reasonable compensation for diagnostic work as well as warranty labor.

**2. Time allowances; reasonable compensation.** Time allowances set by the manufacturer for the diagnosis and performance of warranty labor must be reasonable for the work to be performed. In the determination of what constitutes reasonable compensation under this section, the principal factor to be given consideration is the actual retail labor rate being charged by the dealers in the community in which the dealer is doing business. The compensation of a dealer for warranty labor may not be less than the average retail labor rates actually charged by the dealer for like nonwarranty labor as long as those rates are reasonable.

**3. Reimbursement for warranty parts.** A warrantor shall reimburse a dealer for warranty parts at actual wholesale cost plus a minimum 30% handling charge and the cost, if any, of freight to return warranty parts to the warrantor.

**4. Audits.** A warrantor may conduct warranty audits of dealer records on a reasonable basis, and dealer claims for warranty compensation may not be denied except for cause, such as performance of nonwarranty repairs, material noncompliance with the warrantor's published policies and procedures, lack of material documentation, fraud or misrepresentation.

**5. Claims.** A dealer shall submit warranty claims within 45 days after completing warranty service and repairs.

**6. Notice for inability to perform warranty repairs.** A dealer shall immediately notify the warrantor orally or in writing if the dealer is unable to perform any warranty repairs within 10 days of receipt of an oral or written complaint from a customer.

**7. Claims not approved.** A warrantor shall approve or disapprove a warranty claim in writing within 45 days after the date of submission by a dealer in the manner and form prescribed by the warrantor. Claims not specifically disapproved in writing within 45 days are deemed to be approved and must be paid within 60 days of submission.

**8. Duties of warrantor.** A warrantor:

A. Shall perform its warranty obligations under this subsection with respect to its warranted products;

B. Shall include in written notices of factory campaigns to recreational vehicle owners and dealers the expected date by which necessary parts and equipment, including tires and chassis or chassis parts, will be available to dealers to perform the campaign work. The warrantor may ship parts to the dealer to effect the campaign work, and, if such parts are in excess of the dealer's requirements, the dealer may return unused parts to the warrantor for credit after completion of the campaign;

C. Shall compensate dealers for authorized repairs performed by the dealer on merchandise damaged in manufacture or transit to the dealer, if the carrier is designated by the warrantor, factory branch, distributor or distributor branch;

D. Shall compensate dealers in accordance with the schedule of compensation provided to the dealer pursuant to subsection 1, paragraph C if the work or service is performed in a timely and competent manner;

E. May not intentionally misrepresent in any way to a purchaser of a recreational vehicle that warranties with respect to the manufacture, performance or design of the vehicle are made by the dealer as warrantor or cowarrantor; and

F. May not require a dealer to make warranties to customers in any manner related to the manufacture of the recreational vehicle.

**9. Duties of dealer.** A dealer:

A. Shall perform predelivery inspection functions, as specified by the warrantor, in a competent and timely manner;

B. Shall perform warranty service or work authorized by the warrantor in a competent and timely manner on any transient customer's vehicle of the same line make or as otherwise authorized by the warrantor;

C. Shall accurately document the time spent completing each repair, the total number of repair attempts conducted on a single vehicle and the number of repair attempts for the same repair conducted on a single vehicle;

D. Shall notify the warrantor within 10 days of a 2nd repair attempt that impairs the use, value or safety of a vehicle;

E. Shall maintain written records, including a customer's signature, regarding the amount of time a vehicle is stored for the customer's convenience during a repair; and

F. May not make fraudulent warranty claims or misrepresent the terms of a warranty.

**10. Manufacturer audit of claims.** A manufacturer is permitted to audit claims within an 18-month period from the date the claim was paid or credit issued by the manufacturer and to charge back any false or unsubstantiated claims. If there is evidence of fraud, this subsection does not limit the right of the

manufacturer to audit for longer periods and charge back for any fraudulent claim.

**Sec. 22. 10 MRSA §1440,** as enacted by PL 1997, c. 427, §2, is repealed.

**Sec. 23. 10 MRSA §1440-A** is enacted to read:

**§1440-A. Mediation**

**1. Mediation.** A dealer, manufacturer, distributor or warrantor injured by another party's violation of this chapter may bring an action pursuant to section 1447. Prior to bringing an action under section 1447, the party bringing the action for an alleged violation must serve a written demand for mediation upon the offending party.

A. The demand for mediation under this section must be served upon the other party via certified mail at the address stated within the agreement among the parties.

B. The demand for mediation under this section must contain a brief statement of the dispute and the relief sought by the party filing the demand.

C. Within 20 days after the date a demand for mediation under this section is served, the parties shall mutually select an independent certified mediator and meet with that mediator for the purpose of attempting to resolve the dispute. The meeting place must be in this State in a location selected by the mediator. The mediator may extend the date of the meeting for good cause shown by either party or upon stipulation of both parties.

D. The service of a demand for mediation under this section tolls the time for the filing of any complaint, petition, protest or other action under this chapter until representatives of both parties have met with a mutually selected mediator for the purpose of attempting to resolve the dispute. If a complaint, petition, protest or other action is filed before that meeting, the court shall enter an order suspending the proceeding or action until the mediation meeting has occurred and may, upon written stipulation of all parties to the proceeding or action that they wish to continue to mediate under this section, enter an order suspending the proceeding or action for as long a period as the court considers appropriate.

E. The parties to the mediation under this section must bear their own costs for attorney's fees and divide equally the cost of the mediator.

**Sec. 24. 10 MRSA §1440-B** is enacted to read:

**§1440-B. Indemnification**

**1. Warrantor.** A warrantor shall indemnify and hold harmless its dealer against any losses or damages to the extent such losses or damages are caused by the negligence or willful misconduct of the warrantor. The dealer shall provide to the warrantor notice of a pending lawsuit or similar proceeding in which such allegations are made within 10 days after receiving the notice.

**2. Dealer.** A dealer shall indemnify and hold harmless its warrantor against any losses or damages to the extent such losses or damages are caused by the negligence or willful misconduct of the dealer. The warrantor shall provide to the dealer notice of a pending lawsuit or similar proceeding in which such allegations are made within 10 days after receiving the notice.

**Sec. 25. 10 MRSA §1441,** as enacted by PL 1997, c. 427, §2, is repealed.

**Sec. 26. 10 MRSA §1442,** as enacted by PL 1997, c. 427, §2, is repealed.

**Sec. 27. 10 MRSA §1442-A** is enacted to read:

**§1442-A. Written agreements; designated territories**

**1. Prohibition.** A manufacturer or distributor may not sell a recreational vehicle in this State to or through a dealer without having first entered into a dealer agreement with the dealer that has been signed by both parties.

**2. Designation of area of sales responsibility.** A manufacturer shall designate the area of sales responsibility assigned to a dealer in the dealer agreement and may not change the area or contract with another dealer for sale of the same line make in the area during the duration of the agreement. If, subsequent to entering into a dealer agreement, a dealer enters into an agreement to sell any competing recreational vehicles, or enters into an agreement to increase a preexisting commitment to sell any competing recreational vehicles, a manufacturer may revise the area of sales responsibility designated in the dealer agreement if the market penetration of the manufacturer's products is compromised by the dealer's subsequent agreements.

**3. Change of area of sales responsibility.** The area of sales responsibility may not be changed until one year after the execution of the dealer agreement. The consent of both parties is required to change the dealer agreement.

**4. Sale of new recreational vehicles.** A dealer may not sell a new recreational vehicle in this State without having first entered into a dealer agreement with a manufacturer or distributor that has been signed by both parties.

**Sec. 28. 10 MRSA §1443,** as enacted by PL 1997, c. 427, §2, is repealed.

**Sec. 29. 10 MRSA §1447,** as enacted by PL 1997, c. 427, §2, is amended to read:

**§1447. Civil remedies**

Any manufacturer, warrantor, dealer or recreational vehicle dealer who has been damaged by reason of a violation of a provision of this chapter may bring an action to enjoin ~~that violation~~ a person from acting as a dealer without being properly licensed, from violating or continuing to violate any of the provisions of this chapter, or from failing or refusing to comply with the requirements of this chapter, and to recover any damages arising from that violation of any part of this chapter. The injunction must be issued without bond. A single act in violation of the provisions of this chapter is sufficient to authorize the issuance of an injunction. A final judgment, order or decree rendered against a person in any civil, criminal or administrative proceeding under the federal antitrust laws, the Federal Trade Commission Act or under the Maine Revised Statutes is prima facie evidence against that person subject to the conditions set forth in the federal antitrust laws, 15 United States Code, Section 16. Each party is responsible for its own attorney's fees and court costs. Neither party has a claim on such expenses from the other party.

**Sec. 30. 10 MRSA §1447-A** is enacted to read:

**§1447-A. Venue**

Venue for a civil action authorized by this chapter is exclusively in the county in which the dealer's business is located. In an action involving more than one dealer, venue may be in any county in which any dealer that is party to the action is located.

See title page for effective date.

## CHAPTER 563

## H.P. 1117 - L.D. 1579

### An Act To Facilitate Voting by Uniformed Service and Overseas Voters

**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 to current law are necessary to ensure that uniformed service and overseas voters are able to participate in elections; 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 §753-A, sub-§6,** as amended by PL 2009, c. 253, §47, is further amended to read:

**6. Application by electronic means.** A municipal clerk ~~may opt to~~ shall accept absentee ballot applications by the electronic means authorized by the Secretary of State. ~~At least 120 days before any election administered by the State, the clerk shall notify the Secretary of State of the clerk's intention to accept absentee ballot applications by electronic means. The Secretary of State shall post on its publicly accessible website a list of municipalities that have opted to accept absentee ballot applications by electronic means along with procedures for requesting an absentee ballot by electronic means.~~ The Secretary of State shall design or approve the form of the absentee ballot application to be submitted by electronic means.

~~If the clerk opts to accept absentee ballot applications by electronic means, a~~ A voter may make an application for the voter's own ballot by electronic means using the form designed or approved by the Secretary of State. The voter may not designate an immediate family member or a 3rd person to deliver the ballot on the voter's behalf. The clerk shall verify that it is the voter who is requesting the ballot by confirming the voter's residence address and birth date with the information in the voter's record. The clerk shall print the electronically submitted application and write "electronic request" on the application.

**Sec. 2. 21-A MRSA §753-B, sub-§1,** as amended by PL 2007, c. 455, §41, is further amended to read:

**1. Application or written request received.** Upon receipt of an application~~,~~ or written request ~~or telephone application~~ for an absentee ballot that is accepted pursuant to section 753-A, the clerk shall immediately issue an absentee ballot and return envelope by mail or in person to the applicant or to the immediate family member or to a 3rd person designated in a written application or request made by the voter, except that the clerk does not have to issue a ballot by mail to ~~an address outside the municipality for a voter whose request was received on the day before election day or to~~ any voter whose request was received ~~on election day~~ after 5:00 p.m. on the Thursday before election day. The clerk shall type or write in ink the name and the residence address of the voter in the designated section of the return envelope.

**Sec. 3. 21-A MRSA §777-A,** as enacted by PL 2003, c. 407, §28, is amended to read:

**§777-A. Registration and enrollment**

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. 4. 21-A MRSA §778,** as amended by PL 2005, c. 453, §§60 and 61, is further amended to read:

**§778. Duty of registrar**

On receipt of an application under section 777-A, the registrar or the Secretary of State in consultation with the registrar shall register the applicant, unless it appears that the applicant is not qualified. If the applicant is not qualified, the registrar or the Secretary of State shall notify the applicant of the reason for rejection of the application.

**1. Member specially designated.** The registrar or the Secretary of State shall designate a uniformed service voter in the central voter registration system with the letter "S".

**2. Overseas voter specially designated.** The registrar or the Secretary of State shall designate an overseas voter in the central voter registration system with the letter "O".

**Sec. 5. 21-A MRSA §780,** as repealed and replaced by PL 2003, c. 407, §31, is amended to read:

**§780. Absentee ballots; application**

A uniformed service voter or an overseas voter may request an absentee ballot as provided in section 753-A or by submitting a federal application or form requesting an absentee ballot as provided in section 783. With respect to any election for federal office, a clerk or the Secretary of State may not refuse to accept or process any otherwise valid voter registration application or absentee ballot application submitted by a uniformed service voter or an overseas voter on the grounds that the voter submitted the application more than 3 months before the election for which the application will be used. An application or request for an absentee ballot for a uniformed service voter or overseas voter that is accepted pursuant to section 753-A or section 783 remains valid ~~through the next 2 regularly scheduled general elections for federal office~~ for 2 years from the date of receipt of the application and entitles the voter to receive absentee ballots for all federal and state elections during that period.

**Sec. 6. 21-A MRSA §780-A,** as enacted by PL 2003, c. 407, §32, is amended to read:

**§780-A. Use of blank write-in absentee ballot**

Prior to the time when regular absentee ballots are available, if an applicant requests a blank write-in absentee ballot or indicates that it takes more than 6 weeks to receive and return mail to the applicant's location, the ~~clerk~~ Secretary of State shall send a blank write-in absentee ballot to the voter or shall transmit the regular absentee ballot by an authorized electronic means if the voter has designated that the voter wishes to receive that ballot by that means. ~~Once the regular absentee ballots become available, the clerk shall issue a regular absentee ballot in response to any request under this section. If the clerk has issued a blank write-in absentee ballot to a voter before the regular absentee ballots become available, the clerk may send a regular absentee ballot to the voter, following the procedures for issuing a 2nd absentee ballot under section 753-B.~~

**Sec. 7. 21-A MRSA §781-A,** as enacted by PL 2003, c. 407, §34, is amended to read:

**§781-A. Absentee ballot application; procedure on receipt**

Upon receipt of an application~~,~~ or written request ~~or telephone application~~ for an absentee ballot 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 ~~mail or in person to the applicant or to the immediate family member or to a 3rd person designated in a written application or request made by the voter~~ the authorized means designated by the voter in the application. ~~The~~ 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 ~~which~~ that moves free of postage under federal law.

**Sec. 8. 21-A MRSA §782,** as amended by PL 2003, c. 407, §35, is further amended to read:

**§782. Absentee ballots; procedure on return**

On receipt of a return envelope apparently containing an absentee ballot, the clerk or the Secretary of State shall follow the procedures for regular absentee voting under this subchapter.

**Sec. 9. 21-A MRSA §783,** as amended by PL 2003, c. 407, §35, is further amended to read:

**§783. Authority of Secretary of State**

The Secretary of State may act administratively to facilitate voting by uniformed service voters and overseas voters~~. The Secretary of State~~ and may use federal or other facilities available for this purpose. These administrative actions may include, but are not limited to:

**1. Central issuance of absentee ballots.** Issuing absentee ballots to uniformed service voters and overseas voters from a central location in order to ensure expedited delivery of absentee ballots;

**2. Central receipt of absentee ballots.** Receiving absentee ballots from uniformed service voters and overseas voters at a central location in order to ensure that the ballots are received by the statutory deadline;

**3. Central counting of absentee ballots.** Counting absentee ballots from uniformed service voters and overseas voters at a central location and including the count of these votes in the statewide tabulation of the vote;

**4. Electronic transmission of absentee ballots.** Authorizing the electronic transmission of absentee ballots to uniformed service voters or overseas voters; and

**5. Electronic receipt of absentee ballots.** Authorizing the electronic receipt of an image of voted absentee ballots transmitted by e-mail or fax from uniformed service voters or overseas voters.

The Secretary of State shall adopt rules to administer the central issuance and processing of absentee ballots, including rules that provide for the examination, counting and storage of ballots in the same manner as regular absentee ballots. Rules adopted in accordance with this section are routine technical rules as described by Title 5, chapter 375, subchapter 2-A.

**Sec. 10. Report.** No later than March 1, 2011, the Secretary of State shall submit a report to the joint standing committee of the Legislature having jurisdiction over voting matters regarding the central issuance and processing of absentee ballots for uniformed service and overseas voters including the provisions adopted by rule to provide for examination, counting and storage of those ballots. The joint standing committee of the Legislature having jurisdiction over voting matters may submit a bill to the First Regular Session of the 125th Legislature.

**Sec. 11. Application.** This Act does not apply to the primary election scheduled to occur in June 2010.

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

Effective March 29, 2010.

## CHAPTER 564

## H.P. 1155 - L.D. 1627

### An Act To Improve Access to Data in the Central Voter Registration System

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

**Sec. 1. 21-A MRSA §22, sub-§3, ¶B,** as enacted by PL 2005, c. 568, §2, is amended to read:

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~~ 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. 2. 21-A MRSA §191,** as amended by PL 2005, c. 364, §6; c. 453, §40; and c. 683, Pt. A, §§31 and 32, is repealed.

**Sec. 3. 21-A MRSA §192,** as amended by PL 2005, c. 12, Pt. SS, §21 and c. 453, §41, is repealed.

**Sec. 4. 21-A MRSA §193,** as amended by PL 2005, c. 453, §42, is repealed.

**Sec. 5. 21-A MRSA §194,** as amended by PL 2005, c. 453, §43, is further amended to read:

**§194. Rules**

The Secretary of State may adopt rules regarding ~~implementation and~~ administration of a central voter registration system to determine the pricing, accessibility and availability of information contained in the database and the appropriate use and resale of that information~~; to establish a plan to implement the system in stages for all municipal jurisdictions;~~ and to identify additional system features or voter information to be included in the system or provide for the confidentiality of certain personal information or limitations on the use and distribution of that information~~; and to establish a system to identify duplicate records, including establishment of a voter identification indicator~~.

Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter ~~II-A~~ 2-A.

**Sec. 6. 21-A MRSA §195,** as amended by PL 2007, c. 397, §1, is further amended to read:

**§195. Report**

The Secretary of State shall report annually, by ~~March 1st~~ January 15th, to the joint standing committee of the Legislature having jurisdiction over voter registration matters on the administration of the central voter registration system ~~developed pursuant to this subchapter~~. The report may ~~include~~ address issues of public access to the information from the central voter registration system, taking into consideration the compelling state interests to prevent voter fraud and the potential disenfranchisement of voters and to ensure that voters are not discouraged from participating in the voting process. The report may include suggested legislation necessary to administer the central voter registration system. The committee may report out legislation regarding the central voter registration system to the Legislature ~~during the First Regular Session of the 121st Legislature and any subsequent Legislature~~.

**Sec. 7. 21-A MRSA §196,** as amended by PL 2009, c. 370, §§4 and 5, is repealed.

**Sec. 8. 21-A MRSA §196-A** is enacted to read:

**§196-A. Use and distribution of central voter registration system information**

**1. Access to data from the central voter registration system.** For the purposes of Title 1, section 402, information contained electronically in the central voter registration system and any information or reports generated by the system are confidential and may be accessed only by municipal and state election officials for the purposes of election and voter registration administration, and by others only as provided in this section.

A. An individual voter may obtain any information contained in that voter's record within the central voter registration system either from the registrar in the voter's municipality of residence or from the Secretary of State. The individual voter information must be made available to that voter upon request and free of charge. The Secretary of State may design a report to facilitate providing information to an individual voter.

B. A political party, or an individual or organization engaged in so-called "get out the vote" efforts or activities directly related to a campaign, may purchase a list or report of certain voter information from the central voter registration system by making a request to the Secretary of State or to a registrar if the information requested concerns voters in that municipality. The Secretary of State or the registrar shall make available the following voter record information, subject to the fees set forth in subsection 2: the voter's name, residence address, mailing address, year of birth, enrollment status, electoral districts, voter status, date of registration, date of change of the voter record if applicable, voter participation history, voter record number and any special designations indicating uniformed service voters, overseas voters or township voters. Any person obtaining, either directly or indirectly, information from the central voter registration system under this paragraph may not sell, distribute or use the data for any purpose that is not directly related to activities of a political party, "get out the vote" efforts or activities directly related to a campaign. This paragraph does not prohibit political parties, party committees, candidate committees, political action committees or any other organizations that have purchased information from the central voter registration system from providing access to such information to their members for purposes directly related to party activities, "get out the vote" efforts or a campaign. For purposes of this paragraph, "campaign" has the same meaning as in section 1052, subsection 1.

C. The registrar shall make available, in electronic form and free of charge, upon the request of any person authorized under section 312 to obtain a municipal caucus list, the following voter record information for each voter in the municipality: the voter's name, residence address, mailing address, enrollment status, electoral districts, voter status, voter record number and any special designation indicating whether the voter is a uniformed service voter, overseas voter or township voter. The Secretary of State also shall make available the statewide caucus list, in electronic form and free of charge, to the state committee of each political party.

D. A municipal clerk or registrar shall make available to any person upon request and free of charge an electronic list of voters who requested or were furnished absentee ballots for their municipality for a specified election. The Secretary of State may make available free of charge the statewide absentee voter list in electronic form. The electronic list must include the information provided in section 753-B, subsection 6, paragraph A, except that the voter's record number must be provided instead of the voter's name and residence address. In addition, a municipal clerk or registrar shall make available upon request, subject to the fees set forth in subsection 2, paragraph A, the printed list, created and maintained pursuant to section 753-B, of voters who requested or were furnished absentee ballots.

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, 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.

F. The Secretary of State shall make available to any person upon request and free of charge the following voter record information in electronic form: either the voter's first name or last name, but not both names in the same report; year of birth; enrollment status; electoral districts to include congressional district and county only; voter status; date of registration or date of change of the voter record if applicable; date of the last statewide election in which the voter voted; and any special designations indicating uniformed service voters, overseas voters or township voters. The Secretary of State or the registrar also may make available to any person upon request and free of charge any report or statistical information that does not contain the names, dates of birth, voter record numbers or addresses of individual voters.

G. The Secretary of State or a registrar shall make available free of charge any information pertaining to individual voters, other than participants in the Address Confidentiality Program established in Title 5, section 90-B, that is contained in the central voter registration system 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. Information pertaining to individual voters who are Address Confidentiality Program participants that is contained in the central voter registration system may be made available for inspection to a law enforcement agency that is authorized by the Secretary of State pursuant to Title 5, section 90-B to obtain Address Confidentiality Program information. Data made available under this paragraph may not be used for purposes other than law enforcement or as directed in the court order.

H. When responding to a request about a specific voter registered in a specific municipality, the registrar of that municipality or the Secretary of State may use information contained in the central voter registration system to provide the registration status, enrollment status and electoral districts for that voter.

**2. Fees.** For the purpose of calculating fees pursuant to this section, a record includes the information on one individual voter. Fees paid to the Secretary of State must be deposited into a dedicated fund for the purpose of offsetting the cost of providing the information and maintaining the central voter registration system and other authorized costs relating to compliance with the federal Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666. A municipality may keep the fees paid to the municipality. The fees for information provided pursuant to this section are as follows:

A. The fee for information provided in printed form is $1 for the first page and 25¢ per page for all additional pages, except that the fee for additional pages of mailing labels is 75¢ per page; and

B. The fee for information provided in electronic form is based on the number of records requested. The fee entitles the requestor to receive the initial electronic report or file and, upon request, up to 11 updates free of charge during the subsequent 12-month period, except that no more than one free update may be requested during any 30-day period. The fee schedule is as follows:

(1) For 900,001 or more voter records, $2,200;

(2) For 600,001 to 900,000 voter records, $1,650;

(3) For 400,001 to 600,000 voter records, $1,100;

(4) For 250,001 to 400,000 voter records, $825;

(5) For 150,001 to 250,000 voter records, $550;

(6) For 100,001 to 150,000 voter records, $275;

(7) For 75,001 to 100,000 voter records, $220;

(8) For 50,001 to 75,000 voter records, $182;

(9) For 35,001 to 50,000 voter records, $138;

(10) For 25,001 to 35,000 voter records, $83;

(11) For 15,001 to 25,000 voter records, $55;

(12) For 7,501 to 15,000 voter records, $33;

(13) For 1,001 to 7,500 voter records, $22; or

(14) For 1 to 1,000 voter records, $11.

**3. Response to requests.** Municipal clerks, registrars and the Secretary of State's office shall respond

to all requests for information from the central voter registration system pursuant to this section within 5 business days of receipt of a written request and upon payment of any applicable fee. A municipal clerk or registrar may provide only information concerning voters registered within that municipal jurisdiction. The Secretary of State may design a form to be used for all requests for information or lists from the central voter registration system.

**Sec. 9. 21-A MRSA §312,** as amended by PL 2005, c. 453, §45, is further amended to read:

**§312. Municipal caucus list**

The chair or secretary of the municipal committee or the person or persons calling a biennial municipal caucus, including any resident voter pursuant to section 311, subsection 5, may request ~~from the municipal registrar and receive at no charge a certified copy of a list of voters registered in that municipality~~ a list of registered voters pursuant to section 196-A, subsection 1 for use by the municipal committee once each biennial election cycle beginning January 1st in an election year. ~~Upon receipt of a request, the registrar has 5 business days to prepare and provide the municipal caucus list to the requester. The municipal caucus list may include only the following information for each voter: name, residence address, mailing address, enrollment status, electoral district, voter status as active or inactive, voter record number and any special designation indicating whether the voter is a uniformed service voter, overseas voter or township voter.~~

**Sec. 10. Application.** This Act does not apply to any requests for information from the central voter registration system submitted to a municipal registrar or to the Secretary of State prior to the effective date of this Act, except that any person or entity that has requested information from the central voter registration system in electronic form within 12 months prior to the effective date of this Act and that has paid the fees required under the Maine Revised Statutes, Title 21-A, former section 196, subsection 4 may obtain free monthly updates of the data for the remainder of the 12-month period, upon request.

See title page for effective date.

## CHAPTER 565

## H.P. 1197 - L.D. 1696

### An Act Regarding Community-based Renewable Energy

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

**Whereas,** legislation is necessary to ensure that community-based renewable energy projects are eligible for grants from the Renewable Resource Fund; and

**Whereas,** the Public Utilities Commission is preparing to distribute $600,000 of funds made available under the American Recovery and Reinvestment Act of 2009 through the Renewable Resource Fund; 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. 35-A MRSA §3210, sub-§5,** as amended by PL 2007, c. 644, §§1 to 3 and PL 2009, c. 372, Pt. K, §1 and affected by §5 and c. 415, Pt. E, §2, is repealed and the following enacted in its place:

**5. Funding for research and development; community demonstration projects.** The commission by rule shall establish and administer a program allowing retail consumers of electricity to make voluntary contributions to fund renewable resource research and development and to fund community demonstration projects using 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 commission;

C. Provide for a distribution of the funds to the University of Maine System, the Maine Maritime Academy or the Maine Community College System for renewable resource research and development;

D. Provide for a distribution of the funds to Maine-based nonprofit 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 renewable energy technologies; and

E. Provide for an annual distribution of 35% of the funds to the Maine Technology Institute to

support the development and commercialization of renewable energy technologies.

Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

This subsection is repealed July 1, 2010.

**Sec. 2. 35-A MRSA §3210, sub-§6,** as amended by PL 2007, c. 18, §2 and PL 2009, c. 372, Pt. K, §2 and affected by §5 and c. 415, Pt. E, §2, is repealed.

**Sec. 3. 35-A MRSA §3210, sub-§6-A,** as enacted by PL 2007, c. 18, §3 and amended by PL 2009, c. 372, Pt. K, §3 and affected by §5 and c. 415, Pt. E, §2, is repealed.

**Sec. 4. 35-A MRSA §3210, sub-§9, ¶B,** as enacted by PL 2007, c. 403, §7, is 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 Renewable Resource Fund established under section 10121, subsection ~~6~~ 2 to be used to fund research, development and demonstration projects relating to renewable energy technologies.

**Sec. 5. 35-A MRSA §3603, sub-§3, ¶A,** as enacted by PL 2009, c. 329, Pt. A, §4, is amended to read:

A. Provide documentation of a resolution of support passed by the municipal legislative body or by the municipal officers, ~~as appropriate~~ if the municipal legislative body has delegated this authority to the municipal officers, of the municipality in which the community-based renewable energy project is proposed to be located, except that any project that is proposed to be located wholly in an unorganized or deorganized area of the State or that has a generating capacity of less than 100 kilowatts is exempt from the requirement set forth in this paragraph;

**Sec. 6. 35-A MRSA §10109, sub-§4, ¶D,** as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

D. Nonelectric savings programs must be used to maximize fossil fuel energy efficiency and conservation and associated greenhouse gas reductions, subject to the apportionment between fossil fuel and electricity conservation set forth in paragraph A. Community-based renewable energy projects, as defined in section 3602, subsection 1, may apply for funding from the trust as nonelectric savings programs.

**Sec. 7. 35-A MRSA §10121** is enacted to read:

**§10121. Renewable Resource Fund**

**1. Funding for renewable resource research and development; community demonstration projects.** The trust by rule shall establish and administer a program allowing retail consumers of electricity to make voluntary contributions to fund renewable resource research and development and to fund community demonstration projects using 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 to the University of Maine System, the Maine Maritime Academy or the Maine Community College System for renewable resource research and development;

D. Provide for a distribution of the funds to Maine-based nonprofit 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 renewable energy technologies; and

E. Provide for an annual distribution of 35% of the funds to the Maine Technology Institute to support the development and commercialization of renewable energy technologies.

Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

**2. Fund established.** There is established the 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.

**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.

**Sec. 8. Federal stimulus funds; community-based renewable energy projects.** A state agency or instrumentality administering American Reinvestment and Recovery Act of 2009 funds may not prohibit a community-based renewable energy project, as defined in the Maine Revised Statutes, Title 35-A, section 3602, that is eligible to receive such funds under applicable federal guidelines from applying to the state agency or instrumentality for such funds.

**Sec. 9. Effective date.** Those sections of this Act that repeal the Maine Revised Statutes, Title 35-A, section 3210, subsections 6 and 6-A and amend Title 35-A, section 3210, subsection 9 and section 10109, subsection 4, paragraph D and enact Title 35-A, section 10121 take effect July 1, 2010.

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

Effective March 29, 2010, unless otherwise indicated.

## CHAPTER 566

## H.P. 1278 - L.D. 1790

### An Act To Implement the Recommendations of the Working Group To Study Landlord and Tenant Issues

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

**Sec. 1. 14 MRSA §6001, sub-§1-A** is enacted to read:

**1-A. Foreclosure.** A bona fide tenancy in a building for which a foreclosure action brought pursuant to either section 6203-A or 6321 is pending or for which a foreclosure judgment has been entered may be terminated only pursuant to the provisions of the federal Protecting Tenants at Foreclosure Act of 2009, Public Law 111-22, Sections 701 to 704.

**Sec. 2. 14 MRSA §6001, sub-§3,** as amended by PL 1989, c. 484, §§1 and 2, is further amended to read:

**3. Presumption of retaliation.** In any action of forcible entry and detainer there ~~shall be~~ is a rebuttable presumption that the action was commenced in retaliation against the tenant if, within 6 months prior to the commencement of the action, the tenant has:

A. Asserted ~~his~~ the tenant's rights pursuant to section 6021;

B. Complained as an individual, or if a complaint has been made in that individual's behalf, in good faith, of conditions affecting that individual's dwelling unit ~~which~~ that may constitute a violation of a building, housing, sanitary or other code, ordinance, regulation or statute, presently or hereafter adopted, to a body charged with enforcement of that code, ordinance, regulation or statute, or such a body has filed a notice or complaint of such a violation;

C. Complained in writing or made a written request, in good faith, to the landlord or the landlord's agent to make repairs on the premises as required by any applicable building, housing or sanitary code, or by section 6021, or as required by the rental agreement between the parties; or

E. Filed, in good faith, a fair housing complaint with the Maine Human Rights Commission or filed, in good faith, a fair housing complaint with the United States Department of Housing and Urban Development concerning acts affecting that individual's tenancy.

No writ of possession may issue in the absence of rebuttal of the presumption of retaliation.

**Sec. 3. 14 MRSA §6001, sub-§5** is enacted to read:

**5. Affirmative defense.** A tenant may raise the affirmative defense of failure of the landlord to provide the tenant with a reasonable accommodation pursuant to Title 5, chapter 337 or the federal Fair Housing Act, 42 United States Code, Section 3601, et seq. If the court determines that the landlord has a duty to offer a reasonable accommodation and has failed to do so, the court shall deny the forcible entry and detainer and not grant possession to the landlord. If the court determines that the landlord is otherwise entitled to possession and either has no duty to offer a reasonable accommodation or has, in fact, offered a reasonable accommodation, the court shall grant the forcible entry and detainer.

**Sec. 4. 14 MRSA §6002,** as amended by PL 2009, c. 171, §§1 to 3, is further amended by adding after the first paragraph a new paragraph to read:

A notice to terminate under this section must include language advising the tenant that the tenant has the right to contest the termination in court. Failure to include language regarding the right to contest termination in the notice to terminate is not grounds to dismiss a forcible entry and detainer action. If the landlord fails to include language required by this paragraph in a notice to terminate and the tenant does not appear at the court hearing scheduled in any forcible entry and detainer action arising from the notice to terminate, the landlord's failure to include the required language in the notice to terminate constitutes sufficient grounds to set aside any default judgment entered against the tenant for failure to appear at the court hearing. This paragraph does not limit the right of a tenant to raise as a defense in an action for forcible entry and detainer the landlord's failure to include language in the notice to terminate as required by a lease agreement or any federal or state statutes, regulations or rules affecting the tenancy.

**Sec. 5. 14 MRSA §6010-A, sub-§1,** as enacted by PL 1985, c. 293, §3, is amended to read:

**1. Scope of section.** If a tenant unjustifiably moves from the premises prior to the effective date for termination of ~~his~~ the tenant's tenancy and defaults in payment of rent, or if the tenant is removed for failure to pay rent or any other breach of a lease or tenancy at will agreement, the landlord may recover rent and damages except amounts which ~~he~~ the landlord could mitigate in accordance with this section, unless ~~he~~ the landlord has expressly agreed to accept a surrender of the premises and end the tenant's liability. Except as the context may indicate otherwise, this section applies to the liability of a tenant under a lease~~, a periodic tenant~~ or tenancy at will agreement or ~~an~~ the tenant's assignee ~~of either~~.

**Sec. 6. 14 MRSA §6010-A, sub-§4, ¶B,** as enacted by PL 1985, c. 293, §3, is amended to read:

B. Rerenting the premises or a part of the premises, with or without notice, with rent applied against the damages caused by the original tenant and in reduction of rent accruing under the original lease or tenancy at will agreement;

**Sec. 7. 14 MRSA §6013,** as amended by PL 2003, c. 303, §1, is repealed and the following enacted in its place:

**§6013. Property unclaimed by tenant**

Any personal property that remains in a rental unit after the issuance of a writ of possession or that is abandoned or unclaimed by a tenant following the tenant's vacating the rental unit must be disposed of as follows.

**1. Place in storage.** The landlord shall place in storage in a safe, dry, secured location any personal property that is abandoned or unclaimed by a tenant following the tenant's vacating the rental unit.

**2. Notice to tenant.** The landlord shall send written notice by first class mail with proof of mailing to the last known address of the tenant concerning the landlord's intent to dispose of the property stored pursuant to subsection 1. The notice must include an itemized list of the items and containers of items of the property and advise the tenant that if the tenant does not respond to the notice within 14 days the landlord may dispose of the property as set forth in subsection 5.

**3. Release of property claimed.** If the tenant claims the property within 14 days after the notice under subsection 2 is sent, the landlord shall release the property to the tenant and may not condition release of the property to the tenant upon payment of any fee or any other amount that may be owed to the landlord by the tenant.

**4. Continuation of storage for claimed property.** If the tenant responds to the notice sent pursuant to subsection 2, the landlord shall continue to store the property for at least 24 days after the landlord sent the notice.

**5. Conditional release; sale or disposal.** A landlord shall comply with the following.

A. If the tenant makes an oral or written claim for the property within 14 days after the date the notice described in subsection 2 is sent, the landlord may not condition the release of the property to the tenant upon the tenant's payment of any rental arrearages, damages and costs of storage as long as the tenant makes arrangements to retrieve the property by the 24th day after the notice described in subsection 2 is sent.

B. If the tenant makes the claim as set forth in paragraph A but fails to retrieve the property by the 24th day, the landlord may employ one or more of the remedies described in paragraph D.

C. If the tenant does not make an oral or written claim for the property within 14 days after the notice described in subsection 2 is sent, the landlord may employ one or more of the remedies described in paragraph D.

D. With regard to any property that remains unclaimed by the tenant in accordance with this subsection, the landlord may take one or more of the following actions:

(1) Condition the release of the property to the tenant upon the tenant's payment of all rental arrearages, damages and costs of storage;

(2) Sell any property for a reasonable fair market price and apply all proceeds to rental

arrearages, damages and costs of storage and sale. All remaining balances must be forwarded to the Treasurer of State; or

(3) Dispose of any property that has no reasonable fair market value.

**Sec. 8. 14 MRSA §6021-A** is enacted to read:

**§6021-A. Treatment of bedbug infestation**

**1. Definition.** As used in this section, unless the context otherwise indicates, "pest control agent" means a commercial applicator of pesticides certified pursuant to Title 22, section 1471-D.

**2. Landlord duties.** A landlord has the following duties.

A. Upon written or oral notice from a tenant that a dwelling unit may have a bedbug infestation, the landlord shall within 5 days conduct an inspection of the unit for bedbugs.

B. Upon a determination that an infestation of bedbugs does exist in a dwelling unit, the landlord shall within 10 days contact a pest control agent pursuant to paragraph C.

C. A landlord shall take reasonable measures to effectively identify and treat the bedbug infestation as determined by a pest control agent. The landlord shall employ a pest control agent that carries current liability insurance to promptly treat the bedbug infestation.

D. Before renting a dwelling unit, a landlord shall disclose to a prospective tenant if an adjacent unit or units are currently infested with or are being treated for bedbugs. Upon request from a tenant or prospective tenant, a landlord shall disclose the last date that the dwelling unit the landlord seeks to rent or an adjacent unit or units were inspected for a bedbug infestation and found to be free of a bedbug infestation.

E. A landlord may not offer for rent a dwelling unit that the landlord knows or suspects is infested with bedbugs.

F. A landlord shall offer to make reasonable assistance, including financial assistance, available to a tenant who is not able to comply with requested bedbug inspection or control measures under subsection 3, paragraph C. After first disclosing what the cost of the tenant's compliance with requested bedbug inspection or control measures may be, a landlord may charge the tenant a reasonable amount for any such assistance, subject to a reasonable repayment schedule, not to exceed 6 months, unless an extension is otherwise agreed to by the landlord and the tenant.

**3. Tenant duties.** A tenant has the following duties.

A. A tenant shall promptly notify a landlord when the tenant knows of or suspects an infestation of bedbugs in the tenant's dwelling unit.

B. Upon receiving reasonable notice as set forth in section 6025, including reasons for and scope of the request for access to the premises, a tenant shall grant the landlord of the dwelling unit, the landlord's agent or the landlord's pest control agent and its employees access to the unit for purposes of an inspection for or control of the infestation of bedbugs. The initial inspection may include only a visual inspection and manual inspection of the tenant's bedding and upholstered furniture. Employees of the pest control agent may inspect items other than bedding and upholstered furniture when such an inspection is considered reasonable by the pest control agent. If the pest control agent finds bedbugs in the dwelling unit or in an adjoining unit, the pest control agent may have additional access to the tenant's personal belongings as determined reasonable by the pest control agent.

C. Upon receiving reasonable notice as set forth in section 6025, a tenant shall comply with reasonable measures to eliminate and control a bedbug infestation as set forth by the landlord and the pest control agent. The tenant's unreasonable failure to completely comply with the pest control measures results in the tenant's being financially responsible for all pest control treatments of the dwelling unit arising from the tenant's failure to comply.

**4. Remedies.** The following remedies are available.

A. The failure of a landlord to comply with the provisions of this section constitutes a finding that the landlord has unreasonably failed under the circumstances to take prompt, effective steps to repair or remedy a condition that endangers or materially impairs the health or safety of a tenant pursuant to section 6021, subsection 3.

B. A landlord who fails to comply with the provisions of this section is liable for a penalty of $250 or actual damages, whichever is greater, plus reasonable attorney's fees.

C. A landlord may commence an action in accordance with section 6030-A and obtain relief against a tenant who fails to provide reasonable access or comply with reasonable requests for inspection or treatment or otherwise unreasonably fails to comply with reasonable bedbug control measures as set forth in this section. For the purposes of section 6030-A and this section, if a court finds that a tenant has unreasonably failed to comply with this section, the court may issue a temporary order or interim relief pursuant to Title

5, section 4654 to carry out the provisions of this section, including but not limited to:

(1) Granting the landlord access to the premises for the purposes set forth in this section;

(2) Granting the landlord the right to engage in bedbug control measures; and

(3) Requiring the tenant to comply with specified bedbug control measures or assessing the tenant with costs and damages related to the tenant's noncompliance.

Any order granting the landlord access to the premises must be served upon the tenant at least 24 hours before the landlord enters the premises.

D. In any action of forcible entry and detainer under section 6001, there is a rebuttable presumption that the action was commenced in retaliation against the tenant if, within 6 months before the commencement of the action, the tenant has asserted the tenant's rights pursuant to this section.

**Sec. 9. 14 MRSA §6023,** as enacted by PL 1979, c. 180, is amended to read:

**§6023. Agency**

Any person authorized to enter into a residential ~~rental~~ lease or tenancy at will agreement on behalf of the owner or owners of the premises ~~shall be~~ is deemed to be the owner's agent for purposes of service of process and receiving and receipting for notices and demands.

**Sec. 10. 14 MRSA §6024,** as amended by PL 1985, c. 638, §5, is further amended to read:

**§6024. Heat and utilities in common areas**

~~No~~ A landlord may not enter into a lease or ~~offer to lease~~ tenancy at will agreement for a dwelling unit in a multi-unit residential building where the expense of furnishing heat or electricity or any other utility to the common areas or other area not within the unit is the sole responsibility of the tenant in that unit, unless both parties to the lease or tenancy at will agreement have agreed in writing that the tenant will pay for such costs in return for a stated reduction in rent or other specified fair consideration that approximates the actual cost of ~~electricity~~ providing heat or utilities to the common areas. "Common areas" ~~include~~ includes, but ~~are~~ is not limited to, hallways, stairwells, basements, attics, storage areas, fuel furnaces or water heaters used in common with other tenants. Except as provided in this section, a written or oral waiver of this requirement is against public policy and is void. Any person in violation of this section is liable to the ~~lessee~~ tenant for actual damages or ~~$100~~ $250, whichever is greater, and reasonable attorneys' fees and costs. In any action brought pursuant to this section, there is a rebuttable presumption that the landlord is aware that the tenant has been furnishing heat or utility service to common areas or other units. If the landlord rebuts this presumption, the landlord is required to comply with this section but is only liable to the tenant for actual damages suffered by the tenant.

**Sec. 11. 14 MRSA §6024-A,** as enacted by PL 1989, c. 87, §1, is repealed and the following enacted in its place:

**§6024-A. Landlord failure to pay for utility service**

**1. Deduct from rent.** If a landlord fails to pay for utility service in the name of the landlord, the tenant, in accordance with Title 35-A, section 706, may pay for the utility service and deduct the amount paid from the rent due to the landlord.

**2. Award damages.** In addition to the remedy set forth in subsection 1, upon a finding by a court that a landlord has failed to pay for utility service in the name of the landlord, the court shall award to the tenant actual damages in the amount actually paid for utilities by the tenant or $100, whichever is greater, together with the aggregate amount of costs and expenses reasonably incurred in connection with the action. The court may also award to the tenant reasonable attorney's fees.

**3. Presumption.** In any action brought pursuant to subsection 2, there is a rebuttable presumption that the landlord knowingly failed to pay for the utility service. If the landlord rebuts this presumption, the landlord is liable to the tenant only for actual damages suffered by the tenant.

**Sec. 12. 14 MRSA §6026, sub-§1,** as enacted by PL 1981, c. 428, §10, is amended to read:

**1. Prohibition of dangerous conditions.** ~~No~~ A landlord ~~leasing~~ who enters into a lease or tenancy at will agreement renting premises for human habitation may not maintain or permit to exist on those premises any condition ~~which~~ that endangers or materially impairs the health or safety of the tenants.

**Sec. 13. 14 MRSA §6026, sub-§5,** as enacted by PL 1981, c. 428, §10, is amended to read:

**5. Waiver.** A provision in a lease~~, whether oral or written,~~ or tenancy at will agreement in which the tenant waives either ~~his~~ the tenant's rights under this section or the duty of the landlord to maintain the premises in compliance with the standards of fitness specified in this section or any other duly promulgated ordinance or regulation is void, except that a written agreement whereby the tenant accepts specified conditions ~~which~~ that may violate the warranty of fitness for human habitation in return for a stated reduction in rent or other specified fair consideration is binding on the tenant and the landlord.

**Sec. 14. 14 MRSA §6026, sub-§10** is enacted to read:

**10. Foreclosure.** For tenancies in buildings in which a foreclosure action brought pursuant to section 6203-A or 6321 has been filed and is currently pending, or in which a foreclosure judgment has been entered, if the landlord fails to maintain the premises in compliance with the standards in subsection 1, a tenant may exercise the tenant's rights pursuant to this section without regard to the cost of compliance limitations set forth in subsection 2, except that the reasonable costs of compliance may not be more than the equivalent of 2 months' rent. A tenant who exercises the tenant's rights under this subsection and who thereafter seeks assistance pursuant to Title 22, chapter 1161 may not have any amounts expended under this subsection counted as income pursuant to Title 22, section 4301, subsection 7.

**Sec. 15. 14 MRSA §6026-A,** as enacted by PL 2009, c. 135, §1, is amended to read:

**§6026-A. Municipal intervention to provide for basic necessities**

In accordance with the procedures provided in this section, the municipal officers of any town or city or their designee may provide for ~~the delivery of heating fuel~~ basic necessities and any ~~associated heating system~~ repair activities to ensure the continued habitability of any premises leased for human habitation. For the purposes of this section, "basic necessities" means those services, including but not limited to maintenance, repairs and provision of heat or utilities, that a landlord is otherwise responsible to provide under the terms of a lease, a tenancy at will agreement or applicable law.

**1. Imminent threat to habitability of leased premises exists.** The leased premises must be ~~out of heating fuel or nearly out of heating fuel~~ in need of basic necessities such that the municipal officers or their designee can make a finding that an imminent threat to the continued habitability of the premises exists.

**2. Attempt to contact landlord.** The municipal officers or their designee must document a good faith attempt to contact the landlord of the premises under subsection 1 regarding:

A. The municipality's determination of the threat to habitability;

B. The municipality's intention to provide for ~~the delivery of heating fuel~~ basic necessities;

C. The municipality's intention to subsequently recover the municipality's direct and administrative costs from the landlord; and

D. The landlord's ability to avert the municipality's actions by causing the ~~delivery~~ provision of ~~adequate supplies of heating fuel~~ basic necessities by a time certain.

This communication to the landlord must be either in person, by telephone or by certified mail as may be warranted considering the degree or imminence of the threat.

**3. Municipality may provide for basic necessities.** If the landlord cannot be contacted in a timely manner or if the landlord does not cause the ~~delivery~~ provision of ~~adequate supplies of heating fuel~~ basic necessities by a deadline identified by the municipal officers or their designee, the municipality may provide for ~~the delivery of an adequate supply of heating fuel~~ basic necessities and whatever attendant activities may be necessary to ensure the proper functioning of the leased ~~premises' heating system~~ premises.

**4. Lien.** The municipality has a lien against the landlord of the leased premises for the amount of money spent by the municipality to provide for ~~the adequate supply of heating fuel~~ basic necessities and attendant activities pursuant to this section, as well as all reasonably related administrative costs pursuant to subsection ~~3~~ 5.

**5. Filing of notice of lien; interest; costs.** The municipal officers or their designee shall file a notice of the lien under subsection 4 with the register of deeds of the county in which the property is located within 30 days of providing for ~~the delivery of heating fuel~~ basic necessities. That filing secures the municipality's lien interest for an amount equal to the costs recoverable pursuant to this section. Not less than 10 days prior to the filing, the municipal officers or their designee shall send notification of the proposed action by certified mail, return receipt requested, to the owner of the real estate and any record holder of the mortgage. The lien notification must contain the title, address and telephone number of the municipal ~~official~~ officer or officers who authorized the provision of ~~heating fuel~~ basic necessities, an itemized list of the costs to be recovered by lien and the provisions of this subsection regarding interest rates and costs. The lien is effective until enforced by an action for equitable relief or until discharged. Interest on the amount of money secured by the lien may be charged by the municipality at a rate determined by the municipal officers but in no event may the rate exceed the maximum rate of interest allowed by the Treasurer of State pursuant to Title 36, section 186. Interest accrues from and including the date the lien is filed. The costs of securing and enforcing the lien are recoverable upon enforcement.

**Sec. 16. 14 MRSA §6030,** as amended by PL 1991, c. 704, is further amended to read:

**§6030. Unfair agreements**

**1. Illegal waiver of rights.** It is an unfair and deceptive trade practice in violation of Title 5, section 207 for a landlord to require a tenant to enter into a ~~rental~~ lease or tenancy at will agreement for a dwelling

unit, as defined in section 6021, in which the tenant agrees to a ~~lease or rule~~ provision that has the effect of waiving a tenant right established in chapter 709, this chapter ~~and~~ or chapter 710-A. This subsection does not apply when the law specifically allows the tenant to waive a statutory right during negotiations with the landlord.

**2. Unenforceable provisions.** The following ~~rental~~ lease or tenancy at will agreement or rule provisions for a dwelling unit, as defined in section 6021, are specifically declared to be unenforceable and in violation of Title 5, section 207:

A. Any provision that absolves the landlord from liability for the negligence of the landlord or the landlord's agent;

B. Any provision that requires the tenant to pay the landlord's legal fees in enforcing the ~~rental~~ lease or tenancy at will agreement;

C. Any provision that requires the tenant to give a lien upon the tenant's property for the amount of any rent or other sums due the landlord; and

D. Any provision that requires the tenant to acknowledge that the provisions of the ~~rental~~ lease or tenancy at will agreement, including tenant rules, are fair and reasonable.

**3. Exception.** Notwithstanding subsection 2, paragraph B, a ~~rental~~ lease or tenancy at will agreement or rule provision that provides for the award of attorney's fees to the prevailing party after a contested hearing to enforce the ~~rental~~ lease or tenancy at will agreement in cases of wanton disregard of the terms of the ~~rental~~ lease or tenancy at will agreement is not in violation of Title 5, section 207 and is enforceable.

**Sec. 17. 14 MRSA §6030-B,** as amended by PL 2007, c. 238, §1, is further amended to read:

**§6030-B. Environmental lead hazards**

**1. Environmental lead hazard disclosure.** A landlord or other ~~lessor of~~ person who on behalf of a landlord enters into a lease or tenancy at will agreement for residential property shall provide to potential tenants and lessees a residential real property disclosure statement that includes, but is not limited to, information about the presence or prior removal of lead-based paint in accordance with Title 22, section 1328.

**2. Application.** The landlord or ~~lessor~~ other person who on behalf of a landlord enters into a lease or tenancy at will agreement shall provide the residential real property disclosure statement under subsection 1 when a structure that is part of the real property was built prior to 1978.

**3. Notification of repairs.** A landlord or other ~~lessor of~~ person who on behalf of a landlord enters into a lease or tenancy at will agreement for residential property who undertakes, or who engages someone else to undertake, any repair, renovation or remodeling activity in a residential building built before 1978 that includes one or more units that are rented for human habitation shall give notice of the activity and the risk of an environmental lead hazard pursuant to this subsection.

A. Notice must be given at least 30 days before the activity is commenced by:

(1) Posting a sign on the building's exterior entry doors; and

(2) A notice sent by certified mail to every unit in the building.

B. Notwithstanding paragraph A, notice may be given less than 30 days before the activity is commenced by:

(1) Posting a sign on the building's exterior entry doors; and

(2) Obtaining from one adult tenant of each unit in the building a written waiver of the 30-day notice requirement and a written acknowledgment of receipt of notice for the particular activity.

C. The waiver of the 30-day notice requirement pursuant to paragraph B must be in plain language, immediately precede the signature of the adult tenant, be printed in no less than 12-point boldface type and be in the following form or in a substantially similar form:

NOTICE: YOU ARE WAIVING YOUR RIGHT UNDER STATE LAW TO RECEIVE 30 DAYS' NOTICE PRIOR TO ANY REPAIR, RENOVATION OR REMODELING ACTIVITY TO A RESIDENCE BUILT BEFORE 1978. RESIDENCES BUILT BEFORE 1978 MAY CONTAIN LEAD PAINT SUFFICIENT TO POISON CHILDREN AND SOMETIMES ADULTS. WORKERS PERFORMING RENOVATIONS OR REPAIRS IN HOUSING BUILT BEFORE 1978 SHOULD USE LEAD-SAFE WORK PRACTICES THAT MINIMIZE AND CONTAIN LEAD DUST AND SHOULD CLEAN THE WORK AREA THOROUGHLY TO PREVENT LEAD POISONING.

D. For purposes of this subsection, "repair, renovation or remodeling activity" means the repair, reconstruction, restoration, replacement, sanding or removal of any structural part of a residence that may disturb a surface coated with lead-based paint.

E. For purposes of this subsection, "environmental lead hazard" means any condition that may cause exposure to lead from lead-contaminated dust or lead-based paint.

F. Emergency repairs are exempt from the notification provisions of this subsection. For purposes of this paragraph, "emergency repairs" means repair, renovation or remodeling activities that were not planned but result from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard or threatens equipment or property with significant damage.

G. A person who violates this subsection commits a civil violation for which a fine of up to $500 per violation may be assessed. This paragraph is enforceable in either District Court or Superior Court.

H. This subsection may not be construed to limit a tenant's rights, a landlord's duties or any other provisions under section 6026 or Title 22, chapter 252.

**Sec. 18. 14 MRSA §6030-C,** as enacted by PL 2005, c. 534, §1, is amended to read:

**§6030-C. Residential energy efficiency disclosure statement**

**1. Energy efficiency disclosure.** A landlord or other ~~lessor of~~ 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 a residential energy efficiency disclosure statement in accordance with Title 35-A, section 10006, subsection 1 that includes, but is not limited to, information about the energy efficiency of the property.

**2. Provision of statement.** A landlord or other ~~lessor~~ person who on behalf of a landlord enters into a lease or tenancy at will agreement shall provide the residential energy efficiency disclosure statement required under subsection 1 in accordance with this subsection. The landlord or ~~lessor~~ other person who on behalf of a landlord enters into a lease or tenancy at will agreement shall provide the statement to any person who requests the statement in person and shall post the statement in a prominent location in a property that is being offered for rent or lease. Before a tenant or lessee enters into a contract or pays a deposit to rent or lease a property, the landlord or ~~lessor~~ other person who on behalf of a landlord enters into a lease or tenancy at will agreement shall provide the statement to the tenant or lessee, obtain the tenant's or lessee's signature on the statement and sign the statement. The landlord or ~~lessor~~ other person who on behalf of a landlord enters into a lease or tenancy at will agreement shall retain the signed statement for a minimum of 7 years.

**Sec. 19. 14 MRSA §6030-D,** as enacted by PL 2009, c. 278, §1, is amended to read:

**§6030-D. Radon testing**

**1. Testing.** By 2012 and every 10 years thereafter, a landlord or other ~~lessor of~~ person who on behalf of a landlord enters into a lease or tenancy at will agreement for a residential building shall have the air of the residential building tested for the presence of radon. A test required to be performed under this section must be conducted by a person registered with the Department of Health and Human Services pursuant to Title 22, chapter 165.

**2. Notification.** A landlord or other ~~lessor of~~ person who on behalf of a landlord enters into a lease or tenancy at will agreement for a residential building shall provide written notice to a tenant or potential tenant regarding the presence of radon in the building, including the date and results of the most recent test conducted under subsection 1, and the risk associated with radon. The ~~department~~ Department of Health and Human Services shall prepare a standard disclosure statement form for ~~landlords and~~ a landlord or other ~~lessors of~~ person who on behalf of a landlord enters into a lease or tenancy at will agreement for real property to use to disclose to a tenant or potential tenant information concerning radon. The form must include an acknowledgment that the tenant or potential tenant has received the disclosure statement required by this subsection. The department shall post and maintain the forms required by this subsection on its publicly accessible website in a format that is easily downloaded.

**3. Mitigation.** When the test of a residential building under subsection 1 reveals a level of radon of 4.0 picocuries per liter of air or above, the landlord or other ~~lessor of~~ person who on behalf of a landlord enters into a lease or tenancy at will agreement for that building shall, within 6 months, mitigate the level of radon in the residential building until it is reduced to a level below 4.0 picocuries per liter of air. If a landlord or other ~~lessor of~~ person who on behalf of a landlord enters into a lease or tenancy at will agreement for a residential building is required to obtain a permit under a local or municipal ordinance, mitigation must occur within 6 months after obtaining any necessary permit. Mitigation services must be provided by a person registered with the Department of Health and Human Services pursuant to Title 22, chapter 165. After mitigation has been performed pursuant to this subsection to reduce the level of radon, the landlord or other ~~lessor of~~ person who on behalf of a landlord enters into a lease or tenancy at will agreement for the residential building shall provide written notice to tenants that radon levels have been mitigated.

**4. Penalty.** A person who violates this section commits a civil violation for which a fine of not more than $250 per violation may be assessed.

**Sec. 20. 14 MRSA §6031, sub-§2,** as enacted by PL 1977, c. 359, is amended to read:

**2. Security deposit.** "Security deposit" means any advance or deposit, regardless of its denomination, of money, the primary function of which is to secure the performance of a ~~rental~~ lease or tenancy at will agreement for residential premises or any part thereof.

**Sec. 21. 14 MRSA §6031, sub-§3,** as enacted by PL 2007, c. 370, §1, is amended to read:

**3. Surety bond.** "Surety bond" means a bond purchased by a tenant in lieu of making a security deposit when the function of the bond is to secure the performance of a ~~rental~~ lease or tenancy at will agreement for residential premises or any part of residential premises.

**Sec. 22. 14 MRSA §6032,** as enacted by PL 1977, c. 359, is amended to read:

**§6032. Maximum security deposit**

~~No lessor of~~ A lease or tenancy at will agreement for a dwelling intended for human habitation ~~shall~~ may not require a security deposit equivalent to more than the rent for 2 months.

**Sec. 23. 14 MRSA §6036,** as enacted by PL 1977, c. 359, is amended to read:

**§6036. Waiver of provisions**

Any provision, whether oral or written, in or pertaining to a ~~rental~~ lease or tenancy at will agreement whereby any provision of this chapter for the benefit of a tenant or members of ~~its~~ the tenant's household is waived ~~shall be deemed to be~~ is against public policy and ~~shall be~~ is void.

**Sec. 24. 14 MRSA §6038,** as amended by PL 1999, c. 213, §2, is repealed and the following enacted in its place:

**§6038. Treatment of security deposit**

**1. Requirements.** During the term of a tenancy, a security deposit given to a landlord as part of a residential rental agreement may not be treated as an asset to be commingled with the assets of the landlord or any other entity or person. All security deposits received after October 1, 1979 must be held in an account of a bank or other financial institution under terms that place the security deposit beyond the claim of creditors of the landlord or any other entity or person, including a foreclosing mortgagee or trustee in bankruptcy, and that provide for transfer of the security deposit to a subsequent owner of the dwelling unit or to the tenant in accordance with section 6035. Upon the transfer of the dwelling unit, the new owner shall assume all responsibility for maintaining and returning to tenants all security deposits accounted for and transferred pursuant to section 6035. Upon request by a tenant, a landlord shall disclose the name of the institution and the account number where the security deposit is being held. A landlord may use a single escrow account to hold security deposits from all of the tenants. A landlord may use a single escrow account to hold security deposits from tenants residing in separate buildings if the buildings are owned by different entities as long as the different entities are substantially controlled or owned by a single landlord.

**2. Remedies.** Upon a finding by a court that a violation of this section has occurred, the tenant is entitled to recover from the landlord actual damages, $500 or the equivalent of one month's rent, whichever is greatest, together with the aggregate amount of costs and expenses reasonably incurred in connection with the action. The court may also award to the tenant reasonable attorney's fees.

**3. Application.** The provisions of subsection 2 apply to all security deposits collected by a landlord after June 1, 2010. As of October 1, 2010, the provisions of subsection 2 apply to all security deposits held by or on behalf of a landlord.

**Sec. 25. 33 MRSA §1954, sub-§2,** as amended by PL 2003, c. 303, §2, is repealed.

See title page for effective date.

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## CHAPTER 567

## H.P. 1280 - L.D. 1792

### An Act To Implement the 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. 5 MRSA §244-E** is enacted to read:

**§244-E. Referral service; confidentiality; public records**

**1. Identity confidential.** The identity of a person making a complaint alleging fraud, waste, inefficiency or abuse through a hotline or other referral service established by the State Auditor for the confidential reporting of fraud, waste, inefficiency and abuse in State Government is confidential and may not be disclosed, unless the person making the complaint agrees in writing to the disclosure of that person's name.

**2. Contents of complaint confidential.** A complaint alleging fraud, waste, inefficiency or abuse made through a hotline or other referral service established by the State Auditor for the confidential reporting of fraud, waste, inefficiency and abuse in State Government and any resulting investigation is confidential and may not be disclosed except as provided in subsections 3 and 4.

**3. Coordination with Office of Program Evaluation and Government Accountability and Attorney General.** The State Auditor may disclose information that is confidential under this section to the Director of the Office of Program Evaluation and Government Accountability and the Attorney General to ensure appropriate agency referral or coordination between agencies to respond appropriately to all complaints made under this section.

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

A. The total number of complaints received;

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

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

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

**Sec. 2. 10 MRSA §945-J, first ¶,** as enacted by PL 1995, c. 648, §5, is amended to read:

The ~~following~~ records and proceedings of the center are ~~confidential and are not open to~~ public ~~inspection~~ for the purposes of Title 1, chapter 13, except as otherwise provided in this section.

**Sec. 3. 10 MRSA §945-J, sub-§1,** as enacted by PL 1995, c. 648, §5, is amended to read:

**1. Proprietary information; other information.** Information provided to or developed by the center and included in a business or marketing plan is ~~confidential so long as~~ public unless the person to whom the information belongs or pertains requests that it be designated as confidential and ~~if, when made available, the~~ the center has determined it contains proprietary information ~~would allow a person to obtain a business or competitive advantage over another person or would result in significant detriment to the person to whom the information belongs and when the information is not otherwise available in the public domain~~. 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 center or the person submitting the information and would make available information not otherwise publicly available.

**Sec. 4. 12 MRSA §549-B, sub-§5, ¶D,** as enacted by PL 1985, c. 201, §2, is amended to read:

D. An affidavit of investigatory and exploratory work ~~shall~~ must be filed each year with the director of the survey on June 30th. At the time of filing that affidavit, the claimant shall demonstrate to the director that investigatory work has been performed on that claim at a rate of at least $5 per acre during the year ending June 30th. For claims recorded after April 1st and before June 30th, the first affidavit of investigatory and exploratory work ~~shall~~ must be filed on the 2nd June 30th following. All work done ~~shall~~ must be described in the affidavit and ~~shall~~ include work ~~which~~ that tends to reveal such characteristics of the material sought as length, width, depth, thickness, tonnage and mineral or metal content, or, with respect to nonmetallic minerals, other physical characteristics of the deposit relating directly to the commercial exploitation of the deposit and such other information relating to the exploration work as the director of the survey may require. ~~This information may be shared with other governmental agencies, but shall not constitute records available for public inspection or disclosure pursuant to Title 1, section 408, during the period of time in which the claim is in effect.~~ During the period of time in which the claim is in effect, this information is confidential and may not be disclosed, except that the information may be shared with other governmental agencies.

**Sec. 5. 12 MRSA §549-B, sub-§13,** as enacted by PL 1985, c. 201, §2, is amended to read:

**13. Annual reports.** Any person with a mining lease engaged in mine development or mining under this subchapter shall, in the month of June following the year the operation was carried on, pay all applicable fees, rentals and royalties and file an annual report with the director of the survey and director of the agency having jurisdiction over the state-owned land setting forth:

A. The location of the operation;

B. The quality and grade of mineral products or ores produced;

C. The amount of royalty ~~which~~ that has accrued on material extracted;

D. The number of persons ordinarily employed at operation below ground and above ground; and

E. Any other information, relating to the mining lease, mine development or mining, the director of the bureau and the director of the agency having jurisdiction over the state-owned lands may require by regulation.

This information ~~may be shared with other government~~ is confidential and may not be disclosed, except that the information may be shared with other governmental agencies~~, but shall not constitute records available for public inspection or disclosure pursuant to Title 1, section 408~~.

**Sec. 6. 12 MRSA §550-B, sub-§6,** as amended by PL 1999, c. 556, §17, is further amended to read:

**6. Information use.** Information collected by the Bureau of Geology and Natural Areas, Maine Geological Survey under this ~~chapter~~ section is ~~exempt from~~ subject to Title 1, chapter 13, subchapter ~~I~~ 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, 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. 7. 12 MRSA §6455, sub-§1-A, ¶C,** as enacted by PL 1993, c. 545, §1, is amended to read:

C. Notwithstanding any provisions of paragraphs A and B:

(1) All meetings and records of the council are subject to the provisions of Title 1, chapter 13, subchapter ~~I~~ 1, except ~~that, by majority vote of the members, the council may designate market studies or promotional plans developed or funded by the council as confidential~~ as provided in subsection 1-B. The commissioner and those members of the Legislature appointed to serve on the joint standing committee of the Legislature having jurisdiction over marine resource matters have access to all material designated confidential by the council;

(2) Except as required by subsection 2, members of the council are governed by the conflict of interest provisions set forth in Title 5, section 18; and

(3) For the purposes of the Maine Tort Claims Act, the council is a "governmental entity" and its employees are "employees" as those terms are defined in Title 14, section 8102.

**Sec. 8. 12 MRSA §6455, sub-§1-B** is enacted to read:

**1-B. Market studies and promotional plans; proprietary information.** Information provided to or developed by the council and included in a promotional plan or market study is public unless the council determines that 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 council or the person submitting the information and would make available information not otherwise publicly available.

**Sec. 9. 12 MRSA §8869, sub-§13,** as amended by PL 2007, c. 271, §5, 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 ~~designated as confidential for the purposes of Title 1, section 402, subsection 3, paragraph A if the bureau has determined that failure to designate the information as confidential would provide competitors an opportunity to obtain business or competitive advantage over the person to whom the information belongs or pertains or would result in loss or other significant detriment to that person~~ 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.

**Sec. 10. 20-A MRSA §13004, sub-§2-A, ¶D** is enacted to read:

D. Notwithstanding paragraph A, the following information concerning final written decisions relating to disciplinary action taken by the commissioner against a person holding certification is a public record:

(1) The name of the person;

(2) The type of action taken, consisting of denial, revocation, suspension, surrender or reinstatement;

(3) The grounds for the action taken;

(4) The relevant dates of the action;

(5) The type of certification and endorsements held, including relevant dates;

(6) The schools where the person was or is employed; and

(7) The dates of employment.

**Sec. 11. Requests for bulk data.** The Right To Know Advisory Committee shall review and make recommendations concerning the issues involved with requests for public records in bulk, including:

1. Public access to databases;

2. Protection of personal information that is not designated as confidential but is contained in databases that include public records;

3. Reasonable costs for copies when public records are requested in bulk;

4. Whether access or costs should be based on the intended or subsequent use of the information requested in bulk;

5. The acceptable formats for responses to requests, including electronic and paper;

6. The appropriate role for InforME in responding to requests for public records in bulk; and

7. Any other issues the advisory committee considers appropriate.

The advisory committee shall include its recommendations in the 2011 annual report required under the Maine Revised Statutes, Title 1, section 411, subsection 10.

See title page for effective date.

## CHAPTER 568

## S.P. 718 - L.D. 1809

## An Act To Facilitate Communication between the Department of Administrative and Financial Services, Bureau of Revenue Services and the Department of Conservation, Bureau of 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,** it is essential that taxes be levied and apportioned fairly; and

**Whereas,** communication between the Department of Administrative and Financial Services, Bureau of Revenue Services and the Department of Conservation, Bureau of Forestry is vital to the identification of owners of commercial forest land subject to the commercial forestry excise tax; and

**Whereas,** the excise tax is due on May 1st of each year; 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 §8885, sub-§4,** as enacted by PL 1989, c. 555, §12 and affected by c. 600, Pt. B, §11, is amended to read:

**4. Confidentiality.** Information contained in reports filed under this section ~~shall~~ may not be made public, except that summary reports may be published that use aggregated data ~~which~~ that do not reveal the activities of an individual person or firm. Forms submitted pursuant to this section ~~shall~~ must be available for the use of the State Tax Assessor ~~pursuant to~~ for the administration of Title 36~~, chapter 105, subchapter II-A~~.

**Sec. 2. 36 MRSA §191, sub-§2, ¶PP** is enacted to read:

PP. The disclosure to the Department of Conservation of information contained on the commercial forestry excise tax return filed pursuant to section 2726, such as the landowner name, address and acreage, to facilitate the administration of chapter 367.

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

Effective March 29, 2010.

# CHAPTER 569

## H.P. 1299 - L.D. 1815

## An Act To Clarify the Construction Subcontractor Status of the Maine Workers' Compensation Act of 1992

**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 ensure a smooth transition for the predetermination of the employment status of construction subcontractors certain changes in the law must be put into 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. 39-A MRSA §105,** as amended by PL 1993, c. 65, §1 and c. 120, §1 and affected by §6, is further amended to read:

**§105. Predetermination of independent contractor and construction subcontractor status**

**1. Predetermination permitted.** A worker, an employer or a workers' compensation insurance carrier, or any together, may apply to the board for a predetermination of whether the status of an individual worker, group of workers or a job classification associated with the employer is that of an employee or an independent contractor.

A. The predetermination by the board creates a rebuttable presumption that the determination is correct in any later claim for benefits under this Act.

B. Nothing in this ~~section~~ subsection requires a worker, an employer or a workers' compensation insurance carrier to request predetermination.

**1-A. Predetermination permitted for construction subcontractors.** A person, as defined in section 105-A, subsection 1, paragraph E, may apply to the board for a predetermination that the person performs construction work in a manner that would not make the person an employee of a hiring agent, as defined in section 105-A, subsection 1, paragraph D.

A. The predetermination issued by the board pursuant to this subsection is valid for one year and creates a rebuttable presumption that the determination is correct in any later claim for benefits under this Act.

B. Nothing in this subsection requires a person, as defined in section 105-A, subsection 1, paragraph E, a worker, an employer or a workers' compensation insurance carrier to request predetermination.

**2. Premium adjustment.** If it is determined that a predetermination does not withstand board or judicial scrutiny when raised in a subsequent workers' compensation claim, then, depending on the final outcome of that subsequent proceeding, either the workers' compensation insurance carrier shall return excess premium collected or the employer shall remit premium subsequently due in order to put the parties in the same position as if the final outcome under the contested claim were predetermined correctly.

**3. Predetermination submission.** A party may submit, on forms approved by the board, a request for predetermination regarding the status of a person or job description as an employee, construction subcontractor, as defined in section 105-A, subsection 1, paragraph B, or independent contractor. The status requested by a party is deemed to have been approved if the board does not deny or take other appropriate action on the submission within 14 days.

**4. Hearing.** A hearing, if requested by a party within 10 days of the board's decision on a petition, must be conducted under the Maine Administrative Procedure Act.

**5. Certificate.** The board shall provide the petitioning party a certified copy of the decision regarding predetermination that is to be used as evidence at a later hearing on benefits.

**6. Rulemaking.** The board is authorized to adopt reasonable rules pursuant to the Maine Administrative Procedure Act to implement the intent of this section, which is to afford speedy and equitable predetermination of employee, construction subcontractor, as defined in section 105-A, subsection 1, paragraph B, and independent contractor status.

**Sec. 2. Implementation.** The Workers' Compensation Board shall implement the provisions of this Act by updating the predetermination application using existing departmental personnel and resources. The Workers' Compensation Board shall submit the predetermination application for review by the Joint Standing Committee on Labor by March 10, 2010.

**Sec. 3. Appropriations and allocations.** The following appropriations and allocations are made.

**WORKERS' COMPENSATION BOARD**

**Administration - Workers' Compensation Board 0183**

Initiative: Allocates funds to enhance enforcement of laws prohibiting the misclassification of workers by the Workers' Compensation Board Abuse Investigation Unit by providing a range change from 24 to 27 for 2 Workers' Compensation Specialist positions and reclassifying one Secretary Legal range 13 position to a Paralegal range 20 position.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $5,443 | $21,769 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $5,443 | $21,769 |

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

Effective March 30, 2010.

## CHAPTER 570

## H.P. 1305 - L.D. 1822

### An Act To Further Amend the Sex Offender Registration and Notification Act of 1999

**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 for the Legislature to respond to the Law Court's concerns raised regarding the constitutionality of certain provisions of the Sex Offender Registration and Notification Act of 1999 prior to the March 31, 2010 expiration of the stay of the Law Court's decision in State v. Letalien, this legislation must take effect as expeditiously 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. 34-A MRSA §11202-A,** as enacted by PL 2009, c. 365, Pt. B, §3 and affected by §22, is amended to read:

**§11202-A. Exception**

**1. Exception.** Notwithstanding section 11202, a person ~~sentenced on or after January 1, 1982 and prior to June 30, 1992~~ is not required to register under this chapter if that person submits to the bureau, in a form to be determined by the bureau, documentation to establish the following:

A. The person was sentenced in the State on or after January 1, 1982 and prior to June 30, 1992 and was finally discharged from the correctional system ~~prior to September 1, 1998~~ at least 10 years prior to submitting documentation to the bureau under this section; the person was sentenced in the State on or after June 30, 1992 and prior to September 18, 1999 and was finally discharged from the correctional system at least 10 years prior to submitting documentation to the bureau under this section; the person was sentenced in another jurisdiction, was finally discharged from the correctional system at least 10 years prior to submitting documentation to the bureau under this section and has been in compliance with the registration duties as a resident required under subchapter 2 since September 12, 2009; or the person was sentenced in the State on or after September 18, 1999 and prior to July 30, 2004 for a violation of former Title 17-A, section 252 and was finally discharged from the correctional system at least 10 years prior to submitting documentation to the bureau under this section. For purposes of this paragraph, "finally discharged from the correctional system" includes completion of probation;

B. The person's convictions do not include more than one Class A sex offense or sexually violent offense or more than one conviction in another jurisdiction for an offense that contains the essential elements of a Class A sex offense or sexually violent offense, whether or not the convictions occurred on the same date;

C. At the time of the offense, the person had not been previously sentenced in this State as an adult or as a juvenile sentenced as an adult for a sex offense or a sexually violent offense;

D. At the time of the offense, the person had not been previously sentenced in another jurisdiction as an adult or as a juvenile sentenced as an adult for an offense that contains the essential elements of a sex offense or a sexually violent offense;

E. Subsequent to the ~~commission of~~ conviction for the sex offense or sexually violent offense, the person has not been convicted of a crime under Title 17 or Title 17-A in this State that is punishable by imprisonment for a term of one year or more; and

F. Subsequent to the ~~commission of~~ conviction for the sex offense or sexually violent offense, the person has not been convicted under the laws of any other jurisdiction of a crime that is punishable by a term of imprisonment exceeding one year. This paragraph does not include a crime under the

laws of another jurisdiction that is classified by the laws of that jurisdiction as a misdemeanor and is punishable by a term of imprisonment of 2 years or less.

**2. Duty continues.** A person's duty to register continues until the bureau determines that the documentation meets the requirements of this section and any rules adopted by the bureau.

**3. Costs.** A person who submits documentation under this section is responsible for the costs of any criminal history record checks required.

**4. Restoration of registration status.** The registration obligation of a person ~~sentenced on or after January 1, 1982 and prior to June 30, 1992~~ that is discharged pursuant to this section is restored by any subsequent conviction for a crime described in subsection 1, paragraph E or F.

**5. Appeal.** A decision to deny an application for relief under this section is a final agency action, which may be appealed by filing a petition for review pursuant to Title 5, chapter 375, subchapter 7.

**6. Subsequent offenses and consideration of prior offense.** If application for relief is approved and a duty to register is extinguished under this section, and the person is subsequently sentenced for a new sex offense or sexually violent offense, the prior offense for which the duty to register was extinguished must be counted as a prior offense for the purposes of classifying the person as a lifetime registrant.

**Sec. 2. 34-A MRSA §11222, sub-§4,** as amended by PL 2005, c. 423, §17, is further amended to read:

**4. Verification for persons sentenced on or after September 18, 1999.** During the period a registrant sentenced on or after September 18, 1999 is required to register, the bureau shall require the registrant to verify registration information including domicile, residence, mailing address, place of employment and college or school being attended. The bureau shall verify the registration information of a 10-year registrant on each anniversary of the 10-year registrant's initial registration date and shall verify a lifetime registrant's registration information every 90 days after that lifetime registrant's initial registration date. Verification of the registration information of a 10-year registrant or lifetime registrant occurs as set out in this subsection.

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.

C. The registrant shall take 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.

D. 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.

**Sec. 3. 34-A MRSA §11222, sub-§4-A** is enacted to read:

**4-A. Verification for person sentenced on or after January 1, 1982 and prior to September 18, 1999 who is a 10-year registrant.** During the period a 10-year registrant sentenced on or after January 1, 1982 and prior to September 18, 1999 is required to register, the bureau shall require the 10-year registrant to verify registration information including domicile, residence, mailing address, place of employment and college or school being attended. The bureau shall verify the registration information of a 10-year registrant in writing as provided by the bureau on each anniversary of the 10-year registrant's initial registration date and once every 5 years in person. Verification of the registration information of a 10-year registrant occurs as set out in this subsection.

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 10-year registrant. The verification form is deemed received 3 days after mailing unless returned by postal authorities.

B. The 10-year registrant shall mail to the bureau the completed written verification form and a current photograph on each anniversary of the 10-year registrant's initial registration date within 5 days of receipt of the form, except as provided in paragraph C.

C. In lieu of mailing the completed verification form under paragraph B, the 10-year registrant shall take the completed verification form and a current photograph of the 10-year registrant to the law enforcement agency having jurisdiction once every 5 years after the anniversary of the 10-year registrant's initial registration or, if there is a reason to believe the offender's appearance has changed significantly, the law enforcement agency having jurisdiction or the bureau may instruct the 10-year registrant in writing:

(1) To appear in person at the law enforcement agency having jurisdiction with a current photograph or to allow a photograph to be taken; or

(2) If authorized in writing by the law enforcement agency having jurisdiction for the

bureau, to submit a new photograph without appearing in person.

D. Whenever in-person verification is mandated pursuant to paragraph C, the law enforcement agency having jurisdiction shall verify the 10-year registrant's identity, have the 10-year 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.

**Sec. 4. 34-A MRSA §11222, sub-§4-B** is enacted to read:

**4-B. Verification for person sentenced on or after January 1, 1982 and prior to September 18, 1999 who is a lifetime registrant.** During the period a lifetime registrant sentenced on or after January 1, 1982 and prior to September 18, 1999 is required to register, the bureau shall require the lifetime registrant to verify registration information including domicile, residence, mailing address, place of employment and college or school being attended. The bureau shall verify the registration information of a lifetime registrant in writing as provided by the bureau every 90 days after that lifetime registrant's initial registration date and once every 5 years in person. Verification of the registration information of a lifetime registrant occurs as set out in this subsection.

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 lifetime registrant. The verification form is deemed received 3 days after mailing unless returned by postal authorities.

B. The lifetime registrant shall mail to the bureau the completed written verification form and a current photograph every 90 days after that lifetime registrant's initial registration date within 5 days of receipt of the form, except as provided in paragraph C.

C. In lieu of mailing the completed verification form under paragraph B, the lifetime registrant shall take the completed verification form and a current photograph of the lifetime registrant to the law enforcement agency having jurisdiction once every 5 years after the anniversary of the lifetime registrant's initial registration or, if there is a reason to believe the lifetime registrant's appearance has changed significantly, the law enforcement agency having jurisdiction or the bureau may instruct the lifetime registrant in writing:

(1) To appear in person at the law enforcement agency having jurisdiction with a current photograph or to allow a photograph to be taken; or

(2) If authorized in writing by the law enforcement agency having jurisdiction for the bureau, to submit a new photograph without appearing in person.

D. Whenever in-person verification is mandated pursuant to paragraph C, the law enforcement agency having jurisdiction shall verify the lifetime registrant's identity, have the lifetime registrant sign the verification form, take the lifetime registrant's fingerprints, complete the law enforcement portion of the verification form and immediately forward the fingerprints, photograph and form to the bureau.

**Sec. 5. 34-A MRSA §11225-A, sub-§1,** as enacted by PL 2005, c. 423, §22, is amended to read:

**1. Ten-year registrant convicted and sentenced in State.** The following provisions apply to a 10-year registrant convicted and sentenced in this State.

~~A. A 10-year registrant sentenced in this State on or after January 1, 1982 whose duty to register must be exercised pursuant to section 11222, subsection 1-A 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 11222, subsection 1-A.~~

B. A 10-year registrant sentenced in this State ~~on or after June 30, 1992 whose duty to register must be exercised pursuant to section 11222, subsection 2-A or 2-B or a 10-year registrant sentenced in this State on or after January 1, 1982 whose duty to register must be exercised pursuant to section 11222, subsection 2-C~~ shall register for a period of 10 years. The 10-year period is calculated as follows.

(1) If the 10-year registrant was sentenced prior to September 18, 1999 to a wholly suspended sentence with probation or administrative release or to a punishment alternative not involving imprisonment, the 10-year period is treated as having begun at the time the person commenced an actual execution of the wholly suspended sentence or at the time of sentence imposition when no punishment alternative involving imprisonment was imposed, unless the court ordered a stay of execution, in which event the 10-year period is treated as having begun at the termination of the stay.

(2) If the 10-year registrant was sentenced prior to September 18, 1999 to a straight term of imprisonment or to a split sentence, the 10-year period is treated as having begun at the time of discharge or conditional release.

(3) If the 10-year registrant was committed under Title 15, section 103 prior to September 18, 1999, the 10-year period is treated as having begun at the time of discharge or conditional release under Title 15, section 104-A.

(4) If the 10-year ~~registrant's~~ registrant was sentenced prior to September 18, 1999 and the person's duty to register has not yet been triggered, the 10-year period commences upon registration by the person in compliance with section 11222, subsection 1-A, paragraph A, B or C.

(5) If the 10-year registrant was sentenced on or after September 18, 1999, the 10-year period commences from the date the person in fact initially registers.

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

Effective March 30, 2010.

## CHAPTER 571

## H.P. 1183 - L.D. 1671

### An Act Making Supplemental Appropriations and Allocations for the Expenditures of State Government, General 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, 2010 and June 30, 2011

**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: Reduces funding by freezing one vacant part-time Accountant I position until January 1, 2011.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($13,139) | ($14,350) |
| All Other | ($2,900) | ($2,900) |
| GENERAL FUND TOTAL | ($16,039) | ($17,250) |

#### Bureau of Revenue Services Fund 0885

Initiative: Reduces funding that will not be expended during the 2010-2011 biennium.

| BUREAU OF REVENUE SERVICES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($150,880) | ($151,720) |
| BUREAU OF REVENUE SERVICES FUND TOTAL | ($150,880) | ($151,720) |

#### Capital Construction/Repairs/Improvements - Administration 0059

Initiative: Reduces funding for repairs in state-owned facilities.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($21,201) | $0 |
| GENERAL FUND TOTAL | ($21,201) | $0 |

#### Debt Service - Government Facilities Authority 0893

Initiative: Deappropriates one-time savings for debt service in fiscal year 2010-11 due to a refunding of bonds by the Maine Government Facilities Authority in accordance with the Maine Revised Statutes, Title 4, section 1610.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($651,053) |
| GENERAL FUND TOTAL | $0 | ($651,053) |

#### Departments and Agencies - Statewide 0016

Initiative: Reduces funding from departments and agencies statewide to recognize additional savings achieved as a result of the retirement incentive program authorized in Public Law 2009, chapter 213, Part Y.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($1,730,281) | ($1,730,281) |
| GENERAL FUND TOTAL | ($1,730,281) | ($1,730,281) |

**Departments and Agencies - Statewide 0016**

Initiative: Reduces funding for the purchase of supplies as a result of improvements in contracting with vendors and the use of procurement cards. This is in addition to the savings identified in Public Law 2009, chapter 213, Part UU, section 2.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($100,000) |
| GENERAL FUND TOTAL | $0 | ($100,000) |

**Emergency Unemployment Benefit Reimbursement Fund Z091**

Initiative: Reduces the funding authorized in Public Law 2009, chapter 33 for reimbursing certain direct reimbursement employers for extended benefits paid as a result of temporarily adding an alternative methodology for determining when extended unemployment benefits are paid.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($500,000) | $0 |
| GENERAL FUND TOTAL | ($500,000) | $0 |

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

Initiative: Reduces funding to recognize additional savings authorized in Public Law 2009, chapter 213, Part R from not granting the January 1, 2009 4% cost-of-living adjustment to unclassified employees whose salaries are subject to the Governor's adjustment or approval.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($118,252) |
| GENERAL FUND TOTAL | $0 | ($118,252) |

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

Initiative: Reduces funding to recognize additional savings authorized in Public Law 2009, chapter 213, Part SSS from not granting merit increases.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($817,650) |
| GENERAL FUND TOTAL | $0 | ($817,650) |

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

Initiative: Provides funding to offset a statewide deappropriation in Public Law 2009, chapter 213, Part SSS and restore longevity payments and other items approved through the collective bargaining process for employees in the executive branch in fiscal year 2010-11.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $1,738,792 |
| GENERAL FUND TOTAL | $0 | $1,738,792 |

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

Initiative: Appropriates funds to adjust for the level of savings for technology services that was approved in Public Law 2009, chapter 213, Part VVVV, section 4. The proposed restoration of longevity pay and fewer shutdown days will result in less savings for this program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $215,696 |
| GENERAL FUND TOTAL | $0 | $215,696 |

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

Initiative: Reduces technology savings from departments and agencies statewide deappropriated in Public Law 2009, chapter 213, Part TT to recognize an adjustment to the retiree health insurance rate for fiscal year 2010-11.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $90,004 |
| GENERAL FUND TOTAL | $0 | $90,004 |

**Financial and Personnel Services - Division of 0713**

Initiative: Reduces funding by freezing one vacant Public Service Coordinator I position in the Natural

Resources Service Center until December 11, 2010. This initiative will result in savings to the General Fund and Other Special Revenue Funds program accounts in the natural resources departments.

| FINANCIAL AND PERSONNEL SERVICES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($76,167) | ($38,084) |
| FINANCIAL AND PERSONNEL SERVICES FUND TOTAL | ($76,167) | ($38,084) |

**Financial and Personnel Services - Division of 0713**

Initiative: Transfers one Public Service Manager II position from the Financial and Personnel Services - Division of program to the Information Services program.

| FINANCIAL AND PERSONNEL SERVICES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| Personal Services | ($23,079) | ($112,200) |
| FINANCIAL AND PERSONNEL SERVICES FUND TOTAL | ($23,079) | ($112,200) |

**Fund for a Healthy Maine 0921**

Initiative: Provides funding to offset a deallocation made in Public Law 2009, chapter 213, Part UUUU, section 2. A pro rata adjustment to the individual Fund for a Healthy Maine accounts is not required since the balance in the fund on June 30, 2009 was sufficient to cover the deallocation.

| FUND FOR A HEALTHY MAINE | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $536,000 | $0 |
| FUND FOR A HEALTHY MAINE TOTAL | $536,000 | $0 |

**Homestead Property Tax Exemption Reimbursement 0886**

Initiative: Reduces funding by adjusting the estimated reimbursement under the homestead property tax exemption payment to 75% and the final reimbursement payment to 25% and delays the due date for the final payment to the following fiscal year.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($5,385,865) |
| GENERAL FUND TOTAL | $0 | ($5,385,865) |

**Homestead Property Tax Exemption Reimbursement 0886**

Initiative: Provides one-time funding for the Homestead Property Tax Exemption Reimbursement program in fiscal year 2009-10. Claims for reimbursement in fiscal year 2009-10 have exceeded appropriation levels.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $25,000 | $0 |
| GENERAL FUND TOTAL | $25,000 | $0 |

**Information Services 0155**

Initiative: Continues one limited-period Information Technology Consultant position through June 11, 2011. This position was previously authorized to continue by Public Law 2007, chapter 539.

| OFFICE OF INFORMATION SERVICES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $5,089 | $100,155 |
| OFFICE OF INFORMATION SERVICES FUND TOTAL | $5,089 | $100,155 |

**Information Services 0155**

Initiative: Transfers one Cartographer position from the Department of Administrative and Financial Services, Office of Information Technology to the Performance Partnership Grant program within the Department of Environmental Protection and reduces the All Other budget for the Performance Partnership Grant program as a result.

| OFFICE OF INFORMATION SERVICES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($78,124) |
| OFFICE OF INFORMATION SERVICES FUND TOTAL | $0 | ($78,124) |

**Information Services 0155**

Initiative: Transfers one Public Service Manager II position from the Financial and Personnel Services -

Division of program to the Information Services program.

| OFFICE OF INFORMATION SERVICES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 1.000 | 1.000 |
| Personal Services | $23,079 | $112,200 |
| OFFICE OF INFORMATION SERVICES FUND TOTAL | $23,079 | $112,200 |

**Information Technology Y00T**

Initiative: Reduces funding for technology costs through a reprogramming of the data warehouse for Maine Revenue Services.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($120,000) |
| GENERAL FUND TOTAL | $0 | ($120,000) |

**Lottery Operations 0023**

Initiative: Reduces funding by freezing one vacant Office Associate II position until May 3, 2010. This initiative will result in additional undedicated revenue to the General Fund of $59,049 in fiscal year 2009-10 through a transfer of these savings from the State Lottery Fund.

| STATE LOTTERY FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($49,021) | $0 |
| All Other | ($10,028) | $0 |
| STATE LOTTERY FUND TOTAL | ($59,049) | $0 |

**Mandate BETE - Reimburse Municipalities Z065**

Initiative: Reduces funding on a one-time basis in fiscal year 2009-10 for the Mandate Business Equipment Tax Exemption Reimbursement program for municipalities. Claims for reimbursement are substantially below anticipated levels.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($24,000) | $0 |
| GENERAL FUND TOTAL | ($24,000) | $0 |

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

Initiative: Reduces funding from net savings achieved as a result of filling a vacant Public Service Coordinator I position in a temporary compensation capacity until November 27, 2010 and leaving one Office Specialist II position vacant during this period.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($45,210) | ($33,955) |
| GENERAL FUND TOTAL | ($45,210) | ($33,955) |

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

Initiative: Provides funding for contracted services to facilitate the sale or lease of state-owned properties.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $150,000 |
| GENERAL FUND TOTAL | $0 | $150,000 |

**Revenue Services - Bureau of 0002**

Initiative: Reduces funding for technology costs through a reprogramming of the data warehouse for Maine Revenue Services.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($60,000) | $0 |
| GENERAL FUND TOTAL | ($60,000) | $0 |

**Revenue Services - Bureau of 0002**

Initiative: Reduces funding for the econometric models used for revenue forecasting.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($75,000) | ($75,000) |
| GENERAL FUND TOTAL | ($75,000) | ($75,000) |

**Revenue Services - Bureau of 0002**

Initiative: Reduces funding for printing costs by encouraging electronic filing and reducing the demand for printed forms.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($156,000) |
| GENERAL FUND TOTAL | $0 | ($156,000) |

**Revenue Services - Bureau of 0002**

Initiative: Provides funding for costs associated with the 2010 Tax Receivables Reduction Initiatives in Part HH.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $67,000 |
| GENERAL FUND TOTAL | $0 | $67,000 |

**Tree Growth Tax Reimbursement 0261**

Initiative: Reduces funding by 10% in the Tree Growth Tax Reimbursement program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($531,250) |
| GENERAL FUND TOTAL | $0 | ($531,250) |

**Tree Growth Tax Reimbursement 0261**

Initiative: Reduces funding on a one-time basis in fiscal year 2009-10 in the Tree Growth Tax Reimbursement program. All reimbursement claims for fiscal year 2009-10 have been processed.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($8,126) | $0 |
| GENERAL FUND TOTAL | ($8,126) | $0 |

**Veterans' Organization Tax Reimbursement Z062**

Initiative: Reduces funding on a one-time basis in fiscal year 2009-10 in the Veterans' Organization Tax Reimbursement program. All reimbursement claims for fiscal year 2009-10 have been processed.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($30,613) | $0 |
| GENERAL FUND TOTAL | ($30,613) | $0 |

**Veterans Tax Reimbursement 0407**

Initiative: Reduces funding on a one-time basis in the Veterans Tax Reimbursement program. All reimbursement claims for fiscal year 2009-10 have been processed.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($19,254) | $0 |
| GENERAL FUND TOTAL | ($19,254) | $0 |

| ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF<br>DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($2,504,724) | ($7,475,064) |
| FUND FOR A HEALTHY MAINE | $536,000 | $0 |
| FINANCIAL AND PERSONNEL SERVICES FUND | ($99,246) | ($150,284) |
| OFFICE OF INFORMATION SERVICES FUND | $28,168 | $134,231 |
| BUREAU OF REVENUE SERVICES FUND | ($150,880) | ($151,720) |
| STATE LOTTERY FUND | ($59,049) | $0 |
| DEPARTMENT TOTAL - ALL FUNDS | ($2,249,731) | ($7,642,837) |

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

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

**Animal Welfare Fund 0946**

Initiative: Adjusts funding to bring allocations into line with projected available resources based on revenue projections approved by the Revenue Forecasting Committee in December 2009.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($2,896) | ($2,896) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($2,896) | ($2,896) |

**Beverage Container Enforcement Fund 0971**

Initiative: Transfers one Inspection Process Analyst position and related All Other from the Beverage Container Enforcement Fund program to the Division of Quality Assurance and Regulation program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($65,660) |
| All Other | $0 | ($2,511) |

| | | |
|---|---|---|
| GENERAL FUND TOTAL | $0 | ($68,171) |

**Division of Animal Health and Industry 0394**

Initiative: Reduces funding by recognizing one-time savings achieved by reducing division travel, rents and general operations to maintain costs within available resources.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($35,000) | ($25,000) |
| GENERAL FUND TOTAL | ($35,000) | ($25,000) |

**Division of Animal Health and Industry 0394**

Initiative: Reorganizes one Public Service Manager II position to a Public Service Coordinator II position.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($392) |
| GENERAL FUND TOTAL | $0 | ($392) |

**Division of Animal Health and Industry 0394**

Initiative: Transfers and reorganizes one Agricultural Resource Management Coordinator position in the Division of Animal Health and Industry program to a Director, Division of Agriculture Resource Development in the Division of Market and Production Development program and reallocates the cost from 100% Federal Expenditures Fund to 100% General Fund.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $0 |

**Division of Animal Health and Industry 0394**

Initiative: Reallocates the cost of one Public Service Manager II position from 90% General Fund in the Division of Plant Industry program and 10% Other Special Revenue Funds in the Board of Pesticides Control program to 50% General Fund in the Division of Plant Industry program and 50% General Fund in the Division of Animal Health and Industry program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $57,940 |
| GENERAL FUND TOTAL | $0 | $57,940 |

**Division of Animal Health and Industry 0394**

Initiative: Reduces funding for All Other to maintain costs within available resources.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($10,005) |
| GENERAL FUND TOTAL | $0 | ($10,005) |

**Division of Market and Production Development 0833**

Initiative: Transfers and reorganizes one Agricultural Resource Management Coordinator position in the Division of Animal Health and Industry program to a Director, Division of Agriculture Resource Development in the Division of Market and Production Development program and reallocates the cost from 100% Federal Expenditures Fund to 100% General Fund.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $97,870 |
| GENERAL FUND TOTAL | $0 | $97,870 |

**Division of Market and Production Development 0833**

Initiative: Reorganizes one Agricultural Resource Management Coordinator position to a Director, Marketing Development and funds the reorganization by reallocating the cost of the position from 50% General Fund and 50% Other Special Revenue Funds to 46% General Fund and 54% Other Special Revenue Funds within the same program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| GENERAL FUND TOTAL | $0 | $0 |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $5,604 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $5,604 |

**Division of Plant Industry 0831**

Initiative: Transfers and reorganizes one Director, Marketing Development in the Division of Plant Industry program to a State Horticulturist in the Board of Pesticides Control program, reallocates the cost of the position from 100% General Fund to 100% Other Special Revenue Funds and provides funding for retroactive reclassification effective April 3, 2009.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($100,800) |
| GENERAL FUND TOTAL | $0 | ($100,800) |

**Division of Plant Industry 0831**

Initiative: Reallocates the cost of one Public Service Manager II position from 90% General Fund in the Division of Plant Industry program and 10% Other Special Revenue Funds in the Board of Pesticides Control program to 50% General Fund in the Division of Plant Industry program and 50% General Fund in the Division of Animal Health and Industry program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($46,357) |
| GENERAL FUND TOTAL | $0 | ($46,357) |

**Division of Quality Assurance and Regulation 0393**

Initiative: Transfers one Consumer Protection Inspector position and one Public Service Coordinator II position and related All Other from the Division of Quality Assurance and Regulation, General Fund to the Federal Expenditures Fund within the same program and reduces the Division of Quality Assurance and Regulation, General Fund undedicated revenue by $172,540 in fiscal year 2009-10 and by $186,706 in fiscal year 2010-11.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (2.000) | (2.000) |
| Personal Services | ($165,364) | ($168,152) |
| All Other | ($23,500) | ($23,500) |
| GENERAL FUND TOTAL | ($188,864) | ($191,652) |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 2.000 | 2.000 |
| Personal Services | $165,364 | $168,152 |
| All Other | $23,500 | $23,500 |
| FEDERAL EXPENDITURES FUND TOTAL | $188,864 | $191,652 |

**Division of Quality Assurance and Regulation 0393**

Initiative: Reorganizes one Egg/Poultry Processing Inspector position to 2 intermittent Egg/Poultry Processing Inspector positions.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| POSITIONS - FTE COUNT | 1.000 | 1.000 |
| Personal Services | ($94) | ($102) |
| FEDERAL EXPENDITURES FUND TOTAL | ($94) | ($102) |

**Division of Quality Assurance and Regulation 0393**

Initiative: Reorganizes one Agricultural Compliance Supervisor position to an Inspection Program Manager position and reduces All Other to fund the reorganization.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $803 | $3,373 |
| All Other | ($803) | ($3,373) |
| GENERAL FUND TOTAL | $0 | $0 |

**Division of Quality Assurance and Regulation 0393**

Initiative: Transfers one Inspection Process Analyst position and related All Other from the Beverage Container Enforcement Fund program to the Division of Quality Assurance and Regulation program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $65,660 |
| All Other | $0 | $2,511 |
| GENERAL FUND TOTAL | $0 | $68,171 |

**Division of Quality Assurance and Regulation 0393**

Initiative: Reduces funding by recognizing one-time savings achieved by reducing professional services to maintain costs within available resources.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($5,000) | $0 |
| GENERAL FUND TOTAL | ($5,000) | $0 |

**Harness Racing Commission 0320**

Initiative: Adjusts funding to bring allocations into line with projected available resources based on an upward reprojection of racino revenues by the Revenue Forecasting Committee in December 2009 and March 2010.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $1,847,578 | $1,779,154 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $1,847,578 | $1,779,154 |

**Maine Farms for the Future Program 0925**

Initiative: Reduces funding by providing the administrative support of the program in-house.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($50,000) |
| GENERAL FUND TOTAL | $0 | ($50,000) |

**Maine Farms for the Future Program 0925**

Initiative: Reduces funding by recognizing one-time savings achieved by reducing grants.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($35,000) | $0 |
| GENERAL FUND TOTAL | ($35,000) | $0 |

**Office of the Commissioner 0401**

Initiative: Adjusts funding to correctly reflect budgeted Department of Administrative and Financial Services, Office of Information Technology costs to agree with projections for the Federal Expenditures Fund and Other Special Revenue Funds.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $13,730 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $13,730 |

**Office of the Commissioner 0401**

Initiative: Reduces funding by recognizing one-time savings achieved by transferring a portion of service center costs from the General Fund to Other Special Revenue Funds within the same program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($65,000) |
| GENERAL FUND TOTAL | $0 | ($65,000) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $65,000 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $65,000 |

**Office of the Commissioner 0401**

Initiative: Reduces funding for service center costs from savings achieved by freezing one vacant Public Service Coordinator I position in the Natural Resources Service Center until December 11, 2010.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($9,024) | ($4,512) |
| GENERAL FUND TOTAL | ($9,024) | ($4,512) |

**Pesticides Control - Board of 0287**

Initiative: Transfers and reorganizes one Director, Marketing Development in the Division of Plant Industry program to a State Horticulturist in the Board of Pesticides Control program, reallocates the cost of the position from 100% General Fund to 100% Other Special Revenue Funds and provides funding for retroactive reclassification effective April 3, 2009.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $107,000 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $107,000 |

**Pesticides Control - Board of 0287**

Initiative: Reallocates the cost of one Public Service Manager II position from 90% General Fund in the Division of Plant Industry program and 10% Other Special Revenue Funds in the Board of Pesticides Control program to 50% General Fund in the Division

of Plant Industry program and 50% General Fund in the Division of Animal Health and Industry program.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($11,583) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($11,583) |

| AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($272,888) | ($337,908) |
| FEDERAL EXPENDITURES FUND | $188,770 | $191,550 |
| OTHER SPECIAL REVENUE FUNDS | $1,844,682 | $1,956,009 |
| DEPARTMENT TOTAL - ALL FUNDS | $1,760,564 | $1,809,651 |

**Sec. A-3. Appropriations and allocations.** The following appropriations and allocations are made.

## ARTS COMMISSION, MAINE

### Arts - Administration 0178

Initiative: Reduces funding by limiting in-state travel for commission employees.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($4,500) | ($4,500) |
| GENERAL FUND TOTAL | ($4,500) | ($4,500) |

### Arts - Administration 0178

Initiative: Reduces funding by limiting special projects.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($3,500) | $0 |
| GENERAL FUND TOTAL | ($3,500) | $0 |

### Arts - Administration 0178

Initiative: Reduces funding for the number of art professionals awarded honoraria for jurying the individual and traditional arts fellowships awards.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($2,000) | $0 |
| GENERAL FUND TOTAL | ($2,000) | $0 |

### Arts - Administration 0178

Initiative: Reduces funding for the acquisition of better editing tools and microphones.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($1,000) | $0 |
| GENERAL FUND TOTAL | ($1,000) | $0 |

### Arts - Administration 0178

Initiative: Reduces funding to eliminate support for the New England Consortium of Artist-Educator Professionals annual conference.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($1,500) | $0 |
| GENERAL FUND TOTAL | ($1,500) | $0 |

### Arts - Administration 0178

Initiative: Eliminates funding for employee training.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($3,250) | $0 |
| GENERAL FUND TOTAL | ($3,250) | $0 |

### Arts - Administration 0178

Initiative: Reduces funding that supports the Juice Conference.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($2,780) | $0 |
| GENERAL FUND TOTAL | ($2,780) | $0 |

### Arts - Administration 0178

Initiative: Reduces funding for promotional materials.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($5,593) | ($5,593) |
| GENERAL FUND TOTAL | ($5,593) | ($5,593) |

### Arts - Administration 0178

Initiative: Reduces funding by limiting in-state travel for commission members.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($4,000) | $0 |
| GENERAL FUND TOTAL | ($4,000) | $0 |

**Arts - Administration 0178**

Initiative: Reduces funding for advertising upcoming commission meetings to the public.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($3,000) |
| GENERAL FUND TOTAL | $0 | ($3,000) |

**Arts - Administration 0178**

Initiative: Reduces funding that supports the Early StARTS program by 50%.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($5,000) |
| GENERAL FUND TOTAL | $0 | ($5,000) |

**Arts - Administration 0178**

Initiative: Reduces funding for the fellowship night event.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($1,500) |
| GENERAL FUND TOTAL | $0 | ($1,500) |

**Arts - Administration 0178**

Initiative: Reduces funding that supports new field initiatives.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($280) |
| GENERAL FUND TOTAL | $0 | ($280) |

**Arts - Administration 0178**

Initiative: Reduces funding for the design, printing and distribution of one of 2 editions of the Maine Arts Commission magazine.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($18,000) |
| GENERAL FUND TOTAL | $0 | ($18,000) |

**Arts - Administration 0178**

Initiative: Reduces funding to reflect savings achieved by freezing one Arts and Humanities Associate position from November 2, 2009 through March 31, 2010.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($4,133) | $0 |
| GENERAL FUND TOTAL | ($4,133) | $0 |

| ARTS COMMISSION, MAINE DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($32,256) | ($37,873) |
| DEPARTMENT TOTAL - ALL FUNDS | ($32,256) | ($37,873) |

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

**FIRE PROTECTION SERVICES COMMISSION, MAINE**

**Maine Fire Protection Services Commission 0936**

Initiative: Provides funding for the Maine Fire Protection Services Commission.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $500 |
| GENERAL FUND TOTAL | $0 | $500 |

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

**ATTORNEY GENERAL, DEPARTMENT OF THE**

**Administration - Attorney General 0310**

Initiative: Provides funding for criminal prosecutors to work on the equivalent of 5 of the 10 state shutdown days during fiscal year 2010-11.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $10,000 |
| GENERAL FUND TOTAL | $0 | $10,000 |

### Chief Medical Examiner - Office of 0412

Initiative: Allocates revenue received from federal grants to purchase services and improve efficiency.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $75,000 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $75,000 |

### Chief Medical Examiner - Office of 0412

Initiative: Provides funding for employees in the Office of the Chief Medical Examiner to work on the equivalent of 5 of the 10 state shutdown days during fiscal year 2010-11.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $30,000 |
| GENERAL FUND TOTAL | $0 | $30,000 |

### District Attorneys Salaries 0409

Initiative: Reduces funding by recognizing one-time savings achieved by delaying payment of one payroll for the district attorneys and assistant district attorneys.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($285,674) | $0 |
| GENERAL FUND TOTAL | ($285,674) | $0 |

### District Attorneys Salaries 0409

Initiative: Provides funding to allow district attorneys and their assistants to work on the equivalent of 5 of the 10 state shutdown days during fiscal year 2010-11.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $142,500 |
| GENERAL FUND TOTAL | $0 | $142,500 |

### Victims' Compensation Board 0711

Initiative: Adjusts funding to bring allocations into line with projected available resources based on revenue projections approved by the Revenue Forecasting Committee in December 2009.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($89,269) | ($112,427) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($89,269) | ($112,427) |

| ATTORNEY GENERAL, DEPARTMENT OF THE DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($285,674) | $182,500 |
| FEDERAL EXPENDITURES FUND | $0 | $75,000 |
| OTHER SPECIAL REVENUE FUNDS | ($89,269) | ($112,427) |
| DEPARTMENT TOTAL - ALL FUNDS | ($374,943) | $145,073 |

**Sec. A-6. Appropriations and allocations.** The following appropriations and allocations are made.

## AUDIT, DEPARTMENT OF

### Audit - Departmental Bureau 0067

Initiative: Reallocates 70% of the cost of one Staff Auditor II position from the General Fund to Other Special Revenue Funds within the same program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| Personal Services | ($13,589) | ($53,113) |
| GENERAL FUND TOTAL | ($13,589) | ($53,113) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 1.000 | 1.000 |
| Personal Services | $13,589 | $53,113 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $13,589 | $53,113 |

### Audit - Departmental Bureau 0067

Initiative: Reduces funding from salary savings from delays in filling vacancies and other anticipated salary savings.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($36,606) | $0 |

| | | |
|---|---|---|
| GENERAL FUND TOTAL | ($36,606) | $0 |

| AUDIT, DEPARTMENT OF | | |
|---|---|---|
| **DEPARTMENT TOTALS** | **2009-10** | **2010-11** |
| **GENERAL FUND** | **($50,195)** | **($53,113)** |
| **OTHER SPECIAL REVENUE FUNDS** | **$13,589** | **$53,113** |
| **DEPARTMENT TOTAL - ALL FUNDS** | **($36,606)** | **$0** |

**Sec. A-7. Appropriations and allocations.** The following appropriations and allocations are made.

**CENTERS FOR INNOVATION**

**Centers for Innovation 0911**

Initiative: Reduces funding to maintain appropriations within available resources.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($6,121) |
| GENERAL FUND TOTAL | $0 | ($6,121) |

**Sec. A-8. 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: Reduces funding by 3.1% to maintain costs within available resources.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($1,676,873) | $0 |
| GENERAL FUND TOTAL | ($1,676,873) | $0 |

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

Initiative: Adjusts funding to bring allocations into line with projected available resources based on an upward reprojection of racino revenues by the Revenue Forecasting Committee in December 2009 and March 2010.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $86,468 | $84,721 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $86,468 | $84,721 |

| COMMUNITY COLLEGE SYSTEM, BOARD OF TRUSTEES OF THE MAINE | | |
|---|---|---|
| **DEPARTMENT TOTALS** | **2009-10** | **2010-11** |
| **GENERAL FUND** | **($1,676,873)** | **$0** |
| **OTHER SPECIAL REVENUE FUNDS** | **$86,468** | **$84,721** |
| **DEPARTMENT TOTAL - ALL FUNDS** | **($1,590,405)** | **$84,721** |

**Sec. A-9. Appropriations and allocations.** The following appropriations and allocations are made.

**CONSERVATION, DEPARTMENT OF**

**Administration - Forestry 0223**

Initiative: Reduces funding available for contracts, travel, vehicle rental and office supplies through June 2011.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($11,000) | ($30,921) |
| GENERAL FUND TOTAL | ($11,000) | ($30,921) |

**Division of Forest Protection 0232**

Initiative: Reduces funding by recognizing one-time savings by realigning work effort on the fuels for public buildings grant through June 2011.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($20,000) | ($40,000) |
| GENERAL FUND TOTAL | ($20,000) | ($40,000) |

**Division of Forest Protection 0232**

Initiative: Reduces funding for Central Fleet Management vehicles used for snowplowing.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($5,000) | ($5,000) |
| GENERAL FUND TOTAL | ($5,000) | ($5,000) |

**Forest Health and Monitoring 0233**

Initiative: Reduces funding by recognizing one-time savings achieved by transferring a portion of Central Fleet Management costs from the General Fund to the Federal Expenditures Fund for fiscal years 2009-10 and 2010-11 only.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($7,500) | ($5,000) |
| GENERAL FUND TOTAL | ($7,500) | ($5,000) |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $7,500 | $3,000 |
| FEDERAL EXPENDITURES FUND TOTAL | $7,500 | $3,000 |

**Forest Policy and Management - Division of 0240**

Initiative: Reduces funding by eliminating one Chief Planner position.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| Personal Services | ($22,149) | ($25,176) |
| GENERAL FUND TOTAL | ($22,149) | ($25,176) |

**Forest Policy and Management - Division of 0240**

Initiative: Reduces funding by recognizing one-time savings by realigning work effort on the fuels for public buildings grant through June 2011.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($20,000) | ($40,000) |
| GENERAL FUND TOTAL | ($20,000) | ($40,000) |

**Forest Policy and Management - Division of 0240**

Initiative: Reduces funding by recognizing one-time savings achieved by transferring a portion of Central Fleet Management costs from the General Fund to the Federal Expenditures Fund for fiscal years 2009-10 and 2010-11 only.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($5,667) | ($11,333) |
| GENERAL FUND TOTAL | ($5,667) | ($11,333) |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $5,667 | $11,333 |
| FEDERAL EXPENDITURES FUND TOTAL | $5,667 | $11,333 |

**Forest Recreation Resource Fund 0354**

Initiative: Reduces funding in the Parks - General Operations program, Other Special Revenue Funds by reducing the weeks of one Park Manager II position from 52 to 30 and transfers one Allagash Park Ranger position from the Parks - General Operations program, General Fund to the Forest Recreation Resource Fund program, Other Special Revenue Funds.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| POSITIONS - FTE COUNT | 1.058 | 1.058 |
| Personal Services | ($573) | $321 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($573) | $321 |

**Forest Recreation Resource Fund 0354**

Initiative: Reduces funding by recognizing one-time savings achieved by transferring a portion of the cost of the Park Manager position for the Penobscot River Corridor from the Parks - General Operations program, General Fund to the Forest Recreation Resource Fund program, Other Special Revenue Funds for fiscal year 2009-10 only.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $17,400 | $0 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $17,400 | $0 |

**Geological Survey 0237**

Initiative: Reduces funding for field expenses.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($2,720) | $0 |
| GENERAL FUND TOTAL | ($2,720) | $0 |

**Information Technology Y04T**

Initiative: Reduces funding by recognizing one-time savings from the elimination of computers.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($4,000) |
| GENERAL FUND TOTAL | $0 | ($4,000) |

**Information Technology Y04T**

Initiative: Reduces funding by recognizing one-time savings achieved by freezing one vacant Senior Planner position until July 1, 2011.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($2,000) |
| GENERAL FUND TOTAL | $0 | ($2,000) |

**Information Technology Y04T**

Initiative: Eliminates one Secretary position and associated All Other costs.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($2,000) |
| GENERAL FUND TOTAL | $0 | ($2,000) |

**Information Technology Y04T**

Initiative: Reduces funding for landline telephones in district forester offices.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($5,760) |
| GENERAL FUND TOTAL | $0 | ($5,760) |

**Land Use Regulation Commission 0236**

Initiative: Reduces funding for rent at the Rangeley office.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($5,000) | ($20,000) |
| GENERAL FUND TOTAL | ($5,000) | ($20,000) |

**Land Use Regulation Commission 0236**

Initiative: Reduces funding by recognizing one-time savings for travel and general operating expenditures for the biennium.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($10,000) | ($6,000) |
| GENERAL FUND TOTAL | ($10,000) | ($6,000) |

**Land Use Regulation Commission 0236**

Initiative: Reduces funding by recognizing one-time savings achieved by freezing one vacant Senior Planner position until July 1, 2011.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($19,990) | ($58,841) |
| All Other | ($500) | ($2,000) |
| GENERAL FUND TOTAL | ($20,490) | ($60,841) |

**Land Use Regulation Commission 0236**

Initiative: Eliminates one Secretary position and associated All Other costs.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| Personal Services | ($7,539) | ($44,231) |
| All Other | ($500) | $0 |
| GENERAL FUND TOTAL | ($8,039) | ($44,231) |

**Maine State Parks Development Fund 0342**

Initiative: Reduces funding for one limited-period Public Service Coordinator I position that was continued in both Public Law 2009, chapter 213 and Private and Special Law 2009, chapter 25.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($84,382) | $0 |
| All Other | ($6,045) | $0 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($90,427) | $0 |

**Office of the Commissioner 0222**

Initiative: Reduces funding by recognizing one-time savings achieved by delaying the forest certification effort.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($20,000) | ($55,000) |
| GENERAL FUND TOTAL | ($20,000) | ($55,000) |

**Office of the Commissioner 0222**

Initiative: Reduces funding for landline telephones in district forester offices.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($2,880) | $0 |
| GENERAL FUND TOTAL | ($2,880) | $0 |

**Office of the Commissioner 0222**

Initiative: Reduces funding by recognizing one-time savings from the elimination of computers.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($1,000) | $0 |
| GENERAL FUND TOTAL | ($1,000) | $0 |

**Office of the Commissioner 0222**

Initiative: Reduces funding by recognizing one-time savings achieved by freezing one vacant Senior Planner position until July 1, 2011.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($500) | $0 |
| GENERAL FUND TOTAL | ($500) | $0 |

**Office of the Commissioner 0222**

Initiative: Reduces funding for one limited-period Public Service Coordinator I position that was continued in both Public Law 2009, chapter 213 and Private and Special Law 2009, chapter 25.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($2,500) | $0 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($2,500) | $0 |

**Office of the Commissioner 0222**

Initiative: Reallocates the cost of one Office Associate II position from 62% General Fund and 38% Other Special Revenue Funds to 100% Other Special Revenue Funds within the same program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| Personal Services | ($28,700) | ($28,700) |
| GENERAL FUND TOTAL | ($28,700) | ($28,700) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 1.000 | 1.000 |
| Personal Services | $28,700 | $28,700 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $28,700 | $28,700 |

**Office of the Commissioner 0222**

Initiative: Transfers a portion of the cost for the Natural Resources Service Center from the General Fund to Other Special Revenue Funds within the same program for fiscal year 2010-11.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($45,863) |
| GENERAL FUND TOTAL | $0 | ($45,863) |

**Office of the Commissioner 0222**

Initiative: Reduces funding for service center costs from savings achieved by freezing one vacant Public Service Coordinator I position in the Natural Resources Service Center until December 11, 2010.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($6,106) | ($3,053) |
| GENERAL FUND TOTAL | ($6,106) | ($3,053) |

**Office of the Commissioner 0222**

Initiative: Reduces funding for All Other.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($2,501) | ($2,501) |
| GENERAL FUND TOTAL | ($2,501) | ($2,501) |

**Office of the Commissioner 0222**

Initiative: Reduces funding by recognizing one-time savings achieved by freezing one vacant Public Service Executive II position (Deputy Commissioner of Conservation) until June 11, 2011.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($11,500) | ($75,278) |
| GENERAL FUND TOTAL | ($11,500) | ($75,278) |

**Parks - General Operations 0221**

Initiative: Reduces funding by recognizing one-time savings for general operating expenses for state parks and historic sites.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($60,000) | $0 |
| GENERAL FUND TOTAL | ($60,000) | $0 |

**Parks - General Operations 0221**

Initiative: Eliminates one seasonal Office Assistant II position.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - FTE COUNT | (0.577) | (0.577) |
| Personal Services | ($27,688) | ($28,193) |
| GENERAL FUND TOTAL | ($27,688) | ($28,193) |

**Parks - General Operations 0221**

Initiative: Reduces funding by recognizing one-time savings achieved by delaying the beginning date of seasonal positions by one week.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($98,385) | ($98,385) |
| GENERAL FUND TOTAL | ($98,385) | ($98,385) |

**Parks - General Operations 0221**

Initiative: Reduces funding in the Parks - General Operations program, Other Special Revenue Funds by reducing the weeks of one Park Manager II position from 52 to 30, and transfers one Allagash Park Ranger position from the Parks - General Operations program, General Fund to the Forest Recreation Resource Fund program, Other Special Revenue Funds.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - FTE COUNT | (0.481) | (0.481) |
| Personal Services | ($29,037) | ($29,124) |
| GENERAL FUND TOTAL | ($29,037) | ($29,124) |

**Parks - General Operations 0221**

Initiative: Reduces funding by recognizing one-time savings achieved by managing vacancies.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($38,712) | $0 |
| GENERAL FUND TOTAL | ($38,712) | $0 |

**Parks - General Operations 0221**

Initiative: Reduces funding by recognizing one-time savings achieved by delaying the filling of Park Manager positions at Reid State Park, Sebago Lake State Park and Moose Point State Park.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($60,125) | $0 |
| GENERAL FUND TOTAL | ($60,125) | $0 |

**Parks - General Operations 0221**

Initiative: Reduces funding by recognizing one-time savings achieved by delaying the filling of one Park Ranger position at Popham Beach State Park until June 14, 2010.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($15,827) | $0 |
| GENERAL FUND TOTAL | ($15,827) | $0 |

**Parks - General Operations 0221**

Initiative: Reduces funding by recognizing one-time savings achieved by transferring a portion of the cost of the Park Manager position for the Penobscot River Corridor from the Parks - General Operations program, General Fund to the Forest Recreation Resource Fund program, Other Special Revenue Funds for fiscal year 2009-10 only.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($17,400) | $0 |
| GENERAL FUND TOTAL | ($17,400) | $0 |

| CONSERVATION, DEPARTMENT OF<br>DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($557,926) | ($668,359) |
| FEDERAL EXPENDITURES FUND | $13,167 | $14,333 |
| OTHER SPECIAL REVENUE FUNDS | ($47,400) | $29,021 |
| DEPARTMENT TOTAL - ALL FUNDS | ($592,159) | ($625,005) |

**Sec. A-10. Appropriations and allocations.** The following appropriations and allocations are made.

**CORRECTIONS, DEPARTMENT OF**

**Administration - Corrections 0141**

Initiative: Eliminates one Physician Assistant position in the Administration - Corrections program, one part-time Chaplain I position at Maine State Prison, one Juvenile Program Worker position at Mountain View Youth Development Center and one Secretary Medical position at Long Creek Youth Development Center. This adjusts the number of eliminated positions from 5 to 3.5 and increases the deappropriation identified in Public Law 2009, chapter 213, Part LLL, section 2 for departmentwide savings from $262,460 to $280,510.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($108,873) |
| GENERAL FUND TOTAL | $0 | ($108,873) |

**Administration - Corrections 0141**

Initiative: Reduces funding for a leadership training contract with the University of Maine at Augusta.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($3,170) |
| GENERAL FUND TOTAL | $0 | ($3,170) |

**Adult Community Corrections 0124**

Initiative: Eliminates one Public Service Manager II position.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| GENERAL FUND TOTAL | $0 | $0 |

**Adult Community Corrections 0124**

Initiative: Reduces funding for a leadership training contract with the University of Maine at Augusta.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($22,696) |
| GENERAL FUND TOTAL | $0 | ($22,696) |

**Correctional Medical Services Fund 0286**

Initiative: Eliminates one Psychiatric Social Worker II position, one Correctional LPN position, one Clinical Social Worker position, one Nurse II position, one Nurse III position and one Nurse V position and reduces funding for related All Other and transfers a portion of the savings to All Other in the Correctional Medical Services Fund program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $351,095 | $468,863 |
| GENERAL FUND TOTAL | $351,095 | $468,863 |

**Departmentwide - Corrections Z096**

Initiative: Eliminates one Physician Assistant position in the Administration - Corrections program, one part-time Chaplain I position at Maine State Prison, one Juvenile Program Worker position at Mountain View Youth Development Center and one Secretary Medical position at Long Creek Youth Development Center. This adjusts the number of eliminated positions from 5 to 3.5 and increases the deappropriation identified in Public Law 2009, chapter 213, Part LLL, section 2 for departmentwide savings from $262,460 to $280,510.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 5.000 |
| Personal Services | $0 | $262,460 |
| GENERAL FUND TOTAL | $0 | $262,460 |

**Juvenile Community Corrections 0892**

Initiative: Reorganizes one Public Service Manager II position to a Public Service Coordinator I position and reduces the position from 80 hours to 40 hours bi-weekly.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (0.500) | (0.500) |
| Personal Services | ($13,122) | ($61,187) |
| GENERAL FUND TOTAL | ($13,122) | ($61,187) |

**Juvenile Community Corrections 0892**

Initiative: Reduces funding by recognizing one-time savings achieved by delaying juvenile community corrections consulting services.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($10,000) |
| GENERAL FUND TOTAL | $0 | ($10,000) |

### Juvenile Community Corrections 0892

Initiative: Reduces funding for a leadership training contract with the University of Maine at Augusta.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($26,134) |
| GENERAL FUND TOTAL | $0 | ($26,134) |

### Juvenile Community Corrections 0892

Initiative: Reduces funding for a training contract with the University of Maine at Augusta.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($50,000) |
| GENERAL FUND TOTAL | $0 | ($50,000) |

### Juvenile Community Corrections 0892

Initiative: Reduces funding for a data analysis and evaluation contract with the University of Southern Maine Muskie School of Public Service.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($150,000) |
| GENERAL FUND TOTAL | $0 | ($150,000) |

### Long Creek Youth Development Center 0163

Initiative: Eliminates one Physician Assistant position in the Administration - Corrections program, one part-time Chaplain I position at Maine State Prison, one Juvenile Program Worker position at Mountain View Youth Development Center and one Secretary Medical position at Long Creek Youth Development Center. This adjusts the number of eliminated positions from 5 to 3.5 and increases the deappropriation identified in Public Law 2009, chapter 213, Part LLL, section 2 for departmentwide savings from $262,460 to $280,510.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($58,342) |
| GENERAL FUND TOTAL | $0 | ($58,342) |

### Long Creek Youth Development Center 0163

Initiative: Provides funding for a federal grant from the Department of Education.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $15,000 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $15,000 |

### Mountain View Youth Development Center 0857

Initiative: Eliminates one Physician Assistant position in the Administration - Corrections program, one part-time Chaplain I position at Maine State Prison, one Juvenile Program Worker position at Mountain View Youth Development Center and one Secretary Medical position at Long Creek Youth Development Center. This adjusts the number of eliminated positions from 5 to 3.5 and increases the deappropriation identified in Public Law 2009, chapter 213, Part LLL, section 2 for departmentwide savings from $262,460 to $280,510.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($82,084) |
| GENERAL FUND TOTAL | $0 | ($82,084) |

### Prisoner Boarding Program Z086

Initiative: Reduces funding for the boarding of state prisoners in county jails as a result of improved prisoner movement and management within departmental facilities.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($90,000) | ($361,350) |
| GENERAL FUND TOTAL | ($90,000) | ($361,350) |

### State Prison 0144

Initiative: Eliminates one Psychiatric Social Worker II position, one Correctional LPN position, one Clinical Social Worker position, one Nurse II position, one Nurse III position and one Nurse V position and reduces funding for related All Other and transfers a portion of the savings to All Other in the Correctional Medical Services Fund program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (6.000) | (6.000) |
| Personal Services | ($510,974) | ($517,436) |
| GENERAL FUND TOTAL | ($510,974) | ($517,436) |

### State Prison 0144

Initiative: Eliminates one Physician Assistant position in the Administration - Corrections program, one part-time Chaplain I position at Maine State Prison, one Juvenile Program Worker position at Mountain View Youth Development Center and one Secretary Medical position at Long Creek Youth Development Center. This adjusts the number of eliminated positions from 5 to 3.5 and increases the deappropriation identified in Public Law 2009, chapter 213, Part LLL, section 2 for departmentwide savings from $262,460 to $280,510.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (0.500) |
| Personal Services | $0 | ($31,211) |
| GENERAL FUND TOTAL | $0 | ($31,211) |

| CORRECTIONS, DEPARTMENT OF<br>DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($263,001) | ($751,160) |
| FEDERAL EXPENDITURES FUND | $0 | $15,000 |
| DEPARTMENT TOTAL - ALL FUNDS | ($263,001) | ($736,160) |

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

## CORRECTIONS, STATE BOARD OF

### State Board of Corrections Investment Fund Z087

Initiative: Provides funding for operational needs of county jails in support of the unified correctional system created by Public Law 2007, chapter 653.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $3,500,000 |
| GENERAL FUND TOTAL | $0 | $3,500,000 |

### State Board of Corrections Investment Fund Z087

Initiative: Adjusts funding to bring allocations into line with projected available resources based on revenue projections approved by the Revenue Forecasting Committee in December 2009.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($56,748) | ($56,748) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($56,748) | ($56,748) |

| CORRECTIONS, STATE BOARD OF<br>DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | $0 | $3,500,000 |
| OTHER SPECIAL REVENUE FUNDS | ($56,748) | ($56,748) |
| DEPARTMENT TOTAL - ALL FUNDS | ($56,748) | $3,443,252 |

**Sec. A-12. Appropriations and allocations.** The following appropriations and allocations are made.

## DEFENSE, VETERANS AND EMERGENCY MANAGEMENT, DEPARTMENT OF

### Administration - Maine Emergency Management Agency 0214

Initiative: Continues one limited-period Planning and Research Associate II position through September 30, 2011. This position was established by Financial Order 04385 F9 and continued by Financial Order 05146 F10 through August 7, 2010.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $83,090 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $83,090 |

### Disaster Assistance 0841

Initiative: Provides funding for the State's share of disaster assistance for previously declared disasters: flooding in 2005, St. Patrick's Day Flood 2007, Patriot's Day Flood 2007, May Floods 2008, July and August Floods 2008, December Ice and Snow 2008 and June and July Floods 2009.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $1,750,000 | $1,753,063 |
| GENERAL FUND TOTAL | $1,750,000 | $1,753,063 |

### Military Training and Operations 0108

Initiative: Reallocates the cost of one Accounting Technician position from 80% Federal Expenditures Fund, 10% Other Special Revenue Funds and 10%

General Fund to 85% Federal Expenditures Fund, 5% Other Special Revenue Funds and 10% General Fund within the same program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $2,888 | $2,939 |
| FEDERAL EXPENDITURES FUND TOTAL | $2,888 | $2,939 |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($2,888) | ($2,939) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($2,888) | ($2,939) |

**Military Training and Operations 0108**

Initiative: Reorganizes one Maintenance Mechanic position to a Plumber II position and reallocates the position costs from 100% General Fund to 75% Federal Expenditures Fund and 25% General Fund within the same program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| Personal Services | ($9,739) | ($41,470) |
| GENERAL FUND TOTAL | ($9,739) | ($41,470) |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 1.000 | 1.000 |
| Personal Services | $13,118 | $53,606 |
| FEDERAL EXPENDITURES FUND TOTAL | $13,118 | $53,606 |

**Military Training and Operations 0108**

Initiative: Provides funding for additional revenue received from the Master Cooperative Agreement for the National Guard.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $612,000 | $612,000 |
| All Other | $3,000,000 | $3,000,000 |
| FEDERAL EXPENDITURES FUND TOTAL | $3,612,000 | $3,612,000 |

**Military Training and Operations 0108**

Initiative: Transfers funding from the All Other line category to the Personal Services line category to cover increased use of active duty personnel for cleaning armories.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $5,000 | $5,000 |
| All Other | ($5,000) | ($5,000) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $0 |

**Military Training and Operations 0108**

Initiative: Provides funding for the approved reorganization of one Building Custodian position to a Maintenance Mechanic position.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $2,077 | $8,395 |
| FEDERAL EXPENDITURES FUND TOTAL | $2,077 | $8,395 |

**Military Training and Operations 0108**

Initiative: Eliminates one Senior Planner position.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| Personal Services | ($75,115) | ($79,988) |
| GENERAL FUND TOTAL | ($75,115) | ($79,988) |

**Veterans Services 0110**

Initiative: Provides funding to cover increased sales and expenses related to commemorative items.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $24,272 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $24,272 |

**Veterans Services 0110**

Initiative: Provides funding for increased private donations used to purchase flags for veterans' graves.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $2,528 | $2,528 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $2,528 | $2,528 |

**Veterans Services 0110**

Initiative: Reduces funding by delaying the filling of one Grounds Equipment Supervisor position, one seasonal Heavy Equipment Operator position and one seasonal Groundskeeper II position until the Springvale cemetery is opened in fiscal year 2010-11.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($101,049) | $0 |
| GENERAL FUND TOTAL | ($101,049) | $0 |

**Veterans Services 0110**

Initiative: Reduces funding by not contracting for a traveling veterans services officer.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($97,500) | ($97,500) |
| GENERAL FUND TOTAL | ($97,500) | ($97,500) |

**Veterans Services 0110**

Initiative: Reduces funding for veterans' financial assistance.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($50,000) |
| GENERAL FUND TOTAL | $0 | ($50,000) |

**Veterans Services 0110**

Initiative: Eliminates one seasonal Groundskeeper II position.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - FTE COUNT | 0.000 | (0.500) |
| Personal Services | $0 | ($25,279) |
| GENERAL FUND TOTAL | $0 | ($25,279) |

**Veterans Services 0110**

Initiative: Provides one-time funding for the Advisory Commission on Women Veterans.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $7,500 | $0 |
| GENERAL FUND TOTAL | $7,500 | $0 |

| DEFENSE, VETERANS AND EMERGENCY MANAGEMENT, DEPARTMENT OF<br>DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | $1,474,097 | $1,458,826 |
| FEDERAL EXPENDITURES FUND | $3,630,083 | $3,760,030 |
| OTHER SPECIAL REVENUE FUNDS | ($360) | $23,861 |
| DEPARTMENT TOTAL - ALL FUNDS | $5,103,820 | $5,242,717 |

## Sec. A-13. Appropriations and allocations.

The following appropriations and allocations are made.

### DEVELOPMENT FOUNDATION, MAINE

**Development Foundation 0198**

Initiative: Reduces funding to maintain appropriations within available resources.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($1,782) |
| GENERAL FUND TOTAL | $0 | ($1,782) |

## Sec. A-14. Appropriations and allocations.

The following appropriations and allocations are made.

### DIRIGO HEALTH

**Dirigo Health Fund 0988**

Initiative: Provides funding to expand health insurance coverage for certain uninsured, low-income, seasonal and part-time workers.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $8,025,915 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $8,025,915 |

**Sec. A-15. Appropriations and allocations.** The following appropriations and allocations are made.

**DISABILITY RIGHTS CENTER**

**Disability Rights Center 0523**

Initiative: Reduces funding to maintain appropriations within available resources.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($6,538) |
| GENERAL FUND TOTAL | $0 | ($6,538) |

**Sec. A-16. Appropriations and allocations.** The following appropriations and allocations are made.

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

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

Initiative: Reduces funding to maintain appropriations within available resources.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($651) |
| GENERAL FUND TOTAL | $0 | ($651) |

**Sec. A-17. Appropriations and allocations.** The following appropriations and allocations are made.

**ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF**

**Business Development 0585**

Initiative: Reduces funding to reflect the department's reorganization through the elimination of 3 Public Service Coordinator I positions and one Policy Development Specialist position effective April 4, 2010 and the moving of these duties to contracted services.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (4.000) | (4.000) |
| Personal Services | ($46,931) | ($349,643) |
| All Other | $25,006 | $213,629 |
| GENERAL FUND TOTAL | ($21,925) | ($136,014) |

**Business Development 0585**

Initiative: Reduces funds from a contract with Marshall Communications, Inc. in fiscal year 2010-11.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($20,000) |
| GENERAL FUND TOTAL | $0 | ($20,000) |

**Information Technology Y07T**

Initiative: Reduces funding for information technology savings related to the department's reorganization plan and position eliminations in the Business Development program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($4,223) |
| GENERAL FUND TOTAL | $0 | ($4,223) |

**Maine State Film Office 0590**

Initiative: Reduces funding for unemployment compensation benefits.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($15,359) | $0 |
| GENERAL FUND TOTAL | ($15,359) | $0 |

**Office of Innovation 0995**

Initiative: Reduces funding by eliminating strategic planning initiatives and reducing administrative costs.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($381,071) | ($384,872) |
| GENERAL FUND TOTAL | ($381,071) | ($384,872) |

**Office of Innovation 0995**

Initiative: Reduces funding from salary savings achieved by eliminating one Public Service Manager II position in fiscal year 2010-11.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($87,838) |
| GENERAL FUND TOTAL | $0 | ($87,838) |

**Office of Tourism 0577**

Initiative: Reduces funding to bring allocations into line with projected available resources.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($221,117) | ($515,643) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($221,117) | ($515,643) |

### Office of Tourism 0577

Initiative: Reduces funding as a result of revenue changes approved by the Revenue Forecasting Committee in December 2009 and March 2010.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($101,184) | ($3,065,663) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($101,184) | ($3,065,663) |

| ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF<br>DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($418,355) | ($632,947) |
| OTHER SPECIAL REVENUE FUNDS | ($322,301) | ($3,581,306) |
| DEPARTMENT TOTAL - ALL FUNDS | ($740,656) | ($4,214,253) |

**Sec. A-18. Appropriations and allocations.** The following appropriations and allocations are made.

## EDUCATION, DEPARTMENT OF

### Adult Education 0364

Initiative: Reduces funding for adult education.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($80,000) |
| GENERAL FUND TOTAL | $0 | ($80,000) |

### Child Development Services 0449

Initiative: Transfers one Education Specialist II position from the Child Development Services program to the Special Services Team program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| Personal Services | ($16,292) | ($74,667) |
| All Other | ($3,083) | ($4,239) |
| FEDERAL EXPENDITURES FUND TOTAL | ($19,375) | ($78,906) |

### Child Development Services 0449

Initiative: Reduces funding by changing the structure and adjusting the operating costs of the regional system.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($1,090,000) |
| GENERAL FUND TOTAL | $0 | ($1,090,000) |

### Federal and State Program Services Z079

Initiative: Reallocates the cost of one Education Specialist III position from 25% Federal Expenditures Fund to 25% Other Special Revenue Funds within the same program and provides funding for related All Other costs.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($22,313) | ($22,648) |
| FEDERAL EXPENDITURES FUND TOTAL | ($22,313) | ($22,648) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $22,313 | $22,648 |
| All Other | $1,267 | $1,286 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $23,580 | $23,934 |

### Federal and State Program Services Z079

Initiative: Transfers one Education Specialist III position from the Federal and State Program Services program to the PK-20 Curriculum, Instruction and Assessment program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| Personal Services | ($75,352) | ($79,468) |
| All Other | ($4,274) | ($4,512) |

| | | |
|---|---|---|
| FEDERAL EXPENDITURES FUND TOTAL | ($79,626) | ($83,980) |

### Federal and State Program Services Z079

Initiative: Reallocates the cost of one Education Specialist III position from 10% Federal and State Program Services program to 5% Leadership Team program and 5% PK-20 Curriculum, Instruction and Assessment program and transfers related All Other costs.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($8,923) | ($9,058) |
| All Other | ($507) | ($514) |
| FEDERAL EXPENDITURES FUND TOTAL | ($9,430) | ($9,572) |

### Federal and State Program Services Z079

Initiative: Transfers one Development Project Officer position from the Federal and State Program Services program to the Special Services Team program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| Personal Services | ($37,918) | ($38,520) |
| All Other | ($2,153) | ($2,187) |
| FEDERAL EXPENDITURES FUND TOTAL | ($40,071) | ($40,707) |

### General Purpose Aid for Local Schools 0308

Initiative: Provides funding for direct care stipends for 2 Office Associate II positions and 2 Education Specialist II positions who work in Department of Corrections facilities and reduces funding for in-state travel.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $6,528 | $6,602 |
| All Other | ($6,528) | ($6,602) |
| GENERAL FUND TOTAL | $0 | $0 |

### General Purpose Aid for Local Schools 0308

Initiative: Reduces funding for general purpose aid for local schools subsidy to school administrative units.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($38,098,223) | ($10,123,138) |
| GENERAL FUND TOTAL | ($38,098,223) | ($10,123,138) |

### General Purpose Aid for Local Schools 0308

Initiative: Provides funds for schools that voted to support the State's education reform law but whose partner districts rejected administrative consolidation.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $1,120,532 |
| GENERAL FUND TOTAL | $0 | $1,120,532 |

### General Purpose Aid for Local Schools 0308

Initiative: Reduces funds from a contract with the University of Maine - Center for Education Policy, Applied Research and Evaluation in fiscal year 2010-11. A request-for-proposal process will be used in fiscal year 2010-11 for the Maine Learning Technology Initiative evaluation and the contract will be capped at $200,000.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($50,000) |
| GENERAL FUND TOTAL | $0 | ($50,000) |

### Leadership Team Z077

Initiative: Transfers one Education Specialist III position from the Leadership Team program to the Special Services Team program.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| Personal Services | ($75,352) | ($79,468) |
| All Other | ($4,278) | ($4,512) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($79,630) | ($83,980) |

### Leadership Team Z077

Initiative: Reallocates the cost of one Education Specialist III position from 10% Federal and State Program Services program to 5% Leadership Team program and 5% PK-20 Curriculum, Instruction and Assessment program and transfers related All Other costs.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|

| | | |
|---|---|---|
| Personal Services | $4,464 | $4,530 |
| All Other | $253 | $257 |
| FEDERAL EXPENDITURES FUND TOTAL | $4,717 | $4,787 |

### Leadership Team Z077

Initiative: Eliminates funding from the Partnerships in Character Education grant that has ended.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($272,601) | ($272,601) |
| FEDERAL EXPENDITURES FUND TOTAL | ($272,601) | ($272,601) |

### Leadership Team Z077

Initiative: Transfers all funding for indirect costs including one Public Service Manager II position from the Federal Expenditures Fund to Other Special Revenue Funds within the same program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($192,989) |
| All Other | $0 | ($214,572) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($407,561) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $192,989 |
| All Other | $0 | $214,572 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $407,561 |

### Leadership Team Z077

Initiative: Provides funding on a one-time basis for reimbursement to School Administrative District 11 for retirement contributions paid in error.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $90,788 | $0 |
| GENERAL FUND TOTAL | $90,788 | $0 |

### Management Information Systems 0838

Initiative: Adjusts funding to correct a negative appropriation created in fiscal year 2009-10 by a reduction to the Management Information Systems program after those funds were moved to the School Finance and Operations program in a departmental reorganization of programs and accounts.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $190,000 | $0 |
| GENERAL FUND TOTAL | $190,000 | $0 |

### PK-20 Curriculum, Instruction and Assessment Z081

Initiative: Transfers one Education Specialist III position from the Federal and State Program Services program to the PK-20 Curriculum, Instruction and Assessment program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 1.000 | 1.000 |
| Personal Services | $75,352 | $79,468 |
| All Other | $4,274 | $4,512 |
| FEDERAL EXPENDITURES FUND TOTAL | $79,626 | $83,980 |

### PK-20 Curriculum, Instruction and Assessment Z081

Initiative: Reallocates the cost of one Education Specialist III position from 10% Federal and State Program Services program to 5% Leadership Team program and 5% PK-20 Curriculum, Instruction and Assessment program and transfers related All Other costs.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $4,459 | $4,528 |
| All Other | $253 | $257 |
| FEDERAL EXPENDITURES FUND TOTAL | $4,712 | $4,785 |

### Professional Development and Education Fund Z032

Initiative: Reduces funding for the Professional Development and Education Fund program that supports staff enrollment in postsecondary courses.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($4,500) | ($4,500) |
| GENERAL FUND TOTAL | ($4,500) | ($4,500) |

### Retired Teachers' Health Insurance 0854

Initiative: Reduces funding for retired teachers' health insurance as a result of savings achieved through a rate reduction in retiree health insurance affecting departments and agencies statewide.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($93,843) |
| GENERAL FUND TOTAL | $0 | ($93,843) |

### School Finance and Operations Z078

Initiative: Adjusts funding to correct a negative appropriation created in fiscal year 2009-10 by a reduction to the Management Information Systems program after those funds were moved to the School Finance and Operations program in a departmental reorganization of programs and accounts.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($190,000) | $0 |
| GENERAL FUND TOTAL | ($190,000) | $0 |

### Special Services Team Z080

Initiative: Transfers one Education Specialist II position from the Child Development Services program to the Special Services Team program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 1.000 | 1.000 |
| Personal Services | $16,292 | $74,667 |
| All Other | $3,083 | $4,239 |
| FEDERAL EXPENDITURES FUND TOTAL | $19,375 | $78,906 |

### Special Services Team Z080

Initiative: Transfers one Education Specialist III position from the Leadership Team program to the Special Services Team program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 1.000 | 1.000 |
| Personal Services | $75,352 | $79,468 |
| All Other | $4,278 | $4,512 |
| FEDERAL EXPENDITURES FUND TOTAL | $79,630 | $83,980 |

### Special Services Team Z080

Initiative: Transfers one Development Project Officer position from the Federal and State Program Services program to the Special Services Team program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 1.000 | 1.000 |
| Personal Services | $37,918 | $38,520 |
| All Other | $2,153 | $2,187 |
| FEDERAL EXPENDITURES FUND TOTAL | $40,071 | $40,707 |

| EDUCATION, DEPARTMENT OF DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| **GENERAL FUND** | **($38,011,935)** | **($10,320,949)** |
| **FEDERAL EXPENDITURES FUND** | **($215,285)** | **($618,830)** |
| **OTHER SPECIAL REVENUE FUNDS** | **($56,050)** | **$347,515** |
| **DEPARTMENT TOTAL - ALL FUNDS** | **($38,283,270)** | **($10,592,264)** |

**Sec. A-19. Appropriations and allocations.** The following appropriations and allocations are made.

## EDUCATION, STATE BOARD OF

### State Board of Education 0614

Initiative: Reduces funding for professional services in the State Board of Education program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($4,067) | ($4,117) |
| GENERAL FUND TOTAL | ($4,067) | ($4,117) |

**Sec. A-20. Appropriations and allocations.** The following appropriations and allocations are made.

**ENERGY CONSERVATION BOARD, MAINE**

**Maine Energy Conservation Board Z076**

Initiative: Provides one-time funding required to correct excess deallocation in Public Law 2009, chapter 372, Part J.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $50,000 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $50,000 |

**Sec. A-21. Appropriations and allocations.** The following appropriations and allocations are made.

**ENVIRONMENTAL PROTECTION, DEPARTMENT OF**

**Administration - Environmental Protection 0251**

Initiative: Adjusts funding to correctly reflect budgeted Department of Administrative and Financial Services, Office of Information Technology costs.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($89,908) | ($119,877) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($89,908) | ($119,877) |

**Administration - Environmental Protection 0251**

Initiative: Transfers one Public Service Coordinator I position from the Remediation and Waste Management program, Federal Expenditures Fund to the Administration - Environmental Protection program, Other Special Revenue Funds.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $90,175 |
| All Other | $0 | $3,049 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $93,224 |

**Administration - Environmental Protection 0251**

Initiative: Transfers one Environmental Specialist IV position from the Administration - Environmental Protection program, Other Special Revenue Funds to the Remediation and Waste Management program, Federal Expenditures Fund.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($85,375) |
| All Other | $0 | ($2,886) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($88,261) |

**Administration - Environmental Protection 0251**

Initiative: Reallocates the cost of one Public Service Executive I position from 50% Administration - Environmental Protection program and 50% Maine Environmental Protection Fund program to 100% Administration - Environmental Protection program.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $46,840 |
| All Other | $0 | $1,584 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $48,424 |

**Administration - Environmental Protection 0251**

Initiative: Transfers one Public Service Coordinator II position from the Administration - Environmental Protection program, Other Special Revenue Funds to the Maine Environmental Protection Fund program, Other Special Revenue Funds.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($95,566) |
| All Other | $0 | ($3,231) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($98,797) |

**Administration - Environmental Protection 0251**

Initiative: Transfers funding for Personal Services from the General Fund to Other Special Revenue Funds for a one-time General Fund reduction and pro-

vides funding for related STA-CAP charges within the same program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($251,090) | ($257,616) |
| GENERAL FUND TOTAL | ($251,090) | ($257,616) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $251,090 | $257,616 |
| All Other | $8,489 | $8,710 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $259,579 | $266,326 |

**Administration - Environmental Protection 0251**

Initiative: Provides funding by recognizing one-time savings achieved by transferring internal service obligations from the General Fund to Other Special Revenue Funds for fiscal years 2009-10 only.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($37,610) | $0 |
| GENERAL FUND TOTAL | ($37,610) | $0 |

**Information Technology Y10T**

Initiative: Provides funding by recognizing one-time savings achieved by transferring internal service obligations from the General Fund to Other Special Revenue Funds for fiscal year 2010-11 only.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($31,170) |
| GENERAL FUND TOTAL | $0 | ($31,170) |

**Land and Water Quality 0248**

Initiative: Provides funding for operating expenditures.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $35,150 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $35,150 |

**Land and Water Quality 0248**

Initiative: Transfers one Environmental Specialist IV position from the Land and Water Quality program, Federal Expenditures Fund to the Performance Partnership Grant program, Federal Expenditures Fund.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($94,513) |
| All Other | $0 | ($3,195) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($97,708) |

**Maine Environmental Protection Fund 0421**

Initiative: Continues one limited-period Environmental Specialist II position, established by Financial Order 005337 F10, through June 11, 2011 to support the industrial stormwater program.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $68,628 |
| All Other | $0 | $2,320 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $70,948 |

**Maine Environmental Protection Fund 0421**

Initiative: Transfers one Biologist II position, one Environmental Specialist II position and one Environmental Specialist III position from the Maine Environmental Protection Fund program, Other Special Revenue Funds to the Performance Partnership Grant program, Federal Expenditures Fund.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (3.000) |
| Personal Services | $0 | ($238,679) |
| All Other | $0 | ($8,070) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($246,749) |

**Maine Environmental Protection Fund 0421**

Initiative: Reallocates the cost of one Public Service Executive I position from 50% Administration - Environmental Protection program and 50% Maine Environmental Protection Fund program to 100% Administration - Environmental Protection program.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|

| | | |
|---|---|---|
| Personal Services | $0 | ($46,840) |
| All Other | $0 | ($1,584) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($48,424) |

**Maine Environmental Protection Fund 0421**

Initiative: Transfers one Public Service Coordinator II position from the Administration - Environmental Protection program, Other Special Revenue Funds to the Maine Environmental Protection Fund program, Other Special Revenue Funds.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $95,566 |
| All Other | $0 | $3,231 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $98,797 |

**Performance Partnership Grant 0851**

Initiative: Transfers one Environmental Specialist IV position from the Land and Water Quality program, Federal Expenditures Fund to the Performance Partnership Grant program, Federal Expenditures Fund.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $94,513 |
| All Other | $0 | $3,195 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $97,708 |

**Performance Partnership Grant 0851**

Initiative: Transfers one Biologist II position, one Environmental Specialist II position and one Environmental Specialist III position from the Maine Environmental Protection Fund program, Other Special Revenue Funds to the Performance Partnership Grant program, Federal Expenditures Fund.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 3.000 |
| Personal Services | $0 | $238,679 |
| All Other | $0 | $8,070 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $246,749 |

**Performance Partnership Grant 0851**

Initiative: Transfers one Environmental Specialist III position from the Remediation and Waste Management program, Other Special Revenue Funds to the Performance Partnership Grant program, Federal Expenditures Fund.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $84,588 |
| All Other | $0 | $2,860 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $87,448 |

**Performance Partnership Grant 0851**

Initiative: Transfers one Cartographer position from the Department of Administrative and Financial Services, Office of Information Technology to the Performance Partnership Grant program, Federal Expenditures Fund and reduces the All Other budget for the Performance Partnership Grant program as a result.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $78,124 |
| All Other | $0 | ($78,124) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $0 |

**Remediation and Waste Management 0247**

Initiative: Transfers one Environmental Specialist III position from the Remediation and Waste Management program, Other Special Revenue Funds to the Performance Partnership Grant program, Federal Expenditures Fund.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($84,588) |
| All Other | $0 | ($2,860) |

| | | |
|---|---|---|
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($87,448) |

**Remediation and Waste Management 0247**

Initiative: Transfers one Public Service Coordinator I position from the Remediation and Waste Management program, Federal Expenditures Fund to the Administration - Environmental Protection program, Other Special Revenue Funds.

| **FEDERAL EXPENDITURES FUND** | **2009-10** | **2010-11** |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($90,175) |
| All Other | $0 | ($3,049) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($93,224) |

**Remediation and Waste Management 0247**

Initiative: Transfers one Environmental Specialist IV position from the Administration - Environmental Protection program, Other Special Revenue Funds to the Remediation and Waste Management program, Federal Expenditures Fund.

| **FEDERAL EXPENDITURES FUND** | **2009-10** | **2010-11** |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $85,375 |
| All Other | $0 | $2,886 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $88,261 |

**Remediation and Waste Management 0247**

Initiative: Provides funding for operating expenditures.

| **OTHER SPECIAL REVENUE FUNDS** | **2009-10** | **2010-11** |
|---|---|---|
| All Other | $0 | $300,000 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $300,000 |

**Remediation and Waste Management 0247**

Initiative: Provides funding by recognizing one-time savings achieved by maintaining a vacant position and reducing related All Other costs for fiscal year 2009-10 only.

| **GENERAL FUND** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | ($25,870) | $0 |
| All Other | ($5,350) | $0 |
| GENERAL FUND TOTAL | ($31,220) | $0 |

**Remediation and Waste Management 0247**

Initiative: Provides an allocation for oversight of the cleanup of uncontrolled hazardous substance sites.

| **GENERAL FUND** | **2009-10** | **2010-11** |
|---|---|---|
| All Other | $0 | $200,000 |
| GENERAL FUND TOTAL | $0 | $200,000 |

| **ENVIRONMENTAL PROTECTION, DEPARTMENT OF** **DEPARTMENT TOTALS** | **2009-10** | **2010-11** |
|---|---|---|
| **GENERAL FUND** | **($319,920)** | **($88,786)** |
| **FEDERAL EXPENDITURES FUND** | **$0** | **$329,234** |
| **OTHER SPECIAL REVENUE FUNDS** | **$169,671** | **$223,313** |
| **DEPARTMENT TOTAL - ALL FUNDS** | **($150,249)** | **$463,761** |

**Sec. A-22. Appropriations and allocations.** The following appropriations and allocations are made.

**EXECUTIVE DEPARTMENT**

**Administration - Executive - Governor's Office 0165**

Initiative: Provides funding for the State Health Access Program grants.

| **FEDERAL EXPENDITURES FUND** | **2009-10** | **2010-11** |
|---|---|---|
| All Other | $0 | $474,085 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $474,085 |

**Administration - Executive - Governor's Office 0165**

Initiative: Reduces funding from salary savings from a Governor's Special Assistant position that is fully funded by the American Recovery and Reinvestment Act of 2009 through fiscal year 2010-11.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($28,407) | ($29,974) |
| GENERAL FUND TOTAL | ($28,407) | ($29,974) |

**Administration - Executive - Governor's Office 0165**

Initiative: Reduces funding on a one-time basis for general operations to maintain costs within available resources.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($61,324) | $0 |
| GENERAL FUND TOTAL | ($61,324) | $0 |

**Administration - Executive - Governor's Office 0165**

Initiative: Eliminates one part-time Governor's Special Assistant position in fiscal year 2009-10 and one Governor's Special Assistant position in fiscal year 2010-11.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (0.500) | (1.000) |
| Personal Services | ($31,051) | ($72,975) |
| GENERAL FUND TOTAL | ($31,051) | ($72,975) |

**Administration - Executive - Governor's Office 0165**

Initiative: Reduces funding by freezing one Governor's Special Assistant position until June 12, 2010.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($46,300) | $0 |
| GENERAL FUND TOTAL | ($46,300) | $0 |

**Blaine House 0072**

Initiative: Reduces funding for contractual services used to assist in the Blaine House.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($1,100) | $0 |
| GENERAL FUND TOTAL | ($1,100) | $0 |

**Blaine House 0072**

Initiative: Reduces funding for out-of-state travel.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($1,500) | ($2,500) |
| GENERAL FUND TOTAL | ($1,500) | ($2,500) |

**Blaine House 0072**

Initiative: Reduces funding for the food allowance.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($1,000) | $0 |
| GENERAL FUND TOTAL | ($1,000) | $0 |

**Ombudsman Program 0103**

Initiative: Reduces funding for contractual services from the Maine Children's Alliance to maintain costs within available resources.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($4,827) |
| GENERAL FUND TOTAL | $0 | ($4,827) |

**Planning Office 0082**

Initiative: Continues one Senior Planner position to meet increased federal requirements contained in the Edward M. Kennedy Serve America Act of 2009 for state commissions and reallocates the cost from 75% Federal Expenditures Fund and 25% Other Special Revenue Funds to 100% Federal Expenditures Fund within the same program. This position was established as a limited-period position in Public Law 2007, chapter 539.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 1.000 | 1.000 |
| Personal Services | $19,071 | $20,156 |
| All Other | $1,168 | $1,234 |
| FEDERAL EXPENDITURES FUND TOTAL | $20,239 | $21,390 |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|

| | | |
|---|---|---|
| Personal Services | ($19,071) | ($20,156) |
| All Other | ($1,168) | ($1,234) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($20,239) | ($21,390) |

**Planning Office 0082**

Initiative: Provides funding to increase the hours of one Senior Planner position from 24 hours per week to 40 hours per week and reallocates the cost from 100% General Fund to 60% General Fund and 40% Other Special Revenue Funds within the same program.

| **OTHER SPECIAL REVENUE FUNDS** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | $0 | $32,408 |
| All Other | $0 | $1,984 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $34,392 |

| **EXECUTIVE DEPARTMENT DEPARTMENT TOTALS** | **2009-10** | **2010-11** |
|---|---|---|
| **GENERAL FUND** | **($170,682)** | **($110,276)** |
| **FEDERAL EXPENDITURES FUND** | **$20,239** | **$495,475** |
| **OTHER SPECIAL REVENUE FUNDS** | **($20,239)** | **$13,002** |
| **DEPARTMENT TOTAL - ALL FUNDS** | **($170,682)** | **$398,201** |

**Sec. A-23. Appropriations and allocations.** The following appropriations and allocations are made.

**FINANCE AUTHORITY OF MAINE**

**Clean Fuel Vehicle Fund Z115**

Initiative: Provides funding for the Clean Fuel Vehicle Fund to support production, distribution and consumption of clean fuels and biofuels in the event that funds are received.

| **OTHER SPECIAL REVENUE FUNDS** | **2009-10** | **2010-11** |
|---|---|---|
| All Other | $25,000 | $25,000 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $25,000 | $25,000 |

**Student Financial Assistance Programs 0653**

Initiative: Reduces funding for grant and loan awards to students in the student financial assistance programs.

| **GENERAL FUND** | **2009-10** | **2010-11** |
|---|---|---|
| All Other | $0 | ($511,552) |
| GENERAL FUND TOTAL | $0 | ($511,552) |

| **FINANCE AUTHORITY OF MAINE DEPARTMENT TOTALS** | **2009-10** | **2010-11** |
|---|---|---|
| **GENERAL FUND** | **$0** | **($511,552)** |
| **OTHER SPECIAL REVENUE FUNDS** | **$25,000** | **$25,000** |
| **DEPARTMENT TOTAL - ALL FUNDS** | **$25,000** | **($486,552)** |

**Sec. A-24. Appropriations and allocations.** The following appropriations and allocations are made.

**FOUNDATION FOR BLOOD RESEARCH**

**Scienceworks for ME 0908**

Initiative: Reduces funding to maintain appropriations within available resources.

| **GENERAL FUND** | **2009-10** | **2010-11** |
|---|---|---|
| All Other | $0 | ($2,707) |
| GENERAL FUND TOTAL | $0 | ($2,707) |

**Sec. A-25. Appropriations and allocations.** The following appropriations and allocations are made.

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

**Consumer-directed Services Z043**

Initiative: Reduces funding for administrative costs within the Department of Health and Human Services related to the Consumer-directed Services program.

| **GENERAL FUND** | **2009-10** | **2010-11** |
|---|---|---|
| All Other | ($125,000) | ($250,000) |
| GENERAL FUND TOTAL | ($125,000) | ($250,000) |

**Departmentwide 0019**

Initiative: Adjusts funding to distribute the departmentwide deappropriation included in Public Law 2009, chapter 213, Part A related to a social security income cost-of-living increase.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $4,000,000 | $4,000,000 |
| GENERAL FUND TOTAL | $4,000,000 | $4,000,000 |

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

Initiative: Eliminates the following vacant positions: 3 Licensed Practical Nurse positions, one Chaplain II position, one Occupational Therapist II position, 2 Public Service Manager II positions, one Psychiatric Social Worker I position, 6 Mental Health Worker I positions, 2 Mental Health Worker II positions, 3 Office Associate II positions, one part-time Nurse IV position, one Team Leader position and one Assistant Team Leader position.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($425,062) |
| GENERAL FUND TOTAL | $0 | ($425,062) |

**Disproportionate Share - Riverview Psychiatric Center 0733**

Initiative: Reorganizes one Physician III position to 2 part-time Physician III positions and transfers one of the part-time Physician III positions from the Riverview Psychiatric Center program to the Mental Health Services - Children program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($40,972) |
| GENERAL FUND TOTAL | $0 | ($40,972) |

**Dorothea Dix Psychiatric Center 0120**

Initiative: Reduces funding for the Dorothea Dix Psychiatric Center.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($500,000) |
| GENERAL FUND TOTAL | $0 | ($500,000) |

**Dorothea Dix Psychiatric Center 0120**

Initiative: Eliminates the following vacant positions: 3 Licensed Practical Nurse positions, one Chaplain II position, one Occupational Therapist II position, 2 Public Service Manager II positions, one Psychiatric Social Worker I position, 6 Mental Health Worker I positions, 2 Mental Health Worker II positions, 3 Office Associate II positions, one part-time Nurse IV position, one Team Leader position and one Assistant Team Leader position.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (22.000) |
| Personal Services | $0 | ($800,967) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($800,967) |

**FHM - Substance Abuse 0948**

Initiative: Adjusts funding available as the result of the extension of the enhanced Federal Medical Assistance Percentage for an additional 2 quarters.

| FUND FOR A HEALTHY MAINE | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($181,408) |
| FUND FOR A HEALTHY MAINE TOTAL | $0 | ($181,408) |

**Freeport Towne Square 0814**

Initiative: Reduces funding in the Freeport Towne Square program, Other Special Revenue Funds account that is no longer necessary.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($89,085) | ($89,085) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($89,085) | ($89,085) |

**Information Technology Y03T**

Initiative: Transfers one Clinical Social Worker position from the IV-E Foster Care/Adoption Assistance program and 2 Clinical Social Worker positions from the Bureau of Child and Family Services - Regional program to the Mental Health Services - Children program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $6,350 |
| GENERAL FUND TOTAL | $0 | $6,350 |

**Information Technology Y03T**

Initiative: Transfers one Accounting Technician position and one Public Service Manager III position and related All Other from the OMB Division of Regional Business Operations program to the Office of Management and Budget program and one Public Service Executive II position and related All Other from the OMB Division of Regional Business Operations program to the Mental Health Services - Community program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $2,117 |
| GENERAL FUND TOTAL | $0 | $2,117 |

**Medicaid Services - Mental Retardation 0705**

Initiative: Provides funding for the Mental Retardation Waiver - Supports program through a reduction in the Medicaid Services - Mental Retardation program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($4,222,447) | ($4,222,447) |
| GENERAL FUND TOTAL | ($4,222,447) | ($4,222,447) |

**Medicaid Services - Mental Retardation 0705**

Initiative: Reduces funding by reducing administrative and program-related costs for services to persons with high-cost budgets. The corresponding federal funding decrease is in the Medical Care - Payments to Providers program.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($71,458) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($71,458) |

**Medicaid Services - Mental Retardation 0705**

Initiative: Adjusts funding in the various MaineCare accounts to reflect modifications to projections of MaineCare-dedicated tax revenues, to comport with Revenue Forecasting Committee reprojections.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($34,435) | ($448,672) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($34,435) | ($448,672) |

**Medicaid Services - Mental Retardation 0705**

Initiative: Reduces funding for administration of shared living services. The corresponding federal funding decrease is in the Medical Care - Payments to Providers program.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($154,690) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($154,690) |

**Medicaid Services - Mental Retardation 0705**

Initiative: Reduces funding under the MaineCare Benefits Manual, Chapters II and III, Section 21, Home and Community Benefits for Members with Mental Retardation or Autistic Disorder. Reimbursement rates will be reduced by 2% for day habilitation and work supports and 1% for residential providers; all other services will be reduced by 10%. The corresponding federal funding reduction is in the Medical Care - Payments to Providers program.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($240,158) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($240,158) |

**Medicaid Services - Mental Retardation 0705**

Initiative: Provides funding to increase enrollment under the MaineCare Benefits Manual, Chapters II and III, Section 21, Home and Community Benefits for Members with Mental Retardation or Autistic Disorder, by approximately 100 members and under the MaineCare Benefits Manual, Chapters II and III, Section 29, Community Support Benefits for Members with Mental Retardation and Autistic Disorder, by approximately 60 members. The corresponding federal funding increase is in the Medical Care - Payments to Providers program

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $364,500 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $364,500 |

**Medicaid Services - Mental Retardation 0705**

Initiative: Adjusts funding available as the result of the extension of the enhanced Federal Medical Assistance Percentage for an additional 2 quarters.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($4,538,598) |
| GENERAL FUND TOTAL | $0 | ($4,538,598) |

**Medicaid Services - Mental Retardation 0705**

Initiative: Reduces funding based on a 10% reduction to the rates paid to providers under the following sections of the MaineCare Benefits Manual, Chapters II and III: 3, Ambulatory Care Clinic Services; 15, Chiropractic Services; 23, Developmental and Behavioral Evaluation Clinics; 28, Rehabilitative and Community Support Services for Children with Cognitive Impairments and Functional Limitations; 30, Family Planning Agency Services; 35, Hearing Aids and Services; 37, Children's Home Based Mental Health; 62, Genetic Testing and Clinical Genetic Services; 68, Occupational Therapy Services; 85, Physical Therapy Services; 95, Podiatric Services; 113, Transportation Services; and 150, STD Screening Clinic Services.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($178,678) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($178,678) |

**Mental Health Services - Child Medicaid 0731**

Initiative: Reduces funding through the imposition of a per member limit for outpatient mental health visits to 18 hours of services per year for persons 20 years of age and under. The department shall authorize treatment above 18 hours per year when continued treatment to the member is necessary to correct or ameliorate a mental health condition, as required by 42 United States Code, Section 1396d(r)(5). The corresponding federal funding decrease is in the Medical Care - Payments to Providers program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($684,727) |
| GENERAL FUND TOTAL | $0 | ($684,727) |

**Mental Health Services - Child Medicaid 0731**

Initiative: Reduces funding under the MaineCare Benefits Manual, Chapters II and III, Section 65, Behavioral Health Services, by 10%, excluding children's comprehensive community support and multi-systems therapy, which will be reduced by 2%. Outpatient therapy, children's assertive community treatment services, crisis services and medication management will not be reduced. The corresponding state funding decreases are in the Mental Health Services - Child Medicaid program and the Mental Health Services - Community Medicaid program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($217,653) |
| GENERAL FUND TOTAL | $0 | ($217,653) |

**Mental Health Services - Child Medicaid 0731**

Initiative: Adjusts funding available as the result of the extension of the enhanced Federal Medical Assistance Percentage for an additional 2 quarters.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($3,031,491) |
| GENERAL FUND TOTAL | $0 | ($3,031,491) |

**Mental Health Services - Child Medicaid 0731**

Initiative: Reduces funding based on a 10% reduction to the rates paid to providers under the following sections of the MaineCare Benefits Manual, Chapters II and III: 3, Ambulatory Care Clinic Services; 15, Chiropractic Services; 23, Developmental and Behavioral Evaluation Clinics; 28, Rehabilitative and Community Support Services for Children with Cognitive Impairments and Functional Limitations; 30, Family Planning Agency Services; 35, Hearing Aids and Services; 37, Children's Home Based Mental Health; 62, Genetic Testing and Clinical Genetic Services; 68, Occupational Therapy Services; 85, Physical Therapy Services; 95, Podiatric Services; 113, Transportation Services; and 150, STD Screening Clinic Services.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($553,367) |
| GENERAL FUND TOTAL | $0 | ($553,367) |

**Mental Health Services - Children 0136**

Initiative: Transfers one Clinical Social Worker position from the IV-E Foster Care/Adoption Assistance program and 2 Clinical Social Worker positions from the Bureau of Child and Family Services - Regional program to the Mental Health Services - Children program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 3.000 |
| Personal Services | $0 | $217,715 |
| All Other | $0 | $9,180 |

| | | |
|---|---|---|
| GENERAL FUND TOTAL | $0 | $226,895 |

**Mental Health Services - Children 0136**

Initiative: Reorganizes one Physician III position to 2 part-time Physician III positions and transfers one of the part-time Physician III positions from the Riverview Psychiatric Center program to the Mental Health Services - Children program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 0.500 |
| Personal Services | $0 | $120,254 |
| All Other | $0 | ($79,282) |
| GENERAL FUND TOTAL | $0 | $40,972 |

**Mental Health Services - Children 0136**

Initiative: Reduces funding for non-MaineCare children's crisis services.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($310,000) | $0 |
| GENERAL FUND TOTAL | ($310,000) | $0 |

**Mental Health Services - Children 0136**

Initiative: Eliminates one Physician III position in the Mental Health Services - Community program and reduces one Physician III position to part-time in the Mental Health Services - Children program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (0.500) |
| Personal Services | $0 | ($120,515) |
| GENERAL FUND TOTAL | $0 | ($120,515) |

**Mental Health Services - Community 0121**

Initiative: Transfers one Mental Health Program Coordinator position from the Mental Health Services - Community program to the Mental Retardation Services - Community program and reorganizes it to a Social Services Program Specialist I position.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($66,737) |
| All Other | $0 | ($3,060) |
| GENERAL FUND TOTAL | $0 | ($69,797) |

**Mental Health Services - Community 0121**

Initiative: Adjusts funding for assertive community treatment, daily living support services, community integration services, specialized direct services, NAMI Maine, advocacy services, outreach services, the Court Master, the "warm line," quality improvement councils, professional services, the Portland Identification and Early Referral program, Medical Care Development, the University of Southern Maine Muskie School of Public Service and transportation.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($991,864) | ($1,359,331) |
| GENERAL FUND TOTAL | ($991,864) | ($1,359,331) |

**Mental Health Services - Community 0121**

Initiative: Reduces funding for contracted vocational services. Funding in the same amount will be appropriated to the Department of Labor and matched with federal funds and used for the same purpose.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($304,000) |
| GENERAL FUND TOTAL | $0 | ($304,000) |

**Mental Health Services - Community 0121**

Initiative: Transfers one Accounting Technician position and one Public Service Manager III position and related All Other from the OMB Division of Regional Business Operations program to the Office of Management and Budget program and one Public Service Executive II position and related All Other from the OMB Division of Regional Business Operations program to the Mental Health Services - Community program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $128,271 |
| All Other | $0 | $3,060 |
| GENERAL FUND TOTAL | $0 | $131,331 |

**Mental Health Services - Community 0121**

Initiative: Eliminates one Physician III position in the Mental Health Services - Community program and

reduces one Physician III position to part-time in the Mental Health Services - Children program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($245,383) |
| GENERAL FUND TOTAL | $0 | ($245,383) |

**Mental Health Services - Community 0121**

Initiative: Provides funding for services for approximately 75 people on the Bridging Rental Assistance Program waiting list and to expand access to community integration services to approximately 80 people.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $650,000 |
| GENERAL FUND TOTAL | $0 | $650,000 |

**Mental Health Services - Community 0121**

Initiative: Reduces funding for involuntary hospitalization.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($350,000) | ($670,000) |
| GENERAL FUND TOTAL | ($350,000) | ($670,000) |

**Mental Health Services - Community Medicaid 0732**

Initiative: Reduces funding through the imposition of a per member limit for outpatient mental health visits of 18 hours of services per year for adults. The department shall authorize services above 18 hours per year when continued treatment to the member is reasonably expected to bring about significant improvement and is medically necessary to avoid exacerbation of a mental health condition and the likely continuation of outpatient treatment. The corresponding federal funding decrease is in the Medical Care - Payments to Providers program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($742,498) |
| GENERAL FUND TOTAL | $0 | ($742,498) |

**Mental Health Services - Community Medicaid 0732**

Initiative: Adjusts funding in the various MaineCare accounts to reflect modifications to projections of MaineCare-dedicated tax revenues, to comport with Revenue Forecasting Committee reprojections.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($634,524) | ($727,493) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($634,524) | ($727,493) |

**Mental Health Services - Community Medicaid 0732**

Initiative: Reduces funding by standardizing the reimbursement rates for private nonmedical institutions billing under the MaineCare Benefits Manual, Chapter III, Section 97, Appendix B: Principles of Reimbursement for Substance Abuse Treatment Facilities and Appendix E: Principles of Reimbursement for Community Residences for Persons with Mental Illness.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($425,159) |
| GENERAL FUND TOTAL | $0 | ($425,159) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($84,794) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($84,794) |

**Mental Health Services - Community Medicaid 0732**

Initiative: Reduces funding under the MaineCare Benefits Manual, Chapters II and III, Section 65, Behavioral Health Services, by 10%, excluding children's comprehensive community support and multi-systems therapy, which will be reduced by 4%, and outpatient therapy, children's assertive community treatment services, crisis services and medication management, which will not be reduced. The corresponding state funding decreases are in the Mental Health Services - Child Medicaid program and the Mental Health Services - Community Medicaid program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($494,454) |
| GENERAL FUND TOTAL | $0 | ($494,454) |

**Mental Health Services - Community Medicaid 0732**

Initiative: Reduces funding under the MaineCare Benefits Manual, Chapters II and III, Section 17, Community Support Services, by lowering reimbursement rates by 4% except for community integration, which is reduced by 3%. The corresponding federal funding reduction is in the Medical Care - Payments to Providers program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($575,344) |
| GENERAL FUND TOTAL | $0 | ($575,344) |

**Mental Health Services - Community Medicaid 0732**

Initiative: Adjusts funding available as the result of the extension of the enhanced Federal Medical Assistance Percentage for an additional 2 quarters.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($5,633,364) |
| GENERAL FUND TOTAL | $0 | ($5,633,364) |

**Mental Retardation Services - Community 0122**

Initiative: Transfers one Mental Health Program Coordinator position from the Mental Health Services - Community program to the Mental Retardation Services - Community program and reorganizes it to a Social Services Program Specialist I position.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $64,007 |
| All Other | $0 | $3,060 |
| GENERAL FUND TOTAL | $0 | $67,067 |

**Mental Retardation Services - Community 0122**

Initiative: Provides funding for an anticipated shortfall in the Office of Advocacy program through a reduction in the Mental Retardation Services - Community program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($8,129) | ($8,129) |
| GENERAL FUND TOTAL | ($8,129) | ($8,129) |

**Mental Retardation Services - Community 0122**

Initiative: Reduces funding by decreasing room and board subsidies.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($808,256) | ($349,357) |
| GENERAL FUND TOTAL | ($808,256) | ($349,357) |

**Mental Retardation Waiver - MaineCare 0987**

Initiative: Reduces funding for administration of shared living services. The corresponding federal funding decrease is in the Medical Care - Payments to Providers program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($773,449) |
| GENERAL FUND TOTAL | $0 | ($773,449) |

**Mental Retardation Waiver - MaineCare 0987**

Initiative: Reduces funding by reducing administrative and program-related costs for services to persons with high-cost budgets. The corresponding federal funding decrease is in the Medical Care - Payments to Providers program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($261,105) |
| GENERAL FUND TOTAL | $0 | ($261,105) |

**Mental Retardation Waiver - MaineCare 0987**

Initiative: Reduces funding under the MaineCare Benefits Manual, Chapters II and III, Section 21, Home and Community Benefits for Members with Mental Retardation or Autistic Disorder. Reimbursement rates will be reduced by 2% for day habilitation and work supports and 1% for residential providers; all other services will be reduced by 10%. The corresponding federal funding reduction is in the Medical Care - Payments to Providers program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($1,204,153) |
| GENERAL FUND TOTAL | $0 | ($1,204,153) |

**Mental Retardation Waiver - MaineCare 0987**

Initiative: Provides funding to increase enrollment under the MaineCare Benefits Manual, Chapters II and III, Section 21, Home and Community Benefits for Members with Mental Retardation or Autistic Disorder, by approximately 100 members and under the MaineCare Benefits Manual, Chapters II and III, Section 29, Community Support Benefits for Members with Mental Retardation and Autistic Disorder, by

approximately 60 members. The corresponding federal funding increase is in the Medical Care - Payments to Providers program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $1,571,889 |
| GENERAL FUND TOTAL | $0 | $1,571,889 |

**Mental Retardation Waiver - MaineCare 0987**

Initiative: Adjusts funding available as the result of the extension of the enhanced Federal Medical Assistance Percentage for an additional 2 quarters.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($11,383,528) |
| GENERAL FUND TOTAL | $0 | ($11,383,528) |

**Mental Retardation Waiver - Supports Z006**

Initiative: Provides funding for the Mental Retardation Waiver - Supports program through a reduction in the Medicaid Services - Mental Retardation program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $4,222,447 | $4,222,447 |
| GENERAL FUND TOTAL | $4,222,447 | $4,222,447 |

**Mental Retardation Waiver - Supports Z006**

Initiative: Provides funding to increase enrollment under the MaineCare Benefits Manual, Chapters II and III, Section 21, Home and Community Benefits for Members with Mental Retardation or Autistic Disorder, by approximately 100 members and under the MaineCare Benefits Manual, Chapters II and III, Section 29, Community Support Benefits for Members with Mental Retardation and Autistic Disorder, by approximately 60 members. The corresponding federal funding increase is in the Medical Care - Payments to Providers program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $255,714 |
| GENERAL FUND TOTAL | $0 | $255,714 |

**Mental Retardation Waiver - Supports Z006**

Initiative: Adjusts funding available as the result of the extension of the enhanced Federal Medical Assistance Percentage for an additional 2 quarters.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($923,182) |
| GENERAL FUND TOTAL | $0 | ($923,182) |

**Office of Advocacy - BDS 0632**

Initiative: Provides funding for an anticipated shortfall in the Office of Advocacy - BDS program through a reduction in the Mental Retardation Services - Community program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $8,129 | $8,129 |
| GENERAL FUND TOTAL | $8,129 | $8,129 |

**Office of Substance Abuse - Medicaid Seed 0844**

Initiative: Adjusts funding in the various MaineCare accounts to reflect modifications to projections of MaineCare-dedicated tax revenues, to comport with Revenue Forecasting Committee reprojections.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($17,360) | ($17,793) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($17,360) | ($17,793) |

**Office of Substance Abuse - Medicaid Seed 0844**

Initiative: Reduces funding by standardizing the reimbursement rates for private nonmedical institutions billing under the MaineCare Benefits Manual, Chapter III, Section 97, Appendix B: Principles of Reimbursement for Substance Abuse Treatment Facilities and Appendix E: Principles of Reimbursement for Community Residences for Persons with Mental Illness.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($94,867) |
| GENERAL FUND TOTAL | $0 | ($94,867) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($38,973) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($38,973) |

**Office of Substance Abuse - Medicaid Seed 0844**

Initiative: Adjusts funding available as the result of the extension of the enhanced Federal Medical Assistance Percentage for an additional 2 quarters.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($424,509) |
| GENERAL FUND TOTAL | $0 | ($424,509) |

**Residential Treatment Facilities Assessment 0978**

Initiative: Adjusts funding in the various MaineCare accounts to reflect modifications to projections of MaineCare-dedicated tax revenues, to comport with Revenue Forecasting Committee reprojections.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($111,187) | ($152,808) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($111,187) | ($152,808) |

**Riverview Psychiatric Center 0105**

Initiative: Provides funding for medical services contracts.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $504,890 | $504,890 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $504,890 | $504,890 |

**Riverview Psychiatric Center 0105**

Initiative: Reorganizes one Physician III position to 2 part-time Physician III positions and transfers one of the part-time Physician III positions from the Riverview Psychiatric Center program to the Mental Health Services - Children program.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (0.500) |
| Personal Services | $0 | ($79,282) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($79,282) |

**Traumatic Brain Injury Seed Z042**

Initiative: Adjusts funding available as the result of the extension of the enhanced Federal Medical Assistance Percentage for an additional 2 quarters.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($18,708) |
| GENERAL FUND TOTAL | $0 | ($18,708) |

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

| DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | $1,414,880 | ($29,362,238) |
| FUND FOR A HEALTHY MAINE | $0 | ($181,408) |
| OTHER SPECIAL REVENUE FUNDS | ($381,701) | ($2,215,461) |
| DEPARTMENT TOTAL - ALL FUNDS | $1,033,179 | ($31,759,107) |

**Sec. A-26. Appropriations and allocations.** The following appropriations and allocations are made.

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

**Additional Support for People in Retraining and Employment 0146**

Initiative: Transfers one part-time Office Assistant II position from the Additional Support for People in Retraining and Employment program to the Office of Child and Family Services - Regional program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (0.500) |
| Personal Services | $0 | ($21,805) |
| All Other | $0 | ($3,060) |
| GENERAL FUND TOTAL | $0 | ($24,865) |

**Additional Support for People in Retraining and Employment 0146**

Initiative: Transfers one Family Independence Specialist position from the Bureau of Family Independence - Regional program, Other Special Revenue Funds to the Additional Support for People in Retraining and Employment program, Federal Block Grant Fund.

| FEDERAL BLOCK GRANT FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |

| | | |
|---|---|---|
| Personal Services | $0 | $63,179 |
| All Other | $0 | $1,508 |
| FEDERAL BLOCK GRANT FUND TOTAL | $0 | $64,687 |

**Additional Support for People in Retraining and Employment 0146**

Initiative: Transfers one Customer Representative Associate II - Human Services position from the Bureau of Family Independence - Regional program to the Additional Support for People in Retraining and Employment program.

| FEDERAL BLOCK GRANT FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $48,463 |
| FEDERAL BLOCK GRANT FUND TOTAL | $0 | $48,463 |

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

Initiative: Transfers one Human Services Caseworker Supervisor position from the IV-E Foster Care/Adoption Assistance program to the Child and Family Services - Central program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $92,168 |
| All Other | $0 | $3,060 |
| GENERAL FUND TOTAL | $0 | $95,228 |

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

Initiative: Transfers one Customer Representative Associate II - Human Services position from the Bureau of Family Independence - Regional program to the Bureau of Child and Family Services - Central program. The General Fund position cost is offset by a reduction in the All Other line category.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $58,889 |
| All Other | $0 | ($58,889) |
| GENERAL FUND TOTAL | $0 | $0 |

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

Initiative: Transfers one part-time Office Assistant II position from the Additional Support for People in Retraining and Employment program to the Bureau of Child and Family Services - Regional program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 0.500 |
| Personal Services | $0 | $21,805 |
| All Other | $0 | $3,060 |
| GENERAL FUND TOTAL | $0 | $24,865 |

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

Initiative: Transfers one Clinical Social Worker position from the IV-E Foster Care/Adoption Assistance program and 2 Clinical Social Worker positions from the Bureau of Child and Family Services - Regional program to the Mental Health Services - Children program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (2.000) |
| Personal Services | $0 | ($131,534) |
| All Other | $0 | ($6,120) |
| GENERAL FUND TOTAL | $0 | ($137,654) |

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

Initiative: Transfers one Human Services Caseworker position from the State-funded Foster Care/Adoption Assistance program to the Bureau of Child and Family Services - Regional program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $64,257 |
| GENERAL FUND TOTAL | $0 | $64,257 |

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

Initiative: Eliminates 2 Social Services Manager I positions in the State-funded Foster Care/Adoption Assistance program, one Social Services Manager I position in the Bureau of Child and Family Services - Regional program and one Physician III position in the Multicultural Services program that is funded 85% General Fund in that program and 15% Federal Expenditures Fund in the Bureau of Medical Services program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($91,960) |
| GENERAL FUND TOTAL | $0 | ($91,960) |

**Bureau of Family Independence - Regional 0453**

Initiative: Transfers one Family Independence Specialist position from the Bureau of Family Independence - Regional program, Other Special Revenue Funds to the Additional Support for People in Retraining and Employment program, Federal Block Grant Fund.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($63,179) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($63,179) |

**Bureau of Family Independence - Regional 0453**

Initiative: Transfers one Family Independence Unit Supervisor position and one Family Independence Specialist position from Other Special Revenue Funds in the Bureau of Family Independence - Regional program to Other Special Revenue Funds in the Office of Integrated Access and Support - Central Office program and transfers one Office Assistant II position from the Office of Integrated Access and Support - Central Office program to the Bureau of Family Independence - Regional program.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($92,155) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($92,155) |

**Bureau of Family Independence - Regional 0453**

Initiative: Transfers one Customer Representative Associate II - Human Services position from the Bureau of Family Independence - Regional program to the Bureau of Child and Family Services - Central program. The General Fund position cost is offset by a reduction in the All Other line category.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($58,889) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($58,889) |

**Bureau of Family Independence - Regional 0453**

Initiative: Transfers one Customer Representative Associate II - Human Services position from the Bureau of Family Independence - Regional program to the Additional Support for People in Retraining and Employment program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($48,463) |
| GENERAL FUND TOTAL | $0 | ($48,463) |

**Bureau of Family Independence - Regional 0453**

Initiative: Establishes 6 limited-period Customer Service Representative Associate II positions in the Bureau of Family Independence - Regional program to expedite disability determinations and reduce the time period for determination of disability by an average of 15 days and achieve one-time savings by decreasing payments for benefits with state funds. These positions are established for fiscal year 2010-11.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $169,239 |
| All Other | $0 | $16,581 |
| GENERAL FUND TOTAL | $0 | $185,820 |

**Bureau of Family Independence - Regional 0453**

Initiative: Adjusts funding from savings achieved through the administrative consolidation of the Low-income Home Energy Assistance Program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($500,000) |

| | | |
|---|---|---|
| GENERAL FUND TOTAL | $0 | ($500,000) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $500,000 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $500,000 |

**Bureau of Medical Services 0129**

Initiative: Transfers one Housing Research Developer position from 50% General Fund and 50% Other Special Revenue Funds in the Division of Licensing and Regulatory Services program to 50% General Fund in the Office of Elder Services Central Office program and 50% Federal Expenditures Fund in the Bureau of Medical Services program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $39,659 |
| All Other | $0 | $3,596 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $43,255 |

**Bureau of Medical Services 0129**

Initiative: Transfers one Paralegal position, 3 Office Associate II positions and one Nursing Education Consultant position from 25% General Fund and 25% Federal Expenditures Fund in the Office of MaineCare Services program and 50% Federal Expenditures Fund in the Division of Licensing and Regulatory Services program to 100% Other Special Revenue Funds in the Division of Licensing and Regulatory Services program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($75,392) |
| All Other | $0 | ($3,825) |
| GENERAL FUND TOTAL | $0 | ($79,217) |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($75,368) |
| All Other | $0 | ($8,399) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($83,767) |

**Bureau of Medical Services 0129**

Initiative: Reallocates 50% of the cost of one Social Services Program Specialist I position and related All Other from the Bureau of Medical Services program to the Division of Licensing and Regulatory Services program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($39,994) |
| All Other | $0 | ($5,177) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($45,171) |

**Bureau of Medical Services 0129**

Initiative: Reallocates 50% of the cost of 6 Social Services Program Specialist I positions, one Social Services Program Specialist II position, one Health Services Consultant position, one Office Associate II position, one Public Service Manager II position, 2 Health Facility Specialist positions and one Clerk IV position and related All Other from the Bureau of Medical Services program, Federal Expenditures Fund to the Division of Licensing and Regulatory Services program, Other Special Revenue Funds.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($485,401) |
| All Other | $0 | ($47,897) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($533,298) |

**Bureau of Medical Services 0129**

Initiative: Reallocates the General Fund portion of one Social Services Program Manager position, one Comprehensive Health Planner II position, 2 Medical Care Coordinator positions and one Senior Medical Claims Adjuster position from the Maine Rx Plus program to the Bureau of Medical Services program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $163,485 |
| GENERAL FUND TOTAL | $0 | $163,485 |

**Bureau of Medical Services 0129**

Initiative: Adjusts funding for the decrease in the federal financial participation rate from 75% to 50% on the Maine Integrated Health Management Solution (MIHMS) system until fiscal year 2011-12, when the certification process will be completed.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $3,884,463 |
| GENERAL FUND TOTAL | $0 | $3,884,463 |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($3,884,463) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($3,884,463) |

**Bureau of Medical Services 0129**

Initiative: Reallocates 50% of the cost of one Public Service Coordinator I position from the Bureau of Medical Services program to the State-Funded Foster Care/Adoption Assistance program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($48,963) |
| All Other | $0 | ($1,530) |
| GENERAL FUND TOTAL | $0 | ($50,493) |

**Bureau of Medical Services 0129**

Initiative: Reallocates funding for one Management Analyst II position from 75% Federal Expenditures Fund and 25% General Fund to 50% Federal Expenditures Fund and 50% General Fund within the Bureau of Medical Services program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $20,254 |
| All Other | $0 | $9,180 |
| GENERAL FUND TOTAL | $0 | $29,434 |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($20,254) |
| All Other | $0 | ($15,530) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($35,784) |

**Bureau of Medical Services 0129**

Initiative: Transfers one Social Services Program Specialist II position funded 50% General Fund and 50% Other Special Revenue Funds in the Office of Management and Budget program to 50% General Fund and 50% Federal Expenditures Fund in the Bureau of Medical Services program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $46,715 |
| All Other | $0 | $3,060 |
| GENERAL FUND TOTAL | $0 | $49,775 |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $46,713 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $46,713 |

**Bureau of Medical Services 0129**

Initiative: Establishes one Office Associate II position and one Office Specialist I position funded 50% General Fund in the Long Term Care - Human Services program and 50% Federal Expenditures Fund in the Bureau of Medical Services program to provide essential administrative support functions.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 2.000 |
| Personal Services | $0 | $59,862 |
| All Other | $0 | ($59,862) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $0 |

**Bureau of Medical Services 0129**

Initiative: Adjusts funding for the continued operation of the Maine Integrated Health Management Solution (MIHMS) system through a transfer from the Information Technology program to the Bureau of Medical Services program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $3,545,210 |
| GENERAL FUND TOTAL | $0 | $3,545,210 |

**Bureau of Medical Services 0129**

Initiative: Continues 2 limited-period Medical Support Associate positions and 2 limited-period Office Associate II positions from June 30, 2010 to August 30,

2010 and one limited-period Office Associate II position from January 30, 2010 to August 30, 2010.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $18,490 |
| All Other | $0 | ($18,490) |
| GENERAL FUND TOTAL | $0 | $0 |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $18,495 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $18,495 |

**Bureau of Medical Services 0129**

Initiative: Eliminates 2 Social Services Manager I positions in the State-Funded Foster Care/Adoption Assistance program, one Social Services Manager I position in the Bureau of Child and Family Services - Regional program and one Physician III position in the Multicultural Services program that is funded 85% General Fund in that program and 15% Federal Expenditures Fund in the Bureau of Medical Services program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($34,689) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($34,689) |

**Bureau of Medical Services 0129**

Initiative: Reallocates 50% of the cost of one Social Services Program Manager position and one Comprehensive Health Planner II position from the Federal Block Grant Fund to the Federal Expenditures Fund within the Bureau of Medical Services program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $94,436 |
| All Other | $0 | $2,254 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $96,690 |

| FEDERAL BLOCK GRANT FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($94,436) |
| All Other | $0 | ($2,254) |
| FEDERAL BLOCK GRANT FUND TOTAL | $0 | ($96,690) |

**Bureau of Medical Services 0129**

Initiative: Reallocates 12.5% of the cost of one Public Service Manager II position and related All Other costs from the Office of Elder Services Central Office program to the Bureau of Medical Services program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $13,137 |
| All Other | $0 | $977 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $14,114 |

**Bureau of Medical Services 0129**

Initiative: Establishes 2 Auditor II positions in the Office of Management and Budget program to continue the department's focus on identifying fraud, waste and abuse. Position costs are allocated 50% General Fund in the Office of Management and Budget program and 50% Federal Expenditures Fund in the Bureau of Medical Services program. The work of the new staff will increase collections and allow for a reduction in the Medical Care - Payments to Providers program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $69,930 |
| All Other | $0 | $6,970 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $76,900 |

**Bureau of Medical Services 0129**

Initiative: Establishes 6 limited-period Customer Service Representative Associate II positions in the Bureau of Family Independence - Regional program to expedite disability determinations and reduce the time period for determination of disability by an average of 15 days and achieve one-time savings by decreasing payments for benefits with state funds. These positions are established for fiscal year 2010-11.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $169,239 |
| All Other | $0 | $16,581 |

| | | |
|---|---|---|
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $185,820 |

**Bureau of Medical Services 0129**

Initiative: Provides funding to begin the necessary planning for managed care.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $1,000,000 |
| GENERAL FUND TOTAL | $0 | $1,000,000 |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $1,000,000 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $1,000,000 |

**Bureau of Medical Services 0129**

Initiative: Appropriates funds for the costs of convening a working group of stakeholders, to conduct the analysis and study and to make recommendations regarding the delivery of mental health and substance abuse outpatient services.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $100,000 | $100,000 |
| GENERAL FUND TOTAL | $100,000 | $100,000 |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $100,000 | $100,000 |
| FEDERAL EXPENDITURES FUND TOTAL | $100,000 | $100,000 |

**Bureau of Medical Services 0129**

Initiative: Reduces funding due to savings in performing assessments for medical eligibility for nursing home care services.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($151,000) |
| GENERAL FUND TOTAL | $0 | ($151,000) |

**Bureau of Medical Services 0129**

Initiative: Reduces funding from savings in the Department of Health and Human Services' contract with the University of Maine at Farmington.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($23,700) | ($23,700) |
| GENERAL FUND TOTAL | ($23,700) | ($23,700) |

**Bureau of Medical Services 0129**

Initiative: Reduces funding from savings in the Department of Health and Humans Services' contract with the University of Southern Maine Muskie School of Public Service regarding organizational effectiveness.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($30,000) |
| GENERAL FUND TOTAL | $0 | ($30,000) |

**Child Support 0100**

Initiative: Reallocates 33.3% of the cost of 4 Office Associate II positions, 2 Office Assistant II positions, 2 Social Services Program Specialist II positions, one Public Service Manager I position, one Counsel position, 3 Support Enforcement District Supervisor positions, 3 Social Services Program Specialist I positions and 10 Human Services Enforcement Agent positions from Other Special Revenue Funds to the General Fund within the Child Support program and partially offsets the General Fund cost through a reduction in the All Other line category of the Child Support and Information Technology programs.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $624,240 |
| All Other | $0 | ($26,494) |
| GENERAL FUND TOTAL | $0 | $597,746 |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($624,240) |
| All Other | $0 | $624,240 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $0 |

**Community Services Block Grant 0716**

Initiative: Establishes one Social Services Program Specialist I position in the Community Services Block

Grant program to provide adequate oversight and management of the Community Services Block Grant.

| FEDERAL BLOCK GRANT FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $69,848 |
| All Other | $0 | $6,577 |
| FEDERAL BLOCK GRANT FUND TOTAL | $0 | $76,425 |

**Division of Data, Research and Vital Statistics Z037**

Initiative: Transfers one Office Assistant II position and 2 Comprehensive Health Planner II positions from Other Special Revenue Funds to the Federal Expenditures Fund within the Division of Data, Research and Vital Statistics program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 3.000 |
| Personal Services | $0 | $223,622 |
| All Other | $0 | $21,239 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $244,861 |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (3.000) |
| Personal Services | $0 | ($223,622) |
| All Other | $0 | ($21,239) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($244,861) |

**Division of Data, Research and Vital Statistics Z037**

Initiative: Provides funding on a one-time basis for program operating costs for the Health - Bureau of program and the Division of Data, Research and Vital Statistics program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $340,000 | $0 |
| GENERAL FUND TOTAL | $340,000 | $0 |

**Division of Data, Research and Vital Statistics Z037**

Initiative: Provides funding for operating expenses of the Division of Data, Research and Vital Statistics to offset revenues reduced by restoring vital records fees, effective April 1, 2010, to the $15 level in effect in September 2009.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $34,330 | $102,990 |
| GENERAL FUND TOTAL | $34,330 | $102,990 |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($34,330) | ($102,990) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($34,330) | ($102,990) |

**Division of Licensing and Regulatory Services Z036**

Initiative: Transfers and reallocates the cost of 55 positions and related All Other within the Division of Licensing and Regulatory Services program. Position detail is on file in the Bureau of the Budget.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($26,315) |
| GENERAL FUND TOTAL | $0 | ($26,315) |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (51.000) |
| Personal Services | $0 | ($2,777,409) |
| All Other | $0 | ($314,282) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($3,091,691) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 52.000 |
| Personal Services | $0 | $2,803,724 |
| All Other | $0 | $314,282 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $3,118,006 |

**Division of Licensing and Regulatory Services Z036**

Initiative: Transfers one Housing Research Developer position from 50% General Fund and 50% Other Special Revenue Funds in the Division of Licensing and Regulatory Services program to 50% General Fund in the Office of Elder Services Central Office program and 50% Federal Expenditures Fund in the Bureau of Medical Services program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($39,662) |
| All Other | $0 | ($2,588) |
| GENERAL FUND TOTAL | $0 | ($42,250) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($39,659) |
| All Other | $0 | ($2,588) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($42,247) |

**Division of Licensing and Regulatory Services Z036**

Initiative: Transfers 9 Community Care Worker positions, one Social Services Program Specialist II position and one Office Associate II position from the Federal Block Grant Fund to Other Special Revenue Funds within the Division of Licensing and Regulatory Services program.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 11.000 |
| Personal Services | $0 | $785,542 |
| All Other | $0 | $73,719 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $859,261 |

| FEDERAL BLOCK GRANT FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (11.000) |
| Personal Services | $0 | ($785,542) |
| All Other | $0 | ($73,719) |
| FEDERAL BLOCK GRANT FUND TOTAL | $0 | ($859,261) |

**Division of Licensing and Regulatory Services Z036**

Initiative: Transfers one Paralegal position, 3 Office Associate II positions and one Nursing Education Consultant position from 25% General Fund and 25% Federal Expenditures Fund in the Office of MaineCare Services program and 50% Federal Expenditures Fund in the Division of Licensing and Regulatory Services program to 100% Other Special Revenue Funds in the Division of Licensing and Regulatory Services program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (5.000) |
| Personal Services | $0 | ($150,778) |
| All Other | $0 | ($16,851) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($167,629) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 5.000 |
| Personal Services | $0 | $301,538 |
| All Other | $0 | $33,699 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $335,237 |

**Division of Licensing and Regulatory Services Z036**

Initiative: Transfers 4 Community Care Worker positions and one Social Services Program Specialist II position from the FHM - Service Center program to the Division of Licensing and Regulatory Services program.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 5.000 |
| Personal Services | $0 | $373,509 |
| All Other | $0 | $48,680 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $422,189 |

**Division of Licensing and Regulatory Services Z036**

Initiative: Reallocates 50% of the cost of one Social Services Program Specialist I position and related All Other from the Bureau of Medical Services program to

the Division of Licensing and Regulatory Services program.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $39,994 |
| All Other | $0 | $6,255 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $46,249 |

**Division of Licensing and Regulatory Services Z036**

Initiative: Reallocates 50% of the cost of 6 Social Services Program Specialist I positions, one Social Services Program Specialist II position, one Health Services Consultant position, one Office Associate II position, one Public Service Manager II position, 2 Health Facility Specialist positions and one Clerk IV position and related All Other from the Bureau of Medical Services program, Federal Expenditures Fund to the Division of Licensing and Regulatory Services program, Other Special Revenue Funds.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $485,401 |
| All Other | $0 | $47,897 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $533,298 |

**Division of Licensing and Regulatory Services Z036**

Initiative: Adjusts funding to correct an initiative included in Public Law 2009, chapter 213, Part A.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $48,572 | $47,620 |
| All Other | ($48,572) | ($47,620) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $0 |

**Division of Purchased Services Z035**

Initiative: Transfers 4 Public Service Coordinator I positions from the General Fund to Other Special Revenue Funds; 2 Management Analyst II positions and one Comprehensive Health Planner II position from the Federal Block Grant Fund to Other Special Revenue Funds; and one Planning and Research Associate I position funded 36.29% Federal Block Grant Fund and 63.71% General Fund to Other Special Revenue Funds within the Division of Purchased Services program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (4.000) | (4.000) |
| Personal Services | ($427,758) | ($423,706) |
| All Other | ($15,300) | ($15,300) |
| GENERAL FUND TOTAL | ($443,058) | ($439,006) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 8.000 | 8.000 |
| Personal Services | $695,308 | $692,041 |
| All Other | $81,401 | $81,323 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $776,709 | $773,364 |

| FEDERAL BLOCK GRANT FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (4.000) | (4.000) |
| Personal Services | ($267,550) | ($268,335) |
| All Other | ($75,964) | ($74,949) |
| FEDERAL BLOCK GRANT FUND TOTAL | ($343,514) | ($343,284) |

**Drinking Water Enforcement 0728**

Initiative: Reallocates 50% of the cost of 4 Environmental Specialist III positions, one Environmental Specialist IV position, one Environmental Engineer position and one Office Assistant II position from the Federal Expenditures Fund in the Health - Bureau of program to Other Special Revenue Funds in the Drinking Water Enforcement program.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $266,316 |
| All Other | $0 | $20,673 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $286,989 |

**Drinking Water Enforcement 0728**

Initiative: Reallocates 50% of the cost of 2 Environmental Specialist III positions and one Office Specialist I position from 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 | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($108,825) |
| All Other | $0 | ($8,825) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($117,650) |

**FHM - Bureau of Health 0953**

Initiative: Continues 5 Public Service Coordinator II positions originally established by financial order. The General Fund portion of the new position costs is offset by a reduction in the All Other line category. The new legislative headcount is offset by the elimination of one Epidemiologist position, one Environmental Specialist II position, one State Veterinarian position and 2 Office Assistant II positions from various department programs. Position detail is on file in the Bureau of the Budget.

| FUND FOR A HEALTHY MAINE | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $96,270 |
| All Other | $0 | ($96,270) |
| FUND FOR A HEALTHY MAINE TOTAL | $0 | $0 |

**FHM - Bureau of Health 0953**

Initiative: Allocates funds for the FHM - Bureau of Health Oral Health Program to partially restore funds deallocated for fiscal year 2010-11 in Public Law 2009, chapter 213.

| FUND FOR A HEALTHY MAINE | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $45,000 |
| FUND FOR A HEALTHY MAINE TOTAL | $0 | $45,000 |

**FHM - Medical Care 0960**

Initiative: Adjusts funding available as the result of the extension of the enhanced Federal Medical Assistance Percentage for an additional 2 quarters.

| FUND FOR A HEALTHY MAINE | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($1,097,080) |
| FUND FOR A HEALTHY MAINE TOTAL | $0 | ($1,097,080) |

**FHM - Service Center 0957**

Initiative: Transfers 4 Community Care Worker positions and one Social Services Program Specialist II position from the FHM - Service Center program to the Division of Licensing and Regulatory Services program.

| FUND FOR A HEALTHY MAINE | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (5.000) |
| Personal Services | $0 | ($373,509) |
| All Other | $0 | ($38,837) |
| FUND FOR A HEALTHY MAINE TOTAL | $0 | ($412,346) |

**General Assistance - Reimbursement to Cities and Towns 0130**

Initiative: Provides funding in the General Assistance - Reimbursement to Cities and Towns program for increased costs in benefits and offsets the appropriation with a reduction in the appropriation for the State Supplement to Federal Supplemental Security Income program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $880,000 | $380,000 |
| GENERAL FUND TOTAL | $880,000 | $380,000 |

**General Assistance - Reimbursement to Cities and Towns 0130**

Initiative: Appropriates funds on a one-time basis for increased costs in benefits.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $1,074,696 |
| GENERAL FUND TOTAL | $0 | $1,074,696 |

**General Assistance - Reimbursement to Cities and Towns 0130**

Initiative: Transfers 2 Field Examiner II positions, one Family Independence Program Manager position and one Accounting Associate I position and related All Other from the Office of Integrated Access and Support Central Office program to the General Assistance program.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 4.000 |

| | | |
|---|---|---|
| Personal Services | $0 | $279,139 |
| All Other | $0 | $627,864 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $907,003 |

**Health - Bureau of 0143**

Initiative: Transfers one Planning and Research Assistant position and related All Other funds from the Federal Expenditures Fund to Other Special Revenue Funds within the Health - Bureau of program and transfers one Management Analyst II position from the Maternal and Child Health program to the Health - Bureau of program and reallocates 50% of the cost of the position from the Federal Expenditures Fund to Other Special Revenue Funds within the Health - Bureau of program to correctly account for the cost allocation plan.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($96,000) |
| All Other | $0 | ($546,463) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($642,463) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 2.000 |
| Personal Services | $0 | $96,001 |
| All Other | $0 | $546,463 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $642,464 |

**Health - Bureau of 0143**

Initiative: Reallocates 25% of the cost of one Chemist II position from Other Special Revenue Funds to the Federal Expenditures Fund within the Health - Bureau of program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $21,322 |
| All Other | $0 | $1,834 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $23,156 |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($21,322) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($21,322) |

**Health - Bureau of 0143**

Initiative: Reallocates 50% of the cost of one Social Services Program Specialist I position and related All Other from the Bureau of Medical Services program to the Division of Licensing and Regulatory Services program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $1,772 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $1,772 |

**Health - Bureau of 0143**

Initiative: Reallocates 50% of the cost of 4 Environmental Specialist III positions, one Environmental Specialist IV position, one Environmental Engineer position and one Office Assistant II position from the Federal Expenditures Fund in the Health - Bureau of program to Other Special Revenue Funds in the Drinking Water Enforcement program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($266,316) |
| All Other | $0 | ($18,118) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($284,434) |

**Health - Bureau of 0143**

Initiative: Reallocates 50% of the cost of 2 Environmental Specialist III positions and one Office Specialist I position from Other Special Revenue Funds in the Drinking Water Enforcement program to the Federal Expenditures Fund in the Health - Bureau of program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $108,825 |
| All Other | $0 | $10,548 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $119,373 |

**Health - Bureau of 0143**

Initiative: Reorganizes one Public Health Physician position from part-time to full-time.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $117,475 |
| All Other | $0 | $8,104 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $125,579 |

**Health - Bureau of 0143**

Initiative: Reorganizes one Toxicologist position from part-time to full-time.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 0.500 |
| Personal Services | $0 | $38,419 |
| All Other | $0 | $6,217 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $44,636 |

**Health - Bureau of 0143**

Initiative: Transfers one Office Assistant II position from the Federal Expenditures Fund to Other Special Revenue Funds and reallocates 50% of the cost of one Public Health Educator III position from the Federal Expenditures Fund to Other Special Revenue Funds within the Health - Bureau of program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($88,755) |
| All Other | $0 | ($7,765) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($96,520) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $88,755 |
| All Other | $0 | $10,069 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $98,824 |

**Health - Bureau of 0143**

Initiative: Reorganizes one Public Health Educator III position to a Comprehensive Health Planner II position.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $7,517 |
| All Other | $0 | $179 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $7,696 |

**Health - Bureau of 0143**

Initiative: Provides funding for the reorganization of one Public Health Physician position funded 90% General Fund and 10% Federal Expenditures Fund to a Public Service Coordinator III position funded 61% General Fund and 39% Federal Expenditures Fund.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($456) |
| GENERAL FUND TOTAL | $0 | ($456) |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $77,430 |
| All Other | $0 | $1,772 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $79,202 |

**Health - Bureau of 0143**

Initiative: Reallocates 50% of the cost of one Microbiologist II position from Other Special Revenue Funds to the Federal Expenditures Fund within the Health - Bureau of program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $39,106 |
| All Other | $0 | $3,583 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $42,689 |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($39,106) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($39,106) |

**Health - Bureau of 0143**

Initiative: Reallocates 20% of the cost of one Quality Assurance Officer position from Other Special Revenue Funds to the Federal Expenditures Fund within the same program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $16,709 |
| All Other | $0 | $399 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $17,108 |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($16,709) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($16,709) |

**Health - Bureau of 0143**

Initiative: Transfers one Toxicologist position from the Federal Expenditures Fund to Other Special Revenue Funds within the Health - Bureau of program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($83,310) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($83,310) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $83,310 |
| All Other | $0 | $7,289 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $90,599 |

**Health - Bureau of 0143**

Initiative: Reorganizes one Laboratory Technician II position to a Chemist I position.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $14,852 |
| All Other | $0 | $355 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $15,207 |

**Health - Bureau of 0143**

Initiative: Reorganizes one Public Service Executive III position to a salary that is comparable to other medical personnel and offsets the additional Personal Services cost with a reduction in the All Other line category.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $33,427 |
| All Other | $0 | ($33,427) |
| GENERAL FUND TOTAL | $0 | $0 |

**Health - Bureau of 0143**

Initiative: Continues 5 Public Service Coordinator II positions originally established by financial order. The General Fund portion of the new position costs is offset by a reduction in the All Other line category. The new legislative headcount is offset by the elimination of one Epidemiologist position, one Environmental Specialist II position, one State Veterinarian position and 2 Office Assistant II positions from various department programs. Position detail is on file in the Bureau of the Budget.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 2.000 |
| Personal Services | $0 | ($32,248) |
| All Other | $0 | $4,531 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($27,717) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $19,451 |
| All Other | $0 | $1,524 |

| | | |
|---|---|---|
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $20,975 |

**Health - Bureau of 0143**

Initiative: Reduces funding not required for matching purposes.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($500,000) |
| GENERAL FUND TOTAL | $0 | ($500,000) |

**Health - Bureau of 0143**

Initiative: Provides funding on a one-time basis for program operating costs for the Health - Bureau of program and the Division of Data, Research and Vital Statistics program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $1,660,000 | $0 |
| GENERAL FUND TOTAL | $1,660,000 | $0 |

**Health - Bureau of 0143**

Initiative: Reallocates 25% of the cost of one Office Specialist 1 Manager Supervisor position from the Federal Expenditures Fund to Other Special Revenue Funds within the same program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($18,289) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($18,289) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $18,289 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $18,289 |

**Information Technology Y16T**

Initiative: Transfers one Paralegal position, 3 Office Associate II positions and one Nursing Education Consultant position from 25% General Fund and 25% Federal Expenditures Fund in the Office of MaineCare Services program and 50% Federal Expenditures Fund in the Division of Licensing and Regulatory Services program to 100% Other Special Revenue Funds in the Division of Licensing and Regulatory Services program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($2,646) |
| GENERAL FUND TOTAL | $0 | ($2,646) |

**Information Technology Y16T**

Initiative: Reallocates funding for one Management Analyst II position from 75% Federal Expenditures Fund and 25% General Fund to 50% Federal Expenditures Fund and 50% General Fund within the Bureau of Medical Services program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $6,350 |
| GENERAL FUND TOTAL | $0 | $6,350 |

**Information Technology Y16T**

Initiative: Transfers one Clinical Social Worker position from the IV-E Foster Care/Adoption Assistance program and 2 Clinical Social Worker positions from the Bureau of Child and Family Services - Regional program to the Mental Health Services - Children program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($4,233) |
| GENERAL FUND TOTAL | $0 | ($4,233) |

**Information Technology Y16T**

Initiative: Transfers one Human Services Caseworker Supervisor position from the IV-E Foster Care/Adoption Assistance program to the Child and Family Services - Central program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $2,117 |
| GENERAL FUND TOTAL | $0 | $2,117 |

**Information Technology Y16T**

Initiative: Reallocates 33.3% of the cost of 4 Office Associate II positions, 2 Office Assistant II positions, 2 Social Services Program Specialist II positions, one Public Service Manager I position, one Counsel position, 3 Support Enforcement District Supervisor positions, 3 Social Services Program Specialist I positions and 10 Human Services Enforcement Agent positions from Other Special Revenue Funds to the General

Fund within the Child Support program and partially offsets the General Fund cost through a reduction in the All Other line category of the Child Support and Information Technology programs.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($572,687) |
| GENERAL FUND TOTAL | $0 | ($572,687) |

**Information Technology Y16T**

Initiative: Transfers one Social Services Program Specialist II position funded 50% General Fund and 50% Other Special Revenue Funds in the Office of Management and Budget program to 50% General Fund and 50% Federal Expenditures Fund in the Bureau of Medical Services program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $1,058 |
| GENERAL FUND TOTAL | $0 | $1,058 |

**Information Technology Y16T**

Initiative: Adjusts funding for the continued operation of the Maine Integrated Health Management Solution (MIHMS) system through a transfer from the Information Technology program to the Bureau of Medical Services program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($3,545,210) |
| GENERAL FUND TOTAL | $0 | ($3,545,210) |

**Information Technology Y16T**

Initiative: Transfers 4 Public Service Coordinator I positions from the General Fund to Other Special Revenue Funds; 2 Management Analyst II positions and one Comprehensive Health Planner II position from the Federal Block Grant Fund to Other Special Revenue Funds; and one Planning and Research Associate I position funded 36.29% Federal Block Grant Fund and 63.71% General Fund to Other Special Revenue Funds within the Division of Purchased Services program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($10,583) |
| GENERAL FUND TOTAL | $0 | ($10,583) |

**Information Technology Y16T**

Initiative: Establishes 2 Auditor II positions in the Office of Management and Budget program to continue the department's focus on identifying fraud, waste and abuse. Position costs are allocated 50% General Fund in the Office of Management and Budget program and 50% Federal Expenditures Fund in the Bureau of Medical Services program. The work of the new staff will increase collections and allow for a reduction in the Medical Care - Payments to Providers program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $2,117 |
| GENERAL FUND TOTAL | $0 | $2,117 |

**Information Technology Y16T**

Initiative: Transfers one Accounting Technician position and one Public Service Manager III position from the OMB Division of Regional Business Operations program to the Office of Management and Budget program and one Public Service Executive II position from the OMB Division of Regional Business Operations program to the Mental Health Services - Community program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($2,117) |
| GENERAL FUND TOTAL | $0 | ($2,117) |

**Information Technology Y16T**

Initiative: Adjusts funding in the Office of Management and Budget, OMB Division of Regional Business Operations and Information Technology programs to properly align technology and general operating expenditures.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($3,258,435) |
| GENERAL FUND TOTAL | $0 | ($3,258,435) |

**IV-E Foster Care/Adoption Assistance 0137**

Initiative: Transfers one Clinical Social Worker position from the IV-E Foster Care/Adoption Assistance program and 2 Clinical Social Worker positions from the Bureau of Child and Family Services - Regional program to the Mental Health Services - Children program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |

| | | |
|---|---|---|
| Personal Services | $0 | ($86,181) |
| All Other | $0 | ($5,177) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($91,358) |

**IV-E Foster Care/Adoption Assistance 0137**

Initiative: Transfers one Human Services Caseworker Supervisor position from the IV-E Foster Care/Adoption Assistance program to the Child and Family Services - Central program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($92,168) |
| All Other | $0 | ($5,177) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($97,345) |

**IV-E Foster Care/Adoption Assistance 0137**

Initiative: Reduces funding by streamlining adoptive family recruitment using technology.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($112,500) | ($450,000) |
| GENERAL FUND TOTAL | ($112,500) | ($450,000) |

**IV-E Foster Care/Adoption Assistance 0137**

Initiative: Adjusts funding on a one-time basis as a result of the receipt of additional funding from the American Recovery and Reinvestment Act of 2009.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($2,866,740) | ($1,678,000) |
| GENERAL FUND TOTAL | ($2,866,740) | ($1,678,000) |

| FEDERAL EXPENDITURES FUND ARRA | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $2,866,740 | $1,678,000 |
| FEDERAL EXPENDITURES FUND ARRA TOTAL | $2,866,740 | $1,678,000 |

**IV-E Foster Care/Adoption Assistance 0137**

Initiative: Adjusts funding available as the result of the extension of the enhanced Federal Medical Assistance Percentage for an additional 2 quarters.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($151,783) |
| GENERAL FUND TOTAL | $0 | ($151,783) |

**Long Term Care - Human Services 0420**

Initiative: Establishes one Office Associate II position and one Office Specialist I position funded 50% General Fund in the Long Term Care - Human Services program and 50% Federal Expenditures Fund in the Bureau of Medical Services program to provide essential administrative support functions.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $59,856 |
| All Other | $0 | ($59,856) |
| GENERAL FUND TOTAL | $0 | $0 |

**Long Term Care - Human Services 0420**

Initiative: Reduces funding by managing utilization of the homemakers program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($187,500) | $0 |
| GENERAL FUND TOTAL | ($187,500) | $0 |

**Long Term Care - Human Services 0420**

Initiative: Reduces funding for non-MaineCare adult day services and other supportive and administrative services.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($225,000) |
| GENERAL FUND TOTAL | $0 | ($225,000) |

**Long Term Care - Human Services 0420**

Initiative: Provides funding for home-based services in the Office of Elder Services.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $1,000,000 |
| GENERAL FUND TOTAL | $0 | $1,000,000 |

**Low-cost Drugs To Maine's Elderly 0202**

Initiative: Continues 2 limited-period Medical Support Associate positions and 2 limited-period Office Associate II positions from June 30, 2010 to August 30, 2010 and one limited-period Office Associate II position from January 30, 2010 to August 30, 2010.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $9,704 |
| All Other | $0 | ($9,704) |
| GENERAL FUND TOTAL | $0 | $0 |

**Maine Children's Growth Council Z074**

Initiative: Provides funding for a grant from the National Governor's Association.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $10,000 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $10,000 |

**Maine Rx Plus Program 0927**

Initiative: Reallocates the General Fund portion of one Social Services Program Manager position, one Comprehensive Health Planner II position, 2 Medical Care Coordinator positions and one Senior Medical Claims Adjuster position from the Maine Rx Plus program to the Bureau of Medical Services program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($163,485) |
| GENERAL FUND TOTAL | $0 | ($163,485) |

**Maternal and Child Health 0191**

Initiative: Transfers one Planning and Research Assistant position and related All Other funds from the Federal Expenditures Fund to the Other Special Revenue Funds within the Health - Bureau of program and transfers one Management Analyst II position from the Maternal and Child Health program to the Health - Bureau of program and reallocates 50% of the cost of the position from the Federal Expenditures Fund to Other Special Revenue Funds within the Health - Bureau of program to correctly account for the cost allocation plan.

| FEDERAL BLOCK GRANT FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| FEDERAL BLOCK GRANT FUND TOTAL | $0 | $0 |

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

Initiative: Continues 5 Public Service Coordinator II positions originally established by financial order. The General Fund portion of the new position costs is offset by a reduction in the All Other line category. The new legislative headcount is offset by the elimination of one Epidemiologist position, one Environmental Specialist II position, one State Veterinarian position and 2 Office Assistant II positions from various department programs. Position detail is on file in the Bureau of the Budget.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $193,528 |
| All Other | $0 | ($193,528) |
| GENERAL FUND TOTAL | $0 | $0 |

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

Initiative: Reduces funding not required for matching purposes.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($400,000) | ($100,000) |
| GENERAL FUND TOTAL | ($400,000) | ($100,000) |

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding in the Medical Care - Payments to Providers program to correct an overallocation from State Fiscal Stabilization Funds.

| FEDERAL EXPENDITURES FUND ARRA | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($450,000) | $0 |
| FEDERAL EXPENDITURES FUND ARRA TOTAL | ($450,000) | $0 |

**Medical Care - Payments to Providers 0147**

Initiative: Provides funding to support changes in the eligibility criteria for the Children's Health Insurance Program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $71,384 | $71,384 |
| GENERAL FUND TOTAL | $71,384 | $71,384 |

| FEDERAL BLOCK GRANT FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $218,678 | $218,678 |
| FEDERAL BLOCK GRANT FUND TOTAL | $218,678 | $218,678 |

### Medical Care - Payments to Providers 0147

Initiative: Provides funding on a one-time basis to reimburse ambulatory care clinics for the administration of the H1N1 vaccine.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $330,591 | $0 |
| GENERAL FUND TOTAL | $330,591 | $0 |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $854,619 | $0 |
| FEDERAL EXPENDITURES FUND TOTAL | $854,619 | $0 |

| FEDERAL EXPENDITURES FUND ARRA | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $129,790 | $0 |
| FEDERAL EXPENDITURES FUND ARRA TOTAL | $129,790 | $0 |

### Medical Care - Payments to Providers 0147

Initiative: Provides funding for the increase in Medicare Part B premium payments.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $1,741,141 | $4,165,856 |
| GENERAL FUND TOTAL | $1,741,141 | $4,165,856 |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $4,491,021 | $9,002,128 |
| FEDERAL EXPENDITURES FUND TOTAL | $4,491,021 | $9,002,128 |

| FEDERAL EXPENDITURES FUND ARRA | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $693,617 | $683,574 |
| FEDERAL EXPENDITURES FUND ARRA TOTAL | $693,617 | $683,574 |

### Medical Care - Payments to Providers 0147

Initiative: Adjusts funding between fiscal years to enable the accelerated claims run-out process for the Maine Claims Management System (MeCMS).

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $6,622,154 | ($6,622,154) |
| GENERAL FUND TOTAL | $6,622,154 | ($6,622,154) |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $17,119,084 | ($17,119,084) |
| FEDERAL EXPENDITURES FUND TOTAL | $17,119,084 | ($17,119,084) |

| FEDERAL EXPENDITURES FUND ARRA | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $2,599,867 | ($2,599,867) |
| FEDERAL EXPENDITURES FUND ARRA TOTAL | $2,599,867 | ($2,599,867) |

### Medical Care - Payments to Providers 0147

Initiative: Provides funding for the increased cost of Medicare Part D payments.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $320,079 |
| GENERAL FUND TOTAL | $0 | $320,079 |

### Medical Care - Payments to Providers 0147

Initiative: Reduces funding by centralizing the administration of shared living services. The corresponding state funding decrease is in the Mental Retardation Waiver - MaineCare program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($2,001,656) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($2,001,656) |

| FEDERAL EXPENDITURES FUND ARRA | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($156,953) |
| FEDERAL EXPENDITURES FUND ARRA TOTAL | $0 | ($156,953) |

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding to reflect the savings associated with the creation of a children's waiver.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($489,780) |
| GENERAL FUND TOTAL | $0 | ($489,780) |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($1,058,129) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($1,058,129) |

| FEDERAL EXPENDITURES FUND ARRA | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($80,349) |
| FEDERAL EXPENDITURES FUND ARRA TOTAL | $0 | ($80,349) |

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding due to a retroactive increase in the Federal Medical Assistance Percentage rate for the 4th quarter of state fiscal year 2008-09.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($6,782,239) | $0 |
| GENERAL FUND TOTAL | ($6,782,239) | $0 |

**Medical Care - Payments to Providers 0147**

Initiative: Establishes 6 limited-period Customer Service Representative Associate II positions in the Bureau of Family Independence - Regional program to expedite disability determinations and reduce the time period for determination of disability by an average of 15 days and achieve one-time savings by decreasing payments for benefits with state funds. These positions are established for fiscal year 2010-11.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($2,550,000) |
| GENERAL FUND TOTAL | $0 | ($2,550,000) |

**Medical Care - Payments to Providers 0147**

Initiative: Adjusts funding to reflect an update of the hospital tax base year from 2006 to 2008.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($11,351,537) |
| GENERAL FUND TOTAL | $0 | ($11,351,537) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $11,351,537 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $11,351,537 |

**Medical Care - Payments to Providers 0147**

Initiative: Adjusts funding to distribute the departmentwide deappropriation included in Public Law 2009, chapter 213, Part A related to a social security income cost-of-living increase.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($4,000,000) | ($4,000,000) |
| GENERAL FUND TOTAL | ($4,000,000) | ($4,000,000) |

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding by modifying the methodology used to reimburse nonhospital-based physicians.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($1,547,500) |
| GENERAL FUND TOTAL | $0 | ($1,547,500) |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|

| | | |
|---|---|---|
| All Other | $0 | ($3,452,500) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($3,452,500) |

### Medical Care - Payments to Providers 0147

Initiative: Reduces funding by reducing administrative and program-related costs for services to persons with high-cost budgets. The corresponding state funding decrease is in the Mental Retardation Waiver - MaineCare program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($717,216) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($717,216) |

| FEDERAL EXPENDITURES FUND ARRA | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($56,183) |
| FEDERAL EXPENDITURES FUND ARRA TOTAL | $0 | ($56,183) |

### Medical Care - Payments to Providers 0147

Initiative: Reduces funding through the imposition of a per member limit for outpatient mental health visits to 18 hours of services per year for persons 20 years of age and under. The department shall authorize treatment above 18 hours per year when continued treatment to the member is necessary to correct or ameliorate a mental health condition, as required by 42 United States Code, Section 1396d(r)(5). The corresponding state funding decrease is in the Mental Health Services - Child Medicaid program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($1,527,638) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($1,527,638) |

### Medical Care - Payments to Providers 0147

Initiative: Reduces funding by instituting several practice changes aimed at limiting the ability of individuals to shelter assets and then receive long-term care services.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($2,150,000) |
| GENERAL FUND TOTAL | $0 | ($2,150,000) |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($4,796,688) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($4,796,688) |

### Medical Care - Payments to Providers 0147

Initiative: Reduces funding by increasing the management of atypical antipsychotic drugs for new users and by increasing the management of antibiotics.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($1,000,000) |
| GENERAL FUND TOTAL | $0 | ($1,000,000) |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($2,231,018) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($2,231,018) |

### Medical Care - Payments to Providers 0147

Initiative: Provides funding for the Medical Care - Payments to Providers and Nursing Facilities programs.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $6,782,239 | $0 |
| GENERAL FUND TOTAL | $6,782,239 | $0 |

### Medical Care - Payments to Providers 0147

Initiative: Establishes 2 Auditor II positions in the Office of Management and Budget program to continue the department's focus on identifying fraud, waste and abuse. Position costs are allocated 50% General Fund in the Office of Management and Budget program and 50% Federal Expenditures Fund in the Bureau of Medical Services program. The work of the new staff will increase collections and allow for a reduction in the Medical Care - Payments to Providers program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($1,200,000) |

| | | |
|---|---|---|
| GENERAL FUND TOTAL | $0 | ($1,200,000) |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($2,677,221) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($2,677,221) |

**Medical Care - Payments to Providers 0147**

Initiative: Adjusts funding in the various MaineCare accounts to reflect modifications to projections of MaineCare-dedicated tax revenues, to comport with Revenue Forecasting Committee reprojections.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($2,541,330) | ($2,926,549) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($2,541,330) | ($2,926,549) |

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding due to savings from amending the Probate Code as it relates to spousal elective share.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($175,200) |
| GENERAL FUND TOTAL | $0 | ($175,200) |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($390,874) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($390,874) |

**Medical Care - Payments to Providers 0147**

Initiative: Provides funding to increase hospital reimbursement.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $2,283,021 |
| GENERAL FUND TOTAL | $0 | $2,283,021 |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $4,923,642 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $4,923,642 |

| FEDERAL EXPENDITURES FUND ARRA | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $385,692 |
| FEDERAL EXPENDITURES FUND ARRA TOTAL | $0 | $385,692 |

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding based on a 10% reduction to the rates paid to providers under the following sections of the MaineCare Benefits Manual, Chapters II and III: 3, Ambulatory Care Clinic Services; 15, Chiropractic Services; 23, Developmental and Behavioral Evaluation Clinics; 28, Rehabilitative and Community Support Services for Children with Cognitive Impairments and Functional Limitations; 30, Family Planning Agency Services; 35, Hearing Aids and Services; 37, Children's Home Based Mental Health; 62, Genetic Testing and Clinical Genetic Services; 68, Occupational Therapy Services; 85, Physical Therapy Services; 95, Podiatric Services; 113, Transportation Services; and 150, STD Screening Clinic Services.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($1,994,571) |
| GENERAL FUND TOTAL | $0 | ($1,994,571) |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($5,879,861) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($5,879,861) |

| FEDERAL EXPENDITURES FUND ARRA | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($461,086) |
| FEDERAL EXPENDITURES FUND ARRA TOTAL | $0 | ($461,086) |

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding by standardizing the reimbursement rates for private nonmedical institutions

billing under the MaineCare Benefits Manual, Chapter III, Section 97, Appendix B: Principles of Reimbursement for Substance Abuse Treatment Facilities and Appendix E: Principles of Reimbursment for Community Residences for Persons with Mental Illness.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($1,121,506) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($1,121,506) |

| FEDERAL EXPENDITURES FUND ARRA | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($87,853) |
| FEDERAL EXPENDITURES FUND ARRA TOTAL | $0 | ($87,853) |

**Medical Care - Payments to Providers 0147**

Initiative: Adjusts funding by allowing the program allowance to be part of personal care services when developing rates for the MaineCare Benefits Manual, Chapter III, Section 97, Appendix C: Principles of Reimbursement for Medical Care and Remedial Care Facilities.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $1,248,575 | $1,248,575 |
| GENERAL FUND TOTAL | $1,248,575 | $1,248,575 |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $2,692,065 | $2,692,065 |
| FEDERAL EXPENDITURES FUND TOTAL | $2,692,065 | $2,692,065 |

| FEDERAL EXPENDITURES FUND ARRA | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $210,898 | $210,898 |
| FEDERAL EXPENDITURES FUND ARRA TOTAL | $210,898 | $210,898 |

**Medical Care - Payments to Providers 0147**

Initiative: Provides funding under the MaineCare Benefits Manual, Chapter III, Section 97, Appendix C: Principles of Reimbursment for Medical Care and Remedial Care Facilities, to reverse an initiative that was included in Public Law 2009, chapter 213.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $2,292,299 |
| GENERAL FUND TOTAL | $0 | $2,292,299 |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $5,070,222 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $5,070,222 |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $509,272 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $509,272 |

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding by lowering reimbursement rates under the MaineCare Benefits Manual, Chapter III, Section 97, Appendix D: Principles of Reimbursement for Child Care Facilities, by 3% for treatment foster care and 2% for other facilities. The reductions to treatment foster care rates are not to be passed on as reductions to the foster parents.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($622,049) |
| GENERAL FUND TOTAL | $0 | ($622,049) |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($1,609,838) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($1,609,838) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($124,410) |

| | | |
|---|---|---|
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($124,410) |

| FEDERAL EXPENDITURES FUND ARRA | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($126,106) |
| FEDERAL EXPENDITURES FUND ARRA TOTAL | $0 | ($126,106) |

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding under the MaineCare Benefits Manual, Chapters II and III, Section 21, Home and Community Benefits for Members with Mental Retardation or Autistic Disorder. Reimbursement rates will be reduced by 2% for day habilitation and work supports and 1% for residential providers; all other services will be reduced by 10%. The corresponding state funding decreases are in the Mental Retardation Waiver - MaineCare program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($3,114,851) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($3,114,851) |

| FEDERAL EXPENDITURES FUND ARRA | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($244,001) |
| FEDERAL EXPENDITURES FUND ARRA TOTAL | $0 | ($244,001) |

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding under the MaineCare Benefits Manual, Chapters II and III, Section 65, Behavioral Health Services, by 10%, excluding children's comprehensive community support and multi-systems therapy, which will be reduced by 2%. Outpatient therapy, children's assertive community treatment services, crisis services and medication management will not be reduced. The corresponding state funding decreases are in the Mental Health Services - Child Medicaid program and the Mental Health Services - Community Medicaid program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($1,535,755) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($1,535,755) |

| FEDERAL EXPENDITURES FUND ARRA | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($120,203) |
| FEDERAL EXPENDITURES FUND ARRA TOTAL | $0 | ($120,203) |

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding under the MaineCare Benefits Manual, Chapters II and III, Section 17, Community Support Services, by lowering reimbursement rates by 4%, except for community integration, which is reduced by 3%. The corresponding state funding reduction is in the Mental Health Services - Community Medicaid program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($1,240,807) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($1,240,807) |

| FEDERAL EXPENDITURES FUND ARRA | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($97,198) |
| FEDERAL EXPENDITURES FUND ARRA TOTAL | $0 | ($97,198) |

**Medical Care - Payments to Providers 0147**

Initiative: Provides funding to increase enrollment under the MaineCare Benefits Manual, Chapters II and III, Section 21, Home and Community Benefits for Members with Mental Retardation or Autistic Disorder, by approximately 100 members and in the MaineCare Benefits Manual, Chapters II and III, Section 29, Community Support Benefits for Members with Mental Retardation and Autistic Disorder, by approximately 60 members. The corresponding state funding increases are in the Mental Retardation Waiver - MaineCare program and the Mental Retardation Waiver - Supports program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|

| | | |
|---|---|---|
| All Other | $0 | $4,727,565 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $4,727,565 |

| FEDERAL EXPENDITURES FUND ARRA | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $370,332 |
| FEDERAL EXPENDITURES FUND ARRA TOTAL | $0 | $370,332 |

### Medical Care - Payments to Providers 0147

Initiative: Provides funding to address a federal compliance issue with the reimbursement of ambulance services.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $889,449 |
| GENERAL FUND TOTAL | $0 | $889,449 |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $1,918,216 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $1,918,216 |

| FEDERAL EXPENDITURES FUND ARRA | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $150,263 |
| FEDERAL EXPENDITURES FUND ARRA TOTAL | $0 | $150,263 |

### Medical Care - Payments to Providers 0147

Initiative: Reduces funding from savings realized from the application of the enhanced Federal Medical Assistance Percentage rate to state Medicare Part D payments.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($11,708,148) | ($16,128,958) |
| GENERAL FUND TOTAL | ($11,708,148) | ($16,128,958) |

### Medical Care - Payments to Providers 0147

Initiative: Adjusts funding as the result of the disallowance of federal financial participation for targeted case management claims in fiscal years 2001-02 and 2002-03.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($29,736,437) |
| GENERAL FUND TOTAL | $0 | ($29,736,437) |

### Medical Care - Payments to Providers 0147

Initiative: Adjusts funding available as the result of the extension of the enhanced Federal Medical Assistance Percentage for an additional 2 quarters.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($44,765,452) |
| GENERAL FUND TOTAL | $0 | ($44,765,452) |

| FEDERAL EXPENDITURES FUND ARRA | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $72,149,104 |
| FEDERAL EXPENDITURES FUND ARRA TOTAL | $0 | $72,149,104 |

### Medical Care - Payments to Providers 0147

Initiative: Reduces funding by limiting reimbursement to hospitals when a MaineCare patient is subsequently readmitted to the hospital within 3 days following an inpatient admission for the same diagnosis.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($200,000) |
| GENERAL FUND TOTAL | $0 | ($200,000) |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($431,327) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($431,327) |

| FEDERAL EXPENDITURES FUND ARRA | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($33,788) |

| | | |
|---|---|---|
| FEDERAL EXPENDITURES FUND ARRA TOTAL | $0 | ($33,788) |

### Medical Care - Payments to Providers 0147

Initiative: Adjusts funding due to receipt of revenue from settlements reached with pharmaceutical manufacturers related to the MaineCare program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($100,000) |
| GENERAL FUND TOTAL | $0 | ($100,000) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $100,000 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $100,000 |

### Medical Care - Payments to Providers 0147

Initiative: Reduces funding through the imposition of a per member limit for outpatient mental health visits of 18 hours of services per year for adults. The department shall authorize services above 18 hours per year when continued treatment to the member is reasonably expected to bring about significant improvement and is medically necessary to avoid exacerbation of a mental health condition and the likely continuation of outpatient treatment. The corresponding state funding decrease is in the Mental Health Services - Community Medicaid program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($1,656,526) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($1,656,526) |

### MR/Elderly PNMI Room and Board Z009

Initiative: Reduces funding based on a 10% reduction to the rates paid to providers of boarding home and related services.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($225,909) |
| GENERAL FUND TOTAL | $0 | ($225,909) |

### MR/Elderly PNMI Room and Board Z009

Initiative: Adjusts funding by allowing the program allowance to be part of personal care services when developing rates for the MaineCare Benefits Manual, Chapter III, Section 97, Appendix C: Principles of Reimbursement for Medical Care and Remedial Care Facilities.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($4,314,296) | ($4,314,296) |
| GENERAL FUND TOTAL | ($4,314,296) | ($4,314,296) |

### Multicultural Services Z034

Initiative: Provides funding for grants and overhead costs in the Multicultural Services program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $454,309 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $454,309 |

### Multicultural Services Z034

Initiative: Eliminates 2 Social Services Manager I positions in the State-Funded Foster Care/Adoption Assistance program, one Social Services Manager I position in the Bureau of Child and Family Services - Regional program and one Physician III position in the Multicultural Services program that is funded 85% General Fund in that program and 15% Federal Expenditures Fund in the Bureau of Medical Services program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($196,580) |
| GENERAL FUND TOTAL | $0 | ($196,580) |

### Multicultural Services Z034

Initiative: Transfers one Social Services Manager I position from the Multicultural Services program to the Office of Management and Budget program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($100,426) |
| All Other | $0 | ($3,060) |
| GENERAL FUND TOTAL | $0 | ($103,486) |

### Nursing Facilities 0148

Initiative: Reduces funding due to a retroactive increase in the Federal Medical Assistance Percentage rate for the 4th quarter of state fiscal year 2008-09.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($682,231) | $0 |
| GENERAL FUND TOTAL | ($682,231) | $0 |

### Nursing Facilities 0148

Initiative: Provides funding for the Medical Care - Payments to Providers and Nursing Facilities programs.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $682,231 | $0 |
| GENERAL FUND TOTAL | $682,231 | $0 |

### Nursing Facilities 0148

Initiative: Adjusts funding in the various MaineCare accounts to reflect modifications to projections of MaineCare-dedicated tax revenues, to comport with Revenue Forecasting Committee reprojections.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $413,910 | ($330,071) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $413,910 | ($330,071) |

### Nursing Facilities 0148

Initiative: Reduces funding by eliminating staff enhancement payments to nursing facilities.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($2,310,712) |
| GENERAL FUND TOTAL | $0 | ($2,310,712) |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($6,228,721) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($6,228,721) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($577,678) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($577,678) |

| FEDERAL EXPENDITURES FUND ARRA | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($488,442) |
| FEDERAL EXPENDITURES FUND ARRA TOTAL | $0 | ($488,442) |

### Nursing Facilities 0148

Initiative: Adjusts funding available as the result of the extension of the enhanced Federal Medical Assistance Percentage for an additional 2 quarters.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($14,179,840) |
| GENERAL FUND TOTAL | $0 | ($14,179,840) |

| FEDERAL EXPENDITURES FUND ARRA | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $14,179,840 |
| FEDERAL EXPENDITURES FUND ARRA TOTAL | $0 | $14,179,840 |

### Nursing Facilities 0148

Initiative: Provides funding to increase nursing facility routine cost component reimbursement.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $2,270,224 |
| GENERAL FUND TOTAL | $0 | $2,270,224 |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $6,119,582 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $6,119,582 |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $567,556 |

| | | |
|---|---|---|
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $567,556 |

| FEDERAL EXPENDITURES FUND ARRA | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $479,884 |
| FEDERAL EXPENDITURES FUND ARRA TOTAL | $0 | $479,884 |

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

Initiative: Transfers funding for operating costs from the Office of Elder Services Central Office program to the Office of Elder Services Adult Protective Services program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $188,679 | $188,679 |
| GENERAL FUND TOTAL | $188,679 | $188,679 |

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

Initiative: Transfers funding from the Office of Elder Services Central Office program to the Office of Elder Services Adult Protective Services program and to the OMB Division of Regional Business Operations program for rent.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $59,833 | $59,833 |
| GENERAL FUND TOTAL | $59,833 | $59,833 |

**Office of Elder Services Central Office 0140**

Initiative: Transfers funding for operating costs from the Office of Elder Services Central Office program to the Office of Elder Services Adult Protective Services program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($188,679) | ($188,679) |
| GENERAL FUND TOTAL | ($188,679) | ($188,679) |

**Office of Elder Services Central Office 0140**

Initiative: Transfers one Housing Research Developer position from 50% General Fund and 50% Other Special Revenue Funds in the Division of Licensing and Regulatory Services program to 50% General Fund in the Office of Elder Services Central Office program and 50% Federal Expenditures Fund in the Bureau of Medical Services program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $39,662 |
| All Other | $0 | $3,446 |
| GENERAL FUND TOTAL | $0 | $43,108 |

**Office of Elder Services Central Office 0140**

Initiative: Transfers funding from the Office of Elder Services Central Office program to the Office of Elder Services Adult Protective Services program and to the OMB Division of Regional Business Operations program for rent.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($143,041) | ($143,041) |
| GENERAL FUND TOTAL | ($143,041) | ($143,041) |

**Office of Elder Services Central Office 0140**

Initiative: Establishes one limited-period Social Services Program Specialist II position in the Office of Elder Services Central Office program to act as the state project director for the family caregiver program. This position will end June 18, 2011.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $81,707 |
| All Other | $0 | $6,099 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $87,806 |

**Office of Elder Services Central Office 0140**

Initiative: Reduces funding for non-MaineCare adult day services and other supportive and administrative services.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($250,000) | ($275,000) |
| GENERAL FUND TOTAL | ($250,000) | ($275,000) |

**Office of Elder Services Central Office 0140**

Initiative: Reallocates 12.5% of the cost of one Public Service Manager II position and related All Other

costs from the Office of Elder Services Central Office program to the Bureau of Medical Services program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($13,137) |
| All Other | $0 | ($793) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($13,930) |

**Office of Elder Services Central Office 0140**

Initiative: Reallocates 20% of the cost of one Public Service Coordinator II position from the Office of Management and Budget program to the Office of Elder Services Central Office program and provides related All Other funding for a new federal grant for the Aging and Disability Resources Center Initiative administered by the Office of Elder Services Central Office program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $21,355 |
| All Other | $0 | $74,120 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $95,475 |

**Office of Elder Services Central Office 0140**

Initiative: Provides funding for a new federal Alzheimer's innovation initiative grant administered by the Office of Elder Services Central Office program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $235,310 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $235,310 |

**Office of Integrated Access and Support - Central Office Z020**

Initiative: Transfers 2 Field Examiner II positions, one Family Independence Program Manager position and one Accounting Associate I position and related All Other from the Office of Integrated Access and Support Central Office program to the General Assistance program.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (4.000) |
| Personal Services | $0 | ($279,139) |
| All Other | $0 | ($620,707) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($899,846) |

**Office of Integrated Access and Support - Central Office Z020**

Initiative: Transfers one Family Independence Unit Supervisor position and one Family Independence Specialist position from Other Special Revenue Funds in the Bureau of Family Independence - Regional program to Other Special Revenue Funds in the Office of Integrated Access and Support - Central Office program and transfers one Office Assistant II position from the Office of Integrated Access and Support Central Office program to the Bureau of Family Independence - Regional program.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $92,155 |
| All Other | $0 | $12,800 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $104,955 |

**Office of Integrated Access and Support - Central Office Z020**

Initiative: Establishes one limited-period Medical Care Coordinator position in the Office of Integrated Access and Support - Central Office program. This position will end on June 18, 2011.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $58,264 |
| All Other | $0 | $6,691 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $64,955 |

**Office of Integrated Access and Support - Central Office Z020**

Initiative: Establishes one limited-period Social Services Program Manager position and one limited-period Management Analyst I position and provides related All Other funding for outreach, enrollment and retention in targeted geographic areas with high rates of eligible but uninsured children, particularly those with racial and ethnic minority groups who are unin-

sured at higher-than-average rates. These positions will end on June 15, 2013.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $150,817 |
| All Other | $0 | $378,986 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $529,803 |

**Office of Management and Budget 0142**

Initiative: Provides funding for the Office of Management and Budget program, Other Special Revenue Funds to establish baseline allocations in several accounts.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $1,024 | $1,024 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $1,024 | $1,024 |

**Office of Management and Budget 0142**

Initiative: Provides funding in the Office of Management and Budget for the Maine Health Access Foundation systems transformation.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $153,163 | $153,163 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $153,163 | $153,163 |

**Office of Management and Budget 0142**

Initiative: Provides funding in the Office of Management and Budget program for the data infrastructure grant.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $172,841 | $172,841 |
| FEDERAL EXPENDITURES FUND TOTAL | $172,841 | $172,841 |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $172,841 | $172,841 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $172,841 | $172,841 |

**Office of Management and Budget 0142**

Initiative: Reduces funding to align allocations with existing resources.

| FEDERAL BLOCK GRANT FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($80,280) | ($80,280) |
| FEDERAL BLOCK GRANT FUND TOTAL | ($80,280) | ($80,280) |

**Office of Management and Budget 0142**

Initiative: Transfers one Social Services Program Specialist II position funded 50% General Fund and 50% Other Special Revenue Funds in the Office of Management and Budget program to 50% General Fund and 50% Federal Expenditures Fund in the Bureau of Medical Services program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($46,715) |
| All Other | $0 | ($1,530) |
| GENERAL FUND TOTAL | $0 | ($48,245) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($46,713) |
| All Other | $0 | ($2,588) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($49,301) |

**Office of Management and Budget 0142**

Initiative: Reallocates 20% of the cost of one Public Service Coordinator II position from the Office of Management and Budget program to the Office of Elder Services Central Office program and provides related All Other funding for a new federal grant for the Aging and Disability Resources Center Initiative administered by the Office of Elder Services Central Office program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($21,355) |

| | | |
|---|---|---|
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($21,355) |

**Office of Management and Budget 0142**

Initiative: Establishes 2 Auditor II positions in the Office of Management and Budget program to continue the department's focus on identifying fraud, waste and abuse. Position costs are allocated 50% General Fund in the Office of Management and Budget program and 50% Federal Expenditures Fund in the Bureau of Medical Services program. The work of the new staff will increase collections and allow for a reduction in the Medical Care - Payments to Providers program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 2.000 |
| Personal Services | $0 | $69,932 |
| All Other | $0 | $3,060 |
| GENERAL FUND TOTAL | $0 | $72,992 |

**Office of Management and Budget 0142**

Initiative: Transfers one Social Services Manager I position from the Multicultural Services program to the Office of Management and Budget program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $100,426 |
| All Other | $0 | $3,060 |
| GENERAL FUND TOTAL | $0 | $103,486 |

**Office of Management and Budget 0142**

Initiative: Transfers one Accounting Technician position and one Public Service Manager III position from the OMB Division of Regional Business Operations program to the Office of Management and Budget program and one Public Service Executive II position from the OMB Division of Regional Business Operations program to the Mental Health Services - Community program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 2.000 |
| Personal Services | $0 | $194,203 |
| All Other | $0 | $6,120 |
| GENERAL FUND TOTAL | $0 | $200,323 |

**Office of Management and Budget 0142**

Initiative: Adjusts funding in the Office of Management and Budget, OMB Division of Regional Business Operations and Information Technology programs to properly align technology and general operating expenditures.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $2,496,803 |
| GENERAL FUND TOTAL | $0 | $2,496,803 |

**OMB Division of Regional Business Operations 0196**

Initiative: Reduces funding to align allocations with current resources.

| FEDERAL BLOCK GRANT FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($15,339) | ($15,339) |
| FEDERAL BLOCK GRANT FUND TOTAL | ($15,339) | ($15,339) |

**OMB Division of Regional Business Operations 0196**

Initiative: Transfers funding from the Office of Elder Services Central Office program to the Office of Elder Services Adult Protective Services program and to the OMB Division of Regional Business Operations program for rent.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $83,208 | $83,208 |
| GENERAL FUND TOTAL | $83,208 | $83,208 |

**OMB Division of Regional Business Operations 0196**

Initiative: Transfers one Accounting Technician position and one Public Service Manager III position from the OMB Division of Regional Business Operations program to the Office of Management and Budget program and one Public Service Executive II position from the OMB Division of Regional Business Operations program to the Mental Health Services - Community program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|

| | | |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (3.000) |
| Personal Services | $0 | ($322,474) |
| All Other | $0 | ($9,180) |
| GENERAL FUND TOTAL | $0 | ($331,654) |

**OMB Division of Regional Business Operations 0196**

Initiative: Adjusts funding in the Office of Management and Budget, OMB Division of Regional Business Operations and Information Technology programs to properly align technology and general operating expenditures.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $761,632 |
| GENERAL FUND TOTAL | $0 | $761,632 |

**Plumbing - Control Over 0205**

Initiative: Continues 5 Public Service Coordinator II positions originally established by financial order. The General Fund portion of the new position costs is offset by a reduction in the All Other line category. The new legislative headcount is offset by the elimination of one Epidemiologist position, one Environmental Specialist II position, one State Veterinarian position and 2 Office Assistant II positions from various department programs. Position detail is on file in the Bureau of the Budget.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($67,323) |
| All Other | $0 | ($1,035) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | ($68,358) |

**Purchased Social Services 0228**

Initiative: Reduces funding for contracted community support services.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($150,000) | ($139,200) |
| GENERAL FUND TOTAL | ($150,000) | ($139,200) |

**Risk Reduction 0489**

Initiative: Continues 5 Public Service Coordinator II positions originally established by financial order. The General Fund portion of the new position costs is offset by a reduction in the All Other line category. The new legislative headcount is offset by the elimination of one Epidemiologist position, one Environmental Specialist II position, one State Veterinarian position and 2 Office Assistant II positions from various department programs. Position detail is on file in the Bureau of the Budget.

| FEDERAL BLOCK GRANT FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $29,172 |
| All Other | $0 | $2,286 |
| FEDERAL BLOCK GRANT FUND TOTAL | $0 | $31,458 |

**Special Children's Services 0204**

Initiative: Continues 5 Public Service Coordinator II positions originally established by financial order. The General Fund portion of the new position costs is offset by a reduction in the All Other line category. The new legislative headcount is offset by the elimination of one Epidemiologist position, one Environmental Specialist II position, one State Veterinarian position and 2 Office Assistant II positions from various department programs. Position detail is on file in the Bureau of the Budget.

| FEDERAL BLOCK GRANT FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (2.000) |
| Personal Services | $0 | ($105,112) |
| FEDERAL BLOCK GRANT FUND TOTAL | $0 | ($105,112) |

**State Supplement to Federal Supplemental Security Income 0131**

Initiative: Provides funding in the General Assistance - Reimbursement to Cities and Towns program for increased costs in benefits and offsets the appropriation with a reduction in the appropriation for the State Supplement to Federal Supplemental Security Income program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($880,000) | ($380,000) |
| GENERAL FUND TOTAL | ($880,000) | ($380,000) |

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

Initiative: Reallocates 50% of the cost of one Public Service Coordinator I position from the Bureau of Medical Services program to the State-Funded Foster Care/Adoption Assistance program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $48,963 |
| All Other | $0 | $1,530 |
| GENERAL FUND TOTAL | $0 | $50,493 |

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

Initiative: Transfers one Human Services Caseworker position from the State-Funded Foster Care/Adoption Assistance program to the Bureau of Child and Family Services - Regional program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($64,257) |
| GENERAL FUND TOTAL | $0 | ($64,257) |

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

Initiative: Eliminates 2 Social Services Manager I positions in the State-Funded Foster Care/Adoption Assistance program, one Social Services Manager I position in the Bureau of Child and Family Services - Regional program and one Physician III position in the Multicultural Services program that is funded 85% General Fund in that program and 15% Federal Expenditures Fund in the Bureau of Medical Services program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (2.000) |
| Personal Services | $0 | ($188,590) |
| GENERAL FUND TOTAL | $0 | ($188,590) |

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

Initiative: Deappropriates funds as a result of unspent contract balances.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($100,000) | $0 |
| GENERAL FUND TOTAL | ($100,000) | $0 |

**Training Programs and Employee Assistance 0493**

Initiative: Reduces funding to align allocations with current resources.

| FEDERAL BLOCK GRANT FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($30,000) | ($30,000) |
| FEDERAL BLOCK GRANT FUND TOTAL | ($30,000) | ($30,000) |

| HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS) DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($12,407,767) | ($130,121,630) |
| FEDERAL EXPENDITURES FUND | $25,429,630 | ($29,727,406) |
| FUND FOR A HEALTHY MAINE | $0 | ($1,464,426) |
| OTHER SPECIAL REVENUE FUNDS | ($1,058,013) | $15,927,936 |
| FEDERAL BLOCK GRANT FUND | ($250,455) | ($1,090,255) |
| FEDERAL EXPENDITURES FUND ARRA | $6,050,912 | $85,735,558 |
| DEPARTMENT TOTAL - ALL FUNDS | $17,764,307 | ($60,740,223) |

**Sec. A-27. Appropriations and allocations.** The following appropriations and allocations are made.

## HISTORIC PRESERVATION COMMISSION, MAINE

**Historic Preservation Commission 0036**

Initiative: Reduces funding by transferring expenditures for professional services from the General Fund to the Federal Expenditures Fund.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($2,975) | ($2,975) |
| GENERAL FUND TOTAL | ($2,975) | ($2,975) |

**Sec. A-28. Appropriations and allocations.** The following appropriations and allocations are made.

**HISTORICAL SOCIETY, MAINE**

**Historical Society 0037**

Initiative: Reduces funding to maintain appropriations within available resources.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($2,327) |
| GENERAL FUND TOTAL | $0 | ($2,327) |

**Sec. A-29. Appropriations and allocations.** The following appropriations and allocations are made.

**HOSPICE COUNCIL, MAINE**

**Maine Hospice Council 0663**

Initiative: Reduces funding to maintain appropriations within available resources.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($3,294) |
| GENERAL FUND TOTAL | $0 | ($3,294) |

**Sec. A-30. Appropriations and allocations.** The following appropriations and allocations are made.

**HOUSING AUTHORITY, MAINE STATE**

**Shelter Operating Subsidy 0661**

Initiative: Reduces funding for homeless shelters that provide temporary housing for people who are homeless.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($15,329) | ($15,515) |
| GENERAL FUND TOTAL | ($15,329) | ($15,515) |

**Sec. A-31. Appropriations and allocations.** The following appropriations and allocations are made.

**HUMAN RIGHTS COMMISSION, MAINE**

**Human Rights Commission - Regulation 0150**

Initiative: Reduces funding for anticipated salary savings of one Field Investigator position.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($8,077) | $0 |
| GENERAL FUND TOTAL | ($8,077) | $0 |

**Human Rights Commission - Regulation 0150**

Initiative: Reduces funding for general operations, in-state travel expenses, rents, repairs and office and other supplies.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($12,779) | ($21,557) |
| GENERAL FUND TOTAL | ($12,779) | ($21,557) |

| HUMAN RIGHTS COMMISSION, MAINE DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($20,856) | ($21,557) |
| DEPARTMENT TOTAL - ALL FUNDS | ($20,856) | ($21,557) |

**Sec. A-32. Appropriations and allocations.** The following appropriations and allocations are made.

**HUMANITIES COUNCIL, MAINE**

**Humanities Council 0942**

Initiative: Reduces funding to maintain appropriations within available resources.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($2,768) |
| GENERAL FUND TOTAL | $0 | ($2,768) |

**Sec. A-33. Appropriations and allocations.** The following appropriations and allocations are made.

**INDIAN TRIBAL-STATE COMMISSION, MAINE**

**Maine Indian Tribal-state Commission 0554**

Initiative: Reduces funding to maintain appropriations within available resources.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($3,900) |
| GENERAL FUND TOTAL | $0 | ($3,900) |

**Sec. A-34. Appropriations and allocations.** The following appropriations and allocations are made.

**INDIGENT LEGAL SERVICES, MAINE COMMISSION ON**

**Maine Commission on Indigent Legal Services Z112**

Initiative: Adjusts funding to bring allocations into line with projected available resources based on revenue projections approved by the Revenue Forecasting Committee in December 2009.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $142,600 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $142,600 |

**Maine Commission on Indigent Legal Services Z112**

Initiative: Reduces funding for indigent legal services for child protection cases and criminal filings.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($600,590) |
| GENERAL FUND TOTAL | $0 | ($600,590) |

| INDIGENT LEGAL SERVICES, MAINE COMMISSION ON DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | $0 | ($600,590) |
| OTHER SPECIAL REVENUE FUNDS | $0 | $142,600 |
| DEPARTMENT TOTAL - ALL FUNDS | $0 | ($457,990) |

**Sec. A-35. Appropriations and allocations.** The following appropriations and allocations are made.

**INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF**

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

Initiative: Reduces funding for service center costs from savings achieved by freezing one vacant Public Service Coordinator I position in the Natural Resources Service Center until December 11, 2010.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($13,938) | ($6,969) |
| GENERAL FUND TOTAL | ($13,938) | ($6,969) |

**ATV Safety and Educational Program 0559**

Initiative: Transfers one Game Warden Sergeant position from the ATV Safety and Educational Program, General Fund to the Enforcement Operations - Inland Fisheries and Wildlife program, General Fund.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($107,409) |
| All Other | $0 | ($23,170) |
| GENERAL FUND TOTAL | $0 | ($130,579) |

**Endangered Nongame Operations 0536**

Initiative: Transfers one Biologist III position and reallocates 70% of the cost of the position from the Endangered Nongame Operations program, Federal Expenditures Fund to the Resource Management Services - Inland Fisheries and Wildlife program, Federal Expenditures Fund.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| Personal Services | ($72,435) | ($73,675) |
| All Other | ($683) | ($695) |
| FEDERAL EXPENDITURES FUND TOTAL | ($73,118) | ($74,370) |

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

Initiative: Transfers one Game Warden Sergeant position from the ATV Safety and Educational Program, General Fund to the Enforcement Operations - Inland Fisheries and Wildlife program, General Fund.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $107,409 |
| All Other | $0 | $23,170 |
| GENERAL FUND TOTAL | $0 | $130,579 |

### Enforcement Operations - Inland Fisheries and Wildlife 0537

Initiative: Transfers one Game Warden Lieutenant position, one Game Warden Sergeant position and related All Other funding from the Enforcement Operations - Inland Fisheries and Wildlife program, General Fund to the Search and Rescue program, General Fund.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (2.000) |
| Personal Services | $0 | ($232,926) |
| All Other | $0 | ($135,220) |
| GENERAL FUND TOTAL | $0 | ($368,146) |

### Fisheries and Hatcheries Operations 0535

Initiative: Provides funding to purchase 2 one-ton 4-wheel-drive trucks used for stocking fish in inland waters.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Capital Expenditures | $45,000 | $0 |
| FEDERAL EXPENDITURES FUND TOTAL | $45,000 | $0 |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Capital Expenditures | $15,000 | $0 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $15,000 | $0 |

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

Initiative: Transfers one Biologist III position and reallocates 70% of the cost of the position from the Endangered Nongame Operations program, Federal Expenditures Fund to the Resource Management Services - Inland Fisheries and Wildlife program, Federal Expenditures Fund.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 1.000 | 1.000 |
| Personal Services | $72,435 | $73,675 |
| All Other | $683 | $695 |
| FEDERAL EXPENDITURES FUND TOTAL | $73,118 | $74,370 |

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

Initiative: Reorganizes one Biologist I position to a GIS Coordinator position within the same program and reduces All Other in the General Fund to fund the reorganization.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $1,183 | $1,249 |
| All Other | ($1,183) | ($1,249) |
| GENERAL FUND TOTAL | $0 | $0 |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $2,765 | $2,908 |
| All Other | $26 | $28 |
| FEDERAL EXPENDITURES FUND TOTAL | $2,791 | $2,936 |

### Search and Rescue 0538

Initiative: Transfers one Game Warden Lieutenant position, one Game Warden Sergeant position and related All Other funding from the Enforcement Operations - Inland Fisheries and Wildlife program, General Fund to the Search and Rescue program, General Fund.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 2.000 |
| Personal Services | $0 | $232,926 |
| All Other | $0 | $135,220 |
| GENERAL FUND TOTAL | $0 | $368,146 |

| INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF | | |
|---|---|---|
| DEPARTMENT TOTALS | 2009-10 | 2010-11 |
| GENERAL FUND | ($13,938) | ($6,969) |
| FEDERAL EXPENDITURES FUND | $47,791 | $2,936 |
| OTHER SPECIAL REVENUE FUNDS | $15,000 | $0 |

| | | |
|---|---|---|
| **DEPARTMENT TOTAL - ALL FUNDS** | **$48,853** | **($4,033)** |

**Sec. A-36. Appropriations and allocations.** The following appropriations and allocations are made.

**JUDICIAL DEPARTMENT**

**Courts - Supreme, Superior and District 0063**

Initiative: Reduces funding for guardian ad litem and indigent legal services for child protection cases.

| **GENERAL FUND** | **2009-10** | **2010-11** |
|---|---|---|
| All Other | ($210,000) | ($109,410) |
| GENERAL FUND TOTAL | ($210,000) | ($109,410) |

**Courts - Supreme, Superior and District 0063**

Initiative: Reduces funding for indigent legal services for criminal filings.

| **GENERAL FUND** | **2009-10** | **2010-11** |
|---|---|---|
| All Other | ($500,000) | $0 |
| GENERAL FUND TOTAL | ($500,000) | $0 |

**Courts - Supreme, Superior and District 0063**

Initiative: Reduces funding by recognizing savings achieved by reduced jury expenses.

| **GENERAL FUND** | **2009-10** | **2010-11** |
|---|---|---|
| All Other | ($50,000) | $0 |
| GENERAL FUND TOTAL | ($50,000) | $0 |

**Courts - Supreme, Superior and District 0063**

Initiative: Reduces funding by recognizing savings achieved by reduced employment advertising expenses.

| **GENERAL FUND** | **2009-10** | **2010-11** |
|---|---|---|
| All Other | ($10,000) | ($10,000) |
| GENERAL FUND TOTAL | ($10,000) | ($10,000) |

**Courts - Supreme, Superior and District 0063**

Initiative: Reduces funding by recognizing savings for interpreter services.

| **GENERAL FUND** | **2009-10** | **2010-11** |
|---|---|---|
| All Other | ($30,000) | $0 |
| GENERAL FUND TOTAL | ($30,000) | $0 |

**Courts - Supreme, Superior and District 0063**

Initiative: Adjusts funding to bring allocations into line with projected available resources based on revenue projections approved by the Revenue Forecasting Committee in December 2009.

| **OTHER SPECIAL REVENUE FUNDS** | **2009-10** | **2010-11** |
|---|---|---|
| All Other | $85,908 | ($49,540) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $85,908 | ($49,540) |

**Courts - Supreme, Superior and District 0063**

Initiative: Provides funding to restore longevity payments for employees in the judicial branch.

| **GENERAL FUND** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | $0 | $342,746 |
| GENERAL FUND TOTAL | $0 | $342,746 |

**Judicial - Debt Service Z097**

Initiative: Deappropriates one-time savings for debt service.

| **GENERAL FUND** | **2009-10** | **2010-11** |
|---|---|---|
| All Other | $0 | ($217,658) |
| GENERAL FUND TOTAL | $0 | ($217,658) |

| **JUDICIAL DEPARTMENT DEPARTMENT TOTALS** | **2009-10** | **2010-11** |
|---|---|---|
| **GENERAL FUND** | **($800,000)** | **$5,678** |
| **OTHER SPECIAL REVENUE FUNDS** | **$85,908** | **($49,540)** |
| **DEPARTMENT TOTAL - ALL FUNDS** | **($714,092)** | **($43,862)** |

**Sec. A-37. Appropriations and allocations.** The following appropriations and allocations are made.

**LABOR, DEPARTMENT OF**

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

Initiative: Transfers one Office Associate II position and one Employment and Training Specialist III position from the Migrant and Immigrant Services program to the Employment Services Activity program and transfers one Office Associate II position from the Employment Services Activity program to the Division for the Blind and Visually Impaired program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 1.000 | 1.000 |
| Personal Services | $50,892 | $54,004 |
| All Other | $298 | $316 |
| FEDERAL EXPENDITURES FUND TOTAL | $51,190 | $54,320 |

**Employment Security Services 0245**

Initiative: Provides funding to ensure that sufficient funds are available to provide unemployment benefits.

| EMPLOYMENT SECURITY TRUST FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $107,166,625 | $121,821,120 |
| EMPLOYMENT SECURITY TRUST FUND TOTAL | $107,166,625 | $121,821,120 |

**Employment Security Services 0245**

Initiative: Provides funding to bring allocations into line with available federal resources.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $1,268,750 | $3,052,196 |
| FEDERAL EXPENDITURES FUND TOTAL | $1,268,750 | $3,052,196 |

**Employment Security Services 0245**

Initiative: Transfers one Customer Representative Associate I Employment position from the Employment Security Services program to the Safety Education and Training Programs.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| Personal Services | ($42,862) | ($45,530) |
| All Other | ($327) | ($348) |
| FEDERAL EXPENDITURES FUND TOTAL | ($43,189) | ($45,878) |

**Employment Services Activity 0852**

Initiative: Provides funding to bring allocations into line with available federal resources.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $14,700 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $14,700 |

**Employment Services Activity 0852**

Initiative: Transfers one Office Associate II position and one Employment and Training Specialist III position from the Migrant and Immigrant Services program to the Employment Services Activity program and transfers one Office Associate II position from the Employment Services Activity program to the Division for the Blind and Visually Impaired program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 1.000 | 1.000 |
| Personal Services | $73,686 | $74,970 |
| All Other | $902 | $905 |
| FEDERAL EXPENDITURES FUND TOTAL | $74,588 | $75,875 |

**Governor's Training Initiative Program 0842**

Initiative: Reduces funding in fiscal year 2009-10 and fiscal year 2010-11 only to meet departmental cost reduction targets.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($438,000) | ($447,957) |
| GENERAL FUND TOTAL | ($438,000) | ($447,957) |

**Migrant and Immigrant Services 0920**

Initiative: Transfers one Office Associate II position and one Employment and Training Specialist III position from the Migrant and Immigrant Services program to the Employment Services Activity program and transfers one Office Associate II position from the Employment Services Activity program to the Division for the Blind and Visually Impaired program.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (2.000) | (2.000) |
| Personal Services | ($124,578) | ($128,974) |
| All Other | ($1,209) | ($1,252) |
| FEDERAL EXPENDITURES FUND TOTAL | ($125,787) | ($130,226) |

### Rehabilitation Services 0799

Initiative: Provides funding for contracted vocational services that will be used to match federal funding. Funding in the same amount that was used for the same purpose will be deappropriated from the Department of Health and Human Services.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $304,000 |
| GENERAL FUND TOTAL | $0 | $304,000 |

### Safety Education and Training Programs 0161

Initiative: Transfers one Customer Representative Associate I Employment position from the Employment Security Services program to the Safety Education and Training Programs.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 1.000 | 1.000 |
| Personal Services | $42,862 | $45,530 |
| All Other | $416 | $442 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $43,278 | $45,972 |

**LABOR, DEPARTMENT OF**

| DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| **GENERAL FUND** | **($438,000)** | **($143,957)** |
| **FEDERAL EXPENDITURES FUND** | **$1,225,552** | **$3,020,987** |
| **OTHER SPECIAL REVENUE FUNDS** | **$43,278** | **$45,972** |
| **EMPLOYMENT SECURITY TRUST FUND** | **$107,166,625** | **$121,821,120** |
| **DEPARTMENT TOTAL - ALL FUNDS** | **$107,997,455** | **$124,744,122** |

**Sec. A-38. Appropriations and allocations.** The following appropriations and allocations are made.

## LIBRARY, MAINE STATE

### Administration - Library 0215

Initiative: Reduces funding for salary savings achieved by keeping one Public Service Executive III position vacant until October 24, 2009.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($50,110) | $0 |
| GENERAL FUND TOTAL | ($50,110) | $0 |

### Library Special Acquisitions Fund 0260

Initiative: Reduces funding in the Library Special Acquisitions program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($475) | ($475) |
| GENERAL FUND TOTAL | ($475) | ($475) |

### Maine State Library 0217

Initiative: Eliminates one Secretary Associate Supervisor position in fiscal year 2010-11.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($60,566) |
| GENERAL FUND TOTAL | $0 | ($60,566) |

### Maine State Library 0217

Initiative: Reduces funding for salary savings achieved by freezing one Library Section Supervisor position until June 12, 2010.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($34,016) | $0 |
| GENERAL FUND TOTAL | ($34,016) | $0 |

### Maine State Library 0217

Initiative: Reduces funding for salary savings achieved by freezing one vacant Office Associate II position until June 11, 2011.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($34,089) | ($53,970) |
| GENERAL FUND TOTAL | ($34,089) | ($53,970) |

**Maine State Library 0217**

Initiative: Reduces funding for general operations.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($40,490) | ($26,910) |
| GENERAL FUND TOTAL | ($40,490) | ($26,910) |

**Maine State Library 0217**

Initiative: Reduces funding for online reference books, magazines and newspapers.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($7,980) |
| GENERAL FUND TOTAL | $0 | ($7,980) |

| LIBRARY, MAINE STATE DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($159,180) | ($149,901) |
| DEPARTMENT TOTAL - ALL FUNDS | ($159,180) | ($149,901) |

**Sec. A-39. Appropriations and allocations.** The following appropriations and allocations are made.

**MARINE RESOURCES, DEPARTMENT OF**

**Bureau of Resource Management 0027**

Initiative: Eliminates one Marine Resource Scientist I position and reduces funding for related All Other.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($27,042) | ($53,775) |
| GENERAL FUND TOTAL | ($27,042) | ($53,775) |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| Personal Services | ($9,326) | ($19,757) |
| FEDERAL EXPENDITURES FUND TOTAL | ($9,326) | ($19,757) |

**Bureau of Resource Management 0027**

Initiative: Reduces funding for librarian services and delays routine maintenance on the Boothbay Harbor facility.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($32,761) | ($43,500) |
| GENERAL FUND TOTAL | ($32,761) | ($43,500) |

**Bureau of Resource Management 0027**

Initiative: Reduces funding for a research contract with the University of Maine.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($14,000) | ($14,000) |
| GENERAL FUND TOTAL | ($14,000) | ($14,000) |

**Bureau of Resource Management 0027**

Initiative: Reduces funding for subscriptions to scientific journals.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($24,500) | ($24,500) |
| GENERAL FUND TOTAL | ($24,500) | ($24,500) |

**Bureau of Resource Management 0027**

Initiative: Reduces funding for vehicles leased from Central Fleet Management.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($16,808) | ($16,808) |
| GENERAL FUND TOTAL | ($16,808) | ($16,808) |

**Division of Community Resource Development 0043**

Initiative: Transfers one Resource Management Coordinator position from the Division of Community Resource Development program, General Fund to the Office of the Commissioner program, Other Special Revenue Funds.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|

| | | |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| Personal Services | ($38,597) | ($78,875) |
| GENERAL FUND TOTAL | ($38,597) | ($78,875) |

**Division of Community Resource Development 0043**

Initiative: Corrects the Public Law 2009, chapter 213 initiative that eliminated one Marine Resources Scientist II position.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| GENERAL FUND TOTAL | $0 | $0 |

**Information Technology Y20T**

Initiative: Eliminates one Marine Resource Scientist I position and reduces funding for related All Other.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($2,342) |
| GENERAL FUND TOTAL | $0 | ($2,342) |

**Information Technology Y20T**

Initiative: Eliminates funding for Department of Administrative and Financial Services, Office of Information Technology additional file services storage costs.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($15,000) |
| GENERAL FUND TOTAL | $0 | ($15,000) |

**Marine Patrol - Bureau of 0029**

Initiative: Transfers one Marine Mechanic Specialist position from General Fund to Other Special Revenue Funds within the same program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| Personal Services | ($55,892) | ($56,931) |
| GENERAL FUND TOTAL | ($55,892) | ($56,931) |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 1.000 | 1.000 |
| Personal Services | $55,892 | $56,931 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $55,892 | $56,931 |

**Marine Patrol - Bureau of 0029**

Initiative: Reduces funding for patrol travel by marine patrol officers on a one-time basis.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($17,655) | ($17,655) |
| GENERAL FUND TOTAL | ($17,655) | ($17,655) |

**Office of the Commissioner 0258**

Initiative: Provides funding for increased obligations in the Office of the Commissioner program.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $101,217 | $103,953 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $101,217 | $103,953 |

**Office of the Commissioner 0258**

Initiative: Eliminates one Marine Resource Scientist I position and reduces funding for related All Other.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($582) | $0 |
| GENERAL FUND TOTAL | ($582) | $0 |

**Office of the Commissioner 0258**

Initiative: Transfers one Resource Management Coordinator position from the Division of Community Resource Development program, General Fund to the Office of the Commissioner program, Other Special Revenue Funds.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 1.000 | 1.000 |
| Personal Services | $38,597 | $78,875 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $38,597 | $78,875 |

**Office of the Commissioner 0258**

Initiative: Eliminates funding for Department of Administrative and Financial Services, Office of Information Technology additional file services storage costs.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($7,500) | $0 |
| GENERAL FUND TOTAL | ($7,500) | $0 |

**Office of the Commissioner 0258**

Initiative: Reduces funding for service center costs from savings achieved by freezing one vacant Public Service Coordinator I position in the Natural Resources Service Center until December 11, 2010.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($8,644) | ($4,322) |
| GENERAL FUND TOTAL | ($8,644) | ($4,322) |

**Sea Run Fisheries and Habitat Z049**

Initiative: Reorganizes one 39-week seasonal Biology Specialist position to one full-time Biology Specialist position and reduces All Other to fund the reorganization.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 1.000 | 1.000 |
| POSITIONS - FTE COUNT | (0.750) | (0.750) |
| Personal Services | $15,410 | $16,198 |
| All Other | ($15,410) | ($16,198) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $0 |

| MARINE RESOURCES, DEPARTMENT OF<br>DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($243,981) | ($327,708) |
| FEDERAL EXPENDITURES FUND | ($9,326) | ($19,757) |
| OTHER SPECIAL REVENUE FUNDS | $195,706 | $239,759 |
| DEPARTMENT TOTAL - ALL FUNDS | ($57,601) | ($107,706) |

**Sec. A-40. Appropriations and allocations.** The following appropriations and allocations are made.

**MARITIME ACADEMY, MAINE**

**Maritime Academy - Operations 0035**

Initiative: Reduces funding through an institution-wide curtailment of all nonessential spending in the areas of travel, purchasing, maintenance and the filling of vacant positions to be supplemented, as necessary, with adjustments in staffing levels targeted, to the extent possible, to minimize the negative impact on academic quality and student health and safety.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($263,403) | $0 |
| GENERAL FUND TOTAL | ($263,403) | $0 |

**Sec. A-41. Appropriations and allocations.** The following appropriations and allocations are made.

**MUNICIPAL BOND BANK, MAINE**

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

Initiative: Reduces funding to maintain appropriations within available resources.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($3,596) |
| GENERAL FUND TOTAL | $0 | ($3,596) |

**Sec. A-42. Appropriations and allocations.** The following appropriations and allocations are made.

**MUSEUM, MAINE STATE**

**Information Technology Y21T**

Initiative: Reduces funding for phone and data lines, supply purchases for exhibit maintenance, education programs and meals for working meetings and shifts a portion of service center charges from the General Fund to Other Special Revenue Funds within the same program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($1,000) |
| GENERAL FUND TOTAL | $0 | ($1,000) |

**Maine State Museum 0180**

Initiative: Eliminates one Master Carpenter position.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($52,806) |
| GENERAL FUND TOTAL | $0 | ($52,806) |

**Maine State Museum 0180**

Initiative: Reduces funding for phone and data lines, supply purchases for exhibit maintenance, education programs and meals for working meetings and shifts a portion of service center charges from the General Fund to Other Special Revenue Funds within the same program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($3,465) | ($7,978) |
| GENERAL FUND TOTAL | ($3,465) | ($7,978) |

| MUSEUM, MAINE STATE DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($3,465) | ($61,784) |
| DEPARTMENT TOTAL - ALL FUNDS | ($3,465) | ($61,784) |

**Sec. A-43. Appropriations and allocations.** The following appropriations and allocations are made.

**NEW ENGLAND INTERSTATE WATER POLLUTION CONTROL COMMISSION**

**Maine Joint Environmental Training Coordinating Committee 0980**

Initiative: Reduces funding to maintain appropriations within available resources.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($412) |
| GENERAL FUND TOTAL | $0 | ($412) |

**Sec. A-44. Appropriations and allocations.** The following appropriations and allocations are made.

**PINE TREE LEGAL ASSISTANCE**

**Legal Assistance 0553**

Initiative: Reduces funding to maintain appropriations within available resources.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($13,217) |
| GENERAL FUND TOTAL | $0 | ($13,217) |

**Sec. A-45. Appropriations and allocations.** The following appropriations and allocations are made.

**PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**

**Bureau of Consumer Credit Protection 0091**

Initiative: Reallocates 15% of the cost of one Superintendent Consumer Credit Protection position, 25% of the cost of one Consumer Credit Examiner-in-charge position and 50% of the cost of one Staff Attorney position from the Bureau of Consumer Credit Protection program to statewide outreach and transfers one Chief Field Investigator position and one Office Associate II position from the Bureau of Consumer Protection program to statewide outreach within the Bureau of Consumer Credit Protection program to accurately reflect work by account. Freezes one Principal Consumer Credit Examiner position in the Bureau of Consumer Credit Protection program and freezes one Office Specialist II position in statewide outreach to maintain funding within available resources.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 0.000 |
| Personal Services | ($89,166) | ($159,918) |
| All Other | ($897) | ($1,608) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($90,063) | ($161,526) |

**Bureau of Consumer Credit Protection 0091**

Initiative: Reduces funding in the Bureau of Consumer Credit Protection program to reflect revenue projections based on new economic information.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($100,838) | ($105,459) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($100,838) | ($105,459) |

**Bureau of Consumer Credit Protection 0091**

Initiative: Provides funding for contracting with housing counselors to help implement the Bureau of Con-

sumer Credit Protection's statewide mortgage foreclosure prevention outreach.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $101,005 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $101,005 |

| PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF | | |
|---|---|---|
| **DEPARTMENT TOTALS** | **2009-10** | **2010-11** |
| **OTHER SPECIAL REVENUE FUNDS** | **($190,901)** | **($165,980)** |
| **DEPARTMENT TOTAL - ALL FUNDS** | **($190,901)** | **($165,980)** |

**Sec. A-46. Appropriations and allocations.** The following appropriations and allocations are made.

**PROPERTY TAX REVIEW, STATE BOARD OF**

**Property Tax Review - State Board of 0357**

Initiative: Reduces funding due to a one-time reduction in the cost for legal services from the Department of the Attorney General.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($3,256) | ($3,294) |
| GENERAL FUND TOTAL | ($3,256) | ($3,294) |

**Sec. A-47. Appropriations and allocations.** The following appropriations and allocations are made.

**PUBLIC BROADCASTING CORPORATION, MAINE**

**Maine Public Broadcasting Corporation 0033**

Initiative: Reduces funding to maintain costs within available resources.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($32,712) |
| GENERAL FUND TOTAL | $0 | ($32,712) |

**Sec. A-48. Appropriations and allocations.** The following appropriations and allocations are made.

**PUBLIC SAFETY, DEPARTMENT OF**

**Capitol Security - Bureau of 0101**

Initiative: Reduces funding for overtime for Capitol Security.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($2,000) | ($2,000) |
| GENERAL FUND TOTAL | ($2,000) | ($2,000) |

**Capitol Security - Bureau of 0101**

Initiative: Provides funding for security services provided to other state agencies.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $6,000 | $6,000 |
| All Other | $100 | $100 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $6,100 | $6,100 |

**Computer Crimes 0048**

Initiative: Provides funding for one State Police Detective position and related All Other to be assigned to the Computer Crime Lab and not to be reassigned for any other purpose. The position must be hired and ready to start on July 1, 2010.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $102,939 |
| All Other | $0 | $6,000 |
| GENERAL FUND TOTAL | $0 | $108,939 |

**Criminal Justice Academy 0290**

Initiative: Adjusts funding to bring allocations into line with projected available resources based on an upward reprojection of racino revenues by the Revenue Forecasting Committee in December 2009.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $33,985 | $15,511 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $33,985 | $15,511 |

### Drug Enforcement Agency 0388

Initiative: Reduces funding through a delay in replacing Central Fleet Management vehicles until they reach 125,000 miles.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($2,000) | ($22,000) |
| GENERAL FUND TOTAL | ($2,000) | ($22,000) |

### Emergency Medical Services 0485

Initiative: Eliminates funding for the printing of the Emergency Medical Services journal.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($20,000) | $0 |
| GENERAL FUND TOTAL | ($20,000) | $0 |

### FHM - Fire Marshal 0964

Initiative: Provides funding for inspections of facilities licensed by the Department of Health and Human Services.

| FUND FOR A HEALTHY MAINE | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $1,140,780 | $0 |
| FUND FOR A HEALTHY MAINE TOTAL | $1,140,780 | $0 |

### Gambling Control Board Z002

Initiative: Reduces funding for the Scientific Games contract due to lower gaming activity.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($30,000) | $0 |
| GENERAL FUND TOTAL | ($30,000) | $0 |

### Gambling Control Board Z002

Initiative: Adjusts funding to bring allocations into line with projected available resources based on an upward reprojection of racino revenues by the Revenue Forecasting Committee in December 2009 and March 2010.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $86,468 | $84,721 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $86,468 | $84,721 |

### Information Technology Y23T

Initiative: Eliminates one Public Safety Inspector II position and related All Other costs within the Liquor Enforcement program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($2,520) |
| GENERAL FUND TOTAL | $0 | ($2,520) |

### Information Technology Y23T

Initiative: Adjusts the funding reduction for radios for the Liquor Licensing unit originally approved in Public Law 2009, chapter 462 to the correct program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($6,000) |
| GENERAL FUND TOTAL | $0 | ($6,000) |

### Information Technology Y23T

Initiative: Adjusts the funding reduction eliminating pagers for the State Police originally approved in Public Law 2009, chapter 462 to the correct program. Elimination of pagers does not apply to those individuals who do not have adequate cell phone coverage.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($14,000) |
| GENERAL FUND TOTAL | $0 | ($14,000) |

### Liquor Enforcement 0293

Initiative: Eliminates one Public Safety Inspector II position and related All Other costs within the Liquor Enforcement program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| Personal Services | ($59,065) | ($61,329) |
| All Other | ($12,000) | ($9,480) |
| GENERAL FUND TOTAL | ($71,065) | ($70,809) |

### Liquor Enforcement 0293

Initiative: Adjusts the funding reduction for radios for the Liquor Licensing unit originally approved in Public Law 2009, chapter 462 to the correct program.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $6,000 |
| GENERAL FUND TOTAL | $0 | $6,000 |

**State Police 0291**

Initiative: Eliminates one Senior Planner position in fiscal years 2009-10 and 2010-11 and reduces funding for salary savings from a Planning and Research Associate I position in fiscal year 2009-10.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| Personal Services | ($47,768) | ($39,476) |
| GENERAL FUND TOTAL | ($47,768) | ($39,476) |

**State Police 0291**

Initiative: Eliminates one Public Service Manager II (Director of the Maine State Police Crime Laboratory) position.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| Personal Services | ($24,928) | ($57,824) |
| GENERAL FUND TOTAL | ($24,928) | ($57,824) |

**State Police 0291**

Initiative: Reduces funding by freezing 4 vacant State Police Trooper positions.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($205,321) | ($236,887) |
| GENERAL FUND TOTAL | ($205,321) | ($236,887) |

**State Police 0291**

Initiative: Reduces funding by freezing 2 Identification Specialist II positions for a portion of fiscal year 2009-10.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($18,005) | $0 |
| GENERAL FUND TOTAL | ($18,005) | $0 |

**State Police 0291**

Initiative: Adjusts the funding reduction eliminating pagers for the State Police originally approved in Public Law 2009, chapter 462 to the correct program. Elimination of pagers does not apply to those individuals who do not have adequate cell phone coverage.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $14,000 |
| GENERAL FUND TOTAL | $0 | $14,000 |

| PUBLIC SAFETY, DEPARTMENT OF<br>DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($421,087) | ($322,577) |
| FUND FOR A HEALTHY MAINE | $1,140,780 | $0 |
| OTHER SPECIAL REVENUE FUNDS | $126,553 | $106,332 |
| DEPARTMENT TOTAL - ALL FUNDS | $846,246 | ($216,245) |

## Sec. A-49. Appropriations and allocations.

The following appropriations and allocations are made.

## PUBLIC UTILITIES COMMISSION

**Emergency Services Communication Bureau 0994**

Initiative: Continues one Staff Accountant position in the Public Utilities - Administrative Division program and reallocates the costs from 20% to 40% in the Emergency Services Communication Bureau program.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $13,338 |
| All Other | $0 | $10 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $13,348 |

**Public Utilities - Administrative Division 0184**

Initiative: Continues one Staff Accountant position in the Public Utilities - Administrative Division program and reallocates the costs from 20% to 40% in the Emergency Services Communication Bureau program.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|

| | | |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $40,014 |
| All Other | $0 | $1,153 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $41,167 |

| **PUBLIC UTILITIES COMMISSION** | | |
|---|---|---|
| **DEPARTMENT TOTALS** | **2009-10** | **2010-11** |
| **OTHER SPECIAL REVENUE FUNDS** | **$0** | **$54,515** |
| **DEPARTMENT TOTAL - ALL FUNDS** | **$0** | **$54,515** |

**Sec. A-50. Appropriations and allocations.** The following appropriations and allocations are made.

**SACO RIVER CORRIDOR COMMISSION**

**Saco River Corridor Commission 0322**

Initiative: Reduces funding to maintain appropriations within available resources.

| **GENERAL FUND** | **2009-10** | **2010-11** |
|---|---|---|
| All Other | $0 | ($2,436) |
| GENERAL FUND TOTAL | $0 | ($2,436) |

**Sec. A-51. Appropriations and allocations.** The following appropriations and allocations are made.

**SECRETARY OF STATE, DEPARTMENT OF**

**Administration - Archives 0050**

Initiative: Reallocates the cost of one Planning and Research Associate II position in the Administration - Archives program from 50% Other Special Revenue Funds and 50% Federal Expenditures Fund to 100% Federal Expenditures Fund.

| **FEDERAL EXPENDITURES FUND** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | $12,092 | $37,250 |
| FEDERAL EXPENDITURES FUND TOTAL | $12,092 | $37,250 |

| **OTHER SPECIAL REVENUE FUNDS** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | ($12,092) | ($37,250) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($12,092) | ($37,250) |

**Bureau of Administrative Services and Corporations 0692**

Initiative: Provides funding for the June 2010 referendum election authorized by Public Law 2009, chapter 414, Part B, section 10; Part C, section 10; and Part D, section 10.

| **GENERAL FUND** | **2009-10** | **2010-11** |
|---|---|---|
| All Other | $153,500 | $0 |
| GENERAL FUND TOTAL | $153,500 | $0 |

| **SECRETARY OF STATE, DEPARTMENT OF** | | |
|---|---|---|
| **DEPARTMENT TOTALS** | **2009-10** | **2010-11** |
| **GENERAL FUND** | **$153,500** | **$0** |
| **FEDERAL EXPENDITURES FUND** | **$12,092** | **$37,250** |
| **OTHER SPECIAL REVENUE FUNDS** | **($12,092)** | **($37,250)** |
| **DEPARTMENT TOTAL - ALL FUNDS** | **$153,500** | **$0** |

**Sec. A-52. Appropriations and allocations.** The following appropriations and allocations are made.

**ST. CROIX INTERNATIONAL WATERWAY COMMISSION**

**St. Croix International Waterway Commission 0576**

Initiative: Reduces funding to maintain appropriations within available resources.

| **GENERAL FUND** | **2009-10** | **2010-11** |
|---|---|---|
| All Other | $0 | ($1,134) |
| GENERAL FUND TOTAL | $0 | ($1,134) |

**Sec. A-53. Appropriations and allocations.** The following appropriations and allocations are made.

**TREASURER OF STATE, OFFICE OF**

**Administration - Treasury 0022**

Initiative: Eliminates one vacant Office Associate I position.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| Personal Services | ($29,200) | ($49,000) |
| GENERAL FUND TOTAL | ($29,200) | ($49,000) |

**Administration - Treasury 0022**

Initiative: Reduces funding from savings in the cost of envelope supplies.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($16,992) |
| GENERAL FUND TOTAL | $0 | ($16,992) |

**Debt Service - Treasury 0021**

Initiative: Reduces funding for debt service from projected savings in interest and principal to be achieved by aligning debt service requirements with the issuance schedule of bond funds by departments and agencies.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($1,433,705) | ($9,242,193) |
| GENERAL FUND TOTAL | ($1,433,705) | ($9,242,193) |

**Debt Service - Treasury 0021**

Initiative: Reduces funding for debt service with projected savings in interest resulting from a change in the budget assumptions on the probable issuance of a tax anticipation note.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($2,853,074) | ($54,375) |
| GENERAL FUND TOTAL | ($2,853,074) | ($54,375) |

**Disproportionate Tax Burden Fund 0472**

Initiative: Adjusts funding to bring allocations into line with projected available resources based on revenue changes approved by the Revenue Forecasting Committee in December 2009 and March 2010 and with adjustments in Part JJ.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($2,490,822) | ($3,039,340) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($2,490,822) | ($3,039,340) |

**State - Municipal Revenue Sharing 0020**

Initiative: Adjusts funding to bring allocations into line with projected available resources based on revenue changes approved by the Revenue Forecasting Committee in December 2009 and March 2010 and with adjustments in Part JJ.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($14,114,653) | ($15,956,539) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($14,114,653) | ($15,956,539) |

| TREASURER OF STATE, OFFICE OF DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($4,315,979) | ($9,362,560) |
| OTHER SPECIAL REVENUE FUNDS | ($16,605,475) | ($18,995,879) |
| DEPARTMENT TOTAL - ALL FUNDS | ($20,921,454) | ($28,358,439) |

**Sec. A-54. Appropriations and allocations.** The following appropriations and allocations are made.

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

**Educational and General Activities - UMS 0031**

Initiative: Reduces funding to maintain costs within available resources.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($5,970,065) | $0 |
| GENERAL FUND TOTAL | ($5,970,065) | $0 |

**University of Maine Scholarship Fund Z011**

Initiative: Adjusts funding to bring allocations into line with projected available resources based on an upward reprojection of racino revenues by the Revenue Forecasting Committee in December 2009 and March 2010.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|

| | | |
|---|---|---|
| All Other | $172,936 | $169,443 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $172,936 | $169,443 |

| UNIVERSITY OF MAINE SYSTEM, BOARD OF TRUSTEES OF THE DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | ($5,970,065) | $0 |
| OTHER SPECIAL REVENUE FUNDS | $172,936 | $169,443 |
| DEPARTMENT TOTAL - ALL FUNDS | ($5,797,129) | $169,443 |

## PART B

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

### ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

### Accident - Sickness - Health Insurance 0455

Initiative: RECLASSIFICATIONS

| ACCIDENT, SICKNESS AND HEALTH INSURANCE INTERNAL SERVICE FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $40,341 | $18,260 |
| All Other | ($40,341) | ($18,260) |
| ACCIDENT, SICKNESS AND HEALTH INSURANCE INTERNAL SERVICE FUND TOTAL | $0 | $0 |

### Administration - Human Resources 0038

Initiative: RECLASSIFICATIONS

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $15,041 | $6,977 |
| All Other | ($15,041) | ($6,977) |
| GENERAL FUND TOTAL | $0 | $0 |

### Central Fleet Management 0703

Initiative: RECLASSIFICATIONS

| CENTRAL MOTOR POOL | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $4,032 | $2,935 |
| All Other | ($4,032) | ($2,935) |
| CENTRAL MOTOR POOL TOTAL | $0 | $0 |

### Information Services 0155

Initiative: RECLASSIFICATIONS

| OFFICE OF INFORMATION SERVICES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $141,480 | $103,364 |
| All Other | ($141,480) | ($103,364) |
| OFFICE OF INFORMATION SERVICES FUND TOTAL | $0 | $0 |

### Revenue Services - Bureau of 0002

Initiative: RECLASSIFICATIONS

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $23,190 | $8,726 |
| All Other | ($23,190) | ($8,726) |
| GENERAL FUND TOTAL | $0 | $0 |

### State Controller - Office of the 0056

Initiative: RECLASSIFICATIONS

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $16,077 | $0 |
| All Other | ($16,077) | $0 |
| GENERAL FUND TOTAL | $0 | $0 |

| ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | $0 | $0 |
| OFFICE OF INFORMATION SERVICES FUND | $0 | $0 |
| CENTRAL MOTOR POOL | $0 | $0 |

| | | |
|---|---|---|
| **ACCIDENT, SICKNESS AND HEALTH INSURANCE INTERNAL SERVICE FUND** | **$0** | **$0** |
| **DEPARTMENT TOTAL - ALL FUNDS** | **$0** | **$0** |

## AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

### Division of Market and Production Development 0833

Initiative: RECLASSIFICATIONS

| **GENERAL FUND** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | $3,035 | $3,066 |
| All Other | ($3,035) | ($3,066) |
| GENERAL FUND TOTAL | $0 | $0 |

| **AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF** | | |
|---|---|---|
| **DEPARTMENT TOTALS** | **2009-10** | **2010-11** |
| **GENERAL FUND** | **$0** | **$0** |
| **DEPARTMENT TOTAL - ALL FUNDS** | **$0** | **$0** |

## CONSERVATION, DEPARTMENT OF

### Maine Conservation Corps Z030

Initiative: RECLASSIFICATIONS

| **FEDERAL EXPENDITURES FUND** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | $4,159 | $3,789 |
| FEDERAL EXPENDITURES FUND TOTAL | $4,159 | $3,789 |

| **CONSERVATION, DEPARTMENT OF** | | |
|---|---|---|
| **DEPARTMENT TOTALS** | **2009-10** | **2010-11** |
| **FEDERAL EXPENDITURES FUND** | **$4,159** | **$3,789** |
| **DEPARTMENT TOTAL - ALL FUNDS** | **$4,159** | **$3,789** |

## EDUCATION, DEPARTMENT OF

### Federal and State Program Services Z079

Initiative: RECLASSIFICATIONS

| **GENERAL FUND** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | $4,727 | $4,090 |
| All Other | ($4,727) | ($4,090) |
| GENERAL FUND TOTAL | $0 | $0 |

### PK-20 Curriculum, Instruction and Assessment Z081

Initiative: RECLASSIFICATIONS

| **GENERAL FUND** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | $0 | $158,185 |
| GENERAL FUND TOTAL | $0 | $158,185 |

### Special Services Team Z080

Initiative: RECLASSIFICATIONS

| **GENERAL FUND** | **2009-10** | **2010-11** |
|---|---|---|
| All Other | $0 | ($158,185) |
| GENERAL FUND TOTAL | $0 | ($158,185) |

| **FEDERAL EXPENDITURES FUND** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | $6,102 | $6,270 |
| All Other | ($6,102) | ($6,270) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $0 |

| **EDUCATION, DEPARTMENT OF** | | |
|---|---|---|
| **DEPARTMENT TOTALS** | **2009-10** | **2010-11** |
| **GENERAL FUND** | **$0** | **$0** |
| **FEDERAL EXPENDITURES FUND** | **$0** | **$0** |
| **DEPARTMENT TOTAL - ALL FUNDS** | **$0** | **$0** |

## ENVIRONMENTAL PROTECTION, DEPARTMENT OF

### Administration - Environmental Protection 0251

Initiative: RECLASSIFICATIONS

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $3,901 | $7,158 |
| All Other | $132 | $242 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $4,033 | $7,400 |

### Land and Water Quality 0248

Initiative: RECLASSIFICATIONS

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $11,146 | $3,844 |
| All Other | ($11,146) | ($3,844) |
| GENERAL FUND TOTAL | $0 | $0 |

### Performance Partnership Grant 0851

Initiative: RECLASSIFICATIONS

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $11,347 | $9,452 |
| All Other | $384 | $320 |
| FEDERAL EXPENDITURES FUND TOTAL | $11,731 | $9,772 |

### Remediation and Waste Management 0247

Initiative: RECLASSIFICATIONS

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $20,776 | $14,667 |
| All Other | $703 | $496 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $21,479 | $15,163 |

| ENVIRONMENTAL PROTECTION, DEPARTMENT OF DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | $0 | $0 |
| FEDERAL EXPENDITURES FUND | $11,731 | $9,772 |
| OTHER SPECIAL REVENUE FUNDS | $25,512 | $22,563 |
| DEPARTMENT TOTAL - ALL FUNDS | $37,243 | $32,335 |

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

### Disproportionate Share - Riverview Psychiatric Center 0733

Initiative: RECLASSIFICATIONS

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $1,332 | $1,691 |
| All Other | ($1,332) | ($1,691) |
| GENERAL FUND TOTAL | $0 | $0 |

### Mental Retardation Services - Community 0122

Initiative: RECLASSIFICATIONS

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($22,331) | $0 |
| GENERAL FUND TOTAL | ($22,331) | $0 |

### Office of Advocacy - BDS 0632

Initiative: RECLASSIFICATIONS

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $22,331 | $0 |
| GENERAL FUND TOTAL | $22,331 | $0 |

### Riverview Psychiatric Center 0105

Initiative: RECLASSIFICATIONS

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $2,439 | $1,186 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $2,439 | $1,186 |

| HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY BDS) DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|

| | | |
|---|---|---|
| **GENERAL FUND** | **$0** | **$0** |
| **OTHER SPECIAL REVENUE FUNDS** | **$2,439** | **$1,186** |
| **DEPARTMENT TOTAL - ALL FUNDS** | **$2,439** | **$1,186** |

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

### Bureau of Family Independence - Regional 0453

Initiative: RECLASSIFICATIONS

| **OTHER SPECIAL REVENUE FUNDS** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | $29,373 | $6,724 |
| All Other | $700 | $160 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $30,073 | $6,884 |

### Bureau of Medical Services 0129

Initiative: RECLASSIFICATIONS

| **GENERAL FUND** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | $1,692 | $0 |
| All Other | ($1,692) | $0 |
| GENERAL FUND TOTAL | $0 | $0 |

| **FEDERAL EXPENDITURES FUND** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | $5,353 | $67 |
| All Other | $140 | $5 |
| FEDERAL EXPENDITURES FUND TOTAL | $5,493 | $72 |

### Division of Licensing and Regulatory Services Z036

Initiative: RECLASSIFICATIONS

| **GENERAL FUND** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | $6,298 | $4,776 |
| All Other | ($6,298) | ($4,776) |
| GENERAL FUND TOTAL | $0 | $0 |

| **FEDERAL EXPENDITURES FUND** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | $6,254 | $1,649 |
| All Other | $135 | $40 |
| FEDERAL EXPENDITURES FUND TOTAL | $6,389 | $1,689 |

| **OTHER SPECIAL REVENUE FUNDS** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | $1,926 | $4,703 |
| All Other | $46 | $112 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $1,972 | $4,815 |

### Health - Bureau of 0143

Initiative: RECLASSIFICATIONS

| **FEDERAL EXPENDITURES FUND** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | $7,927 | $5,927 |
| All Other | $190 | $142 |
| FEDERAL EXPENDITURES FUND TOTAL | $8,117 | $6,069 |

### Office of Elder Services Central Office 0140

Initiative: RECLASSIFICATIONS

| **FEDERAL EXPENDITURES FUND** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | $6,885 | $4,048 |
| All Other | $165 | $42 |
| FEDERAL EXPENDITURES FUND TOTAL | $7,050 | $4,090 |

### Office of Management and Budget 0142

Initiative: RECLASSIFICATIONS

| **GENERAL FUND** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | $5,268 | $1,264 |
| All Other | ($5,268) | ($1,264) |
| GENERAL FUND TOTAL | $0 | $0 |

### OMB Division of Regional Business Operations 0196

Initiative: RECLASSIFICATIONS

| **OTHER SPECIAL REVENUE FUNDS** | **2009-10** | **2010-11** |
|---|---|---|

| | | |
|---|---|---|
| Personal Services | $19,661 | $2,472 |
| All Other | $470 | $59 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $20,131 | $2,531 |

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

| **DEPARTMENT TOTALS** | **2009-10** | **2010-11** |
|---|---|---|
| **GENERAL FUND** | **$0** | **$0** |
| **FEDERAL EXPENDITURES FUND** | **$27,049** | **$11,920** |
| **OTHER SPECIAL REVENUE FUNDS** | **$52,176** | **$14,230** |
| **DEPARTMENT TOTAL - ALL FUNDS** | **$79,225** | **$26,150** |

## INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF

### Enforcement Operations - Inland Fisheries and Wildlife 0537

Initiative: RECLASSIFICATIONS

| **GENERAL FUND** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | $32,637 | $13,290 |
| All Other | ($32,637) | ($13,290) |
| GENERAL FUND TOTAL | $0 | $0 |

### Public Information and Education, Division of 0729

Initiative: RECLASSIFICATIONS

| **GENERAL FUND** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | $9,030 | $1,113 |
| All Other | ($9,030) | ($1,113) |
| GENERAL FUND TOTAL | $0 | $0 |

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

Initiative: RECLASSIFICATIONS

| **GENERAL FUND** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | $1,738 | $1,227 |
| All Other | ($1,738) | ($1,227) |
| GENERAL FUND TOTAL | $0 | $0 |

| **FEDERAL EXPENDITURES FUND** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | $4,057 | $2,865 |
| All Other | $38 | $27 |
| FEDERAL EXPENDITURES FUND TOTAL | $4,095 | $2,892 |

### Whitewater Rafting - Inland Fisheries and Wildlife 0539

Initiative: RECLASSIFICATIONS

| **OTHER SPECIAL REVENUE FUNDS** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | $21,522 | $3,178 |
| All Other | $170 | $25 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $21,692 | $3,203 |

**INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF**

| **DEPARTMENT TOTALS** | **2009-10** | **2010-11** |
|---|---|---|
| **GENERAL FUND** | **$0** | **$0** |
| **FEDERAL EXPENDITURES FUND** | **$4,095** | **$2,892** |
| **OTHER SPECIAL REVENUE FUNDS** | **$21,692** | **$3,203** |
| **DEPARTMENT TOTAL - ALL FUNDS** | **$25,787** | **$6,095** |

## LABOR, DEPARTMENT OF

### Administration - Labor 0030

Initiative: RECLASSIFICATIONS

| **GENERAL FUND** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | $341 | $344 |
| All Other | ($341) | ($344) |
| GENERAL FUND TOTAL | $0 | $0 |

| **FEDERAL EXPENDITURES FUND** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | $8,224 | $5,859 |

| | | |
|---|---|---|
| All Other | $474 | $338 |
| FEDERAL EXPENDITURES FUND TOTAL | $8,698 | $6,197 |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $682 | $691 |
| All Other | $39 | $40 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $721 | $731 |

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

Initiative: RECLASSIFICATIONS

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $12,664 | $9,276 |
| All Other | ($12,664) | ($9,276) |
| GENERAL FUND TOTAL | $0 | $0 |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $88,415 | $18,555 |
| All Other | $518 | $109 |
| FEDERAL EXPENDITURES FUND TOTAL | $88,933 | $18,664 |

**Rehabilitation Services 0799**

Initiative: RECLASSIFICATIONS

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $15,710 | $11,965 |
| All Other | $262 | $200 |
| FEDERAL EXPENDITURES FUND TOTAL | $15,972 | $12,165 |

| LABOR, DEPARTMENT OF DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | $0 | $0 |
| FEDERAL EXPENDITURES FUND | $113,603 | $37,026 |
| OTHER SPECIAL REVENUE FUNDS | $721 | $731 |
| DEPARTMENT TOTAL - ALL FUNDS | $114,324 | $37,757 |

## MARINE RESOURCES, DEPARTMENT OF

**Bureau of Resource Management 0027**

Initiative: RECLASSIFICATIONS

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $2,573 | $1,578 |
| All Other | ($2,573) | ($1,578) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $0 |

**Office of the Commissioner 0258**

Initiative: RECLASSIFICATIONS

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $1,602 | $1,809 |
| All Other | ($1,602) | ($1,809) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $0 |

| MARINE RESOURCES, DEPARTMENT OF DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| OTHER SPECIAL REVENUE FUNDS | $0 | $0 |
| DEPARTMENT TOTAL - ALL FUNDS | $0 | $0 |

## PUBLIC SAFETY, DEPARTMENT OF

**Capitol Security - Bureau of 0101**

Initiative: RECLASSIFICATIONS

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $15,885 | $2,559 |
| All Other | ($15,885) | ($2,559) |
| GENERAL FUND TOTAL | $0 | $0 |

**Fire Marshal - Office of 0327**

Initiative: RECLASSIFICATIONS

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $4,511 | $3,985 |
| All Other | $41 | $36 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $4,552 | $4,021 |

**State Police 0291**

Initiative: RECLASSIFICATIONS

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $30,336 | $10,984 |
| All Other | ($30,336) | ($10,984) |
| GENERAL FUND TOTAL | $0 | $0 |

**Turnpike Enforcement 0547**

Initiative: RECLASSIFICATIONS

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $16,299 | $11,795 |
| All Other | $318 | $230 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $16,617 | $12,025 |

| PUBLIC SAFETY, DEPARTMENT OF<br>DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | $0 | $0 |
| OTHER SPECIAL REVENUE FUNDS | $21,169 | $16,046 |
| DEPARTMENT TOTAL - ALL FUNDS | $21,169 | $16,046 |

| SECTION TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | $0 | $0 |
| FEDERAL EXPENDITURES FUND | $160,637 | $65,399 |
| OTHER SPECIAL REVENUE FUNDS | $123,709 | $57,959 |
| OFFICE OF INFORMATION SERVICES FUND | $0 | $0 |
| CENTRAL MOTOR POOL | $0 | $0 |
| ACCIDENT, SICKNESS AND HEALTH INSURANCE INTERNAL SERVICE FUND | $0 | $0 |
| SECTION TOTAL - ALL FUNDS | $284,346 | $123,358 |

## PART C

**Sec. C-1. PL 2009, c. 213, Pt. TT, §1** is amended to read:

**Sec. TT-1. Consolidation of statewide information technology functions, systems and funding to improve efficiency and cost-effectiveness.** The Chief Information Officer shall review the current organizational structure, systems and operations of information technology units to improve organizational efficiency and cost-effectiveness. The Chief Information Officer is authorized to manage and operate all information technology systems in the executive branch and to approve all information technology expenditures from a consolidated account within each agency to fulfill strategic and operational objectives as expressed in a memorandum of agreement with each agency. An annual reconciliation of actual services rendered against budgeted amounts will be performed. Notwithstanding any other provision of law, the State Budget Officer shall transfer position counts and available balances where allowable by financial order upon approval of the Governor to the Department of Administrative and Financial Services, Office of Information Technology for the provision of those services. These transfers are considered adjustments to authorized position count, appropriations and allocations in fiscal years 2009-10 and 2010-11. The State Budget Officer shall report to the Joint Standing Committee on Appropriations and Financial Affairs the transferred amounts no later than January 15, 2010.

Notwithstanding any other provision of law, the Chief Information Officer or the Chief Information Officer's designee shall provide direct oversight and management over statewide technology services and oversight over the technology personnel assigned to information technology services. The Chief Information Officer is authorized to identify savings and position eliminations to the General Fund and other funds from efficiencies to achieve the savings identified in this Part.

**Sec. C-2. PL 2009, c. 213, Pt. TT, §3** is enacted to read:

**Sec. TT-3. Carrying accounts; technology.** Notwithstanding any other provision of law, the State Controller shall allow information technology funds to

carry forward and shall establish a separate technology account in the consolidated information technology program within each agency to consolidate the funding for those accounts containing information technology funds that currently carry forward.

## PART D

**Sec. D-1. Transfer; unexpended funds; Baxter Compensation Authority account.** Notwithstanding any other provision of law, the State Controller shall transfer $2,570 in unexpended funds from the Baxter Compensation Authority, Other Special Revenue Funds account within the Baxter Compensation Authority to General Fund unappropriated surplus at the close of fiscal year 2009-10.

## PART E

**Sec. E-1. 20-A MRSA §1305-A,** as amended by PL 2005, c. 12, Pt. WW, §1 and c. 683, Pt. A, §21, is repealed.

**Sec. E-2. 20-A MRSA §1305-B,** as amended by PL 2005, c. 683, Pt. A, §22, is repealed.

**Sec. E-3. 20-A MRSA §1481-A, sub-§2-A** is enacted to read:

**2-A. Reformulated school administrative district cost-sharing.** For those school administrative districts recreated as regional school units pursuant to Public Law 2007, chapter 240, Part XXXX, section 36, subsection 12 as amended by chapter 668, methods of cost-sharing and amendments of the cost-sharing formula must be in accordance with section 1301.

**Sec. E-4. 20-A MRSA §1486, sub-§3,** as amended by PL 2009, c. 415, Pt. B, §§7 and 8, is further amended to read:

**3. Budget validation referendum voting.** The method of calling and voting at a budget validation referendum is as provided in sections 1502 and 1503 ~~and 1504~~, except as otherwise provided in this subsection or as is inconsistent with other requirements of this section.

A. A public hearing is not required before the vote.

C. The warrant and absentee ballots must be delivered to the municipal clerk no later than the day after the date of the regional school unit budget meeting.

D. Absentee ballots received by the municipal clerk may not be processed or counted unless received on the day after the conclusion of the regional school unit budget meeting and before the close of the polls.

E. All envelopes containing absentee ballots received before the day after the conclusion of the regional school unit budget meeting or after the close of the polls must be marked "rejected" by the municipal clerk.

F. The article to be voted on must be in the following form:

(1) "Do you favor approving the (name of regional school unit) budget for the upcoming school year that was adopted at the latest (name of regional school unit) budget meeting?

Yes No"

**Sec. E-5. 20-A MRSA §1701, sub-§11, ¶B,** as amended by PL 1999, c. 710, §9, is further amended to read:

B. Unless authorized by the voters ~~or except as provided in section 1701-A, subsection 5~~, the district school committee may not transfer funds between line item categories.

**Sec. E-6. 20-A MRSA §1701-A,** as amended by PL 2005, c. 12, Pt. WW, §2, is repealed.

**Sec. E-7. 20-A MRSA §1701-B,** as amended by PL 2005, c. 2, Pt. D, §14 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is repealed.

**Sec. E-8. 20-A MRSA §5806, sub-§2,** as amended by PL 2009, c. 213, Pt. C, §2, is further amended to read:

**2. Maximum allowable tuition.** The maximum allowable tuition charged to a school administrative unit by a private school is the rate established under subsection 1 or the state average per public secondary student cost as adjusted, whichever is lower, plus an insured value factor. For school year 2009-2010 only, the maximum allowable tuition rate, prior to the addition of the insured value factor, must be reduced by 2%; the insured value factor must be based on this reduced rate. The insured value factor is computed by dividing 5% of the insured value of school buildings and equipment by the average number of pupils enrolled in the school on October 1st and April 1st of the year immediately before the school year for which the tuition charge is computed. For the ~~2008-09~~ 2008-2009 school year only, a school administrative unit is not required to pay an insured value factor greater than 5% of the school's tuition rate per student, unless the legislative body of the school administrative unit votes to authorize its school board to pay a higher insured value factor that is no greater than 10% of the school's tuition rate per student. Beginning in school year ~~2009-10~~ 2009-2010, a school administrative unit is not required to pay an insured value factor greater than 5% of the school's tuition rate or $500 per student, whichever is less, unless the legislative body of the school administrative unit votes to authorize its school board to pay a higher insured value factor that is no greater than 10% of the school's tuition rate per student.

**Sec. E-9. 20-A MRSA §6051, sub-§1, ¶E,** as amended by PL 2005, c. 683, Pt. A, §24, is further amended to read:

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

**Sec. E-10. 20-A MRSA §6051, sub-§1, ¶F,** as enacted by PL 1985, c. 797, §36, is amended to read:

F. Any other information ~~which~~ that the commissioner may require.~~.~~;

**Sec. E-11. 20-A MRSA §6051, sub-§1, ¶G** is enacted to read:

G. A determination of whether the school administrative unit has complied with transfer limitations between budget cost centers pursuant to section 1485, subsection 4;

**Sec. E-12. 20-A MRSA §6051, sub-§1, ¶H** is enacted 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. E-13. 20-A MRSA §6051, sub-§1, ¶I** is enacted 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.

**Sec. E-14. 20-A MRSA §6051, sub-§7** is enacted to read:

**7. Exception.** If a municipal school administrative unit meets all of the following eligibility criteria, then the municipal school administrative unit may file the annual municipal audit or audits in lieu of the annual audit required by this section:

A. The municipal school administrative unit does not operate a school or schools;

B. A school administrative unit audit is not necessary to meet federal audit requirements;

C. The municipal school administrative unit files the municipal audit or audits that include the fiscal year specified in subsection 2; and

D. The municipal school administrative unit is not a member of a school administrative district, community school district, regional school unit or alternative organizational structure.

**Sec. E-15. 20-A MRSA §6051, sub-§8** is enacted to read:

**8. Corrective action plan.** The commissioner shall review the audits of the school administrative unit and determine if the school administrative unit should develop a corrective action plan for any audit issues specified in the annual audit. The 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 timelines established by the commissioner. The school administrative unit shall provide assurances to the commissioner that the school administrative unit has implemented its corrective action plan within the timelines established by the commissioner. If the school administrative unit has not met the conditions for submitting a corrective action plan or providing assurances that the school administrative unit has implemented the plan, the commissioner may withhold monthly subsidy payments from the school administrative unit in accordance with section 6801-A.

**Sec. E-16. 20-A MRSA §15005, sub-§3,** as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

**3. Return required.** An apportionment provided in this chapter, chapters 109, ~~205,~~ 505 and ~~605~~ 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. E-17. 20-A MRSA §15671, sub-§7, ¶A,** as amended by PL 2009, c. 213, Pt. C, §3, 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 ~~and succeeding years~~, the target is ~~100%~~ 97%.

(7) For fiscal year 2011-12 and succeeding years, the target is 100%.

**Sec. E-18. 20-A MRSA §15671, sub-§7, ¶B,** as amended by PL 2009, c. 1, Pt. C, §1 and c. 213,

Pt. C, §4, is repealed and the following enacted in its place:

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 46%.

(7) For fiscal year 2011-12 and succeeding years, the target is 55%.

**Sec. E-19. 20-A MRSA §15671-A, sub-§2, ¶B,** as amended by PL 2009, c. 213, Pt. C, §5, 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 45.56% 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 45.99% 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 ~~49.05%~~ 51.07% statewide total local share in fiscal year 2009-10.

(4-B) For the 2010 property tax year ~~and subsequent tax years~~, the full-value education mill rate is the amount necessary to result in a ~~45.0%~~ 54.0% statewide total local share in fiscal year 2010-11 ~~and after~~.

(4-C) For the 2011 property tax year and subsequent tax years, the full-value education mill rate is the amount necessary to result in a 45.0% statewide total local share in fiscal year 2011-12 and after.

**Sec. E-20. 20-A MRSA §15683, sub-§1, ¶F,** as amended by PL 2005, c. 519, Pt. AAAA, §10, is further amended to read:

F. An isolated small unit adjustment. A school administrative unit is eligible for an isolated small school adjustment when the unit meets the size and distance criteria as established by the commissioner. The amount of the adjustment is the result of adjusting the necessary student-to-staff ratios determined in section 15679, subsection 2, the per-pupil amount for operation and maintenance of plant in section 15680, subsection 1, paragraph B or other essential programs and services components in chapter 606-B, as recommended by the commissioner. The isolated small school adjustment must be applied to discrete school buildings that meet the criteria for the adjustment. The adjustment is not applicable to sections, wings or other parts of a building that are dedicated to certain grade spans.

**Sec. E-21. 20-A MRSA §15689, sub-§1, ¶A,** as repealed and replaced by PL 2005, c. 2, Pt. D, §58 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is 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)~~; and~~.

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 subsequent years; and

**Sec. E-22. 20-A MRSA §15689, sub-§1, ¶B,** as amended by PL 2009, c. 1, Pt. C, §2 and c. 213, Pt. C, §8, is repealed and the following enacted in its place:

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%.

**Sec. E-23. 20-A MRSA §15689, sub-§2,** as amended by PL 2007, c. 466, Pt. B, §16, is further amended to read:

**2. Adjustment for debt service.** Each school administrative unit may receive an adjustment for a debt service determined as follows.

A. A school administrative unit is eligible for this adjustment under the following conditions.

(1) The school administrative unit's local share results in a full-value education mill rate less than the local cost share expectation as described in section 15671-A through the 2009-10 fiscal year. Beginning in fiscal year 2010-11 and in subsequent fiscal years, the school administrative unit's debt service allocation must include principal and interest payments as defined in section 15672, subsection 2-A, paragraph A.

(2) The school administrative unit has debt service costs defined under section 15672, subsection 2-A that have been placed on the state board's priority list by January 2005.

(3) Beginning in fiscal year 2010-11 and in subsequent years, the school administrative unit's total debt service costs less the local share amount in paragraph B, subparagraph (2), division (b) is greater than the current state share of the total allocation.

B. The amount of the adjustment is the difference, but not less than zero, between the state share of the total allocation under this chapter and the amount computed as follows.

(2) Beginning July 1, 2007, the school administrative unit's state share of the total allocation if the local share was the sum of the following:

(a) The local share amount for the school administrative unit calculated as the lesser of the total allocation excluding debt service costs and the school administrative unit's fiscal capacity multiplied by the mill rate expectation established in section 15671-A less the debt service adjustment mill rate defined in section 15672, subsection 2-B; and

(b) The local share amount for the school administrative unit calculated as the lesser of the debt service costs and the school administrative unit's fiscal capacity multiplied by the debt service adjustment mill rate defined in section 15672, subsection 2-B.

**Sec. E-24. 20-A MRSA §15689-B, sub-§4,** as enacted by PL 2005, c. 2, Pt. D, §61 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is amended to read:

**4. Appeals.** A school board may appeal the computation of state subsidy for the school administrative unit to the state board in writing within 30 days of the date of the initial notification of the computed amount of the component that is the subject of this appeal. The state board shall review the appeal and make an adjustment if in its judgment an adjustment is justified. The state board's decision is final as to facts supported by the record of the appeal.

**Sec. E-25. 20-A MRSA §15690, sub-§1, ¶D** is enacted 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.

**Sec. E-26. 20-A MRSA §15690, sub-§2,** as amended by PL 2005, c. 12, Pt. WW, §6 and affected by §18, is further amended to read:

**2. Non-state-funded debt service.** For a school administrative unit's indebtedness previously approved by its legislative body for non-state-funded major capital school construction projects or non-state-funded portions of major capital school construction projects ~~and minor capital projects~~, the legislative body of each school administrative unit may vote to raise and appropriate an amount up to the municipality's or district's annual payments for non-state-funded debt service.

A. An article in substantially the following form must be used when a school administrative unit is considering the appropriation for debt service allocation for non-state-funded school construction projects or non-state-funded portions of school construction projects ~~and minor capital projects~~.

(1) "Article ....: To see what sum the (municipality or district) will raise and appropriate for the annual payments on debt service previously approved by the legislative body for non-state-funded school construction projects~~,~~ or non-state-funded portions of school construction projects ~~and minor capital projects~~ in addition to the funds appropriated as the local share of the school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12. (Recommend $.....)"

(2) The following statement must accompany the article in subparagraph (1). "Explanation: Non-state-funded debt service is the amount of money needed for the annual payments on the (municipality's or district's) long-term debt for major capital school construction projects ~~and minor capital renovation projects~~ that are not approved for state subsidy. The bonding of this long-term debt was previously approved by the voters or other legislative body."

**Sec. E-27. 20-A MRSA §15693, sub-§3, ¶B,** as enacted by PL 2005, c. 2, Pt. D, §62 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is amended to read:

B. The format of the school budget may be determined in accordance with section ~~1306~~ 1485.

**Sec. E-28. 20-A MRSA §15694,** as enacted by PL 2005, c. 2, Pt. D, §62 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is amended to read:

**§15694. Actions on budget**

The following provisions apply to approving a school budget under this chapter.

**1. Checklist required.** Prior to a vote on articles dealing with school appropriations, ~~the moderator of a regular or special school budget meeting shall require~~ the clerk or secretary ~~to~~ shall make a checklist of the registered voters ~~present~~. The number of voters listed on the checklist is conclusive evidence of the number ~~present at~~ participating in the ~~meeting~~ vote.

**2. Reconsideration.** Notwithstanding any law to the contrary, in school administrative units where the school budget is finally approved by the voters, a special budget ~~meeting~~ vote to reconsider action taken on the budget may be called only as follows.

A. The ~~meeting~~ reconsideration vote must be held within 30 days of the regular budget ~~meeting~~ vote at which the budget was finally approved in accordance with section 2307 or chapter 103-A.

B. In a regional school unit, school administrative district or community school district, the ~~meeting~~ reconsideration vote must be called by the school board or as follows.

(1) A petition containing a number of signatures of legal voters in the member municipalities of the school administrative unit equalling at least 10% of the number of voters who voted in the last gubernatorial election in member municipalities of the school administrative unit, or 100 voters, whichever is less, and specifying the article or articles to be reconsidered must be presented to the school board within 15 days of the regular budget ~~meeting~~ vote at which the budget was finally approved in accordance with chapter 103-A.

(2) On receiving the petition, the school board shall call the special budget reconsid-

eration ~~meeting~~ vote, which must be held within 15 days of the date the petition was received.

C. In a municipality, the meeting to reconsider the vote must be called by the municipal officers:

(1) Within 15 days after receipt of a request from the school board, if the request is received within 15 days of the budget ~~meeting~~ vote at which the budget was finally approved in accordance with section 2307 and it specifies the article or articles to be reconsidered; or

(2) Within 15 days after receipt of a written application presented in accordance with Title 30-A, section 2532, if the application is received within 15 days of the budget ~~meeting~~ vote at which the budget was finally approved in accordance with section 2307 and it specifies the article or articles to be reconsidered.

**3. Invalidation of action of special budget meeting to reconsider the vote.** If a special budget ~~meeting~~ vote is called to reconsider action taken at a regular budget ~~meeting~~ vote, the ~~actions of the meeting are~~ vote is invalid if the number of voters at the special budget ~~meeting~~ vote is less than the number of voters ~~present~~ at the regular budget ~~meeting~~ vote.

**4. Line-item transfers.** ~~Meetings~~ Votes requested by a school board for the purpose of transferring funds from one category or line item to another must be posted for voter or council action within 15 days of the date of the request.

**Sec. E-29. PL 2009, c. 213, Pt. C, §17** is amended to read:

**Sec. C-17. Mill expectation.** The mill expectation pursuant to the Maine Revised Statutes, Title 20-A, section 15671-A for fiscal year 2009-10 is ~~6.73~~ 6.99 and must be lowered to ~~6.37~~ 6.69 as a result of funds provided under Title XIV of the State Fiscal Stabilization Fund of the federal American Recovery and Reinvestment Act of 2009 as part of the amount restored to school administrative units in fiscal year 2009-10.

**Sec. E-30. PL 2009, c. 213, Pt. C, §19** is amended to read:

**Sec. C-19. 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, 2009 and ending June 30, 2010 is calculated as follows:

| | 2009-10 LOCAL | 2009-10 STATE |
|---|---|---|
| **Local and State Contributions to the Total Cost of Funding Public Education from Kindergarten to Grade 12** | | |
| 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 | ~~$923,174,744~~ $961,272,967 | ~~$958,971,492~~ $920,873,269 |
| **Portion to be paid from Federal IDEA balance** | | ($11,600,000) |
| **Adjusted state contribution - subject to statewide distributions required by law** | | ~~$947,371,492~~ $909,273,269 |

**Sec. E-31. Mill expectation.** The mill expectation pursuant to the Maine Revised Statutes, Title 20-A, section 15671-A for fiscal year 2010-11 is 7.46 and must be lowered to 6.96 as a result of funds provided under Title XIV of the State Fiscal Stabilization Fund of the American Recovery and Reinvestment Act of 2009 as part of the amount restored to school administrative units in fiscal year 2010-11.

**Sec. E-32. 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 2010-11 is as follows:

| | 2010-11 TOTAL |
|---|---|
| **Total Operating Allocation** | |
| Total operating allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 without transitions percentage | $1,377,907,552 |
| Total operating allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 with 97% transitions percentage | $1,336,568,385 |
| Total other subsidizable costs pursuant to the Maine Revised Statutes, Title 20-A, section 15681-A | $399,182,922 |
| **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 | $1,735,751,307 |
| **Total Debt Service Allocation** | |
| Total debt service allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683-A | $99,049,370 |
| **Total Adjustments and Miscellaneous Costs** | |
| Total adjustments and miscellaneous costs pursuant to the Maine Revised Statutes, Title 20-A, sections 15689 and 15689-A | $74,663,270 |
| **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 2010-11 pursuant to the Maine Revised Statutes, Title 20-A, chapter 606-B | $1,909,463,947 |

**Sec. E-33. 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, 2010 and ending June 30, 2011 is calculated as follows:

| | 2010-11 LOCAL | 2010-11 STATE |
|---|---|---|
| **Local and State Contributions to the Total Cost of Funding Public Education from Kindergarten to Grade 12** | | |
| 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 | $1,031,138,925 | $878,325,022 |

**Sec. E-34. Limit of State's obligation.** If the State's continued obligation for any individual component contained in sections 32 and 33 of this Part 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. E-35. Authorization of payments.** Sections 32 and 33 of this Part 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, 2010 and ending June 30, 2011.

## PART F

**Sec. F-1. Lapse; unencumbered balance; BGS - Capital Construction Repair.** Notwithstanding any other provision of law, the State Controller shall lapse $175,190 from the unencumbered balance in All Other and $24,809 in Capital Expenditures from the General Fund BGS - Capital Construction Repair Fund account in the Department of Administrative and Financial Services to General Fund unappropriated surplus at the close of fiscal year 2009-10.

**Sec. F-2. Transfer; unexpended funds; Sale of State Property account.** Notwithstanding any other provision of law, the State Controller shall transfer $55,174 in unexpended funds from the Other Special Revenue Funds, Sale of State Property account in the Department of Administrative and Financial Services to General Fund unappropriated surplus at the close of fiscal year 2009-10.

**Sec. F-3. Transfer; unexpended funds; BPI Insurance and Loss Prevention Property account.** Notwithstanding any other provision of law, the State Controller shall transfer $22,536 in unexpended funds from the Other Special Revenue Funds, BPI Insurance and Loss Prevention account in the Department of Administrative and Financial Services to General Fund unappropriated surplus at the close of fiscal year 2009-10.

## PART G

**Sec. G-1. Transfer; unexpended funds; Food Vending Services account.** Notwithstanding any other provision of law, the State Controller shall transfer $70,000 in unexpended funds from the Other Special Revenue Funds, Food Vending Services account in the Department of Administrative and Financial Services to General Fund unappropriated surplus at the close of fiscal year 2009-10.

**Sec. G-2. Transfer; unexpended funds; Bangor Campus Office Space account.** Notwithstanding any other provision of law, the State Controller shall transfer $75,000 by June 30, 2010 and $25,000 by June 30, 2011 in unexpended funds from the Other Special Revenue Funds, Bangor Campus

Office Space account in the Department of Administrative and Financial Services to General Fund unappropriated surplus.

**Sec. G-3. Transfer; unexpended funds; Monument for Women Veterans account.** Notwithstanding any other provision of law, the State Controller shall transfer $9,500 in unexpended funds from the Other Special Revenue Funds, Monument for Women Veterans account in the Department of Administrative and Financial Services to General Fund unappropriated surplus at the close of fiscal year 2009-10.

**Sec. G-4. Transfer; unexpended funds; Memorial for Emergency Medical Services Personnel account.** Notwithstanding any other provision of law, the State Controller shall transfer $2,000 in unexpended funds from the Other Special Revenue Funds, Memorial for Emergency Medical Services Personnel account in the Department of Administrative and Financial Services to General Fund unappropriated surplus at the close of fiscal year 2009-10.

## PART H

**Sec. H-1. Transfer; unexpended funds; Bureau of General Services - Capital Construction Reserve Fund account.** Notwithstanding any other provision of law, the State Controller shall transfer $227,359 in unexpended funds from the Bureau of General Services - Capital Construction Reserve Fund, Other Special Revenue Funds account in the Department of Administrative and Financial Services to the General Fund unappropriated surplus at the close of fiscal year 2009-10.

**Sec. H-2. Transfer; unexpended funds; Bureau of General Services - Capital Construction Reserve Fund - Maine Criminal Justice Academy account.** Notwithstanding any other provision of law, the State Controller shall transfer $746 in unexpended funds from the Bureau of General Services - Capital Construction Reserve Fund - Maine Criminal Justice Academy, Other Special Revenue Funds account in the Department of Administrative and Financial Services to the General Fund unappropriated surplus at the close of fiscal year 2009-10.

**Sec. H-3. Transfer; unexpended funds; Bureau of General Services - Capital Construction Reserve Fund - Maine Youth Center account.** Notwithstanding any other provision of law, the State Controller shall transfer $131,671 in unexpended funds from the Bureau of General Services - Capital Construction Reserve Fund - Maine Youth Center, Other Special Revenue Funds account in the Department of Administrative and Financial Services to the General Fund unappropriated surplus at the close of fiscal year 2010-11.

**Sec. H-4. Transfer; unexpended funds; Bureau of General Services - Capital Construction Reserve Fund - Charleston account.** Notwithstanding any other provision of law, the State Controller shall transfer $7,337 in unexpended funds from the Bureau of General Services - Capital Construction Reserve Fund - Charleston, Other Special Revenue Funds account in the Department of Administrative and Financial Services to the General Fund unappropriated surplus at the close of fiscal year 2009-10.

**Sec. H-5. Transfer; unexpended funds; Bureau of General Services - Capital Construction Reserve Fund - Williams Pavilion account.** Notwithstanding any other provision of law, the State Controller shall transfer $16,074 in unexpended funds from the Bureau of General Services - Capital Construction Reserve Fund - Williams Pavilion, Other Special Revenue Funds account in the Department of Administrative and Financial Services to the General Fund unappropriated surplus at the close of fiscal year 2009-10.

## PART I

**Sec. I-1. Transfer; unexpended funds; Maine Solid Waste Management Fund account.** Notwithstanding any other provision of law, the State Controller shall transfer $987,605 in unexpended funds from the Maine Solid Waste Management Fund, Other Special Revenue Funds account in the Department of Administrative and Financial Services to General Fund unappropriated surplus at the close of fiscal year 2010-11.

**Sec. I-2. Transfer; unexpended funds; A&C - Conference account.** Notwithstanding any other provision of law, the State Controller shall transfer $44,814 in unexpended funds from the A&C - Conference, Other Special Revenue Funds account in the Department of Administrative and Financial Services to General Fund unappropriated surplus at the close of fiscal year 2009-10.

## PART J

**Sec. J-1. Transfer; equity reserve fiscal year 2008-09; Retiree Health Insurance Internal Service Fund.** Notwithstanding any other provision of law, the State Controller shall transfer $22,590,806 representing the General Fund share of excess equity reserve for retiree health insurance on June 30, 2009 from the Retiree Health Insurance Internal Service Fund in the Department of Administrative and Financial Services to the unappropriated surplus of the General Fund by June 30, 2010. The State Controller shall also transfer the equitable share of retiree health insurance excess equity reserve to each participating fund by June 30, 2010.

**Sec. J-2. Transfer; equity reserve fiscal year 2009-10; Retiree Health Insurance Inter-**

**nal Service Fund.** Notwithstanding any other provision of law, the State Controller shall transfer $23,556,012 representing the projected General Fund share of excess equity reserve for retiree health insurance on June 30, 2010 from the Retiree Health Insurance Internal Service Fund in the Department of Administrative and Financial Services to the unappropriated surplus of the General Fund by June 30, 2010. The State Controller shall also transfer the equitable share of retiree health insurance excess equity reserve to each participating fund by June 30, 2010.

**Sec. J-3. Calculation and transfer; General Fund; retiree health insurance savings.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings identified in section 5 of this Part in the Statewide - Retiree Health Insurance General Fund account in the Department of Administrative and Financial Services that applies against each General Fund account for departments and agencies statewide excluding legislative branch accounts as a result of a rate reduction in retiree health insurance. 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 2010-11. The State Budget Officer shall provide a report to the Joint Standing Committee on Appropriations and Financial Affairs of the transferred amounts not later than August 31, 2010.

**Sec. J-4. Transfer; retiree health insurance savings; Other Special Revenue Funds accounts.** Notwithstanding any other provision of law, the State Controller shall transfer $3,739,191 from Other Special Revenue Funds accounts to the unappropriated surplus of the General Fund by June 30, 2011. This fund transfer is a result of savings achieved by departments and agencies statewide from a rate reduction for retiree health insurance in fiscal year 2010-11.

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

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Departments and Agencies - Statewide 0016**

Initiative: Reduces funding from departments and agencies statewide excluding legislative branch accounts from projected savings in Personal Services achieved through a rate reduction for retiree health insurance.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($15,882,850) |
| GENERAL FUND TOTAL | $0 | ($15,882,850) |

## PART K

**Sec. K-1. Transfer; unexpended funds; Taxation Revenue Collection account.** Notwithstanding any other provision of law, the State Controller shall transfer $140,000 in unexpended funds from the Other Special Revenue Funds, Taxation Revenue Collection account in the Department of Administrative and Financial Services to General Fund unappropriated surplus at the close of fiscal year 2009-10.

## PART L

**Sec. L-1. Transfer; unexpended funds; Bureau of Insurance account.** Notwithstanding any other provision of law, the State Controller shall transfer $3,500,191 in unexpended funds from the Bureau of Insurance, Other Special Revenue Funds account in the Department of Professional and Financial Regulation to the unappropriated surplus of the General Fund no later than June 30, 2010.

**Sec. L-2. Transfer; unexpended funds; Insurance Assessment Fund account.** Notwithstanding any other provision of law, the State Controller shall transfer $75,107 in unexpended funds from the Insurance Assessment Fund, Other Special Revenue Funds account in the Department of Professional and Financial Regulation to the unappropriated surplus of the General Fund no later than June 30, 2010.

**Sec. L-3. Transfer; unexpended funds; Office of Securities account.** Notwithstanding any other provision of law, the State Controller shall transfer $1,600,000 in unexpended funds from the Office of Securities, Other Special Revenue Funds account in the Department of Professional and Financial Regulation to the unappropriated surplus of the General Fund no later than June 30, 2010.

## PART M

**Sec. M-1. Transfer; Fund for a Healthy Maine; General Fund.** Notwithstanding any other provision of law, the State Controller shall transfer $3,925,515 by June 30, 2010 and $1,455,770 by June 30, 2011 from the Fund for a Healthy Maine, Other Special Revenue Funds account in the Department of Administrative and Financial Services to the unappropriated surplus of the General Fund. The transfer by June 30, 2010 represents unexpended funds on June 30, 2009 of $3,403,873 and the projected increase in revenue by the Revenue Forecasting Committee of $521,642. The transfer by June 30, 2011 represents an increase of $177,282 in revenue projected by the Revenue Forecasting Committee for fiscal year 2010-11 and $1,278,488 available as a result of the enhanced federal medical assistance percentage under the American Recovery and Reinvestment Act of 2009.

## PART N

**Sec. N-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 that applies against each General Fund account for executive branch departments and agencies statewide from a decrease in charges by the Department of Administrative and Financial Services, Division of Financial and Personnel Services associated with savings from a reduction in retiree health insurance rates. The State Budget Officer shall transfer the amounts by financial order upon the approval of the Governor. These transfers are considered adjustments to appropriations in fiscal year 2010-11. The State Budget Officer shall provide the Joint Standing Committee on Appropriations and Financial Affairs a report of the transferred amounts no later than November 30, 2010.

**Sec. N-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: Reduces funding from departments and agencies statewide to recognize a reduction in charges by the Division of Financial and Personnel Services as a result of a distribution of excess reserves for retiree health insurance for fiscal years 2008-09 and 2009-10 and a reduction in retiree health insurance rates for fiscal year 2010-11.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($874,652) |
| GENERAL FUND TOTAL | $0 | ($874,652) |

## PART O

**Sec. O-1. Deposit reimbursement.** Notwithstanding the Maine Revised Statutes, Title 10, section 1495-E, subsection 2-A, if a balance of the initial deposit made by the Superintendent of Consumer Credit Protection within the Department of Professional and Financial Regulation into the Payroll Processor Recovery Fund remains unreimbursed on May 1, 2010, the superintendent must be reimbursed the initial deposit into the fund in 2 disbursements, with 1/2 of the unreimbursed balance repaid on or before June 1, 2010 and the remaining unreimbursed balance repaid on or before June 1, 2011.

## PART P

**Sec. P-1. Maine State Library; lapsed balances.** Notwithstanding any other provision of law, $5,810 of unencumbered balance forward from the Maine State Library, Library Special Acquisitions Fund program, General Fund account, All Other line category lapses to the General Fund no later than June 30, 2010 to achieve targeted savings for fiscal year 2009-10.

## PART Q

**Sec. Q-1. Maine State Cultural Affairs Council; lapsed balances.** Notwithstanding any other provision of law, $3,205 of unencumbered balance forward from the Maine State Cultural Affairs Council, New Century Program Fund, General Fund account, All Other line category lapses to the General Fund no later than June 30, 2010 to achieve targeted savings for fiscal year 2009-10.

## PART R

**Sec. R-1. Transfer; unexpended funds; Blaine House Renovations and Repairs Fund account.** Notwithstanding any other provision of law, the State Controller shall transfer $2,960 in fiscal year 2009-10 from the Blaine House Renovations and Repairs Fund, Other Special Revenue Funds account within the Executive Department to the unappropriated surplus of the General Fund.

## PART S

**Sec. S-1. Department of Agriculture, Food and Rural Resources, Pollution Control Structures - carrying account; lapsed balance; General Fund.** Notwithstanding any other provision of law, $211,904 of unencumbered balance forward in the Pollution Control Structures program, General Fund account in the All Other line category account in the Department of Agriculture, Food and Rural Resources lapses to the General Fund at the close of fiscal year 2009-10.

## PART T

**Sec. T-1. Calculation and transfer; General Fund; technology savings.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in section 2 of this Part with respect to the Statewide Information Technology account in the Department of Administrative and Financial Services that applies against each General Fund account for departments and agencies statewide to recognize additional technology 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 years 2009-10 and 2010-11. The State Budget Officer shall provide to the Joint Standing Committee on Appropriations and Financial Affairs a report of the

transferred amounts in fiscal year 2009-10 not later than June 30, 2010 and a report of the transferred amounts in fiscal year 2010-11 not later than November 30, 2010.

**Sec. T-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: Reduces funding to recognize additional savings resulting from efficiencies gained by the consolidation of funding, resource management of information technology and services and lease-purchase of new application development.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($25,000) | ($454,068) |
| GENERAL FUND TOTAL | ($25,000) | ($454,068) |

## PART U

**Sec. U-1. 20-A MRSA §7206, sub-§1,** as amended by PL 2005, c. 662, Pt. A, §26, is further amended to read:

**1. Complaint.** An interested party may file with the commissioner a written complaint alleging that a school administrative unit or private school serving children with disabilities has failed to comply with this chapter. The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received ~~unless a longer period is reasonable because a violation is continuing or the complaint is requesting compensatory services~~ or the complaint must request compensatory services for a violation that occurred not more than ~~3~~ 2 years prior to the date the complaint is received.

## PART V

**Sec. V-1. 20-A MRSA §6651, sub-§6,** as amended by PL 2005, c. 683, Pt. A, §26, is repealed.

## PART W

**Sec. W-1. 20-A MRSA §203, sub-§1, ¶A,** as amended by PL 1993, c. 684, §2 and c. 708, Pt. J, §7, is further amended to read:

A. Deputy Commissioner; and

**Sec. W-2. 20-A MRSA §203, sub-§1, ¶F,** as amended by PL 2001, c. 344, §3 and c. 439, Pt. H, §3, is further amended to read:

F. Director, Planning and Management Information~~; and~~.

**Sec. W-3. 20-A MRSA §203, sub-§1, ¶J,** as enacted by PL 1997, c. 266, §2, is repealed.

## PART X

**Sec. X-1. PL 2005, c. 519, Pt. WW, §1** is amended to read:

**Sec. WW-1. Maine Learning Technology Initiative computers and peripheral equipment.** Notwithstanding any other provision of law, and except for computers and peripheral equipment purchased by a school district, the Department of Education shall dispose of computers and peripheral equipment purchased for the Maine Learning Technology Initiative through the Department of Administrative and Financial Services, Bureau of General Services' surplus property program. All proceeds from the sale or other disposal agreement net of selling and disposal costs must be deposited, as an adjustment to the account balance, in the ~~General Purpose Aid for Local Schools~~ Learning Through Technology General Fund account within the Department of Education to be used for the continued support of the Maine Learning Technology Initiative.

**Sec. X-2. PL 2009, c. 213, Pt. C, §22** is amended to read:

**Sec. C-22. Carrying balance; School Finance and Operations program, General Fund account.** Notwithstanding any other provision of law, any balance remaining from the $3,500,000 appropriation in fiscal year 2007-08 to the Department of Education's Management Information Systems program, General Fund account in Public Law 2007, chapter 240, Part A, section 22 to provide statewide support for certain operational efficiencies, such as GIS routing software and consolidated payroll and accounting systems, associated with school consolidation that carried forward to fiscal year 2008-09 pursuant to Public Law 2007, chapter 539, Part NN, section 1 does not lapse but must carry forward in the School Finance and Operations program to June 30, 2011 to be used for the same purpose.

**Sec. X-3. Resolve 2007, c. 217, §1** is amended to read:

**Sec. 1. Reimbursement to School Administrative District No. 11 for retirement contributions paid in error. Resolved:** That, notwithstanding any other provision of law, the Governor must include in the biennial budget bill for the 2010-2011 biennial budget funding in the amount of $90,788 for the reimbursement to School Administrative District No. 11 for the State's share of retirement contributions paid by the school district in error ~~to be offset by a reduction in the fiscal year 2009-10 appropriation for teacher retirement~~.

**Sec. X-4. Lapsed balances; Workshops account in the Department of Education.** Not-

withstanding any other provision of law, the State Controller shall lapse $292,968 of the unencumbered balance forward in the Workshops Other Special Revenue Funds account in the Department of Education and transfer this balance to the General Fund as unappropriated surplus in fiscal year 2009-10.

## PART Y

**Sec. Y-1. 32 MRSA §88, sub-§2, ¶E,** as amended by PL 2007, c. 274, §20, is further amended to read:

E. The board shall keep records and minutes of its activities and meetings. These records and minutes must be made easily accessible to the public and be provided expeditiously upon request. ~~The board shall distribute to all licensed emergency medical services persons a publication listing training opportunities, meeting schedules of the board, proposed rule changes and other information judged by the board to have merit in improving emergency medical patient care in the State. The board shall create, print and distribute this publication in the most cost-efficient manner possible. Any paid advertising utilized to accomplish this purpose may not be solicited by board members or staff and must be included in such a way that endorsement of a product or service by the board can not reasonably be inferred.~~ The board may prepare, publish and disseminate educational and other materials to improve emergency medical patient care.

## PART Z

**Sec. Z-1. Department of Administrative and Financial Services; lease-purchase authorization.** Pursuant to the Maine Revised Statutes, Title 5, section 1587, the Department of Administrative and Financial Services, on behalf of the Department of Public Safety, may enter into financing arrangements in fiscal years 2009-10 and 2010-11 for the acquisition of motor vehicles for the State Police. The financing arrangements entered into in each fiscal year may not exceed $1,800,000 in principal costs, and a financing arrangement may not exceed 3 years in duration. The interest rate may not exceed 8%, and total interest costs with respect to the financing arrangements entered into in each fiscal year may not exceed $300,000. The annual principal and interest costs must be paid from the appropriate line category appropriations and allocations in the Department of Public Safety General Fund and Highway Fund accounts.

**Sec. Z-2. Transfer; unexpended funds; Emergency Medical Services account.** Notwithstanding any other provision of law, the State Controller shall transfer $192,949 in unexpended funds from the Emergency Medical Services, Other Special Revenue Funds account in the Department of Public Safety to General Fund unappropriated surplus at the close of fiscal year 2009-10.

**Sec. Z-3. Transfer; unexpended funds; Alcohol Server Education account.** Notwithstanding any other provision of law, the State Controller shall transfer $87,681 in unexpended funds from the Alcohol Server Education, Other Special Revenue Funds account in the Department of Public Safety to General Fund unappropriated surplus at the close of fiscal year 2009-10.

**Sec. Z-4. Transfer; unexpended funds; Administration account.** Notwithstanding any other provision of law, the State Controller shall transfer $2,000 in unexpended funds from the Administration, Other Special Revenue Funds account in the Department of Public Safety to General Fund unappropriated surplus at the close of fiscal year 2009-10.

**Sec. Z-5. Department of Administrative and Financial Services; lease-purchase authorization for Central Fleet vehicles.** Pursuant to the Maine Revised Statutes, Title 5, section 1587, the Department of Administrative and Financial Services, in cooperation with the Treasurer of State, may enter into financing arrangements in fiscal years 2009-10 and 2010-11 for the acquisition of motor vehicles for the Central Fleet Management Division. The financing agreements entered into in each fiscal year may not exceed $5,000,000 in principal costs, and a financing arrangement may not exceed 4 years in duration. The interest rate may not exceed 7%. The annual principal and interest costs must be paid from the appropriate line category allocations in the Central Fleet Management Division account.

## PART AA

**Sec. AA-1. Department of Conservation; lapsed balances.** Notwithstanding any other provision of law, $48,891 of unencumbered balance forward from the Department of Conservation, Division of Forest Protection program, General Fund account, Capital Expenditures line category and $1,109 in the All Other line category lapse to the General Fund no later than June 30, 2010 and $150,000 of unencumbered balance forward from the Department of Conservation, Division of Forest Protection program, General Fund account, All Other line category lapses to the General Fund no later than June 30, 2011.

**Sec. AA-2. Transfer; unexpended funds; Division of Forest Protection account.** Notwithstanding any other provision of law, the State Controller shall transfer $19,974 by the close of fiscal year 2009-10 and $92,296 by the close of fiscal year 2010-11 from the Division of Forest Protection, Other Special Revenue Funds account in the Department of Conservation to the unappropriated surplus of the General Fund.

**Sec. AA-3. Transfer; proceeds from sale of Jet Ranger helicopter; Division of Forest Protection account.** Notwithstanding the Maine Revised Statutes, Title 12, section 8003, subsection 3, paragraph M-1 or any other provision of law, the Department of Conservation is authorized to sell a Jet Ranger helicopter between April 1, 2011 and June 30, 2011. The State Controller shall transfer $400,000 from the anticipated proceeds of the sale of the Jet Ranger helicopter from the Division of Forest Protection, Other Special Revenue Funds account in the Department of Conservation to the General Fund unappropriated surplus at the close of fiscal year 2010-11. The State Controller may transfer unexpended funds from the Division of Forest Protection, Other Special Revenue Funds account in the Department of Conservation to the General Fund unappropriated surplus if the proceeds from the sale of the helicopter by state surplus is less than $400,000.

**Sec. AA-4. Transfer; unexpended funds; Geological Survey-05 PL 457 Part F account.** Notwithstanding any other provision of law, the State Controller shall transfer $29,635 from the Geological Survey-05 PL 457 Part F, Other Special Revenue Funds account in the Department of Conservation to the unappropriated surplus of the General Fund by the close of fiscal year 2009-10.

## PART BB

**Sec. BB-1. Transfer; unexpended funds; Fund for the Efficient Delivery of Local and Regional Services - Administration account.** Notwithstanding any other provision of law, the State Controller shall transfer $35,500 from the Fund for the Efficient Delivery of Local and Regional Services - Administration, Other Special Revenue Funds account in the Department of Administrative and Financial Services to the unappropriated surplus of the General Fund by the close of fiscal year 2009-10.

## PART CC

**Sec. CC-1. Legislature; lapsed balances; fiscal year 2009-10.** Notwithstanding any other provision of law, $1,096,299 of unencumbered balance forward from the various program accounts and line categories in the legislative accounts, as specified by the Executive Director of the Legislative Council, lapses to the General Fund in fiscal year 2009-10. The executive director shall review the legislative accounts and identify to the State Controller and State Budget Officer by May 15, 2010 the unencumbered balance forward amounts by account and line category totaling $1,096,299 that will lapse to the General Fund to achieve targeted savings for fiscal year 2009-10.

**Sec. CC-2. Legislature; lapsed balances; fiscal year 2010-11.** Notwithstanding any other provision of law, $1,198,166 of unencumbered balance forward from the various program accounts and line categories in the legislative accounts, as specified by the Executive Director of the Legislative Council, lapses to the General Fund in fiscal year 2010-11. The executive director shall review the legislative accounts and identify to the State Controller and State Budget Officer by May 15, 2011 the unencumbered balance forward amounts by account and line category totaling $1,198,166 that will lapse to the General Fund to achieve targeted savings for fiscal year 2010-11.

**Sec. CC-3. Appropriations and allocations.** The following appropriations and allocations are made.

### LAW AND LEGISLATIVE REFERENCE LIBRARY

**Law and Legislative Reference Library 0636**

Initiative: Provides funding to restore longevity payments in the legislative branch in fiscal year 2010-11.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $5,366 |
| GENERAL FUND TOTAL | $0 | $5,366 |

**Law and Legislative Reference Library 0636**

Initiative: Reduces funding from projected savings in Personal Services achieved through a rate reduction for retiree health insurance.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($47,610) |
| GENERAL FUND TOTAL | $0 | ($47,610) |

| LAW AND LEGISLATIVE REFERENCE LIBRARY DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | $0 | ($42,244) |
| DEPARTMENT TOTAL - ALL FUNDS | $0 | ($42,244) |

### LEGISLATURE

**Legislature 0081**

Initiative: Provides funding to restore longevity payments in the legislative branch in fiscal year 2010-11.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $45,639 |
| GENERAL FUND TOTAL | $0 | $45,639 |

**Legislature 0081**

Initiative: Reduces funding from projected savings in Personal Services achieved through a rate reduction for retiree health insurance.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($787,361) |
| GENERAL FUND TOTAL | $0 | ($787,361) |

| LEGISLATURE DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | $0 | ($741,722) |
| DEPARTMENT TOTAL - ALL FUNDS | $0 | ($741,722) |

## PROGRAM EVALUATION AND GOVERNMENT ACCOUNTABILITY, OFFICE OF

**Office of Program Evaluation and Government Accountability 0976**

Initiative: Provides funding to restore longevity payments for employees in the legislative branch in fiscal year 2010-11.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $832 |
| GENERAL FUND TOTAL | $0 | $832 |

**Office of Program Evaluation and Government Accountability 0976**

Initiative: Reduces funding from projected savings in Personal Services achieved through a rate reduction for retiree health insurance.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($31,530) |
| GENERAL FUND TOTAL | $0 | ($31,530) |

| PROGRAM EVALUATION AND GOVERNMENT ACCOUNTABILITY, OFFICE OF DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | $0 | ($30,698) |
| DEPARTMENT TOTAL - ALL FUNDS | $0 | ($30,698) |

| SECTION TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | $0 | ($814,664) |
| SECTION TOTAL - ALL FUNDS | $0 | ($814,664) |

## PART DD

**Sec. DD-1. Transfer; unexpended funds; Bureau of Revenue Services Fund.** Notwithstanding any other provision of law, the State Controller shall transfer $350,000 by June 30, 2010 and $200,000 by June 30, 2011 in unexpended funds from the Bureau of Revenue Services Fund in the Department of Administrative and Financial Services to General Fund unappropriated surplus.

## PART EE

**Sec. EE-1. PL 2009, c. 213, Pt. LLL, §1** is repealed.

## PART FF

**Sec. FF-1. Sale or lease of state properties; proceeds to be deposited in General Fund.** Notwithstanding any other provision of law, the Commissioner of Administrative and Financial Services shall identify any proceeds in whole or in part from the sale or lease of state-owned properties by the commissioner as authorized by the Legislature, in the amount of $1,500,000, to be deposited as undedicated revenue to the General Fund no later than June 30, 2011.

## PART GG

**Sec. GG-1. 36 MRSA §5211, sub-§14,** as amended by PL 2009, c. 213, Pt. NN, §1 and affected by §5, is further amended to read:

**14. Sales factor formula.** The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this State during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period. For purposes of calculating the sales factor, "total sales of the taxpayer" includes sales of the taxpayer and of any member of an affiliated group with which the taxpayer conducts a unitary business. The formula must exclude from both the numerator and the denominator sales of tangible personal property delivered or shipped by the taxpayer, regardless of F.O.B. point or other conditions of the sale, to a purchaser within a state in which the taxpayer is not taxable within the meaning of subsection 2, unless any member of an affiliated group

with which the taxpayer conducts a unitary business is taxable in that state in the same manner as a taxpayer is taxable under subsection 2.

**Sec. GG-2. Application.** This Part applies to income tax years beginning on or after January 1, 2010.

## PART HH

**Sec. HH-1. 36 MRSA c. 914-C** is enacted to read:

### CHAPTER 914-C

### 2010 TAX RECEIVABLES REDUCTION INITIATIVES

**§6601. 2010 Tax Receivables Reduction Initiatives established**

There are established the 2010 Tax Receivables Reduction Initiatives, referred to in this chapter as "the initiatives" and consisting of 2 separate initiatives, referred to in this chapter as "the short-term initiative" and "the 5-year initiative." The initiatives are intended to encourage delinquent taxpayers to pay existing tax obligations. The goal of the initiatives is to raise revenue during fiscal year 2010-11 and to reduce existing tax receivables.

**§6602. Administration**

The State Tax Assessor shall administer the initiatives. The short-term initiative applies to tax liabilities that are assessed as of December 31, 2009 and interest and penalties subsequently assessed on such tax liabilities. The 5-year initiative applies to tax liabilities that were assessed as of June 30, 2005 and interest and penalties subsequently assessed on such tax liabilities. A taxpayer may participate in the initiatives without regard to whether the amount due is subject to a pending administrative or judicial proceeding. Participation in the initiatives is conditioned upon the taxpayer's agreement to forgo or withdraw a protest or an administrative or judicial proceeding with regard to liabilities paid under the initiatives and not to claim a refund of money paid under the initiatives. These initiatives are available to a taxpayer if the taxpayer:

**1. Application.** Properly completes and files a 2010 tax initiatives application as described in section 6605 and as required by the assessor;

**2. Tax, interest and penalty paid.** Pays all tax, interest and penalty for the respective initiative as described in section 6606 by the end of the initiatives period under section 6604;

**3. No criminal action pending.** Is not currently charged with, and has not been accepted by the Attorney General for criminal prosecution arising from, a violation of the state tax law as provided in this Title or Title 17-A or is not applying for relief on a debt that is the result of a criminal conviction; and

**4. No collection by warrant or civil action.** Is not applying for relief with respect to a tax liability for which the State has secured a warrant or civil judgment in its favor in Superior Court.

**§6603. Undisclosed liabilities**

This chapter does not prohibit the State Tax Assessor from instituting civil or criminal proceedings against any taxpayer with respect to any amount of tax that is not paid with the 2010 tax initiatives application described in section 6605 or on any other return filed with the assessor.

**§6604. Initiatives period**

A 2010 tax initiatives application described in section 6605 may be filed from September 1, 2010 to November 30, 2010.

**§6605. Initiatives application**

The State Tax Assessor shall prepare and make available the 2010 tax initiatives application. The application and associated guidelines prepared by the assessor, which govern participation in the initiatives, are exempt from the Maine Administrative Procedure Act. Each application requires the approval of the assessor and must include the amount of tax, interest and penalty to be paid, as determined pursuant to section 6606, the initiative being applied for and the periods to which the liability applies. The assessor may deny any application not consistent with this chapter.

**§6606. Waiver of penalties or interest**

**1. Short-term initiative.** A taxpayer who participates in the short-term initiative and whose application is approved by the State Tax Assessor is entitled to a waiver by the assessor of 95% of the penalties otherwise due.

**2. Five-year initiative.** A taxpayer who participates in the 5-year initiative and whose application is approved by the assessor is entitled to a waiver by the assessor of 95% of the penalties and interest otherwise due.

**§6607. Collection action not stayed**

An enforced collection action, including, but not limited to, a wage levy, bank levy or refund setoff, is not stayed until a taxpayer's tax initiatives application under section 6605 has been accepted by the State Tax Assessor and the taxpayer has paid all the tax, interest and penalties due pursuant to section 6602, subsection 2.

## PART II

**Sec. II-1. 36 MRSA §691, sub-§1, ¶A,** as amended by PL 2009, c. 487, Pt. B, §14, is further amended to read:

A. "Eligible business equipment" means qualified property that, in the absence of this subchapter,

would first be subject to assessment under this Part on or after April 1, 2008. "Eligible business equipment" includes, without limitation, repair parts, replacement parts, replacement equipment, additions, accessions and accessories to other qualified business property that first became subject to assessment under this Part before April 1, 2008 if the part, addition, equipment, accession or accessory would, in the absence of this subchapter, first be subject to assessment under this Part on or after April 1, 2008. "Eligible business equipment" also includes inventory parts.

"Eligible business equipment" does not include:

(1) Office furniture, including, without limitation, tables, chairs, desks, bookcases, filing cabinets and modular office partitions;

(2) Lamps and lighting fixtures used primarily for the purpose of providing general purpose office or worker lighting;

(3) Property owned or used by an excluded person;

(4) Telecommunications personal property subject to the tax imposed by section 457;

(5) Gambling machines or devices, including any device, machine, paraphernalia or equipment that is used or usable in the playing phases of any gambling activity as that term is defined in Title 8, section 1001, subsection 15, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. "Gambling machines or devices" includes, without limitation:

(a) Associated equipment as defined in Title 8, section 1001, subsection 2;

(b) Computer equipment used directly and primarily in the operation of a slot machine as defined in Title 8, section 1001, subsection 39;

(c) An electronic video machine as defined in Title 17, section 1831, subsection 4;

(d) Equipment used in the playing phases of lottery schemes; and

(e) Repair and replacement parts of a gambling machine or device;

(6) Property located at a retail sales facility and used primarily in a retail sales activity unless the property is owned by a business that operates a retail sales facility in the State exceeding 100,000 square feet of interior customer selling space that is used primarily for retail sales and whose Maine-based operations derive less than 30% of their total annual revenue on a calendar year basis from sales that are made at a retail sales facility located in the State. For purposes of this subparagraph, the following terms have the following meanings:

(a) "Primarily" means more than 50% of the time;

(b) "Retail sales activity" means an activity associated with the selection and purchase of goods or services or the rental of tangible personal property. "Retail sales activity" does not include production as defined in section 1752, subsection 9-B; and

(c) "Retail sales facility" means a structure used to serve customers who are physically present at the facility for the purpose of selecting and purchasing goods or services at retail or for renting tangible personal property. "Retail sales facility" does not include a separate structure that is used as a warehouse or call center facility; ~~or~~

(7) Property that is not entitled to an exemption by reason of the additional limitations imposed by subsection 2.~~;~~ or

(8) Personal property that would otherwise be entitled to exemption under this subchapter used primarily to support a telecommunications antenna used by a telecommunications business subject to the tax imposed by section 457.

**Sec. II-2. 36 MRSA §6652, sub-§1-B, ¶B,** as amended by PL 2003, c. 625, §1 and affected by §3 and amended by c. 687, Pt. A, §10 and affected by Pt. B, §11, is further amended to read:

B. Lamps and lighting fixtures; ~~and~~

**Sec. II-3. 36 MRSA §6652, sub-§1-B, ¶C,** as amended by PL 2009, c. 487, Pt. B, §15, is further amended to read:

C. Gambling machines or devices, including any device, machine, paraphernalia or equipment that is used or usable in the playing phases of any gambling activity as that term is defined in Title 8, section 1001, subsection 15, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. "Gambling machines or devices" includes, without limitation:

(1) Associated equipment as defined in Title 8, section 1001, subsection 2;

(2) Computer equipment used directly and primarily in the operation of a slot machine as

defined in Title 8, section 1001, subsection 39;

(3) An electronic video machine as defined in Title 17, section 1831, subsection 4;

(4) Equipment used in the playing phases of lottery schemes; and

(5) Repair and replacement parts of a gambling machine or device~~.~~; or

**Sec. II-4. 36 MRSA §6652, sub-§1-B, ¶D** is enacted to read:

D. Personal property that would otherwise be entitled to reimbursement under this chapter used primarily to support a telecommunications antenna used by a telecommunications business subject to the tax imposed by section 457.

**Sec. II-5. Application.** That section of this Part that amends the Maine Revised Statutes, Title 36, section 691, subsection 1, paragraph A applies to property tax years beginning on or after April 1, 2010. That section of this Part that amends Title 36, section 6652, subsection 1-B applies to application periods beginning on or after August 1, 2010.

## PART JJ

**Sec. JJ-1. 30-A MRSA §5681, sub-§5-C,** as amended by PL 2009, c. 462, Pt. E, §1, is further amended to read:

**5-C. Transfers to General Fund.** For the months beginning on or after July 1, 2009, ~~$19,383,491~~ $25,383,491 in fiscal year 2009-10 and ~~$25,270,254~~ $35,270,254 in fiscal year 2010-11 from the total transfers pursuant to subsection 5 must be transferred to General Fund undedicated revenue. The amounts transferred to General Fund undedicated revenue each fiscal year pursuant to this subsection must be deducted from the distributions required by subsections 4-A and 4-B based on the percentage share of the transfers to the Local Government Fund pursuant to subsection 5. The reductions in this subsection must be allocated to each month proportionately based on the budgeted monthly transfers to the Local Government Fund as determined at the beginning of the fiscal year.

**Sec. JJ-2. Transfers to General Fund for fiscal year 2009-10.** Notwithstanding the requirement in the Maine Revised Statutes, Title 30-A, section 5681, subsection 5-C that amounts be transferred to General Fund undedicated revenue on a proportionate basis, for fiscal year 2009-10, the transfer of the amount as increased pursuant to this Part must be transferred on a proportional basis based on the number of months remaining in fiscal year 2009-10 following the effective date of this Part.

## PART KK

**Sec. KK-1. Short-term emergency contingency account; transfers.** The State Controller shall establish a short-term emergency contingency account within the Department of Administrative and Financial Services and shall transfer $6,119,961 from the General Fund unappropriated surplus to the short-term emergency contingency account on the effective date of this Part. Expenditures from the account must be approved by the Legislature. If the Legislature does not enact legislation committing these funds by April 30, 2010, the State Controller shall transfer any unexpended balance in the account to the Maine Budget Stabilization Fund.

## PART LL

**Sec. LL-1. 5 MRSA §13080-S, sub-§3,** as enacted by PL 1995, c. 644, §2, is amended to read:

**3. Deposit and payment of revenue.** On or before ~~June 30th~~ July 15th of each year, if the approval of the assessor has been issued pursuant to subsection 2, the Commissioner of Administrative and Financial Services shall deposit an amount equal to 50% of the employment tax increment for the preceding year into a contingent account established, maintained and administered by the Commissioner of Administrative and Financial Services. On or before July 31st of each year, the Commissioner of Administrative and Financial Services shall pay that amount to the fund.

**Sec. LL-2. 36 MRSA §6758, sub-§3,** as amended by PL 2009, c. 361, §34 and c. 461, §28, is repealed and the following enacted in its place:

**3. Deposit and payment of revenue.** On or before July 15th of each year, the assessor shall certify to the State Controller the total retained employment tax increment revenues for the preceding calendar year for approved employment tax increment financing programs to be transferred to the state employment tax increment contingent account established, maintained and administered by the State Controller from General Fund undedicated revenue within the withholding tax category. On or before July 31st of each year, the assessor shall pay to each approved qualified business an amount equal to the retained employment tax increment revenues of that qualified business for the preceding calendar year.

## PART MM

**Sec. MM-1. 36 MRSA §685, sub-§4,** as enacted by PL 1997, c. 643, Pt. HHH, §3 and affected by §10, is amended to read:

**4. Estimated and final payments by the State.** Reimbursement to municipalities must be made in the following manner.

A. The bureau shall estimate the amount of reimbursement required under this section for each

municipality and certify ~~80%~~ 75% of the estimated amount to the Treasurer of State by August 1st, annually. The Treasurer of State shall pay by August 15th, annually, the amount certified to each municipality entitled to reimbursement.

B. A municipality claiming reimbursement under this section shall submit a claim to the bureau by November 1st of the year in which the exemption applies or within 30 days of commitment of taxes, whichever occurs later. The bureau shall review the claims and determine the total amount to be paid. The bureau shall certify and the Treasurer of State shall pay by ~~December~~ July 15th of the year following the year in which the exemption applies the difference between the estimated payment issued and the amount that the bureau finally determines for ~~that tax~~ the year in which the exemption applies. ~~Municipal claims that are timely filed after November 1st must be paid as soon as reasonably possible after the December 15th payment date.~~ If the total amount of reimbursement to which a municipality is entitled is less than the amount received under paragraph A, the municipality shall repay the excess to the State by December 30th of ~~the~~ that year, or the amount may be offset against the amount of state-municipal revenue sharing due the municipality under Title 30-A, section 5681.

**Sec. MM-2. Application.** That section of this Part that amends the Maine Revised Statutes, Title 36, section 685, subsection 4 applies to reimbursements for property tax years beginning on or after April 1, 2010.

## PART NN

**Sec. NN-1. 5 MRSA §285, sub-§1, ¶F-8** is enacted to read:

F-8. Any employee of the Finance Authority of Maine;

## PART OO

**Sec. OO-1. Compensation and Benefit Plan; lapsed balances; Administrative and Financial Services, General Fund.** Notwithstanding any other provision of law, $13,500,000 of unencumbered balance forward in the Personal Services line category in the Compensation and Benefit Plan, General Fund account in the Department of Administrative and Financial Services lapses to the General Fund at the close of fiscal year 2009-10.

## PART PP

**Sec. PP-1. PL 2009, c. 414, Pt. D, §5** is amended to read:

**Sec. D-5. Disbursement of bond proceeds.** The proceeds of the bonds must be expended as set out in this Part under the direction and supervision of the Public Utilities Commission, the University of Maine System, the Maine Maritime Academy~~,~~ and the Maine Community College System ~~and the Department of Administrative and Financial Services~~.

**Sec. PP-2. PL 2009, c. 414, Pt. D, §6** is amended to read:

**Sec. D-6. Allocations from General Fund bond issue.** The proceeds of the sale of the bonds authorized under this Part must be expended as designated in the following schedule.

**PUBLIC UTILITIES COMMISSION**

**Public Utilities Commission**

| | |
|---|---|
| Provides funds for weatherization and energy efficiency programs for low and middle income households and small businesses. If the energy efficiency programs of the commission are transferred to another entity established by the Legislature, the commission shall transfer all unexpended funds to that entity. | $12,000,000 |

**UNIVERSITY OF MAINE SYSTEM**

**University of Maine System**

| | |
|---|---|
| Provides funds for energy and infrastructure upgrades at all campuses of the University of Maine System. | $9,500,000 |

**MAINE COMMUNITY COLLEGE SYSTEM**

**Maine Community College System**

| | |
|---|---|
| Provides funds for energy and infrastructure upgrades at all campuses of the Maine Community College System. | $5,000,000 |

**MAINE MARITIME ACADEMY**

**Maine Maritime Academy**

| | |
|---|---|
| Provides funds for energy and infrastructure upgrades at the Maine Maritime Academy. | $1,000,000 |

**DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES**
**UNIVERSITY OF MAINE SYSTEM**

**Maine Marine Wind Energy Demonstration Site Fund**

| | |
|---|---|
| Provides funds for research, development and product innovation associated with developing one or more ocean wind energy demonstration sites. | $6,000,000 |

## PART QQ

**Sec. QQ-1. Transfer; unexpended funds; Criminal History Record Check Fund account.** Notwithstanding any other provision of law, the State Controller shall transfer $140,000 in unexpended funds from the Criminal History Record Check Fund, Other Special Revenue Funds account in the Department of Education to the unappropriated surplus of the General Fund no later than June 30, 2010.

## PART RR

**Sec. RR-1. Calculation and transfer; General Fund savings through increased efficiencies and other cost reduction initiatives.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings identified in section 2 from increased efficiencies and other cost reduction initiatives that apply against each General Fund account for all departments and agencies except legislative branch departments and agencies and shall transfer the amounts by financial order upon approval of the Governor. These transfers are considered adjustments to appropriations in fiscal years 2009-10 and 2010-11. The State Budget Officer shall provide the Joint Standing Committee on Appropriations and Financial Affairs a report of the transferred amounts not later than November 5, 2010.

**Sec. RR-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: Reduces funding for departments and agencies statewide to be realized through increased efficiencies and other cost reduction initiatives.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Unallocated | ($2,000,000) | ($2,000,000) |
| GENERAL FUND TOTAL | ($2,000,000) | ($2,000,000) |

## PART SS

**Sec. SS-1. Transfer; workers' compensation savings; Other Special Revenue Funds accounts.** Notwithstanding any other provision of law, the State Controller shall transfer $929,280 by June 30, 2010 and $723,114 by June 30, 2011 from Other Special Revenue Funds accounts to the unappropriated surplus of the General Fund. These fund transfers represent savings from a return of excess equity for fiscal year 2009-10 and savings from a reduction in workers' compensation rates for departments and agencies statewide for fiscal year 2010-11.

## PART TT

**Sec. TT-1. Transfer of funds; Other Special Revenue Funds accounts; departments and agencies statewide.** Notwithstanding any other provision of law, the State Controller shall transfer $3,851,454 in savings achieved from shutdown days and other statewide reductions from the Other Special Revenue Funds accounts for departments and agencies statewide to the unappropriated surplus of the General Fund at the close of fiscal year 2010-11.

## PART UU

**Sec. UU-1. 18-A MRSA §2-203,** as enacted by PL 1979, c. 540, §1, is repealed and the following enacted in its place:

**§2-203. Right of election personal to surviving spouse**

The right of election of the surviving spouse may be exercised only during the lifetime of the surviving spouse by:

**(a).** The surviving spouse; or

**(b).** If the surviving spouse is a protected person, by order of the court in which protective proceedings for the surviving spouse are pending, after a finding that exercise is necessary to provide adequate support for the surviving spouse during the probable life expectancy of the surviving spouse. In a proceeding under this subsection, the surviving spouse's present or future eligibility for public assistance does not diminish the need for support.

**Sec. UU-2. Application.** That section of the Part that repeals and replaces the Maine Revised Statutes, Title 18-A, section 2-203 applies to a surviving spouse who has the right to exercise the elective share under Title 18-A, Part 2 on or after the effective date of this Part.

## PART VV

**Sec. VV-1. 36 MRSA §2893, sub-§2,** as amended by PL 2003, c. 673, Pt. HH, §4, is further amended to read:

**2. Return required in state fiscal years beginning on or after July 1, 2004.** For tax due for state fiscal years beginning on or after July 1, 2004, a person subject to the tax imposed by ~~this chapter~~ section 2892 shall submit to the assessor a return on a form prescribed and furnished by the assessor and pay one

half of the total tax due by November 15th of the state fiscal year for which the tax is being imposed and one half of the total tax due by May 15th of the state fiscal year for which the tax is being imposed.

**Sec. VV-2. 36 MRSA §2893, sub-§3,** as amended by PL 2007, c. 438, §62, is further amended to read:

**3. Application of revenues.** All revenues received by the assessor under this chapter must be credited to a General Fund suspense account. No later than the last day of each month, the State Controller shall transfer all revenues received by the assessor during the month under ~~this chapter~~ section 2892 to the Medical Care - Payments to Providers Other Special Revenue Funds account in the Department of Health and Human Services.

**Sec. VV-3. 36 MRSA §2894** is enacted to read:

**§2894. Hospital assessment**

For state fiscal year 2010-11, an assessment is imposed against each hospital in the State. The assessment is equal to 0.12% 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.

**Sec. VV-4. 36 MRSA §2895** is enacted to read:

**§2895. Return and payment of assessment; application of revenues**

**1. Return required.** A person subject to the assessment imposed under section 2894 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, 2010. The 2nd payment is due by March 30, 2011.

**2. Application of revenues.** All revenues received by the assessor under section 2894 must be credited to the General Fund.

## PART WW

**Sec. WW-1. Nursing home eligibility medical assessment rules.** The Department of Health and Human Services shall amend its rules and policies to eliminate the requirement for 90-day and for 5-year medical assessments for MaineCare nursing home eligibility. After an initial medical assessment, the department shall require that nursing home providers conduct ongoing evaluations using the State's minimum data set for determining medical eligibility. The department shall establish a process to assess penalties for nursing home provider misqualifications in medical eligibility determinations and to use existing department case reviewers to monitor nursing home resident medical eligibility determinations through random sampling methods.

## PART XX

**Sec. XX-1. 22 MRSA §3769, sub-§3** is enacted to read:

**3. Balances of funds not to lapse.** Any balances of funds appropriated for TANF or ASPIRE-TANF may not lapse but must be carried forward from year to year to be expended for the same purposes.

## PART YY

**Sec. YY-1. Allocation of revenue from watercraft registration fees.** The Commissioner of Inland Fisheries and Wildlife and the Commissioner of Marine Resources shall review the allocation of watercraft registration fees between the Department of Inland Fisheries and Wildlife and the Department of Marine Resources and make recommendations for changes to the allocation. This review must take into account the historical precedence for the division of the fees, the intent of recent statutory increases to the watercraft registration fees and the intent of any statutory changes to the allocation of these fees. The commissioners shall report their recommendations to the Joint Standing Committee on Appropriations and Financial Affairs, the Joint Standing Committee on Inland Fisheries and Wildlife and the Joint Standing Committee on Marine Resources no later than November 30, 2010.

## PART ZZ

**Sec. ZZ-1. Rename Mental Retardation Services - Community program.** Notwithstanding any other provision of law, the Mental Retardation Services - Community program within the Department of Health and Human Services is renamed the Developmental Services - Community program.

**Sec. ZZ-2. Rename Medicaid Services - Mental Retardation program.** Notwithstanding any other provision of law, the Medicaid Services - Mental Retardation program within the Department of Health and Human Services is renamed the Medicaid Services - Developmental Services program.

**Sec. ZZ-3. Rename Mental Retardation Waiver - MaineCare program.** Notwithstanding any other provision of law, the Mental Retardation Waiver - MaineCare program within the Department of Health and Human Services is renamed the Developmental Services Waiver - MaineCare program.

**Sec. ZZ-4. Rename Mental Retardation Waiver - Supports program.** Notwithstanding any other provision of law, the Mental Retardation Waiver - Supports program within the Department of Health and Human Services is renamed the Developmental Services Waiver - Supports program.

**Sec. ZZ-5. Intent; effect.** The substitution of the words "Developmental Services" for the words "Mental Retardation" and "Mental Retardation Ser-

vices" under the provisions of this Part 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.

## PART AAA

**Sec. AAA-1. 36 MRSA §2892,** as amended by PL 2007, c. 545, §6, is further amended by adding at the end a new paragraph to read:

For state fiscal years beginning on or after July 1, 2010, the hospital's taxable year is the hospital's fiscal year that ended during calendar year 2008.

## PART BBB

**Sec. BBB-1. Transfer from unappropriated surplus; Office of Integrated Access and Support - Central Office, Other Special Revenue Funds account; indirect cost allocation settlements.** Notwithstanding any other provision of law, the State Controller shall transfer $3,804,827 by June 30, 2010 from the unappropriated surplus of the General Fund to the Office of Integrated Access and Support - Central Office, Other Special Revenue Funds account within the Department of Health and Human Services for indirect cost allocation settlements.

**Sec. BBB-2. Transfer from unappropriated surplus; Family Independence - Regional, Other Special Revenue Funds account; indirect cost allocation settlements.** Notwithstanding any other provision of law, the State Controller shall transfer $1,569,406 by June 30, 2010 from the unappropriated surplus of the General Fund to the Family Independence - Regional, Other Special Revenue Funds account within the Department of Health and Human Services for indirect cost allocation settlements.

**Sec. BBB-3. Transfer from unappropriated surplus; Administrative Hearings, Other Special Revenue Funds account; indirect cost allocation settlements.** Notwithstanding any other provision of law, the State Controller shall transfer $439,694 by June 30, 2010 from the unappropriated surplus of the General Fund to the Administrative Hearings, Other Special Revenue Funds account within the Department of Health and Human Services for indirect cost allocation settlements.

## PART CCC

**Sec. CCC-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 $68,200,000 on June 30, 2010 from Other Special Revenue Funds to the unappropriated surplus of the General Fund. On July 1, 2010, the State Controller shall transfer $68,200,000 from the General Fund unappropriated surplus to Other Special Revenue Funds as repayment. This transfer is considered an interfund advance.

## PART DDD

**Sec. DDD-1. Implementation of recommendations of natural resources agency task force.** Beginning January 1, 2011, the Governor shall implement recommendations of the 2008 report of the natural resources agency task force appointed by the Governor to implement Public Law 2007, chapter 539, Part YY, section 2 to:

1. Move toward management of all state boat launch facilities by one of the natural resources agencies;

2. Move toward having natural resources agencies and staff collocated in various regional offices to increase communication and collaboration; and

3. Move toward rational alignment of districts for natural resources agencies to increase communication and collaboration among staff members and between agencies and local government and citizens of those regions.

## PART EEE

**Sec. EEE-1. Emergency rulemaking regarding vital records fees.** The Department of Health and Human Services, Office of Health Data and Program Management shall by April 1, 2010 adopt rules on an emergency basis to set the fees for obtaining copies of vital records from the office at the same levels as were in effect in September 2009 and, following adoption of the emergency rules, shall complete nonemergency rulemaking to set the fees at the September 2009 levels. Rules adopted pursuant to this section are routine technical rules as defined by the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

## PART FFF

**Sec. FFF-1. 8 MRSA §1036, sub-§5** is enacted to read:

**5. Annual report on use of funds.** The Department of Agriculture, Food and Rural Resources, Harness Racing Commission, the University of Maine System and the Maine Community College System shall provide an annual report that includes a detailed explanation of how the funds received under subsection 2, paragraph B, C, D, F, G, H or I achieved specific objectives. The report must include detailed historical allocation and expenditure information beginning with fiscal year 2005-06. The reports must be submitted to the joint standing committees of the Legislature having jurisdiction over legal and veterans affairs and appropriations and financial affairs no later than September 15th of each year.

**Sec. FFF-2. Review of slot machine revenue distribution.** Upon approval of the Legislative Council, the Joint Standing Committee on Legal and Veterans Affairs shall review the current allocation of funds from slot machine facilities in the Maine Revised Statutes, Title 8, section 1036 and any other allocation of funds regarding casinos approved by the Legislature or the voters in the State and make recommendations for any necessary changes.

In conducting its review, the Joint Standing Committee on Legal and Veterans Affairs shall consult with interested groups as it considers appropriate. The committee's recommendations must address, at a minimum, the following issues:

1. The appropriate framework for ensuring thorough and regular reviews of the allocation of revenue from slot machine facilities or approved casinos that consider the adequacy of the distribution of revenue among existing and new potential uses and recipients; and

2. Principles for the allocation of revenue from slot machine facilities or approved casinos consistent with voters' intent.

The Joint Standing Committee on Legal and Veterans Affairs shall, no later than November 3, 2010, submit a report with implementing legislation to the First Regular Session of the 125th Legislature on the issues identified in this Part.

## PART GGG

**Sec. GGG-1. Private nonmedical institution rate standardization.** The Department of Health and Human Services shall convene a provider working group to participate in the process of developing and implementing standardized rates for private nonmedical institutions, including substance abuse treatment facilities and community residences for persons with mental illness. The Department of Health and Human Services is authorized to adopt rules to establish a standardized rate structure for private nonmedical institutions that bill MaineCare under the MaineCare Benefits Manual, Chapter III, Section 97, Appendix B: Principles of Reimbursement for Substance Abuse Treatment Facilities, and Appendix E: Principles of Reimbursement for Community Residences for Persons with Mental Illness. The rules must achieve the savings included in Part A and may include a separate standardized rate for each different type and level of service specified. 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 HHH

**Sec. HHH-1. Unified payment card work group established.** The Treasurer of State shall convene a work group to review disbursement options related to a unified payment card for state expenditures in order to determine if increased cardholder convenience and further state budget savings can be achieved.

**Sec. HHH-2. Participants.** In convening the work group under section 1, the Treasurer of State shall include representatives from the Department of Administrative and Financial Services, Office of the State Controller, Division of Purchases, Bureau of Revenue Services and Office of Information Technology; the Department of Labor; the Department of Health and Human Services; the Department of Corrections; the Department of Education; and the Department of Professional and Financial Regulation. The Treasurer of State shall serve as chair of the work group and may accept resources as approved and provided by work group participants.

**Sec. HHH-3. Duties.** The work group under section 1 shall:

1. Review current payment card offerings;

2. Explore opportunities to expand payment card offerings;

3. Determine any cost savings and expenses associated with a unified payment card; and

4. Recommend actions and timelines, if appropriate.

**Sec. HHH-4. Report.** The work group under section 1 shall submit its report, including any recommended implementing legislation, to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs by January 15, 2011.

## PART III

**Sec. III-1. Nursing facility food handling requirements.** The Department of Health and Human Services shall review the rules regarding food handling requirements in nursing facilities, including but not limited to the rules regarding the serving of foods from previously prepared menus and portion requirements, with the objective of reducing waste and encouraging efficiencies in food handling while maintaining the quality of the menus. In its review, the department shall seek advice from an advisory group, which includes but is not limited to the long-term care ombudsman, professional food managers and food inspectors from the department and private facilities. The department may adopt new rules by December 31, 2010 to ensure that all nursing facility residents affected are treated uniformly regarding food handling and management. 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 JJJ

**Sec. JJJ-1. 5 MRSA §285, sub-§7-A,** as enacted by PL 2009, c. 213, Pt. GG, §2, is amended to read:

**7-A. Health credit premium program.** Notwithstanding subsection 7, paragraph C, the State may pay a greater proportion of the total cost of the individual premium for the standard plan identified and offered by the commission and available to the employee as authorized by the commission. The commission shall develop a health credit premium program whereby employees are provided incentives to engage in healthy behaviors in an effort to improve the health status of the state employee population and to help reduce costs to the state employee health insurance program. The commission shall define benchmarks for healthy behaviors that, if met by an individual employee, result in the State's paying a greater share of the individual premium. Adjustments to the state share of the individual premium must be applied once each year in advance of the beginning of the plan year.

The benchmarks developed by the commission must provide ~~3~~ 2 discrete levels for the state share of the individual premium as follows.

A. For employees whose base annual rate of pay is projected to be less than or equal to $30,000 on July 1st of the state fiscal year for which the premium contribution is being determined, the health credit premium program must provide the individual employee meeting the specified benchmarks with the opportunity to have the state share of the individual premium paid at 100%~~, 97.5%~~ or 95%. The state share is determined by the specific benchmarks met by the employee.

B. For employees whose base annual rate of pay is projected to be greater than $30,000 and less than $80,000 on July 1st of the state fiscal year for which the premium contribution is being determined, the health credit premium program must provide the individual employee meeting the specified benchmarks with the opportunity to have the state share of the individual premium paid at 95%~~, 92.5%~~ or 90%. The state share is determined by the specific benchmarks met by the employee.

C. For employees whose base annual rate of pay is projected to be $80,000 or greater on July 1st of the state fiscal year for which the premium contribution is being determined, the health credit premium program must provide the individual employee meeting the specified benchmarks with the opportunity to have the state share of the individual premium paid at 92.5%~~, 89%~~ or 85%. The state share is determined by the specific benchmarks met by the employee.

## PART KKK

**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 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.

## PART LLL

**Sec. LLL-1. 9-A MRSA §8-303, sub-§2-A,** as enacted by PL 2009, c. 113, §1, is amended to read:

**2-A.** Notwithstanding subsection 2, a governmental entity may impose a surcharge for payments made with a credit card or debit card for taxes, fines, charges, utility fees, regulatory fees, license or permit fees or the provision of a specific service provided by that governmental entity if the surcharge:

A. Is disclosed clearly to the consumer prior to payment; and

B. Does not exceed the costs associated with providing the credit card or debit card service that are directly incurred by the governmental entity or assessed by an authorized 3rd-party payment service provider for a credit card or debit card transaction. If there is not a cost assessed by an authorized 3rd-party payment service provider for a debit card transaction, the governmental entity may not impose a surcharge associated with a debit card transaction.

A governmental entity shall disclose to the consumer that the surcharge may be avoided if the consumer makes payments by cash, check or other means not a credit card or debit card. A governmental entity is not subject to any liability to the issuer of a credit card or an authorized 3rd-party payment service provider for nonpayment of credit card charges by the consumer. As used in this subsection, "governmental entity" means a county established or governed by Title 30-A, Part 1, a municipality as defined in Title 30-A, section 2001, subsection 8, a quasi-municipal corporation as defined in Title 30-A, section 2604, subsection 3 ~~or~~, the Judicial Department as described in Title 4, the University of Maine System, the Maine Community College System or the Maine Maritime Academy.

## PART MMM

**Sec. MMM-1. PL 2009, c. 213, Pt. SSS, §4** is amended to read:

**Sec. SSS-4. Merit increases and longevity payments.** Notwithstanding the Maine Revised Statutes, Title 26, section 979-D or section 1285 or any other provision of law, any merit increase ~~or longevity payment~~, regardless of funding source, scheduled to be

awarded or paid between July 1, 2009 and June 30, 2011 and any longevity payment, regardless of funding source, scheduled to be paid between July 1, 2009 and June 30, 2010 to any person employed by the departments and agencies within the executive and judicial branches, including the constitutional officers and the Department of Audit, may not be awarded, authorized or implemented. These savings may be replaced by other Personal Services savings by agreement of the State and the bargaining agents representing state employees.

**Sec. MMM-2. PL 2009, c. 213, Pt. SSS, §5** is amended to read:

**Sec. SSS-5. Personal Services adjustments for the 2010-2011 biennium; legislative branch.** Notwithstanding the State Employees Labor Relations Act or any other provision of law, the Personal Services expenditures for the legislative branch must be adjusted to achieve Personal Services savings in a manner determined by the Legislative Council including implementation of office closures and suspension of merit or step increases ~~and longevity stipends~~ for the 2010-2011 biennium and suspension of longevity stipends for fiscal year 2009-10.

## PART NNN

**Sec. NNN-1. Carrying balance; Bureau of Medical Services; General Fund account.** Notwithstanding any other provision of law, any All Other line category balance in the Department of Health and Human Services, Bureau of Medical Services, General Fund account remaining on June 30, 2010 may not lapse but must be carried forward to June 30, 2011 to be used for the same purposes.

## PART OOO

**Sec. OOO-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, 2010 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 without the necessity of demonstrating that immediate adoption is necessary to avoid a threat to public health, safety or general welfare.

## PART PPP

**Sec. PPP-1. 22 MRSA §3174-Q, sub-§2,** as enacted by PL 1995, c. 696, Pt. B, §2, is amended to read:

**2. Services covered.** Elimination of services covered under the program on August 1, 1996, except when immediately necessary to comply with federal law. The department may not eliminate a service if modification of that service can achieve compliance with federal law. Any modification may be made only to the extent necessary to achieve compliance with federal law. Any elimination or modification made under this subsection must be done through rulemaking under the Maine Administrative Procedure Act. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

If the department takes action to eliminate or modify a service under this subsection, it shall provide notice of the rule-making proceedings to members of the Legislature.

## PART QQQ

**Sec. QQQ-1. 20-A MRSA §1486, sub-§1,** as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

**1. Budget validation.** Following development of the annual regional school unit budget and approval at a regional school unit budget meeting as provided in section 1485, a referendum must be held in the regional school unit as provided in this section to allow the voters to validate or reject the total budget adopted at the regional school unit budget meeting.

Every 3 years, the voters in a regional school unit shall consider continued use of the budget validation referendum process. The warrant at the budget validation referendum in the 3rd year following adoption or continuation of the referendum process must include an article by which the voters of the school administrative district may indicate whether they wish to continue the process for another 3 years. The warrant for the referendum to validate the fiscal year 2010-11 budget is deemed the 3rd-year warrant. A vote to continue retains the process for 3 additional years. A vote to discontinue the process ends its use beginning with the following budget year and prohibits its reconsideration for at least 3 years.

An article to consider reinstatement of the budget validation referendum process may be placed on a warrant for a referendum vote by either a majority vote of the regional school unit board or a written petition filed with the regional school unit board by at least 10% of the number of voters voting in the last gubernatorial election in the municipalities in the school administrative district. The regional school unit board shall place the article on the next scheduled warrant or an earlier one if determined appropriate by the regional school unit board. If adopted by the voters, the budget validation referendum process takes effect beginning in the next budget year or the following budget year if the adoption occurs less than 90 days before the start of the next budget year. Once approved by the voters, the budget validation referendum process may not be changed for 3 years.

**Sec. QQQ-2. 20-A MRSA §1486, sub-§2,** as amended by PL 2009, c. 98, §1, is further amended to read:

**2. Validation referendum procedures.** The budget validation referendum must be held on or before the ~~14th~~ 30th calendar day following the scheduled date of the regional school unit budget meeting. The referendum may not be held on a Sunday or legal holiday. The vote at referendum is for the purpose of approving or rejecting the total regional school unit budget approved at the regional school unit budget meeting. The regional school unit board shall provide printed information to be displayed at polling places to assist voters in voting. That information is limited to the total amounts proposed by the regional school unit board for each cost center summary budget category article, the amount approved at the regional school unit budget meeting, a summary of the total authorized expenditures and, if applicable because of action on an article under section 15690, subsection 3, paragraph A, a statement that the amount approved at the regional school unit budget meeting includes locally raised funds that exceed the maximum state and local spending target pursuant to section 15671-A, subsection 5.

## PART RRR

**Sec. RRR-1. 5 MRSA §17001, sub-§4, ¶A,** as amended by PL 2009, c. 213, Pt. SSS, §1, is further amended to read:

A. The average annual rate of earnable compensation of a member during the 3 years of creditable service as an employee in Maine, not necessarily consecutive, in which the member's annual rate of earnable compensation is highest. However, if a member is subject to a temporary layoff or other time off without pay as a result of a Governor's Executive Order, time off without pay or loss of pay pursuant to the agreements of February 15, 1991, October 23, 1991 and June 11, 1993 between the Executive Department and the American Federation of State, County and Municipal Employees, Council 93, time off without pay pursuant to the agreement of June 11, 1993 between the Executive Department and the Maine State Employees Association, days off without pay as authorized by legislative action or days off without pay resulting from any executive order declaring or continuing a state of emergency relating to the lack of an enacted budget document for fiscal years ending June 30, 1992 and June 30, 1993, or, if a member elects to make the payments as set forth in section 17704-B, as a result of days off without pay or for days worked for which the level of pay is reduced as the result of the freezing of merit pay and longevity pay as authorized by legislative action, by the State Court Administrator or from executive order for the fiscal year beginning July 1, 2002, July 1, 2009 or July 1, 2010, or a combination thereof, or, if a member is subject to days off without pay, not to exceed 10 days in each fiscal year ending June 30, 1992 and June 30, 1993, as a result of actions taken by local school administrative units to offset school subsidy reductions, or, if a member is subject to days off without pay during the fiscal year beginning July 1, 2009 or July 1, 2010, as a result of actions taken by a local school administrative unit and the member elects to make the payments as set forth in section 17704-B or, notwithstanding section 18202, as a result of actions of a participating local district to offset reductions in municipal revenue sharing or a combination thereof, for the fiscal years ending June 30, 1992 and June 30, 1993, the 3-year average final compensation must be determined as if the member had not been temporarily laid off, reduced in pay or provided days off without pay; or

## PART SSS

**Sec. SSS-1. 34-B MRSA §1409, sub-§15,** as amended by PL 2005, c. 236, §3 and c. 256, §5, is further amended to read:

**15. General Fund accounts; disproportionate share hospital match.** The commissioner shall establish General Fund accounts to provide the General Fund match for eligible disproportionate share hospital components in the Riverview Psychiatric Center and the Dorothea Dix Psychiatric Center. Any unencumbered balances of General Fund appropriations remaining at the end of each fiscal year must be carried forward to be used for the same purposes. Notwithstanding Title 5, section 1582, subsection 4 or any other provision of law, available unencumbered balances at the end of each fiscal year in the Personal Services line category of the accounts may be transferred to the All Other line category by financial order upon the recommendation of the State Budget Officer and approval of the Governor.

## PART TTT

**Sec. TTT-1. Distribution of Fund for a Healthy Maine deallocation; report required.** The State Budget Officer shall review the programs receiving funds from the Fund for a Healthy Maine and shall make adjustments to each account receiving funding in the All Other line category pursuant to the deallocation in the Department of Administrative and Financial Services included in section 2 of this Part. The State Budget Officer shall first apply any unexpended balance in the Fund for a Healthy Maine on June 30, 2010 before making any adjustments. These adjustments must be calculated in proportion to each account's allocation in the All Other line category in relation to the total All Other allocation for Fund for a Healthy Maine programs. Notwithstanding any other provision of law, the State Budget Officer shall transfer the identified amounts by financial order upon approval of the Governor. These transfers are considered adjustments to allocations in fiscal year 2010-11. The State Budget Officer shall report on the distribution of savings 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 by January 1, 2011.

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

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Fund for a Healthy Maine 0921**

Initiative: Reduces funding to reflect a fundwide reduction to the Fund for a Healthy Maine in fiscal year 2010-11.

| FUND FOR A HEALTHY MAINE | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($1,380,582) |
| FUND FOR A HEALTHY MAINE TOTAL | $0 | ($1,380,582) |

## PART UUU

**Sec. UUU-1. PL 2009, c. 213, Pt. MMM, §2,** as enacted by PL 2009, c. 371, Pt. B, §2, is amended to read:

**Sec. MMM-2. Transfer; Maine Budget Stabilization Fund.** Notwithstanding the Maine Revised Statutes, Title 5, section 1536 or any other provision of law, ~~$3,643,615~~ $8,279,283 of the balance in General Fund unappropriated surplus on June 30, 2010 and $2,488,702 of the balance in General Fund unappropriated surplus on June 30, 2011 must be transferred to the Maine Budget Stabilization Fund no later than June ~~20~~ 30, 2011 after all budgeted financial commitments and adjustments considered necessary by the State Controller have been made.

## PART VVV

**Sec. VVV-1. PL 2007, c. 240, Pt. XXXX, §36, sub-§11,** as amended by PL 2009, c. 213, Pt. KKKK, §1, is further amended to read:

**11. Result of disapproval at January 2008 referendum or subsequent referendum on or before January 30, 2009.** A school administrative unit that rejects a proposed reorganization plan at the January 15, 2008 referendum or at a subsequent referendum on or before January 30, 2009 may restart the process to form a regional school unit with the same or other school administrative units and may seek assistance from the Department of Education to prepare another reorganization plan.

A. Subsequent reorganization plans must meet the same requirements as for reorganization plans filed prior to the January 2008 referendum, except that the timelines are adjusted to reflect a July 1, 2009 reorganization date.

B. The penalties set forth in Title 20-A, section 15696 apply to any school administrative unit that fails to approve a reorganization plan on or before January 30, 2009 and to implement that plan by July 1, 2009, including those school administrative districts that are reformulated under subsection 12. These penalties do not apply to any school administrative unit that implements a reorganization plan by July 1, ~~2010~~ 2011 in accordance with subsection 11-A.

**Sec. VVV-2. PL 2007, c. 240, Pt. XXXX, §36, sub-§11-A,** as enacted by PL 2009, c. 213, Pt. KKKK, §2, is amended to read:

**11-A. Result for school administrative unit that approves plan at referendum on or before January 30, 2010 but is unable to implement plan.** A school administrative unit that approves a proposed reorganization plan at the January 15, 2008 referendum or at a subsequent referendum on or before January 30, ~~2009~~ 2010 but is unable to implement the plan because the plan was rejected at referendum by one or more of its proposed partner school administrative units under the plan may restart the process to form a regional school unit with the same or other school administrative units and may seek assistance from the Department of Education to prepare another reorganization plan.

A. Subsequent reorganization plans must meet the same requirements as for reorganization plans filed prior to the January 2008 referendum, except that the timelines are adjusted to reflect a July 1, ~~2010~~ 2011 reorganization date.

B. The penalties set forth in Title 20-A, section 15696 apply, as of July 1, ~~2010~~ 2011, to any school administrative unit that fails to approve a reorganization plan on or before January 30, ~~2010~~ 2011 and to implement that plan by July 1, ~~2010~~ 2011.

## PART WWW

**Sec. WWW-1. 36 MRSA §271, sub-§2, ¶C,** as enacted by PL 1985, c. 764, §8, is amended to read:

C. Promulgate rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, governing procedures before the board; ~~and~~

**Sec. WWW-2. 36 MRSA §271, sub-§2, ¶D,** as enacted by PL 1985, c. 764, §8, is amended to read:

D. Administer oaths, take testimony, hold hearings, summon witnesses~~,~~ and subpoena records, files and documents it considers necessary for carrying out its responsibilities~~.~~; and

**Sec. WWW-3. 36 MRSA §271, sub-§2, ¶E** is enacted to read:

E. Charge fees for filing a petition for appeal with the board pursuant to subsection 10.

**Sec. WWW-4. 36 MRSA §271, sub-§3,** as amended by PL 1993, c. 395, §9, is further amended to read:

**3. Procedures.** Appeals to the board must be commenced by filing a petition for appeal with the board and paying the appropriate filing fee if required pursuant to subsection 10. A copy of the petition must be mailed to the State Tax Assessor and to the assessor of the municipality where the property subject to appeal is located.

**Sec. WWW-5. 36 MRSA §271, sub-§3-A,** as enacted by PL 1993, c. 395, §10, is amended to read:

**3-A. Filing.** Petitions for appeal, filing fees and all other papers required or permitted to be filed with the board must be filed with the secretary of the board. Filing with the secretary may be accomplished by delivery to the office of the board or by mail addressed to the secretary of the board. All papers to be filed that are transmitted by the United States Postal Service are deemed filed on the day the papers are deposited in the mail as provided in section 153. The secretary of the board shall place a petition for appeal that is filed without payment of the filing fee on the docket and shall notify the petitioner that the appeal will not be processed further without payment. Municipal appeals under section 272 are specifically exempted from the filing fee requirement.

**Sec. WWW-6. 36 MRSA §271, sub-§9** is enacted to read:

**9. Property Tax Review Board Fund; funding.** The Property Tax Review Board Fund is established to assist in funding the activities of the board pursuant to this subchapter. Any balance in the fund does not lapse but is carried forward to be expended for the same purposes in succeeding fiscal years. Filing fees collected pursuant to this section must be deposited in the fund, which is administered by the board. The funds must supplement and not supplant General Fund appropriations.

**Sec. WWW-7. 36 MRSA §271, sub-§10** is enacted to read:

**10. Filing fees.** The following fees are required for filing petitions for appeal with the board.

A. The filing fee for a petition for an appeal of current use valuation under the tree growth tax law, chapter 105, subchapter 2-A, the farm and open space tax law, chapter 105, subchapter 10, the working waterfront land law, chapter 105, subchapter 10-A or a petition for an appeal relating to section 2865 is $75.

B. The filing fee for a petition for an appeal relating to nonresidential property or properties with an equalized municipal valuation of $1,000,000 or greater pursuant to sections 273, 843 and 844 is $150.

**Sec. WWW-8. Appropriations and allocations.** The following appropriations and allocations are made.

**PROPERTY TAX REVIEW, STATE BOARD OF**

**Property Tax Review - State Board of 0357**

Initiative: Allocates funds for the State Board of Property Tax Review from fees to be charged for appeals that are filed with the board.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $500 | $3,000 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $500 | $3,000 |

**Sec. WWW-9. Application.** This Part does not apply to any appeal pending or petition filed with the State Board of Property Tax Review prior to the effective date of this Act.

## PART XXX

**Sec. XXX-1. 20-A MRSA §15689-B, sub-§6,** as amended by PL 2009, c. 213, Pt. C, §15, is further amended to read:

**6. Balance of allocations.** Notwithstanding any other law, general operating fund balances at the end of a school administrative unit's fiscal year must be carried forward to meet the unit's needs in the next year or over a period not to exceed 3 years. Unallocated balances in excess of 3% of the previous fiscal year's school budget must be used to reduce the state and local share of the total allocation for the purpose of computing state subsidy. School boards may carry forward unallocated balances in excess of 3% of the previous year's school budget and disburse these funds in the next year or over a period not to exceed 3 years. For fiscal years 2008-09, 2009-10 ~~and~~, 2010-11, 2011-12, 2012-13, 2013-14 and 2014-15 only, the carry-forward of a school administrative ~~units may~~ unit's unallocated balances is not ~~be~~ limited to 3% of the previous fiscal year's school budget.

## PART YYY

**Sec. YYY-1. 27 MRSA §7** is enacted to read:

**§7. Private support organization**

**1. Designation of private support organization.** The State Librarian shall designate a nonprofit organization as the private support organization for the Maine State Library. The designated organization must be incorporated as a nonprofit corporation under the laws of the State, and its sole purpose, as reflected in its bylaws, must be to organize and foster support for the Maine State Library and the library's programs.

**2. Nonvoting member on board of directors.** The State Librarian, or the librarian's designee, must be made a nonvoting ex officio member of the private support organization's board of directors.

**3. Plan of work.** The State Librarian shall negotiate an annual memorandum of understanding between the Maine State Library and the private support organization that outlines a plan of work identifying priority projects of mutual benefit and cooperation.

**4. Use of property.** The State Librarian may permit the appropriate use of fixed property, equipment and facilities of the Maine State Library by the private support organization. Such use must be directly in keeping with the purpose of the private support organization as set out in subsection 1 and must comply with all appropriate state policies and procedures.

## PART ZZZ

**Sec. ZZZ-1. Report.** The Commissioner of Education and the Commissioner of Health and Human Services shall present a status report to the Joint Standing Committee on Education and Cultural Affairs regarding the financial implications of implementing any proposed changes to the Department of Health and Human Services rules pertaining to MaineCare, including the potential adverse fiscal impact for Medicaid-eligible children from birth to 20 years of age who receive programs and services through the Child Development Services System and through kindergarten to grade 12 schools in accordance with the federal Individuals with Disabilities Education Act, 20 United States Code, Sections 1400 et seq. The commissioners shall submit a final report no later than October 1, 2010. The Joint Standing Committee on Education and Cultural Affairs may report out a bill to the 124th Legislature based on the report submitted pursuant to this section.

## PART AAAA

**Sec. AAAA-1. Achieving efficiencies within the unified correctional system.** The State Board of Corrections shall continue to achieve efficiencies and improved services through restructuring and strategic investments. Every county shall participate fully in the board's initiatives, which may include uniform standards, data collection, joint purchasing agreements, consolidation of contracts and services and changes in mission and purpose. Every county shall provide all information requested by the board according to timelines established by the board, including the full and timely reporting of expenditures and unexpended balances.

## PART BBBB

**Sec. BBBB-1. Commercial forestry excise tax special assessment; report on enforcement activities.** In addition to the amount calculated for the commercial forestry excise tax under the Maine Revised Statutes, Title 36, section 2723-A, subsection 5-A for taxes due on May 1, 2011, the State Tax Assessor shall increase the amount to be collected from owners of commercial forest land in accordance with Title 36, section 2723-A, subsection 5-A on a one-time basis by $400,000. The special assessment imposed pursuant to this section may not be considered revenue for the purposes of Title 36, section 2723-A. The State Tax Assessor shall report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs, the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters and the joint standing committee of the Legislature having jurisdiction over taxation matters no later than February 15, 2011 on the amount of additional acreage added to the tax base for the 2011 tax year and additional collections from enforcement activities and their effect on offsetting the $400,000 increase and on reducing the per acre tax rate in 2011 and thereafter for landowners that made commercial forestry excise tax payments in the 2010 tax year.

## PART CCCC

**Sec. CCCC-1. Shared living model redesign stakeholder group.** The Department of Health and Human Services shall convene a stakeholder group to participate in redesigning a shared living model of housing and services for adults with developmental disabilities, including the development of minimum standards for shared living, consideration of a reimbursement system based on the support needs of the individual served and a clear delineation of the responsibilities of the host family, the agencies providing oversight, state and community case managers and department staff.

**Sec. CCCC-2. Shared living model responsibilities.** The Department of Health and Human Services shall assume responsibility for direct support professional and medication administration training for shared living homes and respite providers beginning July 1, 2010. Agencies providing oversight shall maintain responsibility over the remaining aspects of the shared living homes.

**Sec. CCCC-3. Shared living model reimbursement and rules.** The Department of Health and Human Services shall reduce the reimbursement

rate for the shared living program by 4.5% beginning July 1, 2010. The department is authorized to adopt rules effective October 1, 2010 to establish a reimbursement structure that produces an additional $500,000 in General Fund savings in fiscal year 2010-11. Rules adopted pursuant to this section are major substantive rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

**Sec. CCCC-4. Shared living model redesign report requirement.** The Department of Health and Human Services shall report to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Health and Human Services on the progress of the stakeholder group in redesigning the shared living model under section 1 on July 1, 2010 and on September 1, 2010.

## PART DDDD

**Sec. DDDD-1. Nursing facility survey revisit rules.** The Department of Health and Human Services shall amend rules governing the licensing and functioning of skilled nursing facilities to reduce the necessity for nursing facility survey revisits for minor deficiencies that result in no substandard quality of care or actual harm when a facility provides evidence that it has corrected the deficiencies and is in compliance.

## PART EEEE

**Sec. EEEE-1. Resolve 2009, c. 136, §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~~ June 1, 2010. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. Within 15 days after appointment of all members, the chairs shall call and convene the first meeting of the task force, which must be no later than ~~August 1, 2009~~ July 1, 2010; and be it further

**Sec. EEEE-2. Resolve 2009, c. 136, §7** is amended to read:

**Sec. 7. Report. Resolved:** That, no later than ~~December 2, 2009~~ November 3, 2010, the task force shall submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the ~~Second~~ First Regular Session of the ~~124th~~ 125th Legislature~~. The Joint Standing Committee on Health and Human Services is authorized to introduce a bill related to the subject matter of the report to the Second Regular Session upon receipt of the report~~; and be it further

**Sec. EEEE-3. Resolve 2009, c. 136, §8** is amended to read:

**Sec. 8. Funding. Resolved:** That the operations of the task force are contingent upon receipt of outside funding to fund all costs of the task force. Private financial or in-kind contributions to support the work of the task force may not be accepted from any party having a pecuniary or other vested interest in the outcome of the study. Any person, other than a state agency, authorized and desiring to make a financial or in-kind contribution must certify to the Legislative Council that it has no pecuniary or other vested interest in the outcome of the study. All such contributions are subject to the approval of the Legislative Council. All accepted contributions must be forwarded to the Executive Director of the Legislative Council along with an accounting record that includes the amount of contributions, the date the contributions were received, from whom the contributions were received and the purpose of and any limitation on the use of those contributions. The Executive Director of the Legislative Council shall administer the contributions and shall notify the chairs of the task force when those contributions have been received. If funding has not been received ~~within 30 days after the effective date of this resolve~~ by June 1, 2010, then no meetings of the task force are authorized and no study-related expenses of any kind may be incurred or reimbursed; and be it further

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

**LEGISLATURE**

**Study Commissions - Funding 0444**

Initiative: Adjusts allocations between fiscal years to reflect the delay in the start of the task force on kinship families.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $1,540 |
| All Other | $0 | $2,950 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $4,490 |

**Sec. EEEE-5. Retroactivity.** This Part applies retroactively to June 17, 2009.

## PART FFFF

**Sec. FFFF-1. Study group to study gambling and liquor administrative oversight activities.** The Commissioner of Administrative and Financial Services and the Commissioner of Public Safety shall convene a study group to evaluate the roles and responsibilities of their departments as they pertain to gambling and liquor-related oversight activities. The review must focus on opportunities for cost

savings, regulatory efficiencies and enhanced coordination of efforts. The study group must involve various stakeholder groups, as appropriate.

The study group shall report the findings and recommendations resulting from its work to the joint standing committee of the Legislature having jurisdiction over legal and veterans affairs and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs by January 15, 2011. The joint standing committee of the Legislature having jurisdiction over legal and veterans affairs may report out a bill to the First Regular Session of the 125th Legislature to implement recommendations of the study.

## PART GGGG

**Sec. GGGG-1. 5 MRSA §1582, sub-§4,** as amended by PL 2009, c. 462, Pt. G, §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 account within the Department of Conservation, 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.

## PART HHHH

**Sec. HHHH-1. 8 MRSA §1003, sub-§2,** as amended by PL 2005, c. 663, §§4 and 5, is further amended to read:

**2. Duties.** The ~~board~~ Commissioner of Public Safety, with the advice and the consent of the board, and on a timetable directed by the board, shall hire an executive director. The ~~board or the~~ director~~, as delegated by the board,~~ shall hire staff in accordance with the Civil Service Law and retain professional services that the board considers necessary to carry out its responsibilities. In addition, the board or the director or staff, as delegated by the board, shall:

A. Enforce the provisions of this chapter and any rules adopted under this chapter;

B. Hear and decide all license and registration applications under this chapter and issues affecting the granting, suspension, revocation or renewal of licenses and registrations;

C. Review the department's reports of its investigation of the qualifications of an applicant before a license or registration is issued and investigate the circumstances surrounding any act or transaction for which board approval is required;

D. Cause the department to investigate any alleged violations of this chapter or rules adopted under this chapter and the direct or indirect ownership or control of any licensee;

E. Refer violations of this chapter to the Attorney General to bring action in the courts and administrative tribunals of this State or the United States, in the name of the State of Maine. This paragraph does not limit the authority of district attorneys to prosecute criminal violations of the law;

F. Collect all licensing and registration fees and taxes imposed by this chapter and rules adopted pursuant to this chapter;

G. Develop a standard uniform location agreement;

H. Pursuant to subchapter 5, cause the department to investigate all complaints made to the board regarding ownership, distribution or operation of slot machines and all violations of this chapter or rules adopted under this chapter;

I. Adopt rules to prevent undesirable conduct relating to the ownership, distribution and operation of slot machines and slot machine facilities, including, but not limited to, the following:

(1) The practice of any fraud or deception upon a player of a slot machine or a licensee;

(2) The presence or location of a slot machine in or at premises that may be unsafe due to fire hazard or other public safety conditions;

(3) The infiltration of organized crime into the ownership, distribution or operation of slot machines and slot machine facilities; and

(4) The presence of disorderly persons in a location where slot machines are in use;

J. Maintain a central site system of monitoring in real time all slot machines licensed in accordance with this chapter using an on-line inquiry;

K. Maintain the ability to activate and deactivate the operation of slot machines via the central site monitoring system under authority of board staff or persons contracted by the board;

L. Ensure that the slot machine operator does not have access to any system that is capable of programming slot machines;

M. Inform commercial track operators applying for a license to operate slot machines that any slot machines licensed by the board must be compatible with the central site system of on-line monitoring used by the board;

N. Cause the central site monitoring system to disable a slot machine that does not meet registration requirements provided by this chapter or rules adopted under this chapter or as directed by the department;

O. Cause the central site monitoring system to disable a slot machine and cause the department to seize the proceeds of that slot machine if the funds from that slot machine have not been distributed, deposited or allocated in accordance with section 1036;

P. Collect all funds and taxes due to the State under sections 1018 and 1036;

Q. Certify monthly to the department a full and complete statement of all slot machine revenue, credits disbursed by licensees, administrative expenses and the allocation of slot machine income for the preceding month;

R. Submit by March 15th an annual report to the Governor and the joint standing committee of the Legislature having jurisdiction over gambling affairs on slot machine revenue, credits disbursed by slot machine operators, administrative expenses and the allocation of slot machine income for the preceding year;

S. Prepare and submit to the department a budget for the administration of this chapter; and

T. Keep accurate and complete records of its proceedings and certify the records as may be appropriate.

## PART IIII

**Sec. IIII-1. Deappropriation from 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 2009-10 and fiscal year 2010-11.

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

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

**Departmentwide 0640**

Initiative: Deappropriates funds from salary savings.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($3,000,000) | ($1,250,000) |
| GENERAL FUND TOTAL | ($3,000,000) | ($1,250,000) |

## PART JJJJ

**Sec. JJJJ-1. Executive Department, State Planning Office.** By November 30, 2010, the Commissioner of Administrative and Financial Services, the Director of the State Planning Office within the Executive Department and a policy advisor in the Governor's office selected by the Governor shall report to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and state and local government matters a plan, including any necessary implementing legislation, to reorganize certain functions of the State Planning Office to:

1. Enhance the policy development and interagency functions currently conducted by the State Planning Office;

2. Ensure coordination of community assistance and economic development;

3. Locate waste management responsibilities to coordinate environmental, economic and energy matters involving solid waste disposal, including oversight of any state-owned landfill;

4. Include any other functions recommended by the Commissioner of Administrative and Financial Services, the Director of the State Planning Office and the policy advisor in the Governor's office that reduce administrative cost and enhance efficiency; and

5. Achieve General Fund savings of $225,000 during fiscal year 2010-11.

**Sec. JJJJ-2. Distribution of savings.** Notwithstanding any other provision of law, the State Budget Officer shall distribute the savings identified in section 3 to the appropriate accounts and line categories by financial order upon approval of the Governor. These adjustments are considered an adjustment to appropriations in fiscal year 2010-11.

**Sec. JJJJ-3. Appropriations and allocations.** The following appropriations and allocations are made.

**EXECUTIVE DEPARTMENT**

**Planning Office 0082**

Initiative: Deappropriates savings to be established pursuant to this Part.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Unallocated | $0 | ($225,000) |
| GENERAL FUND TOTAL | $0 | ($225,000) |

## PART KKKK

**Sec. KKKK-1. Transfer from unappropriated surplus; Medical Care Services; targeted case management federal disallowance.** Notwithstanding any other provision of law, the State Controller shall transfer $29,736,437 by June 30, 2010 from the unappropriated surplus of the General Fund to the Medical Care Services Federal Expenditures Fund program within the Department of Health and Human Services for the federal disallowance related to targeted case management services provided in 2002 and 2003.

## PART LLLL

**Sec. LLLL-1. State Liquor and Lottery Commission directed to implement Mega Millions lottery game.** Notwithstanding any other provision of law to the contrary, the Department of Administrative and Financial Services, State Liquor and Lottery Commission shall enter into an agreement to offer the multijurisdictional lottery game known as Mega Millions by May 2, 2010. The State Liquor and Lottery Commission shall adopt routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A to implement the lottery game.

## PART MMMM

**Sec. MMMM-1. 4 MRSA §1201, sub-§9,** as amended by PL 2009, c. 254, §1 and affected by §4, is further amended to read:

**9. Earnable compensation.** "Earnable compensation" means the annual salary as a judge. Any money paid by the State under an annuity contract for the future benefit of a judge must be considered part of the judge's earnable compensation. The earnable compensation of a member retired with a disability retirement allowance under section 1353 must be assumed, for the purposes of determining benefits under this chapter, to be continued after the member's date of termination of service at the same rate as received immediately prior thereto, subject to the same percentage adjustments, if any, that may apply to the amount of retirement allowance of the beneficiary under section 1358. For a member who served as a judge any time between July 1, 2003 and June 30, 2005, earnable compensation includes the salary that would have been paid for a judge in the given year if the cost-of-living adjustments in fiscal year 2003-04 and fiscal year 2004-05 had been funded. For a member who served as a judge any time between July 1, 2010 and June 30, 2011, earnable compensation includes the salary that would have been paid for a judge in that year if the cost-of-living adjustment in fiscal year 2010-11 had been funded.

**Sec. MMMM-2. Suspension of cost-of-living adjustment for judges.** Notwithstanding the Maine Revised Statutes, Title 4, section 4, subsection 2-A, a cost-of-living adjustment for the State's chief justices, chief judge, deputy chief judge, associate justices and associate judges may not be made on July 1, 2010.

**Sec. MMMM-3. Application.** That section of this Part that amends the Maine Revised Statutes, Title 4, section 1201, subsection 9 applies to judges who retire on or after the effective date of this Part.

## PART NNNN

**Sec. NNNN-1. Install fee collection containers at unstaffed state parks and historic sites.** The Commissioner of Conservation shall install fee collection containers at certain unstaffed state parks and historic sites and, pursuant to the Maine Revised Statutes, Title 12, section 1819, shall establish, in a manner determined most appropriate by the commissioner, fees so as to generate additional undedicated revenue to the General Fund of $2,000 in fiscal year 2009-10 and $19,500 annually beginning in fiscal year 2010-11.

## PART OOOO

**Sec. OOOO-1. Curtailment to offset failure of federal enactment of enhanced Medicaid matching.** If the extension of the enhanced federal Medicaid matching provisions under the American Recovery and Reinvestment Act of 2009 are not enacted by the United States Congress and signed into law by July 1, 2010, the Governor shall begin to implement the authority to curtail allotments pursuant to the Maine Revised Statutes, Title 5, section 1668 to take effect no later than October 1, 2010 in order to

distribute the unrealized Department of Health and Human Services savings statewide. The State Budget Officer is authorized to adjust allotments in the General Fund, Fund for a Healthy Maine and Federal Expenditures Fund ARRA accounts within the Department of Health and Human Services to increase state Medicaid seed dollars in the affected Department of Health and Human Services accounts and offset the loss of the General Fund and Fund for a Healthy Maine savings from the failure of the United States Congress to enact the extension of the enhanced Medicaid matching provisions. The total General Fund budgeted savings of $85,050,455 not realized must be offset through the curtailment of General Fund allotments statewide.

## PART PPPP

**Sec. PPPP-1. Mental health and substance abuse outpatient services working group.** The Department of Health and Human Services shall convene a working group of stakeholders to conduct a study and make recommendations regarding the delivery of mental health and substance abuse outpatient services. The study must evaluate the relative costs associated with the delivery of these services in the hospital outpatient setting and through community mental health and substance abuse agencies. The department shall gather data on the payer-mix for these services in both settings, including the number of uninsured individuals. The study must identify the differences between each setting concerning regulatory, licensing and accreditation requirements. The department shall develop research on the types of services provided, programmatic scope in each setting and availability of these services across all payers in each setting.

The study must also include the following:

1. A description of outpatient mental health and substance abuse services that are reimbursable under MaineCare rules;

2. A description of outpatient mental health and substance abuse services provided by hospitals specifically identifying how they differ from the services provided by nonhospital providers as described in departmental rule;

3. A description of current payment systems and rates, including but not limited to claims data for hospital and nonhospital providers of outpatient mental health and substance abuse services;

4. A description of how payment systems and rates for outpatient mental health and substance abuse services provided by hospitals will change if the hospitals are reimbursed via ambulatory payment classifications rather than as state plan services;

5. A description of outcomes and quality of the services delivered in hospital versus nonhospital settings; and

6. A description of administrative costs incurred by hospital and nonhospital providers of outpatient mental health and substance abuse services.

The working group shall provide 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 no later than January 15, 2011, including the data and analysis requested and its findings and recommendations regarding preserving access to mental health and substance abuse outpatient services and the relative effect of services provided in settings described in this section on MaineCare spending. The study must include any information regarding the effect on the payment for these services if the department implements managed care for the MaineCare program.

## PART QQQQ

**Sec. QQQQ-1. MaineCare managed care stakeholder advisory group.** The Department of Health and Human Services shall convene a stakeholder advisory group composed of MaineCare members, provider representatives, advocacy groups and Department of Health and Human Services clinical program directors to provide guidance to the department regarding the transition to managed care for the MaineCare program. The department shall invite the Maine Medical Association, the Maine Osteopathic Association, the Maine Hospital Association, the Maine Primary Care Association, the Maine Dental Association and the Maine Association of Mental Health Services and any other entities it considers necessary to participate in the stakeholder advisory group. The department shall, at a minimum, convene quarterly meetings of the stakeholder advisory group, with the first meeting occurring no later than July 1, 2010. The department shall provide quarterly reports 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 regarding the department's efforts to implement managed care for the MaineCare program, with the first report occurring no later than October 1, 2010.

## PART RRRR

**Sec. RRRR-1. MaineCare rate adjustments.** The Department of Health and Human Services shall use funds provided in this Part to adjust MaineCare rates, where necessary and applicable, to actuarially based rates. Only those rates for services that would otherwise be subject to a 10% rate reduction in Part A may be considered for the adjustment

under this Part. Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of the funding adjustments identified in section 2 of this Part that applies to any other MaineCare 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 2010-11.

**Sec. RRRR-2. 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 funds to adjust and restore MaineCare rates for services subject to the 10% reduction, where necessary and applicable, to actuarially based rates.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $1,386,923 |
| GENERAL FUND TOTAL | $0 | $1,386,923 |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $2,990,855 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $2,990,855 |

| FEDERAL EXPENDITURES FUND ARRA | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $234,536 |
| FEDERAL EXPENDITURES FUND ARRA TOTAL | $0 | $234,536 |

## PART SSSS

**Sec. SSSS-1. Department of Health and Human Services to establish rate structure with 2 levels of crisis services.** The Department of Health and Human Services shall establish a rate structure that supports 2 levels of crisis services. The department shall establish a higher rate for a comprehensive, high-quality integrated crisis service system for children and adults that simplifies intake for clients, provides for consumer participation and a single telephone hotline with triage to a "warm line" and supports community-based services as a preferred setting. The department shall establish a lower rate for crisis services that do not meet the higher level of service. The department shall adopt rules, which are routine technical rules pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, that describe 2 service levels.

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

Effective March 31, 2010.

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## CHAPTER 572

## H.P. 875 - L.D. 1256

### An Act To Provide Protections for Consumers Subject to Mandatory Arbitration Clauses

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

**Sec. 1. 10 MRSA §1391, sub-§1,** as enacted by PL 2007, c. 250, §1 and amended by c. 273, Pt. B, §6, is repealed.

**Sec. 2. 10 MRSA §1391, sub-§2,** as enacted by PL 2007, c. 250, §1, is amended to read:

**2. Consumer.** "Consumer" means an individual who uses, purchases, acquires, attempts to purchase or acquire or is offered or furnished ~~credit or a loan~~ goods or services, other than insurance, for personal, family or household purposes.

**Sec. 3. 10 MRSA §1391, sub-§4,** as enacted by PL 2007, c. 250, §1, is amended to read:

**4. Consumer arbitration agreement.** "Consumer arbitration agreement" means a standard contract with a consumer concerning the use of, purchase of, acquisition of, attempt to purchase or acquire, offer of or furnishing of ~~credit or a loan~~ goods or services, other than insurance, for personal, family or household purposes.

**Sec. 4. 10 MRSA §1391, sub-§4-A** is enacted to read:

**4-A. Financial interest.** "Financial interest" means holding a position in a business as an officer, director, trustee, member or partner or any position in management or ownership of more than 5% interest in the business.

**Sec. 5. 10 MRSA §1392,** as enacted by PL 2007, c. 250, §1, is repealed.

**Sec. 6. 10 MRSA §1393** is enacted to read:

**§1393. Consumer arbitration agreements**

**1. Limitation on agreements.** A consumer arbitration agreement not allowed under federal law is void and unenforceable.

**2. Costs and fees.** In a provider's initial notice or communication to a consumer, the provider must clearly and conspicuously disclose the estimated expenses of any arbitration, including:

A. The filing fee;

B. The average daily cost for an arbitrator and hearing room;

C. Any other charge that an arbitrator or provider may assess; and

D. The proportion of expenses listed under this subsection borne by each party if the consumer prevails and if the consumer does not prevail.

An expense required to be disclosed under this subsection does not include attorney's fees. A person required to disclose an expense under this subsection does not violate this subsection when an actual expense exceeds an estimate if the estimate was reasonable and made in good faith.

**3. Violation.** A violation of subsection 2 does not render the consumer arbitration agreement unenforceable but may be considered by a court in a determination of whether the agreement is unconscionable or otherwise unenforceable under another law. If a provider violates subsection 2, a person or the Attorney General may request a court of competent jurisdiction to enjoin the provider in violation from violating subsection 2 in a subsequent consumer arbitration. A provider found to be in violation of this section or that conforms to this section after an action is commenced is liable for the court costs and reasonable attorney's fees of the party bringing the action.

**Sec. 7. 10 MRSA §1394** is enacted to read:

**§1394. Arbitration service providers**

**1. Providers of consumer arbitrations.** Beginning January 1, 2011, a provider shall collect, publish at least quarterly and make available to the public in a computer-searchable format, which must be available on the publicly accessible website of the provider, if any, and on paper upon request, all of the following information for each consumer arbitration with which the provider was involved:

A. The name of the nonconsumer party, if the nonconsumer party is a corporation or other business entity;

B. The type of dispute involved, such as goods, banking, wireless communications, health care, debt collection and employment;

C. If the dispute involved employment, the amount of the employee's annual wage divided into the following ranges:

(1) Less than $100,000;

(2) From $100,000 to $250,000; or

(3) More than $250,000;

D. Whether the consumer was the prevailing party;

E. The number of times a business that is a party to the consumer arbitration had previously been a party to a mediation or arbitration in which the provider was involved;

F. Whether the consumer was represented by an attorney;

G. The dates the provider received the demand for arbitration, the arbitrator was appointed and the disposition of the arbitration was rendered;

H. The type of disposition of the arbitration, including withdrawal, abandonment, settlement, award after hearing, award without hearing, default and dismissal without hearing;

I. The amount of the claim and the amount of any award or relief granted;

J. The name of the arbitrator, the amount of the arbitrator's fee for the arbitration and the percentage of the arbitrator's fee allocated to each party; and

K. Whether the provider has or within the preceding year had a financial interest in a party or the legal representation of a party in the arbitration or a party or legal representative of a party in the arbitration has or within the preceding year had a financial interest in the provider.

Once the information is published and made available, it must remain available for at least 5 years. If the information required by this subsection is available in a computer-searchable format and downloadable for free on the provider's publicly accessible website, the provider may charge a requestor for the cost of copying the information on paper. If the information required by this subsection is not available for free on the provider's publicly accessible website, the provider may not charge a requestor for the information in paper form.

**2. Notice to Attorney General; links on website.** A provider that provides arbitration services in this State shall notify the consumer protection division of the Office of the Attorney General in writing of any website upon which the information required under subsection 1 is posted. The provider shall inform the consumer protection division of the Office of the Attorney General if it discontinues the use of any website previously reported. The Attorney General shall include the links to the providers on the Attorney General's publicly accessible website.

**3. Liability in providing information.** A provider has no liability for collecting, publishing or distributing the information required under subsection 1.

See title page for effective date.

## CHAPTER 573

## S.P. 605 - L.D. 1598

### An Act To Strengthen the Laws against Cruelty to Animals

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

**Sec. 1. 17 MRSA §1021, sub-§5-A,** as amended by PL 2007, c. 702, §44, 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 hearing date must be within 21 days of the date the animal was seized. 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. 2. 17 MRSA §1031, sub-§3-B, ¶A,** as amended by PL 2007, c. 439, §37, is further amended to read:

A. In addition to any other penalty authorized by law, the court shall impose a fine of not less than $500 for each violation of this section. The court may order the defendant to pay the costs of the care, housing and veterinary medical treatment for the animal including the costs of relocating the animal.

**Sec. 3. 17-A MRSA §1201, sub-§1, ¶A-1,** as amended by PL 2007, c. 577, §4, 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; ~~or~~

(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.

See title page for effective date.

## CHAPTER 574

## H.P. 1209 - L.D. 1708

### An Act To Expand the Opportunity for Persons To Acquire Health Care Coverage under the State's "Mini-COBRA" Program

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

**Sec. 1. 24-A MRSA §2809-A, sub-§11,** as amended by PL 1991, c. 885, Pt. E, §30 and affected by §47, is further amended to read:

**11. Continued group coverage; certain circumstances.** Notwithstanding this section, if the termination of an individual's group insurance coverage is ~~a result of the member or employee being temporarily laid off or losing employment because of an injury or disease that the employee claims to be compensable under former Title 39 or Title 39-A~~ for one of the reasons listed in paragraph A-1, the insurer shall allow the member or employee to elect, within the time period prescribed by paragraph B, to continue coverage under the group policy at no higher level than the level of benefits or coverage received by the employee immediately before termination and at the member's or employee's expense or, at the member's or employee's option, to convert to a policy of individual coverage without evidence of insurability in accordance with this section.

A. For the purposes of this subsection, the term "member or employee" includes only those persons who have been a member or employee for at least 6 months.

A-1. A member or employee is eligible for continued coverage under this section only if the member or employee's group insurance coverage terminated for one of the following reasons:

(1) The member or employee was temporarily laid off;

(2) The member or employee was permanently laid off on or after the effective date of this paragraph and is eligible for premium assistance pursuant to federal law providing premium assistance for laid-off employees who continue coverage under their former employer's group health plan as determined by the superintendent; or

(3) The member or employee lost employment because of an injury or disease that the employee claims to be compensable under former Title 39 or Title 39-A.

B-1. The member or employee has 31 days from the termination of coverage in which to elect and make the initial payment under this subsection.

C. An insurer is not required to continue coverage under a group policy if the member or employee meets the conditions set out in subsection 3, paragraph A.

D. The payment amount for continued group coverage under this subsection may not exceed 102% of the group rate in effect for a group member, including an employer's contribution, if any.

E. At the option of the member or employee, the continued group coverage may cover the member or employee, the member or employee and any dependents or only the dependents of the member or employee; provided that, in the latter 2 cases,

the dependents have been covered for a period of at least 3 months under the group policy, unless the dependents were not eligible for coverage until after the beginning of the 3-month period.

F. Except as provided in paragraph G, coverage provided under this section continues and may not be terminated until one year from the last day of work.

G. Coverage provided under this section may be terminated sooner than provided under paragraph F if:

(1) The member or employee fails to make timely payment of a required premium amount;

(2) The member or employee becomes eligible for coverage under another group policy; or

(3) The Workers' Compensation Board determines that the injury or disease that entitles the employee to continue coverage under this section is not compensable under Title 39-A.

H. At the expiration of any continued group coverage obtained under this subsection, the member or employee has the same conversion privileges as otherwise granted under this section.

I. This subsection may not be construed to:

(1) Prevent members or employees from negotiating for or receiving greater continued coverage of group insurance than is provided in this subsection;

(2) Require coverage beyond the time limit set in paragraph F; or

(3) Permit an employee to increase the level of benefits or coverage that the employee received immediately before the termination of the employee's coverage.

J. This subsection does not apply to any group policy subject to the United States Consolidated Omnibus Budget Reconciliation Act, Public Law 99-272, Title X, Private Health Insurance Coverage, Sections 10001 to 10003.

See title page for effective date.

## CHAPTER 575

## H.P. 1096 - L.D. 1554

### An Act Regarding Document Fees at County Registries of Deeds

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

**Sec. 1. 33 MRSA §651,** as repealed and replaced by PL 2003, c. 55, §1, is amended to read:

**§651. Records; index**

The records and indexes in each registry office must be made and kept for public inspection on at least one of the following media: white, acid-free paper, microfilm, microfiche, or digital image stored on magnetic or optical media. The register shall make an alphabetical index to the records without charge to the county so that the same surnames are recorded together and shall show in addition to the names of the parties and the nature of the instrument, the date of the instrument, the date of its record and the name of the city, town or unincorporated place where the land conveyed is situated. As often as every 10 years the register shall revise and consolidate the index in such manner that all deeds recorded since the last revision of the index are indexed so that the same surnames appear together and all names are in alphabetical order. The revised and consolidated index must contain all data as to each and every deed or other instrument referred to in this section. If it becomes necessary to revise, renew or replace any index, the new index must be made in conformity with this section.

When the register of deeds is required by law or common practice to make a note in the margin of a record, it is determined sufficient if the note is made to the index in such a fashion that the note becomes a permanent part of the indexing of the record to which the marginal note is required to be made.

The register shall prepare, or have prepared, a microfilm record of each page of every instrument, plan or other document recorded in the registry office. The microfilm record made must be stored in a fireproof area. When original record books or plans are considered by the register to be in a condition that warrants withdrawal from regular use, the register may make a true copy of the contents of the record or may provide suitable means for reading the microfilm, microfiche or digital image stored on magnetic or optical media of the instruments withdrawn. The records and certified copies made either from the true copy or from images stored as provided in this section must be received in all courts of law with the same legal effect as those contained in the original.

Notwithstanding Title 1, section 408, subsection 3, this chapter governs fees for copying records maintained under this chapter.

**Sec. 2. 33 MRSA §751, sub-§14,** as amended by PL 1991, c. 497, §8, is further amended to read:

**14. Abstracts and copies.** Making abstracts and copies from the records, a reasonable fee as determined by the county commissioners for each category of abstracts and copies, such as paper copies, attested copies, copies obtained online and bulk transfers of copies. In setting a reasonable fee for each category of

abstracts and copies, the commissioners shall consider factors relating to the cost of producing and making copies available, which may include, but are not limited to: the cost of depleted supplies; records storage media costs; actual mailing and alternative delivery costs or other transmitting costs; amortized infrastructure costs; any direct equipment operating and maintenance costs; costs associated with media processing time; personnel costs, including actual costs paid to private contractors for copying services; contract and contractor costs for database maintenance and for online provision and bulk transfer of copies in a manner that protects the security and integrity of registry documents; and a reasonable rate for the time a computer server is dedicated to fulfilling the request; and

See title page for effective date.

## CHAPTER 576
## H.P. 1061 - L.D. 1512

### An Act To Amend the Laws Governing the Somerset County Budget Procedure

**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 beginning of the next fiscal year; 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 §898,** as enacted by PL 1993, c. 582, §1, is amended to read:

**§898. Interim budget**

If the budget is not approved before the start of a fiscal year, until a budget is finally adopted, the county shall operate on an interim budget, which may not exceed ~~80% of~~ the previous year's budget.

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

Effective March 31, 2010.

## CHAPTER 577
## H.P. 1163 - L.D. 1635

### An Act To Avoid Unnecessary Removal of Land from the Maine Tree Growth Tax Law Program

**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 §581, sub-§1,** as repealed and replaced by PL 2007, c. 627, §16, is amended to read:

**1. Assessor determination; owner request.** If the assessor determines that land subject to this subchapter no longer meets the requirements of this subchapter, the assessor must withdraw the land from taxation under this subchapter. ~~Before withdrawing a parcel from taxation under this subchapter, if the sole reason the land does not meet the requirements of this subchapter is that the owner failed to file the sworn statement required under section 574-B, the assessor shall provide the owner with written notice by regular mail of the deadline to file the sworn statement and permit the owner at least 60 days to respond to that notice.~~ An owner of land subject to taxation under this subchapter may at any time request withdrawal of that land from taxation under this subchapter by certifying in writing to the assessor that the land is no longer to be classified under this subchapter.

**Sec. 2. 36 MRSA §581, sub-§1-A** is enacted 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 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 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. 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, 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.

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. 3. Relief from withdrawal and penalty.** The State Tax Assessor shall waive penalties assessed and refund penalties paid with regard to any parcel of land in the unorganized territory that was withdrawn from taxation under the Maine Tree Growth Tax Law between September 20, 2007 and July 1, 2010 and return that land to classification under the Maine Tree Growth Tax Law if the landowner demonstrates the parcel is in compliance with all requirements of the Maine Revised Statutes, Title 36, section 574-B before April 1, 2011.

See title page for effective date.

## CHAPTER 578

## S.P. 680 - L.D. 1773

### An Act To Improve Dental Insurance Coverage for Maine Children

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

**Sec. 1. 24 MRSA §2317-B, sub-§12-F** is enacted to read:

**12-F. Title 24-A, sections 2766 and 2847-R.** Enrollment of dependent children in dental coverage, Title 24-A, sections 2766 and 2847-R;

**Sec. 2. 24-A MRSA §2766** is enacted to read:

**§2766. Enrollment of dependent children in dental coverage**

**1. Offer of dependent coverage; enrollment period.** All individual dental insurance policies and contracts that offer dependent coverage must offer the opportunity to enroll a dependent child in the dental insurance coverage at appropriate rates during the following periods:

A. From birth to 30 days of age; and

B. Any open or annual enrollment period.

**Sec. 3. 24-A MRSA §2847-R** is enacted to read:

**§2847-R. Enrollment of dependent children in dental coverage**

**1. Offer of dependent coverage; enrollment period.** All group dental insurance policies, contracts and certificates that offer dependent coverage must offer the opportunity to enroll a dependent child in the dental insurance coverage at appropriate rates during the following periods:

A. From birth to 30 days of age; and

B. Any open or annual enrollment period.

**Sec. 4. 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, 2011. 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.

## CHAPTER 579

## H.P. 999 - L.D. 1423

### An Act To Improve Toxics Use Reduction and Reduce Energy Costs by Maine Businesses

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

### PART A

**Sec. A-1. 38 MRSA §1310-B, sub-§2,** as amended by PL 2009, c. 397, §1, is further amended to read:

**2. Hazardous waste information and information on mercury-added products and electronic devices and mercury reduction plans.** Information relating to hazardous waste submitted to the department under this subchapter, information relating to mercury-added products submitted to the department under chapter 16-B, information relating to electronic devices submitted to the department under section 1610, subsection 6-A ~~or~~, information relating to mercury reduction plans submitted to the department under section 585-B, subsection 6 or information related to priority toxic chemicals submitted to the department under chapter 27 may be designated by the person submitting it as being only for the confidential use of the department, its agents and employees, the Department of Agriculture, Food and Rural Resources and the Department of Health and Human Services and their agents and employees, other agencies of State Government, as authorized by the Governor, employ-

ees of the United States Environmental Protection Agency and the Attorney General and, for waste information, employees of the municipality in which the waste is located. The designation must be clearly indicated on each page or other portion of information. The commissioner shall establish procedures to ensure that information so designated is segregated from public records of the department. The department's public records must include the indication that information so designated has been submitted to the department, giving the name of the person submitting the information and the general nature of the information. Upon a request for information, the scope of which includes information so designated, the commissioner shall notify the submittor. Within 15 days after receipt of the notice, the submittor shall demonstrate to the satisfaction of the department that the designated information should not be disclosed because the information is a trade secret or production, commercial or financial information, the disclosure of which would impair the competitive position of the submittor and would make available information not otherwise publicly available. Unless such a demonstration is made, the information must be disclosed and becomes a public record. The department may grant or deny disclosure for the whole or any part of the designated information requested and within 15 days shall give written notice of the decision to the submittor and the person requesting the designated information. A person aggrieved by a decision of the department may appeal only to the Superior Court in accordance with the provisions of section 346. All information provided by the department to the municipality under this subsection is confidential and not a public record under Title 1, chapter 13. In the event a request for such information is submitted to the municipality, the municipality shall submit that request to the commissioner to be processed by the department as provided in this subsection.

**Sec. A-2. 38 MRSA c. 26,** as amended, is repealed.

**Sec. A-3. 38 MRSA c. 27** is enacted to read:

## CHAPTER 27

## PRIORITY TOXIC CHEMICAL USE REDUCTION

### §2321. Toxic chemical reduction policy; department duty

It is the policy of the State, consistent with its duty to protect the health, safety and welfare of its citizens and the quality of the environment, to continually and as expeditiously as practicable reduce the use of toxic chemicals, particularly those identified by the State as being priority toxic chemicals, by commercial and industrial facilities through comprehensive environmental management practices, the use of inherently safer products, the use of materials and processes that are reasonably available and the more efficient use of resources. The department shall work with commercial and industrial facilities to establish goals to reduce the use of priority toxic chemicals based on the reasonable availability of safer alternatives and other factors. The policy represented in this chapter is consistent with the reduction of toxic chemicals in children's products under chapter 16-D.

### §2322. Definitions

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

**1. Alternative.** "Alternative" means a substitute process, product, material, chemical, strategy or a combination of these that serves a purpose functionally equivalent to that of a priority toxic chemical used by a commercial and industrial facility.

**2. Commercial and industrial facility or facility.** "Commercial and industrial facility" or "facility" means an entity:

A. With an economic sector or industry code under the North American Industry Classification System of the United States Department of Commerce, United States Census Bureau; and

B. Located in the State.

**3. Environmental management system.** "Environmental management system" means a part of an overall management system of a facility and includes organizational structure, planning activities, responsibilities, practices, procedures, processes and resources for developing, implementing, achieving, reviewing and maintaining the environmental policy of the facility through documented systematic procedures.

**4. Priority toxic chemical.** "Priority toxic chemical" means a chemical that has been identified by the department pursuant to section 2323.

**5. Reasonably available.** "Reasonably available" means practicable based on cost, efficacy, availability and other factors as determined by the department.

**6. Safer alternative.** "Safer alternative" has the same meaning as in section 1691, subsection 12.

**7. SARA.** "SARA" means the Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499.

**8. Toxic chemical.** "Toxic chemical" means a chemical that has been identified as a chemical of high concern pursuant to section 1693 or a chemical the use or release of which is subject to reporting under the SARA, Title III, Section 312 or 313.

**9. Use.** "Use" means to manufacture, process or otherwise use a priority toxic chemical or to use a product or material that contains a priority toxic

chemical if so designated by the department in rules adopted under this chapter.

**§2323. Identification of priority toxic chemicals**

**1. Identification of chemicals.** By July 1, 2011, the department, in consultation with the Department of Health and Human Services, Maine Center for Disease Control and Prevention, shall establish by rule a list of no more than 10 priority toxic chemicals.

A. A chemical may be included on the list only if it has been identified on the basis of credible scientific evidence by an authoritative state or federal governmental agency, or on the basis of other scientific evidence considered authoritative by the department, as being known as or reasonably anticipated to be:

(1) A carcinogen, a reproductive or developmental toxicant or an endocrine disruptor;

(2) Persistent, bioaccumulative and toxic; or

(3) Very persistent and very bioaccumulative.

B. In determining whether to include a chemical on the list, the department may consider the following factors:

(1) The risk of worker exposure to the chemical;

(2) The threat posed to human health and the environment;

(3) The threat to the health and safety of a community if the chemical is released accidentally;

(4) The pervasiveness of the chemical's use in the State; and

(5) The existence of a reasonably available safer alternative.

**2. Review and revision of list.** The department shall review and revise the list under subsection 1 every 3 years, except that the department may revise the list more frequently if it determines that the addition of a toxic chemical to the list of priority toxic chemicals is necessary to protect human health and the environment or if more credible and recent scientific evidence justifies deletion of a chemical from the list.

**3. Identification of products and materials containing priority toxic chemical.** The department, in consultation with the Department of Health and Human Services, Maine Center for Disease Control and Prevention, may identify by rule products and materials containing a priority toxic chemical and may specify that use of those products and materials is subject to the requirements of this chapter.

**§2324. Reporting use of priority toxic chemicals**

Beginning July 1, 2013, a commercial and industrial facility that uses in excess of 1,000 pounds of a priority toxic chemical during any calendar year shall file a report with the department pursuant to this section. The department may establish a different reporting threshold for a particular priority toxic chemical.

**1. Calculation of threshold.** In making the calculation of the threshold under this section, the facility is not required to include quantities of the priority toxic chemical in a mixture or trade name product at less than 1.0%, unless the chemical is a carcinogen as determined under 29 Code of Federal Regulations, Part 1910, Section 1200(d)(4) (2009). If the chemical is a carcinogen under 29 Code of Federal Regulations, Part 1910, Section 1200(d)(4) (2009), the facility is not required to include quantities of the chemical at less than 0.1%.

A. The identity of a priority toxic chemical in a mixture or trade name product must be determined using the specific name of the chemical with a corresponding chemical abstracts service registry number that appears on the material safety data sheet required under 29 Code of Federal Regulations, Part 1910, Section 1200 (2009) referred to in this subsection as "the material safety data sheet."

B. To quantify the amount of a priority toxic chemical, a commercial and industrial facility may rely on the material safety data sheet or other information that is in the possession of the facility, unless the facility knows or it is generally known in the industry based on widely disseminated industry information that the material safety data sheet or other information is inaccurate or incomplete, based on existing reliable test data or other reliable published scientific evidence. A facility is not required to test or perform file searches to identify or quantify the amount of a priority toxic chemical in a mixture or trade name product. A facility is not required to evaluate a chemical unless the facility does not rely on the evaluation performed by the preparer of the material safety data sheet.

**2. Reports.** Reports required under this section must be filed annually by July 1st and must include information for the prior calendar year. The department may not require reports under this section less than 18 months after a priority toxic chemical has been identified pursuant to section 2323. The department shall prepare a reporting form that requires submission of the following information:

A. The amount of a priority toxic chemical used by the facility in its manufacture or production process during the reporting period;

B. The increase or decrease in use of a priority toxic chemical by the facility since 2010, unless the facility has set another baseline year subsequent to the year 2005, which baseline year must be specified;

C. Beginning with reporting year 2014, the increase or decrease in use of a priority toxic chemical by the facility since the prior reporting period and an explanation for any increase in use of any priority toxic chemical that exceeds 15%;

D. A written certification signed by a senior official with management responsibility that the owner or operator of the facility has prepared a pollution prevention plan under section 2325 or has implemented an environmental management system and that the plan or environmental management system is available on site for the department's inspection in accordance with section 2325; and

E. A statement that employees have been notified of and involved in the pollution prevention plan or environmental management system under section 2325.

**3. Confidentiality.** Information submitted to the department pursuant to this section may be designated as confidential by the submitting party in accordance with the provisions in section 1310-B and, if the information is so designated, the provisions of section 1310-B apply.

**§2325. Pollution prevention plans and reduction goals**

Unless otherwise provided in this section, an owner or operator of a facility subject to the reporting requirements in section 2324 shall develop by July 1, 2012 and update at least every 2 years thereafter a pollution prevention plan.

**1. Plan requirements.** A pollution prevention plan must include, at a minimum, the following:

A. A statement of facility-wide management policy regarding toxics use reduction;

B. Identification, characterization and accounting of the types and amounts of all priority toxic chemicals used at the facility;

C. Identification, analysis and evaluation of any appropriate technologies, procedures, processes, chemical alternatives, equipment or production changes that may be used by the facility to reduce the amount or toxicity of priority toxic chemicals used including a financial analysis of the costs and benefits of reducing the amount of priority toxic chemicals used;

D. A strategy and schedule for implementing practicable reduction options for each priority toxic chemical;

E. A program for maintaining records on priority toxic chemical use and management costs, such as the costs of personal protection equipment, liability insurance, training, chemical storage and disposal;

F. The facility's goal for reducing use of priority toxic chemicals and products and materials containing such chemicals;

G. An employee awareness and training program that informs employees of the use of priority toxic chemicals by the facility and involves employees in achieving the established reduction goal under this subsection; and

H. An assessment of alternatives explored to reduce use of priority toxic chemicals that is prepared according to standard methods or guidelines for conducting alternatives assessments made available by the department.

**2. Environmental management system.** A facility that has an environmental management system that is audited by a 3rd party or reviewed by the department and that includes a plan to reduce use of priority toxic chemicals and of products and materials containing priority toxic chemicals meets the planning requirements of this section.

**3. Plan retention.** A pollution prevention plan must be finalized, approved and signed by a senior official with management responsibility. An owner or operator of a facility shall keep a complete copy of the pollution prevention plan or environmental management system and any backup data on the premises of that facility for at least 5 years and make the copy and data available to employees of the department for inspection during business hours upon request. The department may require the owner or operator of a facility to make any modifications to a plan or environmental management system to maintain consistency with the policy of this chapter.

**§2326. Technical assistance and recognition programs**

The department shall develop a technical assistance program for commercial and industrial facilities that use priority toxic chemicals and products and materials containing priority toxic chemicals. The goal of a technical assistance program must be to reduce use of priority toxic chemicals by such facilities and to help these facilities achieve the reduction goals established in their environmental management systems or pollution prevention plans under section 2325. The department shall determine the facilities most in need of technical assistance and shall establish priorities based on a number of factors, including, but not limited to, the availability of safer alternatives, the toxicity of the chemical used by particular facilities, the size and resources of those facilities and the resources available to the department.

The department may develop a recognition program to promote the reduction in use of priority toxic chemicals and to recognize commercial and industrial facilities in the State for their achievements in reducing their use of priority toxic chemicals.

**§2327. Penalties**

The owner or operator of a facility subject to the requirements of this chapter that fails to meet any requirement of this chapter is subject to penalties under section 349.

**§2328. Exemptions**

The department may exempt classes of facilities and specific uses of priority toxic chemicals by commercial and industrial facilities from the requirements of this chapter if the department determines that no reasonably available safer alternative exists, that the chemical is naturally occurring or that application of this chapter is unlikely to result in the reduction of the use of a priority toxic chemical.

A facility subject to the requirements of this chapter may file an application for an exemption from some or all of the requirements of this chapter on a form developed by the department. The department shall rule on a request for an exemption within 120 days of receipt of an application.

**§2329. Rules**

The department shall adopt rules to implement this chapter. Rules adopted by the department pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**§2330. Fees**

The commissioner shall deposit all money received in payment of fees under this section in a separate nonlapsing account within the Maine Hazardous Waste Fund to cover expenses incurred by the department in the administration of this chapter.

**1. Facilities subject to reporting under SARA, Title III, Section 312.** An owner or operator of a facility that is required to report the presence of extremely hazardous substances under the SARA, Title III, Section 312 shall submit $100 for each extremely hazardous substance reported by the facility to the department annually by October 1st. For purposes of this subsection, "extremely hazardous substance" has the same meaning set forth in the SARA, Title III, Section 302 and listed in 40 Code of Federal Regulations, Part 355.

**2. Facilities subject to reporting under SARA, Title III, Section 313.** An owner or operator of a facility that is required to report the release of chemicals under the SARA, Title III, Section 313 shall submit $100 for each toxic release inventory chemical reported by the facility to the department annually by October 1st. For purposes of this subsection, "toxic release inventory chemical" means any substance in a gaseous, liquid or solid state listed pursuant to the SARA, Title III, Section 313 and listed in 40 Code of Federal Regulations, Part 372.65.

**3. Hazardous waste generators.** Generators that ship 661 pounds or more of hazardous waste in a calendar year shall pay the following fees to the department annually by October 1st: for generators that ship 5,000 pounds or more of hazardous waste in a calendar year, the fee is $1,000; for generators that ship between 2,640 pounds and 4,999 pounds per calendar year, the fee is $500; and for generators that ship between 661 pounds and 2,639 pounds per calendar year, the fee is $100. Generators that ship less than 661 pounds of hazardous waste in a calendar year are not required to pay fees under this section.

**4. Fee limitation.** A facility subject to fees under this section may not be assessed more than $1,000 per year.

**5. Effective date.** This section takes effect July 1, 2012.

**Sec. A-4. Fees report.** By January 5, 2013, the Department of Environmental Protection shall submit a report on a revised fee structure for facilities subject to the Maine Revised Statutes, Title 38, chapter 27 to the joint standing committee of the Legislature having jurisdiction over natural resources matters. The report must include recommendations on a revised fee structure that furthers the policy and goals of Title 38, chapter 27. The joint standing committee of the Legislature having jurisdiction over natural resources matters may submit a bill regarding a revised fee structure to the First Regular Session of the 126th Legislature.

**Sec. A-5. Initial list of priority toxic chemicals.** In establishing the initial list of priority toxic chemicals pursuant to the Maine Revised Statutes, Title 38, chapter 27, section 2323, the Department of Environmental Protection and the Department of Health and Human Services, Maine Center for Disease Control and Prevention may consider, but are not limited to, the following:

1. Chemicals of concern identified by the United States Environmental Protection Agency under its enhanced chemical management program;

2. The list of persistent bioaccumulative toxins in Washington State Administrative Code, Chapter 173-333;

3. The "Five Chemical Alternatives Assessment Study," published by the Massachusetts Toxics Use Reduction Institute, June 2006;

4. Substances designated as higher hazard substances pursuant to the Massachusetts Toxics Use Reduction Act; and

5. Priority toxic chemicals identified pursuant to the Maine Revised Statutes, Title 38, section 1694.

**Sec. A-6. Effective date.** That section of this Part that repeals the Maine Revised Statutes, Title 38, chapter 26 takes effect July 1, 2012.

## PART B

**Sec. B-1. 37-B MRSA §797, sub-§6,** as enacted by PL 1989, c. 464, §3 and amended by c. 929, §2, is further amended to read:

**6. Information withholding.** An indication if the person is electing to withhold information from disclosure under section 800; and

**Sec. B-2. 37-B MRSA §797, sub-§7,** as amended by PL 2009, c. 252, §5, is further amended to read:

**7. Transportation.** A description of the manner in which the substance is shipped to the facility, including standard and alternate transportation routes taken through the State from point of origin or entry to the facility. Records held by the commission regarding standard and alternate transportation routes are confidential records for the purposes of Title 1, chapter 13, subchapter 1. The commission may provide those records to state, county or local emergency management agencies or public officials, as the commission determines necessary, but shall require those agencies or officials to hold those records as confidential; ~~and~~.

**Sec. B-3. 37-B MRSA §797, sub-§8,** as amended by PL 2009, c. 252, §5, is repealed.

**Sec. B-4. 37-B MRSA §799,** as amended by PL 2009, c. 252, §6, is further amended to read:

**§799. Toxic chemical release reports**

Under this section, the owner or operator of every facility with 10 or more employees and within Standard Industrial Classification Codes 20-39 must file toxic chemical release reports for routine releases with the United States Environmental Protection Agency, the Department of Environmental Protection, the commission and the local emergency planning committee by October 1, 1989 and annually thereafter consistent with the Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499, Title III, Section 313, and 40 Code of Federal Regulations, Part 372. Those reports must be made available to the public by the commission and the local emergency planning committee. ~~The owner or operator of every facility required to report under this section must also submit a report on the progress made by the facility toward meeting the toxics release reduction goals established in Title 38, section 2303.~~

**Sec. B-5. 38 MRSA §342, sub-§4, ¶B,** as amended by PL 1991, c. 804, Pt. C, §2, is further amended to read:

B. The Office of Pollution Prevention is established within the department to review department programs and make recommendations to the commissioner on means of integrating pollution prevention into department programs. The Office of Pollution Prevention has the following functions:

(1) To establish pollution prevention priorities within the department;

(2) To coordinate department pollution prevention activities with those of other agencies and entities;

(3) To ensure that rules, programs and activities of the department are consistent with pollution prevention goals and do not hinder pollution prevention initiatives;

(4) To provide technical assistance, training and educational activities to assist the general public, governmental entities and the regulated community with development and implementation of pollution prevention programs as funds allow;

(5) To establish an award program to recognize businesses, local governments, department staff and others that have implemented outstanding or innovative pollution prevention programs, activities or methods;

(6) To identify opportunities to use the state procurement system to encourage pollution prevention;

(7) To develop procedures to determine the effectiveness of the department's pollution prevention programs and activities;

(8) To assume responsibility for the administration and implementation of chapter ~~26~~ 27; and

(9) To administer and evaluate the Technical and Environmental Assistance Program established in section 343-B.

The commissioner shall designate an employee of the department to manage the functions of the Office of Pollution Prevention. That person may provide independent testimony to the Legislature, may make periodic reports to the administrator of the federal Environmental Protection Agency for transmittal to the United States Congress and may address problems or concerns related to the functions of the office, including the investigation of complaints concerning the Technical and Environmental Assistance Program.

The commissioner shall identify a staff person or persons in each bureau of the department whose primary responsibility is to provide guidance to any party through the permit review process.

**Sec. B-6. 38 MRSA §343-D, first ¶,** as enacted by PL 1991, c. 804, Pt. C, §3 and affected by §5, is amended to read:

The Pollution Prevention Advisory Committee, established by Title 5, section 12004-I, subsection 22-B and referred to in this section as the "committee," serves as a review body to assess the progress in the reduction of ~~toxics use, toxics release and hazardous waste~~ toxic chemicals and implementation of the provisions of chapter ~~26~~ 27, the Office of Pollution Prevention and the Technical and Environmental Assistance Program and may render advisory opinions to the commissioner on the effectiveness of each.

**Sec. B-7. 38 MRSA §343-D, sub-§8,** as enacted by PL 1991, c. 804, Pt. C, §3 and affected by §5, is amended to read:

**8. Duties; powers.** The committee may review and may render advisory opinions to the commissioner on the operation and effectiveness of the following ~~programs~~:

~~A. Toxics Use, Toxics Release and Hazardous Waste Reduction Program, established in chapter 26. The committee may:~~

~~(1) Review program priorities for toxics use, toxics release and hazardous waste reduction and may identify user groups as priorities for department technical assistance activities;~~

~~(2) Review the criteria for the submission of toxics use, toxics release and hazardous waste reduction plans;~~

~~(3) Study and evaluate the practicability of achieving reductions in the use or release of specific substances through the use of substitutes, alternate procedures or processes or other means of achieving toxics use, toxics release and hazardous waste reduction;~~

~~(4) Recommend revisions to the department, if appropriate, to toxics use, toxics release and hazardous waste reduction goals and to the Toxics Use, Toxics Release and Hazardous Waste Reduction Program; and~~

~~(5) Evaluate existing programs related to chemical production and use, hazardous waste generation, industrial hygiene, worker safety and public exposure to toxics and toxics releases and recommend coordination of information and program changes or development;~~

A-1. The reduction of toxic chemicals pursuant to chapter 27;

B. The Technical and Environmental Assistance Program established under section 343-B. In reviewing that program, the committee may:

(1) Review information developed or distributed by the Technical and Environmental Assistance Program to ensure that the information is understandable to the general public; and

(2) Prepare periodic reports to the Governor on the compliance status of the Technical and Environmental Assistance Program. The reports must be forwarded to the federal Environmental Protection Agency complying with the requirements of the federal Paperwork Reduction Act of 1980, Public Law 96-511, as amended; the federal Regulatory Flexibility Act, 5 United States Code, Sections 601 to 612; and the federal Equal Access to Justice Act, Public Law 96-481, as amended; and

C. The Office of Pollution Prevention established under section 342, subsection 4, paragraph B.

In conducting its review under paragraphs ~~A~~ A-1 to C, the committee may submit recommendations for statutory changes to the joint standing committee of the Legislature having jurisdiction over energy and natural resources matters.

**Sec. B-8. 38 MRSA §358, sub-§3, ¶A,** as enacted by PL 1991, c. 520, §2, is amended to read:

A. Support the ~~Toxics Use, Toxics Release and Hazardous Waste Reduction Program established under chapter 26~~ reduction of toxic chemicals under chapter 27; and

**Sec. B-9. 38 MRSA §361-A, sub-§3-B,** as enacted by PL 1991, c. 520, §3, is amended to read:

**3-B. Pollution prevention.** "Pollution prevention" means the application of the toxics use reduction principles ~~and reduction hierarchies, which are established~~ in chapter ~~26,~~ 27 to manufacturing, commercial and consumer chemical use and energy production and consumption.

**Sec. B-10. 38 MRSA §1319-E, sub-§1, ¶G,** as enacted by PL 1993, c. 355, §54, is amended to read:

G. Costs incurred in the administration of chapter ~~26~~ 27 or the provision of technical assistance under the ~~toxics use, toxics release and hazardous waste reduction program established~~ technical assistance and recognition programs described in ~~chapter 26~~ section 2326.

**Sec. B-11. 38 MRSA §1319-I, sub-§2-A,** as amended by PL 1991, c. 520, §5, is repealed.

**Sec. B-12. 38 MRSA §1692,** as enacted by PL 2007, c. 643, §2, is amended to read:

**§1692. Declaration of policy**

It is the policy of the State, consistent with its duty to protect the health, safety and welfare of its citizens, to reduce exposure of children and other vulnerable populations to chemicals of high concern by substituting safer alternatives when feasible. By enactment of this chapter, the Legislature confers upon the department the regulatory power to collect information on chemical use and prohibit the sale of children's products containing priority chemicals when safer alternatives are available. The policy represented in this chapter is in furtherance of the toxics use reduction policies under chapter ~~26~~ 27.

**Sec. B-13. Effective date.** This Part takes effect July 1, 2012.

See title page for effective date, unless otherwise indicated.

## CHAPTER 580

## H.P. 408 - L.D. 570

### An Act To Improve the Laws Governing the Consolidation of School Administrative Units

**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 obstacles preventing certain communities from complying with the state law on school administrative unit reorganization; and

**Whereas,** failure to comply with the law may result in penalties, in school administrative units' failing to benefit economically from administrative consolidation or in students' failing to benefit from the sharing of instructional resources, in a time of continuing reductions of state funding for education; and

**Whereas,** immediate enactment of this legislation is necessary to ensure that several initiatives are enacted to improve the laws governing the reorganization of school administrative units 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. 20-A MRSA §1, sub-§26, ¶C,** as enacted by PL 2007, c. 668, §1, is amended to read:

C. An alternative organizational structure as approved by the commissioner and approved by the voters~~, with the alternative organizational structure serving as the school administrative unit for all its member entities for purposes of chapter 606-B and Public Law 2007, chapter 240, Part XXXX, section 36~~;

**Sec. 2. 20-A MRSA §1, sub-§26, ¶G,** as enacted by PL 2007, c. 668, §1, is amended to read:

G. A municipal school unit, school administrative district, community school district, regional school unit or any other quasi-municipal district responsible for operating public schools that forms a part of an alternative organizational structure approved by the commissioner.

**Sec. 3. 20-A MRSA §1461, sub-§3, ¶B,** as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

B. In order for the plan to be approved by the commissioner, the governing bodies of school administrative units shall work within the following parameters.

(1) The proposed regional school unit must serve not fewer than 2,500 students, including, for purposes of this paragraph, students attending from the unorganized territory, except where circumstances relating to the following factors justify an exception:

(a) Geography, including physical proximity and the size of the current school administrative unit;

(b) Demographics, including student enrollment trends and the composition and nature of communities in the regional school unit;

(c) Economics, including existing collaborations to be preserved or enhanced and opportunities to deliver commodities and services to be maximized;

(d) Transportation;

(e) Population density; or

(f) Other unique circumstances including the need to preserve existing or developing relationships, meet the needs of students, maximize educational opportunities for students and ensure equitable access to rigorous programs for all students.

When circumstances justify an exception to the size requirement set forth in this subparagraph of 2,500 students, the unit must serve as close to 2,500 students as possible and in no case, except for coastal islands and

schools operated by tribal school committees, may it serve fewer than 1,200 students, including, for purposes of this paragraph, students attending from the unorganized territory.

(2) The plan must provide comprehensive programming for all students from kindergarten to grade 12 and must include at least one publicly supported secondary school.

(3) The plan must be consistent with the policies set forth in section 1451.

(4) The plan may not displace teachers or students or close any schools existing and operating during the school year immediately preceding reorganization, except as permitted under section 1512.

(5) The plan must address how the school administrative unit will reorganize administrative functions, duties and noninstructional personnel so that the projected expenditures of the reorganized school administrative unit in the first year of operation during the school year immediately following reorganization for system administration, transportation, special education and facilities and maintenance will not have an adverse impact on the instructional program.

**Sec. 4. 20-A MRSA §1461, sub-§3, ¶C** is enacted to read:

C. Notwithstanding paragraph B, subparagraph (1), the commissioner may approve:

(1) A regional school unit to serve fewer than 1,200 students but not less than 1,000 students in an isolated rural community, including, for purposes of this paragraph, students attending from the unorganized territory, if the proposed regional school unit meets at least one of the following criteria:

(a) The proposed regional school unit comprises 3 or more school administrative units in existence prior to July 1, 2008;

(b) The member municipalities of the proposed regional school unit are surrounded by approved regional school units or alternative organizational structures and there are no other school administrative units available to join the proposed regional school unit; or

(c) The member municipalities of the proposed regional school unit include 2 or more isolated small schools that are eligible for an isolated small school adjustment pursuant to section 15683, subsection 1, paragraph F; and

(2) The formation of a regional school unit if the governing body or bodies of the proposed regional school unit demonstrate, in the notice of intent under subsection 1, that all reasonable and practical means of satisfying the requirements of subparagraph (1) and paragraph B, subparagraph (1) have been exhausted, and that approval is warranted based on the unique or particular circumstances of the unit or units.

In considering a request under this paragraph, the commissioner's decision must be based on, but is not limited to, the specific facts presented in the notice of intent and is applicable only to the specific school administrative units the decision concerns. If the commissioner denies approval of a regional school unit under this paragraph, the commissioner's decision constitutes final agency action and is not subject to appeal to the state board.

**Sec. 5. 20-A MRSA §1461-B** is enacted to read:

**§1461-B. Alternative organizational structure**

**1. Notice of intent.** A school administrative unit may file with the commissioner a notice of intent to engage in planning and negotiations with other school administrative units for the purpose of developing a reorganization plan to form an alternative organizational structure in accordance with this section.

**2. Organization; procedures and parameters.** An alternative organizational structure must be organized in accordance with the procedures and parameters applicable to regional school units as set forth in section 1461.

**3. Submission, review and approval of plans for an alternative organizational structure.** A school administrative unit may submit a reorganization plan to the commissioner to form an alternative organizational structure in order to comply with this chapter.

A. The commissioner may designate a school administrative unit as part of an alternative organizational structure if the commissioner finds that the proposed alternative organizational structure will result in:

(1) Consolidation of system administration;

(2) Consolidation of special education administration, transportation administration and administration of business functions, including accounting, reporting, payroll, financial management, purchasing insurance and auditing;

(3) Adoption of a core curriculum and procedures for standardized testing and assessment aligned with the system of learning results established in section 6209;

(4) Adoption of a plan for both consistent school policies and school calendars; and

(5) Adoption of a plan for consistent collective bargaining agreements.

B. A plan for an alternative organizational structure may include a collaborative agreement under chapter 114 and must include an interlocal agreement under Title 30-A, chapter 115. The plan must include procedures for conducting a kindergarten to grade 12 budget approval pursuant to paragraph C.

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. The budget of an alternative organizational structure is not subject to a separate budget validation referendum as described in section 1486.

Upon the review and approval of the commissioner and the approval of the voters at a referendum, the commissioner may approve a plan to form an alternative organizational structure that meets the requirements set forth in this chapter.

**4. Recognition as discrete school administrative units for subsidy purposes.** In fiscal year 2011-12 and subsequent fiscal years, the member entities of an alternative organizational structure are recognized as discrete school administrative units for purposes of chapter 606-B, unless the member entities of the alternative organizational structure include in the reorganization plan under subsection 3 their decision to be recognized by the department as a single school administrative unit for purposes of chapter 606-B.

**5. Recognition as school administrative unit for subsidy purposes; change.** This subsection governs the procedure to alter the recognition of a school administrative unit that is an alternative organizational structure for subsidy purposes.

A. Notwithstanding the provisions of a reorganization plan under subsection 3 or interlocal agreement under Title 30-A, chapter 115, the governing body of an alternative organizational structure that began operation on or before June 30, 2010 may vote to have its member entities recognized as discrete school administrative units for purposes of chapter 606-B. Such a vote must be approved by the governing body of the alternative organizational structure and the commissioner prior to June 1st of the year prior to the allocation year.

B. If the member entities of an alternative organizational structure that requested in their reorganization plan to be recognized as a single school administrative unit pursuant to subsection 4 vote to be recognized as discrete school administrative units for purposes of chapter 606-B, such a change must be approved by the governing body of the alternative organizational structure and the commissioner prior to June 1st of the year prior to the allocation year.

**6. Withdrawal of a member entity.** Notwithstanding chapter 103-A, subchapter 2, for an alternative organizational structure approved by the commissioner and approved by the voters, the withdrawal provisions for member entities that were adopted as part of the reorganization plan under subsection 3 and interlocal agreement under Title 30-A, chapter 115 govern the withdrawal of a member entity.

A. A member entity that withdraws from an alternative organizational structure pursuant to the reorganization plan approved by the commissioner under subsection 3 is not subject to penalties applicable to a nonconforming school administrative unit under section 15696 for 2 years after withdrawing from the alternative organizational structure.

B. A member entity that does not join a conforming school administrative unit within 2 years of withdrawal from an alternative organizational structure is subject to the penalties applicable to a nonconforming school administrative unit under section 15696.

C. The remaining member entity or entities within an alternative organizational structure from which a member entity withdraws are not subject to penalties applicable to a nonconforming school administrative unit under section 15696 for 2 years after the withdrawal of the member entity.

**Sec. 6. 20-A MRSA §1464, sub-§2, ¶H,** as amended by PL 2009, c. 107, §4, is further amended to read:

H. When bargaining units with different bargaining agents must be merged into a single regional school unit-wide bargaining unit pursuant to this section, the bargaining agent of the merged bargaining unit must be selected in accordance with Title 26, section 967 except as modified in this section.

(1) A petition for an election to determine the bargaining agent must be filed with the Maine

Labor Relations Board by any of the current bargaining agents or the regional school unit.

(2) The petition must be filed not more than 90 days prior to ~~August 31, 2012~~ the first August 31st occurring after the 3rd anniversary date of the operational date of the regional school unit established pursuant to section 1463, subsection 1.

(3) The election ballot may contain only the names of the bargaining agents of bargaining units that will be merged into the regional school unit-wide bargaining unit and the choice of "no representative," but no other choices. No showing of interest is required from any such bargaining agent other than its current status as representative.

(4) The obligation to bargain with existing bargaining agents continues from the operational date established pursuant to section 1463, subsection 1 until the determination of the bargaining agent of the regional school unit-wide bargaining unit under this section; but in no event may any collective bargaining agreement that is executed after the operational date extend beyond ~~August 31, 2012~~ the first August 31st occurring after the 3rd anniversary date of the operational date of the regional school unit.

(5) The Maine Labor Relations Board shall expedite to the extent practicable all petitions for determination of the bargaining agent in the regional school unit-wide bargaining unit filed pursuant to this section.

(6) The bargaining units must be merged into a regional school unit-wide bargaining unit as of the date of certification of the results of the election by the Maine Labor Relations Board or the expiration of the collective bargaining agreements in the unit, whichever occurs later.

(7) Until ~~August 31, 2012~~ the first August 31st occurring after the 3rd anniversary date of the operational date of the regional school unit, existing bargaining agents shall continue to represent the bargaining units that they represented on the day prior to the operational date of the regional school unit. If necessary, each bargaining agent and the regional school unit must negotiate an interim collective bargaining agreement to expire on ~~August 31, 2012~~ the first August 31st occurring after the 3rd anniversary date of the operational date of the regional school unit.

(8) When there are 2 or more bargaining units in which there are employees who are represented either by the same bargaining agent or by separate local affiliates of the same state labor organization that will be merged into a regional school unit-wide bargaining unit with one or more other bargaining units pursuant to the election procedures described in this paragraph, the bargaining units that are represented either by the same bargaining agent or by separate local affiliates of the same state labor organization must merge as of the operational date. The procedures for merger of separate local affiliates of the same state labor organization described in paragraph E must be followed if applicable.

**Sec. 7. 20-A MRSA §1464, sub-§5** is enacted to read:

**5. Bargaining units of employees of school unions.** For purposes of section 1463, subsection 4 and this subsection, a school union that employed public employees, within the meaning of Title 26, section 962, subsection 6, who were represented by a bargaining agent on the day prior to the operational date of a regional school unit board of directors is considered to be a school administrative unit.

**Sec. 8. 20-A MRSA §1464-A** is enacted to read:

**§1464-A. Collective bargaining in alternative organizational structures**

**1. Assumption of obligations, duties, liabilities and rights.** On and after the operational date of an alternative organizational structure, teachers and other employees whose positions are transferred from a school administrative unit or school union to the alternative organizational structure and were included in a bargaining unit represented by a bargaining agent continue to be included in the same bargaining unit and represented by the same bargaining agent pending completion of the bargaining agent and bargaining unit merger procedures and bargaining for initial alternative organizational structure collective bargaining agreements covering alternative organizational structure employees, as described in this section. After employees become employees of the alternative organizational structure, the alternative organizational structure has the obligations, duties, liabilities and rights of a public employer pursuant to Title 26, chapter 9-A with respect to those employees.

**2. Structure of bargaining units.** All bargaining units of alternative organizational structure employees must be structured on an alternative organizational structure-wide basis. Teachers and other school employees who are employed by the alternative organizational structure to provide consolidated services must be removed from the existing bargaining units of teachers and other employees who are employed by each member school unit and merged into units of

alternative organizational structure employees. Merger into alternative organizational structure-wide bargaining units is not subject to approval or disapproval of employees. Formation of alternative organizational structure-wide bargaining units must occur in accordance with this subsection.

A. In each alternative organizational structure, there must be one unit of teachers if any teachers are employed by the alternative organizational structure, and, to the extent they are on the effective date of this paragraph included in bargaining units, other certified professional employees, excluding principals and other administrators.

B. Any additional bargaining units in an alternative organizational structure must be structured as follows.

(1) In the initial establishment of such units, units must be structured primarily on the basis of the existing pattern of organization, maintaining the grouping of employee classifications into bargaining units that existed prior to the creation of the alternative organizational structure and avoiding conflicts among different bargaining agents to the extent possible.

(2) In the event of a dispute regarding the classifications to be included within an alternative organizational structure-wide bargaining unit, the current bargaining agent or agents or the alternative organizational structure may petition the Maine Labor Relations Board to determine the appropriate unit in accordance with this section and Title 26, section 966, subsections 1 and 2.

C. When there is the same bargaining agent in all bargaining units that will be merged into an alternative organizational structure-wide bargaining unit, the units must be separated and merged on the operational date or the date represented employees are transferred to the alternative organizational structure, whichever is applicable, and the alternative organizational structure shall recognize the bargaining agent as the representative of the merged unit.

D. When all bargaining units that will be separated and merged into an alternative organizational structure-wide bargaining unit are represented by separate local affiliates of the same state labor organization, the units must be separated and merged on the operational date or the date represented employees are transferred to the alternative organizational structure, whichever is applicable. The identity of a single affiliate that will be designated the bargaining agent for the merged unit must be selected by the existing bargaining agents and the state labor organization. Upon completion of the merger and designation of the bargaining agent and notification by the state labor organization to the alternative organizational structure, the alternative organizational structure shall recognize the designated bargaining agent as the representative of employees in the merged unit. If necessary, the parties shall then execute a written amendment to any collective bargaining agreement then in effect to change the name of the bargaining agent to reflect the merger.

E. When there are bargaining units that will be separated and merged into an alternative organizational structure-wide bargaining unit in which there are employees who are not represented by any bargaining agent and other employees who are represented either by the same bargaining agent or separate local affiliates of the same state labor organization, the units must be separated and merged on the operational date or the date represented employees are transferred to the alternative organizational structure, whichever is applicable, as long as a majority of employees who compose the merged unit were represented by the bargaining agent prior to the merger. The procedures for separation and merger of separate local affiliates of the same state labor organization described in paragraph D must be followed if applicable. If prior to the merger a bargaining agent did not represent a majority of employees who compose the merged unit, a bargaining agent election must be conducted by the Maine Labor Relations Board pursuant to paragraph F.

F. When bargaining units with different bargaining agents must be merged into a single alternative organizational structure-wide bargaining unit pursuant to this section, the bargaining agent of the merged bargaining unit must be selected in accordance with Title 26, section 967 except as modified in this section.

(1) A petition for an election to determine the bargaining agent must be filed with the Maine Labor Relations Board by any of the current bargaining agents or the alternative organizational structure.

(2) The petition must be filed not more than 90 days prior to the first August 31st occurring after either the 3rd anniversary date of the operational date of the alternative organizational structure or the date on which positions are transferred from member school units to the alternative organizational structure, whichever is later.

(3) The election ballot may contain only the names of the bargaining agents of bargaining units that will be merged into the alternative organizational structure-wide bargaining unit and the choice of "no representative," but no

other choices. A showing of interest is not required from any such bargaining agent other than its current status as representative.

(4) The obligation to bargain with existing bargaining agents continues from the operational date of the alternative organizational structure or the date on which positions are transferred from member school units to the alternative organizational structure, whichever is later, until the determination of the bargaining agent of the alternative organizational structure-wide bargaining unit under this section; but in no event may any collective bargaining agreement that is executed after the operational date extend beyond the first August 31st occurring after either the 3rd anniversary date of the operational date of the alternative organizational structure or the date on which positions are transferred from member school units to the alternative organizational structure, whichever is later.

(5) The Maine Labor Relations Board shall expedite to the extent practicable all petitions for determination of the bargaining agent in the alternative organizational structure filed pursuant to this section.

(6) The bargaining units must be merged into an alternative organizational structure-wide bargaining unit as of the date of certification of the results of the election by the Maine Labor Relations Board or the expiration of the collective bargaining agreements in the unit, whichever occurs later.

(7) Until the first August 31st occurring after either the 3rd anniversary date of the operational date of the alternative organizational structure or the date on which positions are transferred from member school units to the alternative organizational structure, whichever is later, existing bargaining agents shall continue to represent the bargaining units that they represented on the day prior to the operational date of the alternative organizational structure. If necessary, each bargaining agent and the alternative organizational structure must negotiate interim collective bargaining agreements to expire the first August 31st occurring after either the 3rd anniversary date of the operational date of the alternative organizational structure or the date on which positions are transferred from member school units to the alternative organizational structure, whichever is later.

(8) When there are 2 or more bargaining units in which there are employees who are represented either by the same bargaining agent or by separate local affiliates of the same state labor organization that will be merged into an alternative organizational structure-wide bargaining unit with one or more other bargaining units pursuant to the election procedures described in this paragraph, the bargaining units that are represented either by the same bargaining agent or by separate local affiliates of the same state labor organization must merge as of the operational date. The procedures for merger of separate local affiliates of the same state labor organization described in paragraph D must be followed if applicable.

**3. Agent to engage in collective bargaining.** After the merger of bargaining units in an alternative organizational structure, the bargaining agent of an alternative organizational structure-wide bargaining unit and the alternative organizational structure shall engage in collective bargaining for a collective bargaining agreement for the alternative organizational structure-wide bargaining unit. In the collective bargaining agreement for each alternative organizational structure-wide bargaining unit, the employment relations, policies, practices, salary schedules, hours and working conditions throughout the alternative organizational structure must be made uniform and consistent as soon as practicable. In the event that the parties are unable to agree upon an initial alternative organizational structure-wide collective bargaining agreement, the parties must use the dispute resolution procedures pursuant to Title 26, section 965 to resolve their differences.

**4. Application of collective bargaining agreements.** On and after the operational date of an alternative organizational structure, but before the completion of negotiations for a single alternative organizational structure-wide collective bargaining agreement for the alternative organizational structure-wide bargaining unit, the wages, hours and working conditions of an employee of the alternative organizational structure who is in a bargaining unit and who is reassigned to a different position that is in a different bargaining unit but that upon the completion of the merger of bargaining units will be included in the same alternative organizational structure-wide bargaining unit must be determined by the terms of the collective bargaining agreement that applies to the position to which the employee is reassigned, except as provided in this subsection.

A. If the application of the collective bargaining agreement that applies to the position to which the employee is reassigned would cause a reduction in the employee's wage or salary rate, the employee's wage or salary rate must be maintained at the rate the employee was paid immediately prior to the reassignment until the completion of negotiations for a single alternative organizational structure-wide collective bargaining agreement for the al-

ternative organizational structure-wide bargaining unit or the applicable collective bargaining agreement requires a higher wage or salary rate for the employee, whichever occurs sooner.

B. If the application of the existing collective bargaining agreement that applies to the position to which the employee is reassigned would cause a reduction in the amount that is paid by the alternative organizational structure for premiums for health insurance for the employee and the employee's dependents, the alternative organizational structure's payment must be maintained at the amount that was paid immediately prior to the reassignment until the completion of negotiations for a single alternative organizational structure-wide collective bargaining agreement for the alternative organizational structure-wide bargaining unit or the applicable collective bargaining agreement requires a higher payment, whichever occurs sooner.

C. If the application of the existing collective bargaining agreement that applies to the position to which the employee is reassigned provides for coverage under a different health insurance plan, the employee may elect to retain coverage under the health insurance plan in which the employee was enrolled immediately prior to reassignment if the eligibility provisions of the plan permit until the completion of negotiations for a single alternative organizational structure-wide collective bargaining agreement for the alternative organizational structure-wide bargaining unit.

**Sec. 9. 20-A MRSA §1466** is enacted to read:

**§1466. Withdrawal of a single municipality from a regional school unit**

**1. Petition.** The residents of a municipality that has been a member of a regional school unit for at least 3 years may petition to withdraw from the regional school unit in accordance with this subsection.

A. Ten percent of the number of voters in the municipality who voted at the last gubernatorial election must sign the petition to withdraw from the regional school unit.

B. At least 10 days before the special election called pursuant to this paragraph, the municipal officers of the municipality within the regional school unit shall hold a posted or otherwise advertised public hearing on the petition. The municipal officers shall call and hold a special election in the manner provided for the calling and holding of town meetings or city elections to vote on the withdrawal from the regional school unit.

C. The petition to withdraw from the regional school unit must be approved by secret ballot by a majority vote of the voters present and voting before it may be presented to the regional school unit board and the commissioner. Voting in towns must be conducted in accordance with Title 30-A, sections 2528 and 2529, even if the towns have not accepted the provisions of Title 30-A, section 2528, and voting in cities must be conducted in accordance with Title 21-A.

For the purposes of this subsection, the 3-year period after which a petition to withdraw may be considered in 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 is 3 years after the original operational date of the school administrative district; and the 3-year period after which a petition to withdraw may be considered in a member municipality of a school administrative district that did not reformulate as a regional school unit but that became a member entity of an alternative organizational structure is 3 years after the operational date of the alternative organizational structure.

**2. Form.** The article to be voted upon must be in substantially the following form:

"Article: Do you favor filing a petition for withdrawal with the board of directors of regional school unit (name of regional school unit) and with the Commissioner of Education, authorizing the withdrawal committee to expend $ (insert amount) and authorizing the (municipal officers; i.e., selectpersons, town council, etc.) to issue notes in the name of the (name of the municipality) or otherwise pledge the credit of the (name of the municipality) in an amount not to exceed $ (insert amount) for this purpose?

Yes No"

**3. Notice of vote.** If residents of the municipality vote favorably on a petition for withdrawal, the clerk shall immediately give written notice, by registered mail, to the secretary of the regional school unit and the commissioner that must include:

A. The petition adopted by the voters, including the affirmative and negative votes cast; and

B. An explanation by the municipal officers, stating to the best of their knowledge the reason or reasons why the municipality seeks to withdraw from the regional school unit.

**4. Agreement for withdrawal; notice; changes in agreement; final agreement.** The agreement for withdrawal must comply with this subsection.

A. The commissioner shall direct the municipal officers of the petitioning municipality to select representatives to a withdrawal committee as follows: one member from the municipal officers, one member from the general public and one member from the group filing the petition. The

commissioner shall also direct the directors of the regional school unit board representing the petitioning municipality to select one member of the regional school unit board who represents that municipality to serve on the withdrawal committee. The municipal officer and the member of the regional school unit board serve on the withdrawal committee only so long as they hold their respective offices. Vacancies must be filled by the municipal officers and the regional school unit board. The chair of the regional school unit board shall call a meeting of the withdrawal committee within 30 days of the notice of the vote in subsection 3. The chair of the regional school unit board shall open the meeting by presiding over the election of a chair of the withdrawal committee. The responsibility for the preparation of the agreement rests with the withdrawal committee, subject to the approval of the commissioner. The withdrawal committee may draw upon the resources of the department for information not readily available at the local level and employ competent advisors within the fiscal limit authorized by the voters. The agreement must be submitted to the commissioner within 90 days after the withdrawal committee is formed. Extensions of time may be granted by the commissioner upon the request of the withdrawal committee.

(1) The agreement must contain provisions to provide educational services for all students of the petitioning municipality within the regional school unit. The agreement must provide that during the first year following the withdrawal students may attend the school they would have attended if the petitioning municipality had not withdrawn. The allowable tuition rate for students sent from one municipality to another in the former regional school unit must be determined under section 5805, subsection 1, except that it is not subject to the state per pupil average limitation in section 5805, subsection 2.

(2) The agreement must establish that the withdrawal takes effect at the end of the regional school unit's fiscal year.

(3) The agreement must establish that the withdrawal will not cause a need within 5 years from the effective date of withdrawal for school construction projects that would be eligible for state funds. This limitation does not apply when a need for school construction existed prior to the effective date of the withdrawal or when a need for school construction would have arisen even if the municipality had not withdrawn.

(4) The agreement must establish how transportation services will be provided.

(5) The agreement must provide for administration of the new administrative unit, which should not include the creation of new supervisory units if at all possible.

(6) The agreement must make provision for the distribution of financial commitments arising from outstanding bonds, notes and any other contractual obligations that extend beyond the proposed date of withdrawal.

(7) The agreement must provide appropriately for the distribution of any outstanding financial commitments to the superintendent of the regional school unit.

(8) The agreement must provide for the continuation and assignment of collective bargaining agreements as they apply to the new or reorganized regional school unit for the duration of those agreements and must provide for the continuation of representational rights.

(9) The agreement must provide for the continuation of continuing contract rights under section 13201.

(10) The agreement must provide for the disposition of all real and personal property and other monetary assets.

(11) The agreement must provide for the transition of administration and governance of the schools to properly elected governing bodies of the newly created administrative unit and must provide that the governing body may not be elected simultaneously with the vote on the article to withdraw unless the commissioner finds there are extenuating circumstances that necessitate simultaneous elections.

B. Within 60 days of the receipt of the agreement, the commissioner shall either give it conditional approval or recommend changes. The changes must be based upon the standards set forth in paragraph A and the commissioner's findings of whether the contents of the agreement will provide for appropriate educational and related services to the students of the petitioning municipality and for the orderly transition of assets, governance and other matters related to the petitioning municipality and the regional school unit.

C. If the commissioner gives conditional approval of the agreement, the commissioner shall notify the regional school unit board and the municipal officers by registered mail of the time and place of a public hearing at least 20 days prior to the date set for the hearing to discuss the merits of the proposed agreement of withdrawal. The chair of the regional school unit board shall conduct the hearing.

(1) The regional school unit board shall post a public notice in each municipality of the time and location of the hearing at least 10 days before the hearing.

(2) Within 30 days following the hearing under this paragraph, the withdrawal committee shall forward the final agreement to the commissioner.

D. If the commissioner recommends changes to the agreement, the commissioner shall:

(1) Send the agreement back to the withdrawal committee for necessary corrections;

(2) Establish a maximum time within which to make the corrections; and

(3) Indicate that the corrected agreement must be returned to the commissioner for conditional approval before it goes to public hearing as set forth in paragraph C.

**5. Date of municipal election; notice; warrant; polling hours.** The date and time for voting is as set forth in this subsection.

A. The commissioner shall determine the date upon which the voters of the petitioning municipality must vote upon the agreement submitted to them. The election must be held as soon as practicable, and the commissioner shall attempt to set the date of the vote to coincide with a statewide election.

B. At least 35 days before the date set in paragraph A, the commissioner shall give written notice of the date by registered or certified mail to the town clerk or city clerk of the municipality petitioning to withdraw.

C. The town clerk or city clerk shall immediately notify the municipal officers upon receipt of the notice under paragraph B, and the municipal officers shall meet and immediately issue a warrant for a special town meeting or city election, as the case may be, to be held on the date designated by the commissioner. No other date may be used.

D. In a warrant under paragraph C, the municipal officers shall direct that the polls are to be open at 10 a.m. and remain open until 8 p.m.

**6. Public hearing; voting procedures.** The following requirements apply to the voting procedures.

A. At least 10 days before the election, the municipal officers shall hold a posted or otherwise advertised public hearing on the withdrawal question.

B. Except as otherwise provided in this section, the voting at the meeting held in a town must be conducted in accordance with Title 30-A, sections 2528 and 2529, even if the town has not accepted the provisions of Title 30-A, section 2528.

C. The voting at the meeting held in a city must be conducted in accordance with Title 21-A.

**7. Article.** The article to be voted on must be in the following form.

"Article: Do you favor the withdrawal of the (name of municipality) from the regional school unit (name of regional school unit) subject to the terms and conditions of the withdrawal agreement dated (insert date)?

Yes No"

**8. Ballots; posting of agreement.** The withdrawal agreement need not be printed on the ballot. Copies of the agreement must be posted in the municipality in the same manner as specimen ballots are posted under Title 30-A, section 2528.

**9. Required vote.** A 2/3 vote of those casting valid votes in the municipality is required before the municipality may withdraw from the regional school unit.

**10. Restriction on withdrawal petitions.** A municipality within a regional school unit may not petition for withdrawal within 2 years after the date of:

A. A municipal vote on a petition for withdrawal if the petition received less than 45% of the votes cast; or

B. A municipal vote on a withdrawal agreement if the agreement received less than 60% of the votes cast.

**11. Cost of advisors.** The expense of employing competent advisors by the municipality petitioning to withdraw must be borne by the municipality, and the expense of employing competent advisors by the regional school unit must be borne by the regional school unit with the municipality bearing its share according to the regional school unit's cost-sharing agreement.

**12. Determination of vote.** The town clerk or city clerk shall, within 24 hours of determination of the result of the vote in the municipality, certify the total number of votes cast in the affirmative and the total number of votes cast in the negative on the article to the commissioner.

**13. Determination of results; execution of agreement.** If the commissioner finds that a 2/3 majority of the voters voting on the article have 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.

**14. Recount; checklists and ballots; disputed ballots.** This subsection applies to recounts, checklists, ballots and disputed ballots.

A. If, within 7 days of the computation and recording of the results of the voting, the municipality requests to the commissioner in writing a recount of the votes, the commissioner shall immediately cause the checklists and all the ballots cast in the municipality to be collected and kept at the commissioner's office so they may be recounted by the municipality.

B. The town clerk or city clerk of the municipality is authorized to deliver the checklists and ballots to the commissioner, notwithstanding any other provision of law to the contrary.

C. The commissioner shall resolve any question with regard to disputed ballots.

**15. Execution of agreement; certified record; certificate of withdrawal.** When the agreement for withdrawal has been put into effect by the municipality, the municipal officers shall notify the commissioner by certified mail that the agreement of withdrawal has been executed. A complete certified record of the transaction involved in the withdrawal must be filed with the commissioner. The commissioner shall immediately issue a certificate of withdrawal to be sent by certified mail for filing with the regional school unit board and shall file a copy in the office of the Secretary of State.

**16. Indebtedness.** This subsection applies to outstanding indebtedness.

A. Whenever a municipality withdraws from a regional school unit having outstanding indebtedness, the regional school unit remains intact for the purpose of securing and retiring the indebtedness. The withdrawal agreement may provide for alternate means for retiring outstanding indebtedness.

B. For the purposes of this subsection, "outstanding indebtedness" means bonds or notes issued or assumed by the regional school unit board and lease-purchase agreements issued or assumed by the regional school unit, but does not include any indebtedness of the withdrawing municipality assumed by the regional school unit at the time of formation.

**17. General purpose aid.** When a municipality withdraws from a regional school unit, the general purpose aid for the municipality must be computed in accordance with chapter 606-B.

**18. Committee recall.** If the commissioner determines that the withdrawal committee has failed to comply with the requirements of this section, the commissioner may authorize the municipal officers to appoint new representatives to the withdrawal committee.

**19. Transfer of property.** The regional school unit board may negotiate with the withdrawal committee regarding an equitable division of the regional school unit's property between the regional school unit and the municipality represented by the withdrawal committee and transfer title of the property to the municipality following withdrawal. The regional school unit board shall determine that the regional school unit's educational program will not be disrupted solely because of the transfer of any given property before it may complete the transfer.

**20. Reorganization; penalties.** A municipality that withdraws from a regional school unit under this section is not subject to penalties applicable to a nonconforming school administrative unit under section 15696 for 2 years after withdrawing from the regional school unit. A municipality that does not join a conforming school administrative unit within 2 years of withdrawal is subject to the penalties applicable to a nonconforming school administrative unit under section 15696. The remaining municipality or municipalities within the regional school unit from which the municipality withdraws are not subject to penalties applicable to a nonconforming school administrative unit under section 15696 for 2 years after the withdrawal of the municipality.

**Sec. 10. 20-A MRSA §1467** is enacted to read:

**§1467. Transfer of a municipality from one regional school unit to another**

**1. Petition to commissioner.** Two regional school unit boards may petition the commissioner by joint resolution to permit a municipality to transfer from one regional school unit to the other.

**2. Transfer agreement.** The 2 regional school unit boards and the municipal officers of the municipality involved shall form a committee to prepare a transfer agreement within 60 days after being authorized by the commissioner to prepare the agreement. Extensions of time may be granted by the commissioner.

A. The committee shall consider the standards set forth in section 1466, subsection 4, paragraph A in preparing the agreement.

B. The approval process for the agreement must follow the steps set forth in section 1466, subsections 4 to 17.

C. The following article must appear on the ballot when the transfer of a municipality is considered under paragraph B.

"Article: Do you favor permitting the (name of municipality) to transfer from regional school unit

(name of regional school unit) into regional school unit (name of regional school unit) as a participating municipality of that regional school unit subject to the terms and conditions of the agreement of transfer approved by the Commissioner of Education dated (insert date)?

Yes No"

A copy of the agreement must be posted with each warrant that directs the citizens to vote upon the question.

D. The article must be approved by a majority of votes cast in both regional school units and by a majority of votes cast in the municipality to be transferred before the agreement may take effect.

E. A complete certified record of the transaction involved in the transfer must be filed with the commissioner. The commissioner shall issue immediately a certificate of transfer to the secretaries of the regional school units by registered mail to be filed with the regional school unit boards involved and shall file a copy of the certificate of transfer in the office of the Secretary of State.

**3. Outstanding indebtedness.** Whenever a municipality is detached from a regional school unit having outstanding indebtedness, the municipality remains as part of the regional school unit from which it was detached for the purposes of paying its proper portion of the indebtedness until the indebtedness is redeemed. The municipality is not part of the regional school unit from which it was detached for the purpose of any outstanding indebtedness incurred subsequent to the date of the certificate of transfer.

For purposes of this subsection, "outstanding indebtedness" means bonds or notes issued or assumed by the regional school unit board and lease-purchase agreements issued or assumed by the regional school unit, but does not include any indebtedness of the detaching municipality assumed by the regional school unit at the time of formation.

**Sec. 11. 20-A MRSA §1468** is enacted to read:

**§1468. State board review of commissioner's decisions**

A regional school unit or other interested party may request that the state board reconsider decisions made by the commissioner under this subchapter. The state board has the authority to overturn decisions made by the commissioner. In exercising this power, the state board is limited by this subchapter.

**Sec. 12. 20-A MRSA §1472-C** is enacted to read:

**§1472-C. Term of office for elected directors**

Notwithstanding any other provision of this subchapter, a regional school unit board may place an article before the voters in the member municipalities of the regional school unit that would permit the regional school unit board to establish a single common date for beginning the term of office for duly elected directors when the board members are elected at the regular municipal election of the member municipalities and these municipal elections are held at different times.

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

Effective April 1, 2010.

## CHAPTER 581

## H.P. 940 - L.D. 1339

### An Act To Improve Oversight of Pharmaceutical Purchasing

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

**Sec. 1. 22 MRSA §2699, sub-§4,** as enacted by PL 2003, c. 456, §1, is amended to read:

**4. Enforcement.** A violation of this section is a violation of the Maine Unfair Trade Practices Act, for which a fine of not more than $10,000 may be adjudged. Nothing in this section limits the authority of the Superintendent of Insurance under Title 24-A.

**Sec. 2. 22 MRSA §2699, sub-§6** is enacted to read:

**6. State contracts.** The State Auditor shall work with the Department of Administrative and Financial Services and other state agencies that are covered entities, including, but not limited to, the group health plan established pursuant to Title 5, section 285, that purchase prescription drugs to ensure compliance of a pharmacy benefits manager with the requirements of this section. The State Auditor shall develop appropriate audit procedures that may be used by the State to determine if a pharmacy benefits manager and a pharmacy benefits management contract entered into by the State meet the requirements of this section and other laws applicable to pharmacy benefits. Nothing in this subsection provides the State Auditor with authority over requirements in Title 24-A relating to pharmacy benefits managers.

**Sec. 3. 24-A MRSA §601, sub-§28** is enacted to read:

**28. Pharmacy benefits manager.** Pharmacy benefits manager registration fees may not exceed:

A. Original issuance fee, $100; and

B. Annual renewal fee, $100.

**Sec. 4. 24-A MRSA §1913** is enacted to read:

**§1913. Registration of pharmacy benefits managers**

Beginning April 1, 2011, a person may not act as a pharmacy benefits manager as defined in Title 22, section 2699, subsection 1, paragraph F in this State without first paying the registration fee required under section 601, subsection 28. The superintendent may adopt routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A to administer and enforce the registration requirements of this section. The superintendent may enforce this section under sections 220 and 223 and other provisions of this Title.

See title page for effective date.

## CHAPTER 582

## H.P. 1186 - L.D. 1685

### An Act To Clarify the Enforcement Role of the Mixed Martial Arts Authority of Maine

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

**Sec. 1. 8 MRSA §522, sub-§7,** as enacted by PL 2009, c. 352, §2, is amended to read:

**7. Revenue and expenditures.** The board may receive revenue from mixed martial arts competitions, exhibitions and events, as well as from the sale of goods and merchandise, in accordance with rules adopted pursuant to sections 523 and 524. The authority may apply for, solicit and receive grants, donations and gifts and may receive appropriations from the State and funds from other governmental authorities. All funds received must be spent solely to assist with operational expenses in furtherance of the purpose of the authority. The board may enter into contracts to obtain the assistance of staff sufficient to support operations of the board.

**Sec. 2. 8 MRSA §523,** as enacted by PL 2009, c. 352, §2, is amended to read:

**§523. Powers of authority**

In furtherance of its purpose, the authority shall, no later than ~~March 1~~ October 15, 2010:

**1. Rules.** Adopt rules to protect the health and safety of authorized participants and the integrity of competition, as well as to establish a certification process authorizing participation in a mixed martial arts competition, exhibition or event and set the fee schedules for all authorized participants. A certificate authorizing participation in a mixed martial arts competition, exhibition or event may be issued for one year or such other time period as may be fixed by rule under this chapter. The board may establish requirements to ensure that a mixed martial arts competition, exhibition or event is not conducted unless a promoter's fee has been paid and that each competitor has been examined by a physician who has certified the competitor's fitness to participate in the mixed martial arts competition, exhibition or event. Rules adopted pursuant to this subsection are routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A. The authority's rules must include, but are not limited to, the following:

A. Rules of competition, weighing of participants and scoring of decisions;

B. Length of contests and rounds;

C. Availability of medical services, including a requirement that a physician be present during a mixed martial arts competition, exhibition or event;

D. Age limits, which must include a minimum age of not less than 18 years;

E. Weight limits and classification of participants;

F. Physical condition of participants;

G. Qualifications of referees and other authorized participants;

H. Uniforms, attire, safety gear and equipment of authorized participants;

I. Specifications of facilities and equipment; and

J. Requirements for health and accident insurance providing coverage in the event of injury or death to authorized participants. This coverage must comply with standards prescribed by the Superintendent of Insurance~~; and~~.

~~**2. Other action.** Take all other lawful action necessary and incidental to its purposes.~~

**Sec. 3. 8 MRSA §528,** as enacted by PL 2009, c. 352, §2, is repealed.

**Sec. 4. 8 MRSA §529** is enacted to read:

**§529. Powers of board**

**1. Inspections and investigations.** The board may enter and inspect the premises where a martial arts competition, exhibition or event is to be conducted and question persons present and review documents to the extent it considers necessary to determine whether the event is in accordance with this chapter and rules adopted under this chapter.

**2. Other action.** The board may take all reasonable steps to ensure that a mixed martial arts competition, exhibition or event is conducted in accordance with this chapter and rules adopted under this chapter and take all other lawful action necessary and incidental to its purposes.

**Sec. 5. 8 MRSA §530** is enacted to read:

**§530. Refusal, suspension or revocation of certificate; grounds**

The board may, after notice of an opportunity for hearing in accordance with Title 5, chapter 375, subchapter 4, refuse to issue or renew and may suspend or revoke a certificate described under section 523, subsection 1. The following are grounds for an action to refuse to issue, suspend, revoke or refuse to renew a certificate issued under section 523, subsection 1:

**1. Fraud or deceit.** The practice of fraud or deceit in obtaining a certificate under section 523, subsection 1;

**2. Violation of chapter or rule.** Any violation of this chapter or any rule adopted by the authority;

**3. Failure to maintain insurance.** Failure to maintain health and accident insurance required by section 523, subsection 1, paragraph J; and

**4. Conviction of certain crimes.** Conviction of a crime that involves dishonesty or false statement that relates directly to the practice for which the applicant is certified or requesting certification or that relates directly to an applicant's qualifications for a certificate under section 523, subsection 1. The board shall consider such a conviction in the same manner as a licensing agency pursuant to Title 5, chapter 341.

**Sec. 6. 8 MRSA §531** is enacted to read:

**§531. Complaint investigation; confidentiality**

Complaints and investigative records of the authority relating to a violation of this chapter or any rule adopted by the authority are confidential to the same extent provided for licensing boards and commissions under Title 10, section 8003-B.

**Sec. 7. 8 MRSA §532** is enacted to read:

**§532. Fines; enforcement**

The board may, after a hearing under Title 5, chapter 375, subchapter 4, impose a fine of not more than $500 for each violation against a person who violates this chapter or rules adopted pursuant to this chapter or who participates in a mixed martial arts competition, exhibition or event without the certificate described under section 523, subsection 1. The Attorney General may bring an action in Superior Court to enjoin a martial arts competition, exhibition or event from occurring for which the promoter's fee has not been paid or a participant who does not meet the qualifications of this chapter from participating in the competition, exhibition or event.

**Sec. 8. 17-A MRSA §515, sub-§2-A,** as enacted by PL 2009, c. 352, §3, is amended to read:

**2-A.** ~~Effective March 1, 2010, this~~ This section does not apply to any mixed martial arts competition, exhibition or event authorized pursuant to Title 8, chapter 20 as long as rules have been adopted by the Mixed Martial Arts Authority of Maine pursuant to Title 8, chapter 20.

**Sec. 9. Retroactivity.** That section of this Act that amends the Maine Revised Statutes, Title 8, section 523 is retroactive to March 1, 2010.

See title page for effective date.

## CHAPTER 583

## H.P. 1138 - L.D. 1610

### An Act To Establish the Silver Alert Program

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

**Sec. 1. 25 MRSA c. 259** is enacted to read:

**CHAPTER 259**

**SILVER ALERT PROGRAM**

**§2201. Definitions**

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

**1. Department.** "Department" means the Department of Public Safety.

**2. Missing senior citizen.** "Missing senior citizen" means a person:

A. Who at the time the person is first reported missing is 60 years of age or older or, under extraordinary circumstances, a person 18 to 59 years of age who also meets the criteria in paragraphs B and C;

B. With respect to whom there is a clear indication that the person has an irreversible deterioration of intellectual faculties such as dementia, as determined by a local law enforcement agency; and

C. Whose disappearance poses a credible threat to the safety and health of the person as determined by a local law enforcement agency.

**3. Media.** "Media" means print, radio, Internet-based communication systems or other methods of communicating information to the public.

**4. Silver Alert.** "Silver Alert" means a notice provided under this chapter to the public through law enforcement agencies and the media.

**5. Silver Alert Program.** "Silver Alert Program" means the statewide alert program for missing senior citizens developed and implemented under this chapter.

**§2202. Silver Alert Program**

In accordance with this chapter and with the cooperation of the Department of Transportation, the Maine Turnpike Authority, a statewide organization representing broadcast groups in the State, the Office of the Governor and appropriate law enforcement agencies, the department shall develop and implement the Silver Alert Program to be activated on behalf of missing senior citizens. The program must include standards of procedure for local law enforcement agencies to determine that a missing person is a missing senior citizen and appropriately activate a Silver Alert to local or statewide law enforcement agencies and to the media, a plan for providing relevant information to the public through an existing system of dynamic message signs located across the State when necessary and training for all law enforcement officers. The Silver Alert Program must be developed and implemented using existing resources.

See title page for effective date.

## CHAPTER 584

## H.P. 1089 - L.D. 1547

### An Act To Revise Notification Requirements for Pesticides Applications Using Aircraft or Air-carrier Equipment

**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 in the public interest to inform citizens of certain pesticides applications occurring in proximity to populated areas; and

**Whereas,** revisions are needed to increase awareness of and compliance with registry provisions in the laws governing pesticides applications; 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 §1471-Y,** as enacted by PL 2009, c. 378, §1, is repealed.

**Sec. 2. 22 MRSA §1471-Z,** as enacted by PL 2009, c. 378, §2, is amended to read:

**§1471-Z. Registry of property requiring notification for pesticides applications**

The board shall develop and maintain a registry of the properties of residents, lessees and property owners in the State who request ~~to~~ that their properties be placed on a registry ~~for the purpose of receiving information on~~ in order that the residents, lessees and owners receive advance notification of the outdoor application of pesticides ~~using aircraft or air carrier equipment in addition to the information required under section 1471-Y~~.

**1. Development of registry.** The board shall solicit participation in ~~a~~ the registry ~~of citizens~~ through newspaper articles, public notices distributed to municipal offices and a notice posted on the board's publicly accessible website. ~~To~~ For a property to be placed on the registry, a person must submit to the board, using a form provided on the board's publicly accessible website or a paper copy provided by the board upon request, the following information:

A. The person's full name;

B. The person's telephone number;

C. The physical location of the property ~~owned, leased or occupied by the person registering~~ being registered, including the street address if available. ~~The location must be described~~ If a street address is not available, longitude and latitude coordinates or a description of the property in sufficient detail to be located on a 7.5 or 15 minute series topographical map ~~produced by the United States Geological Survey or a map of equivalent or superior detail~~ must be provided;

D. The ~~person's~~ mailing address at which the person prefers to receive notification; ~~and~~

E. The person's e-mail address~~.~~ if available, regularly used and acceptable for notification purposes; and

F. The person's preferred means of notification.

Any resident, owner or lessee of property in the State is entitled to ~~be~~ have that property placed on the registry ~~of citizens~~. A fee may not be charged to register. ~~Persons~~ Property must remain on the registry until ~~they notify~~ the resident, owner or lessee notifies the board in writing that ~~they want~~ the property is to be removed from the registry or until the board staff determines that the contact is no longer valid.

**2. Obligations to provide information to people on registry.** A land manager intending to conduct an outdoor application of pesticides using aircraft or

air-carrier equipment shall access the registry to identify any person entitled to notification under subsection 3 and, except as provided in subsections 5, 6 and 7, shall provide that person with notification no later than the day before and no earlier than 7 days before the day of the application. The notification must include:

A. The date and approximate time of application;

B. The type of equipment to be used and the manner in which the pesticides will be applied;

C. The brand names and the United States Environmental Protection Agency's registration numbers for the pesticides to be used;

D. Contact information for the land manager; and

E. The location of the property that the land manager intends to spray.

Upon the request of a person receiving notification under this subsection, a land manager shall provide the material safety data sheets for the pesticides being used or copies of the pesticides labels. A land manager is not required to postpone an application pending delivery of the requested information.

**3. Criteria requiring notification.** A land manager is required to notify a person whose property is on the registry if:

A. Pesticides are being applied using aircraft and the registered property lies within 1,320 feet of the intended spray area;

B. Pesticides are being applied using air-carrier equipment and the registered property lies within 1,320 feet of the intended spray area; or

C. Notwithstanding paragraph B, pesticides are being applied using air-carrier equipment into the crowns of fruit trees or Christmas trees and the registered property lies within 500 feet of the intended spray area. This paragraph is repealed January 1, 2012.

**4. Means of notification.** A land manager conducting or contracting for a pesticides application using aircraft or air-carrier equipment shall make a good faith effort to convey the information required in subsection 2. Acceptable means of notification include:

A. Personal delivery of notification forms;

B. Mailing notification forms through the United States Postal Service;

C. Electronic mailing of notification forms;

D. Telephone calls, either personal or automated; or

E. Other means determined acceptable by the board.

**5. Delayed notification acceptable.** A land manager using integrated pest management, as defined in Title 7, section 2401, may provide the information required under subsection 2, paragraphs A to D on the day of the application but prior to the application when an immediate threat to a crop arises and a delay would:

A. Result in significantly greater crop damage; or

B. Necessitate a more extensive application of pesticides or use of more toxic pesticides.

A land manager providing delayed notification under this subsection shall inform the board no later than 10 days after the application of the circumstances necessitating the application and provide any other information required in rules adopted under subsection 9.

**6. Waiver for public health emergencies and pest outbreaks that threaten severe economic or natural resource loss.** The board may waive notification requirements under subsection 2 in the event of a pest management emergency declared by the Governor or the commissioner, the Commissioner of Conservation or the Commissioner of Agriculture, Food and Rural Resources.

**7. Applicability.** The notification requirements under subsections 2 and 3 do not apply to:

A. Aerial pesticides applications subject to and conducted in compliance with section 1471-R and rules adopted to implement section 1471-R; and

B. Outdoor nonagricultural pesticides applications conducted in compliance with notification requirements for individuals on the registry established in rules adopted under section 1471-M, subsection 2, paragraph D.

This subsection is repealed January 1, 2012.

**8. Records maintained.** The board shall require a land manager to maintain records sufficient to determine compliance with this section. The board shall establish record-keeping requirements through rulemaking under subsection 9.

**9. Rulemaking.** The board shall adopt rules to implement this section. The rules may provide additional means of identifying property registered under subsection 1 and alternate means of providing notification under subsection 2. Notwithstanding Title 7, section 610, subsection 6, paragraph B, rules adopted or amended in 2010 to implement this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Beginning January 1, 2011, revisions to rules adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**10. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Air-carrier equipment" means any application equipment that uses a mechanically generated airstream to propel spray droplets. "Air-carrier equipment" does not include backpack sprayers or air-assisted application equipment in which the airstream is directed downward into the target canopy.

B. "Land manager" means the owner of the land upon which pesticides are to be applied, a person leasing the land or a person, firm, company or other legal entity designated by the owner to manage the land, vegetation on the land or pests occurring on the land.

**Sec. 3. 22 MRSA §1471-AA** is enacted to read:

**§1471-AA. Awareness of outdoor pesticides applications; role of the board**

**1. Public awareness.** The board shall increase awareness of the registry established under section 1471-Z using newspapers, public notices distributed to municipal offices and notices posted on the board's publicly accessible website and through cooperative efforts with other state agencies and private organizations.

**2. Acceptance of funds.** The board may accept gifts, donations, grants and matching funds from any private or public source for the purposes of publicizing the registry under section 1471-Z, developing efficient mechanisms for land managers, as defined in that section, to access the registry and promoting compliance with that section. The board shall deposit all funds accepted for these purposes with the Treasurer of State to be credited to the board's special fund under Title 7, section 621. Any gift, donation, grant or matching funds accepted with a stipulated purpose may be used only for that purpose.

**Sec. 4. Awareness of registry for receiving pesticides application information.** Until July 1, 2010, the Department of Agriculture, Food and Rural Resources, State Board of Pesticides Control shall concentrate its efforts under the Maine Revised Statutes, Title 22, section 1471-AA to raise awareness of the registry under Title 22, section 1471-Z and its purpose in areas of the State where pesticides applications using aircraft and air-carrier equipment occur and shall conduct outreach with land managers engaged in aerial and air-carrier applications to maximize understanding of and compliance with the requirements of Title 22, section 1471-Z, subsection 3. In June 2010, the board shall update the registry, and the board shall make the updated registry available to land managers no later than July 1, 2010.

**Sec. 5. Directive to State Board of Pesticides Control to establish comprehensive notification registry.** The Department of Agriculture, Food and Rural Resources, State Board of Pesticides Control shall work to develop a comprehensive notification registry as a single source for accessing information on registered properties and the notification of persons entitled to be notified under the Maine Revised Statutes, Title 22, sections 1471-R and 1471-Z and under Chapter 28 and Chapter 51 of the rules of the board.

The board, with input from the Department of Health and Human Services and other public health professionals, may provisionally adopt major substantive rules under Title 22, section 1471-Z, subsection 9 that expand the requirement that land managers consult the comprehensive notification registry before conducting pesticides applications using aircraft or air-carrier equipment to include other types of outdoor applications and that modify and incorporate into the comprehensive notification registry notification requirements for persons currently entitled to notification of pesticides applications under Chapter 28 or Chapter 51 of the rules of the board or otherwise entitled to notification. The rules must specify distances from the intended application area within which a person must be notified before application of pesticides based on the type of equipment used and other criteria considered appropriate by the board. The board shall consider options for efficiently notifying people with registered property, including, but not limited to, an Internet-based system of direct notification, and may establish acceptable methods of notification in rule.

**Sec. 6. Report to legislative committee.** The Department of Agriculture, Food and Rural Resources, State Board of Pesticides Control, with input from the Department of Health and Human Services and other public health professionals, shall submit a report, including suggested legislation, to the joint standing committee of the Legislature having jurisdiction over agricultural matters no later than February 1, 2011 on:

1. Progress made in working towards a comprehensive notification registry for persons who want to receive specific information about outdoor pesticides applications;

2. Recommendations regarding changes to the distances and types of applications requiring notification under the Maine Revised Statutes, Title 22, section 1471-Z, subsection 3;

3. The effectiveness of the public awareness activities conducted under Title 22, section 1471-AA and section 4 of this Act;

4. The feasibility and advisability of requiring land managers to post signs on the perimeter of properties on which pesticides will be applied using aircraft or air-carrier equipment; and

5. The feasibility of establishing and maintaining an Internet-based system to allow a land manager to electronically provide information required in Title 22,

section 1471-Z, subsection 2, paragraphs A to E to persons on the registry who are entitled to notification under Title 22, section 1471-Z, subsections 2 and 3.

**Sec. 7. Appropriations and allocations.** The following appropriations and allocations are made.

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

**Pesticides Control - Board of 0287**

Initiative: Allocates one-time funds for a campaign to raise awareness about the pesticides notification registry.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $25,000 | $0 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $25,000 | $0 |

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

Effective April 1, 2010.

## CHAPTER 585

## H.P. 1135 - L.D. 1607

### An Act To Regulate the Transportation of Firewood

**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 emerald ash borer and the Asian longhorned beetle have the potential to decimate Maine's forests, affecting wildlife habitat and other forest-based resources; and

**Whereas,** introduction of these insect pests poses a threat to tree species of commercial value; and

**Whereas,** the Asian longhorned beetle is now present in 3 northeastern states and the emerald ash borer has killed millions of ash trees in the midwestern United States and is now present in Pennsylvania; and

**Whereas,** the transportation of firewood has been demonstrated to hasten the spread of these pests beyond the normal biological dispersal rate; and

**Whereas,** the next camping season will begin in June 2010, and many campers come to Maine bringing firewood from their home states; 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 §8305,** as enacted by PL 1979, c. 545, §3, is amended to read:

**§8305. Shipment prohibited**

The director may prohibit, prevent or regulate the entry into or movement within the State~~, from any part thereof to any other part,~~ of any plants of the genus Ribes or other nursery or wilding plants, stock or parts of plants ~~which~~ or wood or wood products that may cause the introduction or spread of a dangerous forest insect or disease. The director may issue ~~the necessary~~ orders, permits and notices necessary to carry out this section ~~which shall not be considered to~~. Orders, permits and notices issued under this section do not require or constitute an adjudicatory proceeding under the Maine Administrative Procedure Act~~, Title 5, chapter 375~~.

**Sec. 2. Transportation of firewood; rules.** The Director of the Bureau of Forestry within the Department of Conservation shall seek funding from private and public sources to supplement and secure federal funding sufficient to implement restrictions on the transportation of firewood into the State. Upon securing adequate funding, the director shall adopt rules under the Maine Revised Statutes, Title 12, section 8306 to restrict the importation of firewood into the State to protect the State's forests from introduction of the emerald ash borer and the Asian longhorned beetle. The rules may allow the transportation of kiln-dried wood and include other exceptions the director determines do not threaten the State's forests. For purposes of this section, "firewood" means wood that is sold or transported for residential or recreational consumption in fireplaces, woodstoves, outdoor fireplaces or campfires. "Firewood" does not include wood chips, wood pellets, fuel for biomass boilers, pulpwood or other wood sold or transported for manufacturing purposes.

**Sec. 3. Directives to the Department of Conservation.** Within the Department of Conservation, the Director of the Bureau of Forestry shall work closely with the Director of the Bureau of Parks and Lands to ensure that the transportation of firewood into state parks and onto other lands managed by the Bureau of Parks and Lands is restricted to protect the State's forests from introduction of the emerald ash borer and the Asian longhorned beetle. Within existing resources, the Director of the Bureau of Forestry shall conduct surveillance to detect the presence of the em-

erald ash borer and the Asian longhorned beetle. The Director of the Bureau of Forestry may propose modifications to the definition of "firewood" under section 2 to the joint standing committee of the Legislature having jurisdiction over forestry matters to achieve the intent of this legislation.

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

Effective April 1, 2010.

## CHAPTER 586

## H.P. 1174 - L.D. 1646

### An Act To Establish a Broadband Policy for 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,** the availability of broadband service to all residents of the State is important for economic growth and opportunity; and

**Whereas,** facilitating increased use of broadband in this State will spur further broadband infrastructure investment and result in benefits to the users and to the economy of the State; and

**Whereas,** the federal American Recovery and Reinvestment Act of 2009 has set aside $7,200,000,000 for broadband expansion in unserved and underserved areas of the Nation, and over $25,000,000 of those funds have been granted to a middle-mile broadband project in the State that will result in further private investment in last-mile infrastructure in the State; and

**Whereas,** the State will be benefited by attracting and receiving further federal funding for additional broadband projects in this State; and

**Whereas,** part of the process for receiving federal funds includes a review by the State to determine whether each grant application is consistent with the State's broadband policy; and

**Whereas,** all grant awards under the federal American Recovery and Reinvestment Act of 2009 are scheduled to be awarded prior to the commencement of the 125th Legislature; 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. 35-A MRSA §9202-A** is enacted to read:

**§9202-A. State broadband policy**

**1. Goal.** It is the goal of the State that:

A. Broadband service become and remain, as nearly as possible, universally available in this State, including to all residential and business locations and community anchor institutions in the State; and

B. A secure, reliable and sustainable forward-looking infrastructure that can meet future broadband needs is developed.

**2. Policy.** It is the policy of the State to:

A. Maximize sustainable private investment in broadband infrastructure in the State and to promote broadband infrastructure deployment and availability to all individuals, businesses and institutions in this State, including those that require ultra high-speed Internet access;

B. Maximize federal grant resources and private investment opportunities to support the deployment of broadband infrastructure in unserved and underserved areas of the State in a manner consistent with paragraph A;

C. Prioritize the use of state broadband resources to assist private infrastructure deployment in unserved and underserved areas of the State;

D. Maximize the number of state permits and licenses that may be obtained or renewed online at rates equal to or less than the rates set for obtaining or renewing the permits or licenses in person;

E. Increase the number of subscribers to broadband services in the State so as to ensure that all residents of the State are able to fully take advantage of the economic opportunities available through broadband Internet connectivity, including by:

(1) Educating residents of the State about the benefits and opportunities associated with broadband services, such as distance learning opportunities, opportunities in telemedicine, as defined in Title 24-A, section 4316, and state programs available online; and

(2) Educating small businesses regarding the advantages of broadband access, such as online business reporting and tax filings and national and global sales opportunities; and

F. Seek to expand computer ownership and training in this State and ensure appropriate computer

equipment is available for use by public school students.

In order to facilitate the achievement of the goals and policies of this section, the authority shall establish and regularly update, after opportunity for public comment and taking into consideration relevant federal policies, a definition of "broadband."

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

Effective April 1, 2010.

## CHAPTER 587

## H.P. 1112 - L.D. 1574

### An Act To Amend the Rights and Liabilities of the Supervising Physician of a Physician Assistant

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

**Sec. 1. 37-B MRSA §185, sub-§1-A** is enacted to read:

**1-A. Immunity from civil and criminal liability for supervising physician.** Subsection 1 applies to the supervising physician of a physician assistant under Title 32, section 2594-B or 3270-B:

A. With regard to any act of the physician assistant in providing services to individuals not on active state service;

B. When the physician assistant is on active state service in the performance of the physician assistant's duty; and

C. When the supervising physician is not on active state service.

See title page for effective date.

## CHAPTER 588

## H.P. 1148 - L.D. 1620

### An Act To Protect Health Care Consumers from Catastrophic Debt

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

**Sec. 1. 24-A MRSA §4317** is enacted to read:

**§4317. Prohibition against maximum aggregate benefit provisions**

**1. Prohibition.** An individual or group health plan issued or renewed by a carrier on or after the effective date of this section may not include a provision in a policy, contract, certificate or agreement that purports to terminate payment of any additional claims for coverage of health care services after a defined maximum aggregate dollar amount of claims for coverage of health care services on an annual, lifetime or other basis has been paid under the health plan for coverage of an insured individual, family or group.

**2. Specific benefits.** This section may not be construed to limit the ability of a carrier to offer a health plan that limits benefits under the health plan for specified health care services on an annual basis.

**3. Exceptions.** This section does not apply to:

A. An individual health plan in effect on the effective date of this section with an annual or lifetime maximum aggregate benefit limit of less than $1,000,000;

B. A health plan designed for an employee who works on a part-time, temporary or seasonal basis or designed as short-term coverage for an employee who is fulfilling a waiting period for coverage under another employer-sponsored benefit plan;

C. An individual health plan in effect on the effective date of this section issued pursuant to a conversion privilege in a group health insurance policy subject to section 2809-A;

D. A pilot project to offer an individual health plan to a person under 30 years of age pursuant to section 2736-C, subsection 10; and

E. Blanket health insurance as defined in section 2813.

**4. Disclosure.** A health plan issued after the effective date of this section that includes an annual or lifetime maximum aggregate benefit limit as permitted under subsection 3 must include a disclosure of the applicable limit on the face page of the individual policy or group certificate. The disclosure must be printed in a font that is larger or bolder than the font used in the body of the face page.

**Sec. 2. Rulemaking.** The Superintendent of Insurance shall undertake rulemaking in accordance with the Maine Revised Statutes, Title 5, chapter 375 to amend any rule adopted by the Department of Professional and Financial Regulation, Bureau of Insurance that conflicts with this Act. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 3. Application.** The requirements of this Act apply to all policies, contracts and certificates sub-

ject to this Act that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2011. 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.

## CHAPTER 589

## H.P. 1130 - L.D. 1592

### An Act To Update the Laws Affecting the Maine Center for Disease Control and Prevention

**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. 22 MRSA §263** is enacted to read:

**§263. Fees for services provided to municipalities**

The department shall adopt rules to charge fees for services provided to municipalities by the Maine Center for Disease Control and Prevention pertaining to health data and vital statistics, including but not limited to fees for services, paper and supplies. The department shall review fees charged under this section every 3 years beginning in 2013. Rules adopted pursuant to this section are major substantive rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. 2. 22 MRSA §2494, sub-§3,** as amended by PL 2007, c. 539, Pt. F, §1, is further amended to read:

**3. Three hundred dollars.** ~~One hundred seventy-five~~ Three hundred dollars for all other establishments, places and camps not included in subsection 1 or 2.

**Sec. 3. 22 MRSA §2502** is enacted to read:

**§2502. Transaction fee for electronic renewal of license**

The department may collect a transaction fee from a licensee who renews a license electronically under this chapter. The fee may not exceed the cost of providing the electronic license renewal service. The department may adopt rules necessary 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. 4. 30-A MRSA §2652, sub-§1, ¶C,** as amended by PL 2005, c. 683, Pt. C, §8, is further amended to read:

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

(1) Issuance of a copy of the record to the applicant, ~~$10~~ $15 for the first copy and ~~$5~~ $6 for each additional copy;

**Sec. 5. 30-A MRSA §2652, sub-§1, ¶D,** as amended by PL 2005, c. 683, Pt. C, §8, is further amended to read:

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

(1) Issuance of a copy of the amended birth record to the applicant, ~~$10~~ $15 for the first copy and ~~$5~~ $6 for each additional copy;

**Sec. 6. 30-A MRSA §2652, sub-§2,** as amended by PL 2005, c. 86, §1, is further amended to read:

**2. Marriage intentions and license.** Recording marriage intentions and issuing a marriage license, ~~$30~~ $40, except, when the laws of this State require 2 licenses, the fee is ~~$15~~ $20 each;

**Sec. 7. 30-A MRSA §2652, sub-§3,** as amended by PL 2005, c. 112, §§1 and 2, is further amended to read:

**3. Birth, marriage or death certificates.** Issuing the following:

A. Certificate of birth, marriage or death, the clerk may charge up to ~~$10~~ $15 for the first copy and ~~up to $5~~ $6 for each additional copy; and

B. ~~Burial permit, $5~~ Permit for the disposition of human remains, $20, except that no fee is owed if the disposition of human remains is paid for through the municipal general assistance program under chapter 1161; and

**Sec. 8. 30-A MRSA §2652,** as amended by PL 2005, c. 86, §1; c. 112, §§1 and 2; and c. 683, Pt. C, §8, is further amended by adding at the end a new paragraph to read:

The Department of Health and Human Services, Maine Center for Disease Control and Prevention shall review the fees charged by the clerk under this section every 3 years beginning in 2013.

**Sec. 9. 30-A MRSA §4211, sub-§5,** as amended by PL 2009, c. 213, Pt. FFFF, §1, is further amended to read:

**5. Permit fees.** The following permit fees may be charged.

A. A plumbing permit fee ~~of $6~~ not to exceed $10 per internal fixture may be charged.

C. A minimum fee, not to exceed ~~$24~~ $40, may be charged for all internal plumbing permits combined.

D. A nonengineered subsurface wastewater disposal system fee not to exceed ~~$100~~ $250 may be charged, and a surcharge of $15 must be charged. The surcharge must be paid by the municipality to the Treasurer of State, who shall credit the amount to the Water Quality Improvement Fund established under Title 38, section 424-B.

**Sec. 10. 32 MRSA §1243,** as amended by PL 1991, c. 416, §5, is further amended to read:

**§1243. Inspections**

Upon any person's request and payment of a ~~$50 license~~ fee not to exceed $150, the department shall inspect that person's training, place of practice and equipment for compliance with the rules adopted by the department under this chapter. All fees collected by the department must be deposited in ~~the General Fund~~ a special revenue account dedicated to a health inspection program.

**Sec. 11. 32 MRSA §4252,** as amended by PL 1975, c. 293, §4 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

**§4252. Issuance of licenses**

The Department of Health and Human Services is empowered to license persons to practice the art of tattooing. Such licenses ~~shall be~~ are issued annually by the department upon the payment of a fee ~~of $50~~ not to exceed $250. Licenses ~~shall~~ expire on September 30th of each year. All fees collected by the department pursuant to this section must be deposited in a special revenue account dedicated to a health inspection program.

**Sec. 12. 32 MRSA §4314,** as enacted by PL 1997, c. 383, §1, is amended to read:

**§4314. Fee**

The fee for a license under this chapter may not exceed ~~$50~~ $150. The fee required by this section includes the cost of a biennial inspection of the micropigmentation facility by the department. However, the department may inspect the facility at any time. All fees collected by the department pursuant to this section must be deposited into a special revenue account dedicated to a health inspection program.

**Sec. 13. 32 MRSA §4325,** as enacted by PL 1997, c. 206, §1, is amended to read:

**§4325. Issuance of licenses**

The department may license persons to practice the art of body piercing. Licenses are issued annually by the department upon the payment of a fee not to exceed ~~$75~~ $250. The license for a person engaged in both the arts of tattooing, as defined by chapter 63, and body piercing may not exceed ~~$100~~ $300. The fee required by this section includes the cost of an annual inspection of the body piercing establishment by the department. Licenses expire one year from date of issue. All fees collected by the department pursuant to this section must be deposited into a special revenue account dedicated to a health inspection program.

**Sec. 14. Appropriations and allocations.** The following appropriations and allocations are made.

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

**Division of Data, Research and Vital Statistics Z037**

Initiative: Allocates funds from increased fee revenue for program operating expenses.

| **OTHER SPECIAL REVENUE FUNDS** | **2009-10** | **2010-11** |
|---|---|---|
| All Other | $0 | $442,665 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $442,665 |

**Health - Bureau of 0143**

Initiative: Allocates funds from increased fee revenue for program operating expenses.

| **OTHER SPECIAL REVENUE FUNDS** | **2009-10** | **2010-11** |
|---|---|---|
| All Other | $0 | $321,488 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $321,488 |

**Plumbing - Control Over 0205**

Initiative: Allocates funds from increased fee revenue for program operating expenses.

| **OTHER SPECIAL REVENUE FUNDS** | **2009-10** | **2010-11** |
|---|---|---|
| All Other | $0 | $429,820 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $429,820 |

| | | |
|---|---|---|
| **HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)** | | |
| **DEPARTMENT TOTALS** | **2009-10** | **2010-11** |
| **OTHER SPECIAL REVENUE FUNDS** | **$0** | **$1,193,973** |
| **DEPARTMENT TOTAL - ALL FUNDS** | **$0** | **$1,193,973** |

See title page for effective date.

## CHAPTER 590

## H.P. 1189 - L.D. 1688

### An Act To Update the Laws Affecting the Department of Health and Human Services, Division of Licensing and Regulatory Services

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

**Sec. 1. 22 MRSA §1723** is enacted to read:

**§1723. Processing fee**

Beginning October 1, 2010, a facility or health care provider subject to the licensing, certification or registration processes of this chapter or chapter 405, 411, 412, 417 or 419 shall pay a processing fee not to exceed $10 to the department for the reissuance of a license, certificate or registration when the licensee, certificate holder or registration holder made changes that require the reissuance of a license, certificate or registration.

The department 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.

**Sec. 2. 22 MRSA §1812-G, sub-§4-A** is enacted to read:

**4-A. Provider verification fee.** The department may establish a provider verification fee not to exceed $25 annually per provider for verification of a certified nursing assistant's credentials and training. Providers may not pass the cost on to the individual certified nursing assistant. Provider verification fees collected by the department must be placed in a special revenue account to be used by the department to operate the registry, including but not limited to the cost of criminal history record checks. The department may adopt rules 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.

**Sec. 3. 22 MRSA §2131, sub-§3,** as enacted by PL 1989, c. 579, §4, is amended to read:

**3. Fee.** The initial and annual fee for registration is $25.

The department may adopt rules 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.

**Sec. 4. 22 MRSA §7704** is enacted to read:

**§7704. Processing fee**

Beginning October 1, 2010, a facility, health care provider or program subject to the licensing or certification processes of chapter 1663, 1664, 1667, 1669, 1671 or 1673; a nursery school subject to chapter 1675; an adult day care program subject to chapter 1679; or a hospice provider subject to chapter 1681 shall pay a processing fee not to exceed $10 to the department for the reissuance of a license or certificate when the licensee or certificate holder made changes that require the reissuance of a license or certificate.

The department 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.

**Sec. 5. 22 MRSA §7705** is enacted to read:

**§7705. Transaction fee for electronic renewal of license**

The department may collect a transaction fee from providers renewing their licenses electronically under this subtitle. The fee may not exceed the cost of providing the electronic license renewal service. The department 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.

**Sec. 6. 22 MRSA §8303-A,** as amended by PL 2005, c. 530, §10 and c. 640, §4, is repealed and the following enacted in its place:

**§8303-A. Fee for licenses**

**1. Child care facilities and certified family child care providers.** The department shall adopt rules to establish reasonable fees for both initial licensure or certification and license or certification renewals for child care facilities and certified family child care providers. Rules adopted pursuant to this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

**2. Nursery schools.** The department shall adopt rules to establish reasonable initial and renewal licens-

ing fees for nursery schools that may not exceed $40 for an initial or renewal license. The department may adopt rules 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.

**Sec. 7. 34-B MRSA §1224** is enacted to read:

**§1224. Processing fee**

Beginning October 1, 2010, a facility or health care provider subject to the licensing provisions of section 1203-A shall pay a processing fee not to exceed $10 to the department for the reissuance of a license when the licensee made changes that require the reissuance of a license.

The department 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.

See title page for effective date.

## CHAPTER 591

## H.P. 1218 - L.D. 1717

### An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses

**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 State has an aging housing stock that contributes to a high per capita consumption of oil; and

**Whereas,** weatherization and efficiency upgrades can dramatically reduce the amount of oil needed to heat a home or building; and

**Whereas,** state policy includes the following energy-related targets: weatherizing 100% of residences and 50% of businesses and reducing the State's consumption of liquid fossil fuels by at least 30% by 2030; reducing peak-load electric energy consumption by 100 megawatts and building stable private sector jobs providing clean energy and energy efficiency products and services in the State by 2020; and reducing greenhouse gas emissions from the heating and cooling of buildings in the State by amounts consistent with the State's goals established in the Maine Revised Statutes, Title 38, section 576; and

**Whereas,** the up-front costs of weatherization and efficiency upgrades keep homeowners and businesses from making such improvements; and

**Whereas,** on December 14, 2009 the State submitted a grant proposal to the United States Department of Energy seeking $75,000,000 for a Retrofit Ramp-Up program that could be used to aggressively weatherize the State's housing stock; and

**Whereas,** the State's Retrofit Ramp-Up grant proposal relies, in part, upon property assessed clean energy, or PACE, financing, both for the deployment of federal grant proceeds and for subsequent leveraging of those funds; and

**Whereas,** the State's grant proposal will be substantially enhanced if the State establishes a PACE financing program to finance weatherization and energy savings improvements; and

**Whereas,** the State has a short summer construction season for implementing weatherization and energy savings improvements; 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. 35-A MRSA c. 99** is enacted to read:

**CHAPTER 99**

**PROPERTY ASSESSED CLEAN ENERGY**

**§10151. Short title**

This chapter may be known and cited as "the Property Assessed Clean Energy Act" or "the PACE Act."

**§10152. Declaration of public purpose**

It is declared that the establishment and implementation of property assessed clean energy, or PACE, programs to finance energy savings improvements are public purposes.

**§10153. Definitions**

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

**1. Energy savings improvement.** "Energy savings improvement" means an improvement to qualifying property that, as determined by the trust, is new and permanently affixed to qualifying property and that:

A. Will result in increased energy efficiency and substantially reduced energy use and:

(1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Energy

Star program or similar energy efficiency standards established or approved by the trust; or

(2) Involves weatherization of residential, commercial or industrial property in a manner approved by the trust; or

B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.

**2. PACE agreement.** "PACE agreement" means an agreement that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

**3. PACE assessment.** "PACE assessment" means an assessment made against qualifying property to repay a PACE mortgage.

**4. PACE mortgage.** "PACE mortgage" means a mortgage securing a loan made pursuant to a PACE program to fund energy savings improvements on qualifying property.

**5. PACE ordinance.** "PACE ordinance" means an ordinance adopted by the legislative body of a municipality for the purpose of participating in a PACE program.

**6. PACE program.** "PACE program" means a program established under this chapter by the trust or a municipality under which property owners can finance energy savings improvements on qualifying property.

**7. Qualifying property.** "Qualifying property" means real property located in a municipality that participates in a PACE program pursuant to this chapter.

**8. Renewable energy installation.** "Renewable energy installation" means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

**9. Trust.** "Trust" means the Efficiency Maine Trust established in section 10103.

**§10154. PACE programs**

**1. Establishment; funding.** The trust or a municipality that has adopted a PACE ordinance may establish a PACE program funded by funds awarded to the State under the federal Energy Efficiency and Conservation Block Grant Program or by any other funds available for this purpose. Notwithstanding any other provision of law, after July 1, 2010, the trust may use funds from its administrative fund or program funds to pay reasonable administrative expenses of the trust or a municipality incurred to carry out the purposes of this chapter.

**2. Program administration; municipal participation and liability.** A PACE program must be administered as follows.

A. A municipality that has adopted a PACE ordinance may:

(1) Administer the functions of a PACE program, including, but not limited to, entering into PACE agreements with property owners and collecting PACE assessments; or

(2) Enter into a contract with the trust to administer some or all functions of the PACE program for the municipality.

B. The trust may enter into contracts with municipalities that have adopted PACE ordinances to administer PACE program functions in such municipalities.

C. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program established under subsection 1, including, without limitation, claims for or related to uncollected PACE assessments.

D. Other than the fulfillment of its obligations specified in a PACE agreement, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

**3. Quality assurance system.** Subject to the availability of funds, the trust shall, within 9 months of the establishment of a PACE program under subsection 1, adopt by rule a comprehensive quality assurance system for the PACE program. In developing a quality assurance system under this subsection, the trust must consult with industry stakeholders, including, but not limited to, representatives of energy efficiency programs, contractors and environmental, energy efficiency and labor organizations.

**4. Terms and conditions.** The trust may, by rule, establish terms and conditions under which municipalities and property owners may participate in a PACE program established under subsection 1, which may include, but are not limited to, terms and conditions related to program design, implementation and administration, cost sharing, collection of PACE assessments, establishment of PACE mortgages, re-

cording of liens and management of federal grant funds and terms and conditions to ensure the collection of data required to quantify carbon savings and to facilitate access to and eligibility for voluntary carbon markets, for federal grants for energy efficiency and for other incentive programs that support energy savings improvements.

A. Rules adopted pursuant to this subsection may incorporate any federal standard, quality control measure or other requirement established for federal energy efficiency programs as long as the standard, measure or requirement is consistent with the quality assurance system adopted under subsection 3.

B. The trust may vary the terms and conditions established under this subsection applicable to a participating municipality from those of other participating municipalities by mutual agreement with that municipality.

**5. Model documents; educational materials.** Subject to the availability of funds, the trust shall develop and provide to municipalities model PACE ordinances, model PACE agreements, other model forms and documents and educational materials for use by municipalities in the implementation of PACE programs.

**§10155. Consumer underwriting and disclosure**

**1. Underwriting.** A PACE agreement entered into pursuant to a PACE program must comply with underwriting requirements established by rule by the trust. In adopting such rules, the trust shall seek advice from the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection and consumer credit industry stakeholders. Underwriting requirements established by the trust must, at a minimum:

A. Limit the amount of a PACE mortgage for qualifying property that is residential property to $15,000;

B. Require debt-to-income ratios of not more than 50% for qualifying property that is residential property;

C. Provide that the term of the PACE agreement not exceed the estimated useful life of the financed energy savings improvements;

D. Require that financed energy savings improvements are cost-effective;

E. Require proof of ownership of the qualified property;

F. Require that the qualified property:

(1) Is current on property taxes and sewer charges;

(2) Has no outstanding and unsatisfied tax or sewer liens;

(3) Is not subject to a reverse mortgage; and

(4) Is not subject to a mortgage or other lien on which there is a recorded notice of default, foreclosure or delinquency that has not been cured;

G. Require that the owner or owners of the qualified property certify that there are no overdue payments on mortgages secured by the property; and

H. Require escrows for PACE assessment payments when appropriate.

**2. Consumer disclosure; truth in lending.** A PACE agreement entered into pursuant to a PACE program must provide consumer disclosure consistent with the principles of truth in lending as specified in rules adopted by the trust. In adopting such rules, the trust shall seek advice from the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection and consumer credit industry stakeholders. Notwithstanding Title 9-A, section 1-202, PACE mortgages are not subject to the Maine Consumer Credit Code, Article 8.

**3. Consumer privacy.** The provisions of the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et seq. (1999), and the applicable implementing federal regulations regarding the privacy of consumer information, apply to all consumer financial information obtained by the trust or municipalities or their designees in implementing PACE programs under this chapter.

**§10156. PACE mortgages; collection of PACE assessments; priority**

**1. Collection of assessments.** PACE assessments do not constitute a tax but may be assessed and collected by the trust, a municipality or an agent designated by the trust or a municipality in any manner allowed under the PACE program, consistent with applicable laws.

**2. Notice; filing.** A notice of a PACE agreement must be filed in the appropriate registry of deeds. The filing of this notice creates a PACE mortgage against the property subject to the PACE assessment until the amounts due under the terms of the PACE agreement are paid in full. A notice filed under this subsection must, at a minimum, include:

A. The amount of funds disbursed or to be disbursed pursuant to the PACE agreement;

B. The names and addresses of the current owners of the qualifying property subject to the PACE assessment;

C. A description of the property subject to the PACE assessment, including its tax map and lot number;

D. The duration of the PACE agreement; and

E. The name and address of the entity filing the notice.

**3. Priority.** Except as provided in paragraph A, the priority of a PACE mortgage created under subsection 2 is determined based on the date of filing of notice required under subsection 2 and applicable law. A PACE mortgage is not entitled to any special or senior priority.

A. If a property owner's PACE assessment payments are current, upon the refinancing, sale or transfer of the qualifying property, other than a judicial sale or foreclosure, the PACE mortgage is junior and subordinate in priority to the first mortgage used to refinance an existing mortgage or a first mortgage of a subsequent purchaser or transferee, regardless of the date of the recording of the refinanced first mortgage or the first mortgage of the subsequent purchaser or transferee.

B. If a property owner's PACE assessment payments are delinquent, the past due assessments must be satisfied prior to or contemporaneously with the refinancing, sale or transfer of the qualifying property, other than a judicial sale or foreclosure.

**4. Judicial sale or foreclosure.** In the event of a judicial sale or foreclosure of a property subject to a PACE mortgage, all parties with mortgages or liens on that property, including without limitation PACE mortgagees, must receive on account of such mortgages or liens sale proceeds in accordance with the priority established by applicable law. Following a judicial sale or foreclosure, any deficiency with respect to amounts previously secured by a PACE mortgage must be satisfied from the reserve fund established under subsection 6.

**5. Release of mortgage.** A municipality shall discharge a PACE mortgage created under subsection 2 upon full payment of the amount specified in the PACE agreement. The discharge of a PACE mortgage under this subsection must be filed with the appropriate registry of deeds.

**6. Reserve fund.** The trust shall create a reserve fund to protect the trust in the event of a judicial sale or foreclosure of qualifying property subject to a PACE mortgage. The reserve fund may be funded by the trust using grant funds or interest charged on PACE mortgages. The reserve fund must be funded at a level sufficient to offset past due balances on PACE assessments and any remaining principal balances on those assessments, as reasonably predicted based on good lending practices.

**§10157. Property owners**

**1. Purchase of goods and services.** A property owner who has entered into a PACE agreement under this chapter may purchase directly all goods and services for the energy savings improvements described in the PACE agreement, subject to vendor certification by the trust and other requirements of the trust. Goods and services purchased by a property owner for the energy savings improvements under a PACE agreement are not subject to any public procurement ordinance or statute.

**2. Rights; carbon emissions reductions.** Property owners retain all rights under contract or law against parties other than the municipality or the trust with respect to energy savings improvements financed through PACE agreements, except that all rights related to carbon emissions reductions resulting from those improvements are deemed to be assigned by the property owner to the trust and are held by the trust.

**§10158. Annual report**

The trust shall report annually on the implementation of this chapter as part of the report required under section 10104, subsection 5.

**§10159. Rulemaking**

Rules adopted under this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**§10160. Construction; home rule**

Nothing in this chapter may be construed to limit the home rule authority of a municipality.

**§10161. Construction; carbon emissions reductions**

Nothing in this chapter is intended to or may be construed to constitute a mandate that would prevent the sale of carbon emissions reductions into a voluntary carbon market.

**§10162. Conformity to changed standards**

If standards are adopted by any state or federal agency subsequent to a municipality's adoption of a PACE ordinance or participation in a PACE program and those standards substantially conflict with the municipality's manner of participation in the PACE program, the municipality shall take necessary steps to conform its participation to those standards.

**Sec. 2. Transition; Public Utilities Commission assistance.** Prior to July 1, 2010, the Efficiency Maine Trust may use funds allocated to the trust in Public Law 2009, chapter 372 to fund the trust's activities under the Maine Revised Statutes, Title 35-A, chapter 99. Until the trust has in place sufficient staffing resources to undertake its responsibilities under Title 35-A, chapter 99, the Public Utilities Commission, at the request of the Efficiency Maine Trust and within the limits of the commission's

resources, shall provide assistance to the trust in implementing Title 35-A, chapter 99.

**Sec. 3. Review; PACE program implementation and municipal funding options.** The Efficiency Maine Trust shall convene a stakeholder group to review and make recommendations regarding the implementation of PACE programs pursuant to the Maine Revised Statutes, Title 35-A, chapter 99 and the development of and sources of funding for municipally funded PACE programs. The review conducted under this section must consider program features to ensure long-term energy savings, promote quality workmanship and otherwise contribute to achieving the state policy goal of weatherizing 100% of residences and 50% of businesses by 2030. The review must include, but is not limited to:

1. An examination of the PACE program implementation experience, including program participation and barriers to participation, types of energy savings improvements financed, quality assurance issues, adequacy of consumer and lender protections and the roles of the Efficiency Maine Trust and municipalities; and

2. Funding sources and options for municipally funded programs, including, but not limited to, municipal bonding and private capital markets. The review must consider:

A. Available sources of funding for municipalities in addition to the federal Energy Efficiency and Conservation Block Grant Program and appropriate methods for a municipality to approve the use of such sources;

B. Program features that would maximize the opportunities for accessing the private capital markets for long-term sustainable financing, including measurement and verification of energy savings; heightened lien priority consistent with the public purpose of a contractual assessment program; establishment of reserve funds; and reasonable limitations on the size of loans and types of eligible projects;

C. Approaches for independently managing municipally funded programs through one or more 3rd-party administrators that can provide support for multiple participating municipalities;

D. Measures to limit the liability of any municipality, municipal official or municipal employee involved in a municipally funded program;

E. Standard contracts, ordinances and other documents that may be useful in facilitating the implementation of contractual assessment programs; and

F. Proper allocation of the costs of administering contractual assessment programs, including loan origination fees, municipal administrative expenses and any reasonable expenses incurred by the Efficiency Maine Trust for the oversight or support of such programs.

**Sec. 4. Interim and final reports; authority for legislation.** No later than March 1, 2011, the Efficiency Maine Trust shall submit an interim report of the findings and recommendations, including any suggested draft legislation, under section 3 to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters. Following receipt of the interim report, the joint standing committee of the Legislature having jurisdiction over utilities and energy matters may submit a bill related to the report to the First Regular Session of the 125th Legislature.

No later than January 30, 2012, the Efficiency Maine Trust shall submit a final report of the findings and recommendations, including any suggested draft legislation, under section 3 to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters. Following receipt of the final report, the joint standing committee of the Legislature having jurisdiction over utilities and energy matters may submit a bill related to the report to the Second Regular Session of the 125th Legislature.

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

Effective April 1, 2010.

## CHAPTER 592

## H.P. 1263 - L.D. 1774

### An Act To Strengthen Collection of Unredeemed Beverage Container Deposits

**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 in the public interest to ensure that initiators of deposit are in compliance with reporting and payment requirements as soon as possible; and

**Whereas,** revisions are needed to facilitate compliance with those requirements; 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 §1866-E, sub-§8** is enacted to read:

**8. Removal of beverage.** The department may remove from sale a beverage that is sold or distributed in the State by an initiator of deposit who is not in compliance with the reporting and payment requirements established in this section if the department is notified by the State Tax Assessor of that noncompliance. The department shall allow the sale of the beverage to resume upon notification by the State Tax Assessor that all delinquent reports have been submitted and all payments are current.

**Sec. 2. 36 MRSA §191, sub-§2, ¶PP** is enacted to read:

PP. 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.

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

Effective April 1, 2010.

## CHAPTER 593

## H.P. 1298 - L.D. 1814

### An Act To Implement Recommendations Concerning Domestic Violence and Parental Rights and Responsibilities

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

**Sec. 1. 19-A MRSA §1653, sub-§1, ¶C,** as enacted by PL 2001, c. 329, §1, is amended to read:

C. The Legislature finds and declares that, except when a court determines that the best interest of a child would not be served, it is the public policy of this State to assure minor children of frequent and continuing contact with both parents after the parents have separated or dissolved their marriage and ~~that it is in the public interest~~ to encourage parents to share the rights and responsibilities of child rearing in order to effect this policy.

**Sec. 2. 19-A MRSA §1653, sub-§3, ¶L,** as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

L. The existence of domestic abuse between the parents, in the past or currently, and how that abuse affects:

(1) The child emotionally; ~~and~~

(2) The safety of the child; and

(3) The other factors listed in this subsection, which must be considered in light of the presence of past or current domestic abuse;

**Sec. 3. 19-A MRSA §1653, sub-§3, ¶Q,** as amended by PL 2005, c. 567, §2, is further amended to read:

Q. The existence of a parent's conviction for a sex offense or a sexually violent offense as those terms are defined in Title 34-A, section 11203; ~~and~~

**Sec. 4. 19-A MRSA §1653, sub-§3, ¶R,** as enacted by PL 2005, c. 567, §3, is amended to read:

R. If there is a person residing with a parent, whether that person:

(1) Has been convicted of a crime under Title 17-A, chapter 11 or 12 or a comparable crime in another jurisdiction;

(2) Has been adjudicated of a juvenile offense that, if the person had been an adult at the time of the offense, would have been a violation of Title 17-A, chapter 11 or 12; or

(3) Has been adjudicated in a proceeding, in which the person was a party, under Title 22, chapter 1071 as having committed a sexual offense.; and

**Sec. 5. 19-A MRSA §1653, sub-§3, ¶S** is enacted to read:

S. Whether allocation of some or all parental rights and responsibilities would best support the child's safety and well-being.

See title page for effective date.

## CHAPTER 594

## H.P. 1316 - L.D. 1829

### An Act To Support the Dairy Industry

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

**Sec. 1. PL 2009, c. 467, §10** is amended to read:

**Sec. 10. Administrator authorized to make monthly adjustments during the period from July 1, 2010 to June 30, 2011.** During the period from July 1, 2010 to June 30, 2011, the administrator of the Maine Milk Pool shall monitor milk price projections and each month calculate the amounts to be paid out under the dairy stabilization program for fiscal year 2010-11 based on these projections. The ad-

ministrator may adjust the amount requested and the amount distributed in any month during this period based on the most recent projections and calculations. The administrator may reduce payments only if projections indicate that the total distributions under the stabilization program ~~will exceed $17,361,291~~ in the biennium consisting of fiscal years 2009-10 and 2010-11 will exceed $17,361,291 prior to March 1, 2011.

If projections indicate that total distributions will exceed $17,361,291 prior to March 1, 2011, the administrator shall adjust payments distributed in October 2010 to ~~June~~ January 2011 on milk produced in the months of September 2010 to ~~May 2011~~ December 2010 by multiplying the target price for each tier by the same percent. The administrator shall adjust payments distributed in July, August and September 2010 on milk produced in June, July and August 2010, respectively, in accordance with sections 11 and 12.

**Sec. 2. PL 2009, c. 467, §11** is amended to read:

**Sec. 11. Calculation of payments for milk produced June 1, 2010 to August 31, 2010.** Notwithstanding the Maine Revised Statutes, Title 7, section 3153-B, if projections indicate that total distributions from the dairy stabilization program will exceed $17,361,291 prior to March 1, 2011, the administrator of the Maine Milk Pool shall calculate and make payments to Maine milk producers in accordance with this section for milk produced from June 1, 2010 to August 31, 2010.

1. No later than June 15, 2010, the administrator of the Maine Milk Pool shall assign each producer to one of 4 tiers based on that producer's total production during the 12-month period beginning June 1, 2009 and ending May 31, 2010.

2. Upon receiving the monthly production data ~~for June 2010~~, the administrator shall:

A. Calculate the amount of money due each producer in accordance with Title 7, section 3153-B, subsection 4;

B. Reduce each producer's payment by a percentage established in section 12; and

C. Certify to the State Controller the amounts to be transferred and distributed.

3. The administrator shall calculate payments for milk produced in June 2010, July 2010 and ~~milk production in~~ August 2010 in the manner prescribed in subsection 2, paragraphs A, B and C.

**Sec. 3. PL 2009, c. 467, §12** is amended to read:

**Sec. 12. Reductions in payments for milk produced in June 2010, July 2010 and August 2010.** ~~The~~ If projections indicate that total distributions from the dairy stabilization program will exceed $17,361,291 prior to March 1, 2011, the administrator of the Maine Milk Pool shall determine the percentage reduction in payments required under section 11, subsection 2, paragraph B in a manner that results in:

1. Each producer within a tier receiving the same percentage reduction in payment for a month as other producers in that tier receive for that month; and

2. Percentage reductions between adjacent tiers in a ratio of 1 to 2, progressing from tier 1 to tier 4.

See title page for effective date.

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## CHAPTER 595

## H.P. 984 - L.D. 1408

## An Act To Establish the Universal Childhood Immunization Program

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

**Sec. 1. 5 MRSA §12004-G, sub-§15-B** is enacted to read:

**15-B.**

| | | | |
|---|---|---|---|
| Human Services: Immunization | Maine Vaccine Board | Not Authorized | 22 MRSA §1066 |

**Sec. 2. 22 MRSA §1066** is enacted to read:

**§1066. Universal Childhood Immunization Program**

**1. Program established.** The Universal Childhood Immunization Program is established to provide all children from birth until 19 years of age in the State with access to a uniform set of vaccines as determined and periodically updated by the Maine Vaccine Board. The program is administered by the department for the purposes of expanding access to immunizations against all diseases as recommended by the federal Department of Health and Human Services, Centers for Disease Control and Prevention Advisory Committee on Immunization Practices, optimizing public and private resources and lowering the cost of providing immunizations to children. The program is overseen by the Maine Vaccine Board.

**2. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Advisory committee" means the Advisory Committee on Immunization Practices of the United States Department of Health and Human

Services, Centers for Disease Control and Prevention or its successor organization.

B. "Assessed entity" means a health insurance carrier licensed under Title 24-A or a 3rd-party administrator registered under Title 24-A.

C. "Board" means the Maine Vaccine Board established in subsection 3.

D. "Child" means a person who has not attained 19 years of age and who resides in the State.

E. "Covered life months" means the number of months during a calendar year that a person is covered under a health insurance plan provided by a health insurance carrier.

F. "Fund" means the Childhood Immunization Fund established in subsection 7.

G. "Health insurance carrier" means:

(1) An insurance company licensed in accordance with Title 24-A to provide health insurance;

(2) A health maintenance organization licensed pursuant to Title 24-A, chapter 56;

(3) A preferred provider arrangement administrator registered pursuant to Title 24-A, chapter 32;

(4) A fraternal benefit society as defined in Title 24-A, section 4101;

(5) A nonprofit hospital or medical service organization or health plan licensed pursuant to Title 24;

(6) A multiple-employer welfare arrangement approved by the superintendent under Title 24-A, section 6603; or

(7) A self-insured employer subject to state regulation as described in Title 24-A, section 2848-A.

H. "New vaccine" means a vaccine recommended by the advisory committee for which an initial federal contract price is established by the United States Department of Health and Human Services, Centers for Disease Control and Prevention between October 1st and July 1st.

I. "Program" means the Universal Childhood Immunization Program established in subsection 1.

J. "Provider" means a person licensed by this State to provide health care services to individuals or a partnership or corporation made up of those persons.

K. "Service agent" means a person or entity qualified by good business reputation, training, education and experience to administer the fund and perform responsibilities assigned by the board. A service agent must hold all licenses, registrations and permits required to engage in activities or undertake responsibilities assigned by the board.

L. "Superintendent" means the Superintendent of Insurance.

M. "Total costs of the fund" means the costs of vaccines provided under the program to children projected to be covered by assessed entities during the succeeding program year and the annual operating expenses of the board, including costs the board may incur for staff, a service agent, legal representation, administrative support services and other expenses approved by the board.

**3. Maine Vaccine Board.** The Maine Vaccine Board is established pursuant to this subsection to oversee the program.

A. The board consists of 10 members.

(1) The commissioner shall serve as an ex officio, nonvoting member.

(2) The Treasurer of State shall serve as an ex officio, nonvoting member.

(3) The Governor shall appoint 8 members, as follows:

(a) Three representatives of health insurance carriers, appointed from a list of nominees submitted by a statewide association of health insurance carriers;

(b) Three representatives of providers in the State, appointed from lists of nominees submitted by statewide associations of providers, including associations of primary care providers, allopathic and osteopathic physicians, nurse practitioners and persons with expertise in public health;

(c) A representative of employers that self-insure for health coverage, appointed from lists of nominees submitted by statewide associations of employers; and

(d) A representative of the pharmaceutical manufacturing industry, appointed from a list of nominees submitted by a statewide association of pharmaceutical manufacturers.

B. With the exception of the representative of the pharmaceutical manufacturing industry, who serves a one-year term, the term of an appointed member to the board is 3 years. All members, with the exception of the representative of the pharmaceutical manufacturing industry, may serve successive terms. A member whose term

has expired may serve until the appointment of the member's successor.

C. The board shall elect a chair from among its members to serve a 2-year term or for the duration of that person's term. The chair may serve successive terms. Five voting members constitute a quorum. Decisions of the board require the affirmative vote of 5 members.

D. The board shall meet 4 times per year and when a meeting is called by the chair and shall oversee the fund and program and adopt policies and procedures to administer the program and the fund.

E. By January 1, 2011 and annually thereafter, the board shall determine the list of vaccines to be made available by the program during the succeeding program year beginning July 1st. In making its determination, the board shall consider:

(1) Vaccines recommended by the advisory committee that are available under contract with the United States Department of Health and Human Services, Centers for Disease Control and Prevention;

(2) Recommendations of the department, based on the department's review of the advisory committee recommendations; and

(3) Clinical and cost-benefit analyses.

The board shall review new vaccines and update the list of vaccines to be made available through the program on a timely basis in accordance with the considerations described in this paragraph.

F. The board shall contract for staff, administrative support services and, if necessary, legal representation; review financial, cost and other information about the program annually or more often as determined by the chair; and pay the costs of the service agent under subsection 9, legal representation and contracted services from the fund.

**4. Program requirements.** The program shall make available to providers vaccines as determined by the board pursuant to subsection 3, paragraph E.

**5. Assessments.** By January 1, 2011 and annually thereafter, the board shall determine an assessment for each assessed entity in accordance with this subsection. The board shall provide a mechanism to protect against duplicate counting of children. The board may conduct an audit of the number of covered life months for children as reported by an assessed entity. An assessment determination made pursuant to this subsection is an adjudicatory proceeding within the meaning of Title 5, chapter 375, subchapter 4.

A. In determining the amount of the assessment, the board shall:

(1) Determine the total costs of the fund for the succeeding program year;

(2) Add a reserve of up to 10% of the total costs of the fund under subparagraph (1) for unanticipated costs associated with providing vaccines to children covered by the assessed entity;

(3) Subtract the amount of any unexpended assessments collected in the preceding year and any unexpended interest accrued to the fund during the preceding year; and

(4) Calculate the assessment on a monthly basis per child to be paid by an assessed entity by dividing the amount determined in accordance with subparagraphs (1), (2) and (3) by the number of children projected to be covered by the assessed entity during the succeeding program year divided by 12.

B. The board shall provide the assessed entity with notice of the assessment amount for the succeeding program year no later than January 1, 2011 and annually thereafter.

C. Beginning July 1, 2011, the assessment must be paid on a quarterly basis as follows:

(1) An assessed entity shall pay a quarterly assessment equal to the monthly assessment rate per child as described under paragraph A, subparagraph (4) multiplied by the number of child member months covered by the assessed entity in the preceding calendar quarter; and

(2) The assessment must be paid within 45 days following the close of the calendar quarter.

D. After the close of a program year, the board shall reconcile the total assessments paid by assessed entities, including interim assessments determined under paragraph E, with the actual costs of vaccines provided under the program to children covered by assessed entities during that program year and the annual operating expenses of the program during that program year. Any unexpended assessments must be used to reduce the assessment in the succeeding program year as required under paragraph A, subparagraph (3).

E. The board may determine an interim assessment for new vaccines that the board has made available through the program pursuant to subsection 3, paragraph E. The board shall calculate the interim assessment in accordance with paragraph A, and the interim assessment is payable the calendar quarter that begins no less than 30 days following the establishment of the federal contract price. The board may not impose more than one interim assessment per year, except in the case of

a public health emergency declared in accordance with state or federal law.

F. If the combination of funding available from the United States Department of Health and Human Services, Centers for Disease Control and Prevention, Vaccines for Children Program and the immunization grant program under the federal Public Health Service Act, Section 1928 of the Social Security Act, 42 United States Code, Section 1396s is insufficient to provide coverage for vaccines for the children who qualify for vaccines under the Vaccines for Children Program, money from the fund may not be used to cover the cost of vaccines for children who would otherwise be provided vaccines under the Vaccines for Children Program.

G. If the assessments under this subsection are insufficient to cover the cost of vaccines to be provided to children covered by assessed entities, the State is not required to cover the cost of vaccines for those children.

**6. Failure to pay assessment.** If an assessment under subsection 5 is not paid on the due date established by the board, the provisions of this subsection apply.

A. The board shall submit a report to the superintendent listing each assessed entity that has failed to pay an assessment under subsection 5.

B. If an assessed entity has not paid an assessment under subsection 5 within 45 days following the close of the calendar quarter, interest accrues at 12% per annum on or after the due date. Interest paid under this paragraph must be deposited into the fund. Upon application, the board may waive such interest payments for good cause shown.

The superintendent may take any action authorized under Title 24-A to enforce collection of any unpaid assessment or fine and may impose any penalty authorized under Title 24-A for noncompliance with this section if the assessed entity has engaged in a pattern of conduct that demonstrates a lack of good faith in complying with the requirements of this subsection.

**7. Fund.** The Childhood Immunization Fund is established for the sole purpose of funding the program, including any costs of vaccines provided under the program to children and any costs the board may incur for staff, a service agent, administrative support services, legal representation and contracted services. The fund is administered by the board or the service agent, which shall act as a fiduciary and manage and invest the fund in conformance with prudent investor standards and maintain complete records of all assets, investments, deposits, disbursements and other transactions of the fund. All money and securities in the fund must be held in trust by the Treasurer of State for the purpose of making payments under this section and are not money or property for the general use of the State. The Treasurer of State is the custodian of the fund and may make disbursements only upon written direction from the board or the service agent. All assessments collected pursuant to this section, all interest on the balance in the fund and all income from any other source must be deposited into the fund. The fund does not lapse. No portion of the fund may be used to subsidize other programs or budgets.

**8. Reporting.** By January 15th of each year the board shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters regarding the operation of the program, the progress of the program in expanding access to immunizations for children and the assets, investments and expenditures of the fund.

**9. Service agent.** The board, by written contract, may delegate administration of the fund to a service agent. The service agent:

A. May contract with attorneys acceptable to the board for legal representation for the board;

B. May levy assessments, institute collection procedures, including legal action if necessary, and deposit money in the fund with the Treasurer of State if those funds are not needed to meet immediate cash flow demands; and

C. Shall make recommendations to the board regarding policies, rules and standards necessary for the proper administration of the fund.

**10. Freedom from liability.** There is no liability on the part of, and a cause of action may not arise against, a member of the board for any acts or omissions in the performance of the member's duties under this section. This immunity does not extend to willful neglect or malfeasance that would otherwise be actionable.

**11. Rules.** The department and the board shall jointly adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. 3. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title 22, section 1066, subsection 3, paragraph B, with respect to the initial appointees to the Maine Vaccine Board under Title 22, section 1066, subsection 3, paragraph A, subparagraph (3), divisions (a) and (b), the Governor shall appoint one representative of health insurance carriers and 2 representatives of providers to terms of 2 years and the remaining members to 3-year terms.

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

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

**Universal Childhood Immunization Program N105**

Initiative: Provides a baseline allocation of funds for the costs of purchasing vaccines for children and for the authorized operating expenses of the newly established Maine Vaccine Board.

| | 2009-10 | 2010-11 |
|---|---|---|
| **CHILDHOOD IMMUNIZATION TRUST FUND** | | |
| Unallocated | $0 | $500 |
| CHILDHOOD IMMUNIZATION TRUST FUND TOTAL | $0 | $500 |

See title page for effective date.

## CHAPTER 596

## S.P. 578 - L.D. 1500

### An Act To Conform the Maine Tax Laws for 2009 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 2009 income tax returns; 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 2009, c. 213, Pt. BBBB, §1 and affected by §17, 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 ~~February 17, 2009~~ March 2, 2010.

**Sec. 2. Application.** This Act applies to tax years beginning on or after January 1, 2009 and to any prior tax years as specifically provided by the United States Internal Revenue Code of 1986.

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

Effective April 2, 2010.

## CHAPTER 597

## H.P. 1073 - L.D. 1523

### An Act To Make Corrections to the Life Settlement Laws

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

**Sec. 1. 24-A MRSA §6802-A, sub-§12-A,** as amended by PL 2009, c. 376, §5, is further amended to read:

**12-A. Stranger-originated life insurance.** "Stranger-originated life insurance" means an act or practice to initiate a life insurance policy for the benefit of a person who, at the time of the origination of the policy, has no insurable interest in the insured. "Stranger-originated life insurance" includes, but is not limited to, cases in which life insurance is purchased with resources or guarantees from or through a person who, at the time of the inception of the policy, could not lawfully initiate the policy and when, at the time of policy inception, there is an arrangement or agreement to directly or indirectly transfer the ownership of the policy or the policy benefits to another person. "Stranger-originated life insurance" also includes the creation of a trust to give the appearance of insurable interest and the use of such a trust in order to initiate policies for investors in circumvention or violation of insurable interest laws and the prohibition against wagering on life. ~~"Stranger-originated life insurance" does not include those practices set forth in subsection 9-A, paragraphs A to J or other lawful settlement transactions.~~

See title page for effective date.

## CHAPTER 598

## S.P. 599 - L.D. 1562

### An Act To Amend the Motor Vehicle Laws

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

**Sec. 1. 12 MRSA §12861, first ¶,** as enacted by PL 2007, c. 532, §1, is amended to read:

Notwithstanding section 10001, subsection 28 ~~and Title 29-A, section 552~~, a person licensed to guide hunters under this chapter may employ the services of a person not licensed as a guide to transport hunters along a public or private road in a motor vehicle for the sole purpose of delivering those hunters to a predetermined destination prior to or at the conclusion of the time those hunters are engaged in hunting. For purposes of this section, "motor vehicle" does not include a snowmobile or an all-terrain vehicle.

**Sec. 2. 29-A MRSA §502, sub-§2,** as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

**Sec. 3. 29-A MRSA §517, sub-§2,** as amended by PL 2009, c. 435, §4, is further amended to read:

**2. Plates.** The Secretary of State shall issue distinctive plates that expire at the end of a 6-year period for state plates and a 10-year period for municipal plates within the semipermanent plate program. Notwithstanding section 501, subsection 11, the Secretary of State shall issue distinctive municipal plates under this subsection to a low-speed vehicle owned by a municipality or loaned by a dealer to a municipality. Vehicles owned by the State may display a marker or insignia, approved by the Secretary of State, plainly designating them as owned by the State.

The Secretary of State may issue environmental or sportsman registration plates to a state-owned vehicle assigned to the Department of Inland Fisheries and Wildlife or the Department of Conservation with authorization from the department's commissioner. The Secretary of State may issue environmental or sportsman registration plates to a state-owned vehicle assigned to the Baxter State Park Authority with authorization from the Commissioner of Inland Fisheries and Wildlife in the commissioner's capacity as a member of the Baxter State Park Authority. A state-owned vehicle issued environmental or sportsman registration plates must display a marker or insignia designating the vehicle as state-owned and is exempt from registration fees and the contribution under section 455, subsection 4.

The Secretary of State may issue agricultural education plates to a state-owned vehicle assigned to the Department of Agriculture, Food and Rural Resources with authorization from the Commissioner of Agriculture, Food and Rural Resources. A state-owned vehicle issued agricultural education plates must display a marker or insignia designating the vehicle as state-owned and is exempt from registration fees and the contribution under section 456-F, subsection 2.

The Secretary of State may issue lobster plates to a state-owned vehicle assigned to the Department of Marine Resources with authorization from the Commissioner of Marine Resources. A state-owned vehicle issued lobster plates must display a marker or insignia designating the vehicle as state-owned and is exempt from registration fees and the contribution under section 456-A, subsection 2.

**Sec. 4. 29-A MRSA §520, sub-§1,** as amended by PL 1999, c. 790, Pt. C, §17 and affected by §19, is further amended to read:

**1. Registration fee.** The annual registration fee for special equipment, based on gross weight, is $10 for equipment weighing one to 2,000 pounds; $15 for 2,001 to 5,000 pounds; and $20 for over 5,000 pounds.

Registrations under this section may be issued for 2 years for a fee twice that of the annual registration fee.

**Sec. 5. 29-A MRSA §521, sub-§14** is enacted to read:

**14. Disabled veterans parking.** A person qualifying for special designation plates pursuant to section 523, subsection 1 or 2 may request disabled veterans parking registration plates.

Disabled veterans parking registration plates must bear the words "Disabled Veteran," the American flag and the International Symbol of Access in compliance with subsection 2.

**Sec. 6. 29-A MRSA §525, sub-§11,** as amended by PL 1995, c. 645, Pt. B, §12 and affected by §24, 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~~, intrastate and interstate for-hire operating authority permit requirements~~ and motor vehicle registration laws.

Subject to the provisions of Title 36, the State Tax Assessor may delegate to the Secretary of State responsibility for the processing of motor carrier fuel tax returns, motor carrier fuel tax collection and compliance with the administrative requirements of the International Fuel Tax Agreement.

**Sec. 7. 29-A MRSA §551, sub-§2, ¶C,** as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

C. Enable participating states to act cooperatively in the collection of fees ~~and the enforcement of insurance requirements~~; and

**Sec. 8. 29-A MRSA §551, sub-§6** is enacted to read:

**6. Penalty.** A violation of this subchapter or of any rule adopted pursuant to subchapter is a traffic infraction for which a fine of not less than $250 for the

first offense and not less than $500 for a 2nd or subsequent offense may be adjudged.

**Sec. 9. 29-A MRSA §552,** as amended by PL 2009, c. 435, §6, is repealed.

**Sec. 10. 29-A MRSA §555, sub-§4,** as amended by PL 2007, c. 505, §2, is further amended to read:

**4. Enforcement.** ~~The Secretary of State upon request of the bureau may refuse to reissue an identification device for a willful or continued violation of this chapter or a regulation of the United States Department of Transportation.~~ Enforcement is as follows.

~~A. The bureau may file a complaint in the District Court seeking revocation or suspension of an operating permit.~~

~~B. Notwithstanding Title 5, section 10051, the Secretary of State may suspend a license for lack of sufficient insurance.~~

~~A suspension continues until the Secretary of State is satisfied that the carrier has obtained adequate insurance.~~

~~Notice and an opportunity for hearing are as provided by the Maine Administrative Procedure Act.~~

C. A law enforcement officer must investigate an alleged violation of this subchapter or a rule adopted by the bureau or by the United States Department of Transportation, prosecute violators and aid in the enforcement of the provisions of this subchapter.

**Sec. 11. 29-A MRSA §556, sub-§1,** as amended by PL 1995, c. 482, Pt. B, §15 and affected by §22, is repealed.

**Sec. 12. 29-A MRSA §556, sub-§2,** as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

**Sec. 13. 29-A MRSA §556, sub-§3,** as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

**3. Government.** A vehicle engaged, directly or through a contractor, exclusively in construction or maintenance work for the Federal Government, the State, a county ~~or~~, a municipality or an Indian tribe; and

**Sec. 14. 29-A MRSA §556, sub-§4,** as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

**Sec. 15. 29-A MRSA §556, sub-§5,** as amended by PL 1995, c. 482, Pt. B, §15 and affected by §22, is repealed.

**Sec. 16. 29-A MRSA §556, sub-§6,** as affected by PL 1995, c. 65, Pt. A, §153 and amended by Pt. B, §8 and affected by Pt. C, §15, is further amended to read:

**6. Passenger vehicles.** While transporting passengers as follows:

~~A. The operation of a motor vehicle under contract with the State, a municipality or a school district used in transporting students;~~

~~B. Motor vehicles having a capacity of not more than 6 passengers operated over irregular routes and without a fixed schedule;~~

~~C. Motor vehicles owned or operated by or on behalf of hotels and used exclusively for the transportation of patrons between hotels and public transportation;~~

~~D. Motor vehicles owned or operated by or on behalf of growers, processors and manufacturers of fruit, vegetable or fish products and used in the transportation of workers between their homes and places of employment; and~~

E. Motor carriers transporting passengers that receive state, municipal or federal subsidies are required to submit their operating name and list of equipment to the bureau and are subject to the rules of the bureau pertaining to safety promulgated under section 555. For the purpose of this section, the term "subsidies" includes assistance that is provided by the State Government, municipal government or Federal Government that is used for purposes of planning to offset operating losses or to acquire capital equipment.

~~"Cooperative use transportation" means the collective use of privately owned vehicles by 2 or more people where the providing of transportation is not the primary business of the owner or driver of the vehicle, or both, but is incidental to their livelihood. Cooperative use includes, but is not limited to, shared driving, shared expense car pools, station wagon pools or van pools, employer-owned or leased vehicles, including buses that are operated for convenience of the employees, commuter services organized and arranged by employee cooperatives, labor unions, credit unions and neighborhood groups that are operated for the convenience of their members and vehicles operated under the auspices of government-sponsored commuter matching services and brokerage programs and individuals or groups providing nonprofit matching and other brokerage type services.~~

~~"For-profit brokerage and matching services" means that the provider of the service neither sets the rates for the service, provides backup transportation, passes upon the qualifications of the drivers of their vehicles, establishes the routes nor collects the fees paid for the service. The business of matching drivers with passengers and the rendering of technical assistance in sup-~~

~~port of cooperative use transportation is exempt from rules under this chapter.~~

~~"For-profit car pooling and van pooling" means the business of organizing and operating a car pooling or van pooling system. In this context, "car pools and van pools" means any vehicle used in a continuing form of prearranged commuter transportation by a relatively fixed group of 15 persons or fewer for travel between their places of residence and their places of employment. The operation of for-profit car pools and van pools must be incidental to the livelihood or employment of the owner or operators. The business of organizing and operating a car pooling or van pooling system, including the selection and approval of cars, vans and drivers, the fixing and collection of fees, the establishment of routes and the provision of backup transportation, is exempt from rules under this chapter, except for sections 555, 558 and 560.~~

**Sec. 17. 29-A MRSA §556, 2nd ¶,** as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

**Sec. 18. 29-A MRSA §556, 3rd ¶,** as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

**Sec. 19. 29-A MRSA §556, 4th ¶,** as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

**Sec. 20. 29-A MRSA §558, sub-§1-A,** as enacted by PL 1995, c. 625, Pt. A, §33, is amended to read:

**1-A. Minimum fine.** Notwithstanding Title 17-A, section 1301, the minimum fine for a violation of a state rule that adopts by reference the federal regulations found in 49 Code of Federal Regulations, Parts 392, 395.3, 395.8e and 395.8k is $250. If a minimum fine is provided by any rule adopted pursuant to this subchapter, the court shall impose at least the minimum fine, which may not be suspended by the court.

**Sec. 21. 29-A MRSA §558, sub-§1-B, ¶F** is enacted to read:

F. A person commits a traffic infraction if that person violates any provision of the Secretary of State's rules adopted pursuant to section 551.

**Sec. 22. 29-A MRSA §558, sub-§3,** as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

**3. Suspension of registrations.** After receiving notice pursuant to subsection 2, the Secretary of State shall suspend the person's ~~operating authority license, all~~ commercial registration certificates and plates and the privilege to operate a commercial motor vehicle in this State. The suspension must remain in effect until the person appears in court and complies with a court order.

**Sec. 23. 29-A MRSA §559,** as amended by PL 1995, c. 65, Pt. A, §95 and affected by §153 and Pt. C, §15, is repealed.

**Sec. 24. 29-A MRSA §562, sub-§3,** as amended by PL 2001, c. 361, §16, is further amended to read:

**3. Powers and duties.** The board shall review the records of motor carriers with significant and repeated motor carrier violations. The board may hold a hearing as part of its review and must hold a hearing if requested by the motor carrier. The board may recommend to the Secretary of State that the motor carrier's ~~operating authority license or~~ privilege to operate commercial vehicles in the State be suspended.

**Sec. 25. 29-A MRSA §603, sub-§3-A,** as amended by PL 2007, c. 703, §22, is further amended to read:

**3-A. Expedited issuance of document.** An applicant requesting the ~~immediate~~ expedited issuance of a document described in subsection 1 must pay an additional fee of $10 and state the reason for the request. The Secretary of State shall determine if an ~~immediate~~ expedited issuance is warranted and process the request accordingly.

**Sec. 26. 29-A MRSA §652, sub-§15,** as amended by PL 2003, c. 490, Pt. D, §3, is further amended to read:

**15. Other vehicles.** A vehicle required to be registered under section 109, subsection 3 for which a current certificate of title has been issued in another state; ~~and~~

**Sec. 27. 29-A MRSA §652, sub-§16,** as enacted by PL 2003, c. 490, Pt. D, §4, is amended to read:

**16. Low-speed vehicle.** A low-speed vehicle loaned by a dealer to a municipality~~.~~; and

**Sec. 28. 29-A MRSA §652, sub-§17** is enacted to read:

**17. Off-road vehicle.** An off-road vehicle.

**Sec. 29. 29-A MRSA §664-A, sub-§1,** as enacted by PL 1997, c. 437, §20, is amended to read:

**1. Vehicle sold by dealer.** A vehicle that is sold by a dealer must be accompanied by a properly assigned and valid certificate of title or certificate of salvage at the time of its sale. A dealer may retain and process certificates of title and certificates of salvage at the dealer's primary facility if in the case when the dealer displays a vehicle at an annex facility the dealer maintains a copy of the certificate of title or certificate of salvage at the annex facility.

**Sec. 30. 29-A MRSA §667, sub-§4,** as amended by PL 2001, c. 361, §§23 and 24 and affected by §38, is further amended to read:

**4. Repaired or rebuilt vehicle.** If a salvage vehicle is repaired or rebuilt for operation on a public way, the vehicle may only be titled or registered for operation or offered for sale in this State if:

A. The identification number of the vehicle and its component parts are inspected and verified; and

C. If necessary, a new vehicle identification number is assigned.

Upon demand of the Secretary of State or a transferee, a repairer or rebuilder shall produce receipts of purchase of the vehicle or for component parts used in the repairing or rebuilding process, or both. If new parts are not used to rebuild a salvage vehicle, the rebuilder shall produce the vehicle identification number of the vehicles from which the parts were taken and the certificates of title or the certificates of salvage for the vehicles if not already surrendered. The repairer or rebuilder shall disclose, in writing, to the transferee of a repaired or rebuilt salvage vehicle the fact that the vehicle was a salvage vehicle and shall disclose what repairs were made to the vehicle.

The Secretary of State may refuse to title any vehicle declared to be salvage in another jurisdiction.

**Sec. 31. 29-A MRSA §667, sub-§5,** as amended by PL 2001, c. 361, §25 and affected by §38, is further amended to read:

**5. Distinctive.** The following legends apply to certificates of title issued subsequent to issuance of certificates of salvage for vehicles.

B. The legend "rebuilt salvage" must appear on a certificate of title for a rebuilt salvage vehicle if:

(1) Two or more vehicles with different frames are joined;

(2) A salvage vehicle has 5 or more component parts replaced;

(3) A certificate of title with the legend "rebuilt salvage" issued by the Secretary of State or by any other jurisdiction accompanies an application to the State for a subsequent certificate of title; or

(4) A total vehicle loss has been repaired by the use of a front or rear clip.

C. The legend "rebuilt" must appear on a certificate of title for a rebuilt salvage vehicle if:

(1) A salvage vehicle has at least one, but less than 5, component parts replaced. Notwithstanding section 602, subsection 2, for the purposes of this subsection, airbags are not considered a component part; or

(2) A certificate of title with the legend "rebuilt" issued by the Secretary of State or by any other jurisdiction accompanies an application to the State for a subsequent certificate of title.

D. If a salvage vehicle for which a certificate of title has been issued by this State with any of the legends described in this section is subsequently titled in another jurisdiction and later retitled in this State, any subsequent certificate of title from this State must also contain the legends appearing on the previous certificate of title from this State.

E. The legend "salvage" must appear on a certificate of title if:

(1) A vehicle has no marketable value other than the value of the basic material or parts used in the construction of the vehicle;

(2) A vehicle is sold with a stipulation that it is only to be used for the benefit of its parts; and

(3) A certificate of title previously issued by the Secretary of State or by any other jurisdiction bearing the legend "salvage" accompanies an application to the State of a subsequent certificate of title.

F. The legend "repaired" must appear on a certificate of title for a repaired salvage vehicle if the vehicle is repaired as defined in section 602, subsection 12.

The Secretary of State may apply a legend from a certificate of title issued by another jurisdiction to a subsequent title issued by this State.

**Sec. 32. 29-A MRSA §701, sub-§2,** as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

**2. Delivery by lienholder.** The lienholder shall ~~immediately~~ deliver the certificate, application and fee to the Secretary of State within 30 days of receipt.

**Sec. 33. 29-A MRSA §957, sub-§4,** as amended by PL 2007, c. 5, §2, is further amended to read:

**4. Unattended sales promotion.** The Secretary of State may issue to a dealer a permit to operate an unattended sales promotion. A request for an unattended sales promotion must be submitted to the Secretary of State at least 48 hours before the proposed promotion and contain the proposed promotion dates and, if applicable, a copy of a contract between the dealer and the promotion sponsor. The promotion and any use of a location must comply with applicable building codes and zoning and land use ordinances. A

new vehicle dealer who requests a permit under this subsection for a promotion involving new vehicles may not locate the promotion outside that dealer's area of responsibility as defined by the dealer's franchise agreement. An equipment dealer or trailer dealer is exempt from this subsection if the sales promotion does not include motor vehicles and does not exceed 90 continuous days. The fee for an unattended sales promotion is:

A. Fifty dollars if the promotion runs 7 days or less;

B. One hundred dollars if the promotion runs between 8 and 60 days; or

C. One hundred fifty dollars if the promotion runs more than 60 days.

A dealer who operates an unattended sales promotion at a charity event where a vehicle is displayed as a prize is exempt from the permit fee requirements.

**Sec. 34. 29-A MRSA §1404,** as amended by PL 2009, c. 447, §29, is further amended to read:

**§1404. Coded licenses**

The Secretary of State shall provide that a license issued to~~:~~ a person less than 21 years of age bears a distinctive color code.

~~**1. Under 21.** A person less than 21 years of age bears a distinctive color code; and~~

~~**2. Prior convictions.** A person convicted of operating under the influence of intoxicating liquor or drugs or with an excessive alcohol level, as defined in section 2453, subsection 2, within 10 years of the date the license is issued, reissued or returned after a period of suspension bears a coded notation of that fact.~~

~~The Secretary of State may, at the request of a licensee, remove the coded notation from the license of a person convicted for a first operating-under-the-influence offense as defined in section 2453, subsection 2 after 6 years from the date of the conviction if the person has not been convicted or adjudicated of the offense of speeding more than 15 miles per hour over the maximum speed limit or any offense described under section 2551-A, subsection 1, paragraph A or had a license suspended or revoked within that 6-year period.~~

**Sec. 35. 29-A MRSA §1606, sub-§6,** as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

**6. Company doing business in another state.** A policy is not effective unless issued by a company authorized to do business in this State or a company authorized to do business in the state where the vehicle is registered or, in the case of an operator's policy, the state where the operator resides.

~~If a vehicle is not registered in this State on the effective date of the policy, the policy is not effective unless the company, if not authorized to do business in this State, executes a power of attorney authorizing the Secretary of State to accept service of notice or process on its behalf in any action on the policy arising from an accident.~~

**Sec. 36. 29-A MRSA §1611, sub-§3,** as amended by PL 2001, c. 361, §30, is further amended to read:

**3. Maintenance of insurance.** The owner or owners of any vehicle subject to this section shall maintain at all times the required amount of insurance or bond during the term of the vehicle's registration. Notwithstanding section 1606, the insurance provider must provide at least 30 days' notice of cancellation of insurance to the Secretary of State. For vehicles registered in this State, the Secretary of State shall immediately suspend or revoke, pursuant to chapter 23, the registration certificate and registration plates of any vehicle for which the insurance or bond in the amounts required is not maintained. Any person whose registration certificate~~,~~ and registration plates ~~and operating authority license~~ have been suspended or revoked pursuant to this section shall immediately return the registration certificate~~,~~ and registration plates ~~and the operating authority license~~ to the Secretary of State. For vehicles not required to be registered in this State, the Secretary of State shall suspend the person's ~~operating authority license or~~ right to operate in this State.

**Sec. 37. 29-A MRSA §1611, sub-§4,** as amended by PL 2009, c. 435, §20, is repealed.

**Sec. 38. 29-A MRSA §1611, sub-§5,** as amended by PL 1995, c. 645, Pt. A, §15, is further amended to read:

**5. Coverage of insurance or bond.** The required insurance policy or bond must adequately provide liability insurance for the collection of damages for which ~~the holder of a permit or~~ the owner of a motor vehicle or vehicles may be liable by reason of the operation of a motor vehicle or vehicles subject to this chapter.

**Sec. 39. 29-A MRSA §2356, sub-§8,** as affected by PL 1995, c. 65, Pt. A, §153 and enacted by Pt. C, §8 and affected by §15, is amended to read:

**8. Suspension of registrations.** After receiving notice pursuant to subsection 7, the Secretary of State shall suspend the person's ~~operating authority license, all~~ commercial registration certificates and plates and the privilege to operate a commercial motor vehicle in this State. The suspension remains in effect until the person appears in court and complies with a court order.

**Sec. 40. 29-A MRSA §2360, sub-§11,** as corrected by RR 1995, c. 2, §72, is amended to read:

**11. Prima facie evidence.** Operation of a vehicle is prima facie evidence that the operation was caused by the person ~~holding the operating authority license from the Secretary of State~~ acting as a motor carrier as determined by the United States Department of Transportation census number.

**Sec. 41. 29-A MRSA §2360, sub-§12,** as affected by PL 1995, c. 65, Pt. A, §153 and enacted by Pt. C, §10 and affected by §15, is repealed.

**Sec. 42. 29-A MRSA §2360, sub-§14,** as affected by PL 1995, c. 65, Pt. A, §153 and enacted by Pt. C, §10 and affected by §15, is amended to read:

**14. Suspension of registrations.** After receiving notice pursuant to subsection 13, the Secretary of State shall suspend the person's ~~operating authority license, all~~ commercial registration certificates and plates and the privilege to operate a commercial motor vehicle in this State. The suspension remains in effect until the person appears in court and complies with a court order.

**Sec. 43. 29-A MRSA §2458, sub-§1,** as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

**1. Suspension or revocation after hearing.** The Secretary of State, after hearing, may suspend or revoke a certificate of title, certificate of registration, license, fuel use decal or ~~operating authority license~~ privilege to operate a commercial motor vehicle for any cause considered by the Secretary of State to be sufficient.

**Sec. 44. 29-A MRSA §2458, sub-§2,** as amended by PL 2007, c. 438, §3, is further amended to read:

**2. Suspension or revocation without hearing.** The Secretary of State, without preliminary hearing, may suspend or revoke a certificate of title, certificate of registration, license, fuel use decal or ~~operating authority license~~ privilege to operate a commercial motor vehicle of a person on showing by the Secretary of State's records or other sufficient evidence that the person:

A. Has committed an offense for which mandatory suspension or revocation of license or registration is required;

B. Has been convicted or adjudicated for offenses against traffic regulations governing the movement of vehicles with such frequency as to indicate a disrespect for traffic laws and disregard for the safety of other persons on public ways;

C. Is a reckless or negligent driver of a motor vehicle, as established by the demerit point system authorized by subsection 3, a record of accidents or other evidence;

D. Is incompetent to drive a motor vehicle;

E. Has permitted an unlawful or fraudulent use of a license;

F. Has committed an offense in a jurisdiction of the United States or a province that, if committed in this State, would be grounds for suspension or revocation;

G. Has been convicted of failing to stop for a police officer;

H. Has been convicted of reckless driving or driving to endanger under section 2413;

I. Has failed to appear in court on the day specified, either in person or by counsel, after being ordered to do so to answer any violation of chapter 5, subchapter ~~II~~ 2;

J. Has failed to provide sufficient proof of ownership or other documentation in support of the person's title claim;

K. Is subject to action of the Secretary of State pursuant to section 154 or section 668;

L. Has failed to provide proof of payment of the use tax imposed by the United States Internal Revenue Code of 1954, Section 4481, within time periods established by federal statute and regulations;

M. Has violated a provision of the Commercial Motor Vehicle Safety Act of 1986, Public Law 99-570, Title XII, or rules and regulations promulgated and adopted under that Act;

N. Has failed to surrender to the Secretary of State a commercial driver's license that has been suspended or revoked;

O. Has a license, permit or the privilege to apply for or obtain a license suspended or revoked by a jurisdiction of the United States or a province;

P. Has failed to provide a valid social security number pursuant to section 1301;

Q. Has, as a condition of bail pursuant to Title 15, chapter 105-A or, if a juvenile, as a condition of release pursuant to Title 15, chapter 505, been ordered not to operate a motor vehicle. If the conditions of bail or release allow a person to operate a motor vehicle only under certain conditions or with restrictions on time, place or purpose, the Secretary of State may, without hearing, issue a restricted license reflecting the restrictions imposed;

R. Is not in compliance with the conditions and requirements of the federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, Public Law 107-56, 115 Stat. 272;

S. Has failed to deliver or assign the certificate of title upon the request of the Secretary of State;

T. Has failed to comply with the provisions of Title 36, chapter 459; or

U. Has failed to provide the information required in section 401, subsection 2.

**Sec. 45. 36 MRSA §1483, sub-§13,** as amended by PL 2007, c. 627, §32, is further amended to read:

**13. Certain buses.** Buses used for the transportation of passengers for hire in interstate or intrastate commerce, or both, by carriers engaged in furnishing common carrier passenger service ~~under an operating authority license issued pursuant to Title 29-A, section 552~~. At the option of the appropriate municipality, those buses may be subject to the excise tax provided in section 1482;

**Sec. 46. 29-A MRSA §2486, sub-§2,** as amended by PL 2009, c. 213, Pt. YYYY, §3, is further amended to read:

**2. Allocation of fee.** A reinstatement fee paid for a court-ordered suspension under section 2605 and 2608 must be deposited equally between the Highway Fund and the General Fund. ~~Except for suspensions under section 2605~~ For all other suspensions, 85% of the reinstatement fee paid pursuant to subsection 1 accrues to the Highway Fund and 15% accrues to the General Fund.

**Sec. 47. 36 MRSA §2909, first ¶,** as repealed and replaced by PL 2003, c. 390, §14, is amended to read:

A person engaged in furnishing common carrier passenger service ~~under an operating authority license issued pursuant to Title 29-A, section 552~~ is entitled to reimbursement of the tax paid on internal combustion engine fuel used by that person in locally encouraged vehicles. For purposes of calculating reimbursement due pursuant to this section, internal combustion engine fuel used in a person's locally encouraged vehicles is presumed to bear the same proportional relationship to internal combustion engine fuel used in all of the person's passenger vehicles that the person's commutation fare revenue derived from service provided by locally encouraged vehicles bears to the person's total passenger fare revenue. "Commutation fare revenue" means revenue attributable to fares of 60¢ or less and fares paid for commutation or season tickets for single trips of less than 30 miles or for commutation tickets for one month or less. "Total passenger fare revenue" means all revenue attributable to the claimant's passenger operations. "Locally encouraged vehicles" means buses upon which no excise tax is collected under section 1483, subsection 13.

**Sec. 48. 36 MRSA §3215, first ¶,** as repealed and replaced by PL 2003, c. 390, §16, is amended to read:

A person engaged in furnishing common carrier passenger service ~~under an operating authority license issued pursuant to Title 29-A, section 552~~ is entitled to reimbursement of the tax paid on special fuel used by that person in locally encouraged vehicles. For purposes of calculating reimbursement due pursuant to this section, special fuel used in a person's locally encouraged vehicles is presumed to bear the same proportional relationship to special fuel used in all of the person's passenger vehicles that the person's commutation fare revenue derived from service provided by locally encouraged vehicles bears to the person's total passenger fare revenue. "Commutation fare revenue" means revenue attributable to fares of 60¢ or less and fares paid for commutation or season tickets for single trips of less than 30 miles or for commutation tickets for one month or less. "Total passenger fare revenue" means all revenue attributable to the claimant's passenger operations. "Locally encouraged vehicles" means buses upon which no excise tax is collected under section 1483, subsection 13.

**Sec. 49. 36 MRSA §3219-A, sub-§1, ¶D,** as enacted by PL 1995, c. 271, §11, is amended to read:

D. Detain any motor vehicle for the purpose of inspecting its fuel tanks. Detainment may continue for a reasonable period of time as necessary to determine the amount and composition of the fuel. Designated agents and officers may take and remove samples of fuel in reasonable quantities in order to determine compliance with the provisions of this chapter; and

**Sec. 50. 36 MRSA §3219-A, sub-§1, ¶E,** as enacted by PL 1995, c. 271, §11, is amended to read:

E. Suspend vehicle registrations in the name of any carrier that has violated the provisions of this chapter and the right to operate as provided in Title 29-A, section 2458~~; and~~.

**Sec. 51. 36 MRSA §3219-A, sub-§1, ¶F,** as enacted by PL 1995, c. 271, §11, is repealed.

**Sec. 52. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 29-A, chapter 5, subchapter 2 in the subchapter headnote, the words "operating authority" are amended to read "motor carrier registration" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

## CHAPTER 599

## S.P. 645 - L.D. 1673

### An Act To Allow a Maine-chartered Financial Institution To Conduct a Savings Promotion Raffle

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

**Sec. 1. 17 MRSA §1831, sub-§5,** as enacted by PL 2009, c. 487, Pt. A, §2, is amended to read:

**5. Game of chance.** "Game of chance" means a game, contest, scheme or device in which:

A. A person stakes or risks something of value for the opportunity to win something of value;

B. The rules of operation or play require an event the result of which is determined by chance, outside the control of the contestant or participant; and

C. Chance enters as an element that influences the outcome in a manner that cannot be eliminated through the application of skill.

For the purposes of this subsection, "an event the result of which is determined by chance" includes but is not limited to a shuffle of a deck of cards, a roll of a die or dice or a random drawing or generation of an object that may include, but is not limited to, a card, a die, a number or simulations of any of these. A shuffle of a deck of cards, a roll of a die, a random drawing or generation of an object or some other event the result of which is determined by chance that is employed to determine impartially the initial order of play in a game, contest, scheme or device does not alone make a game, contest, scheme or device a game of chance. For purposes of this chapter, beano ~~and~~, bingo and a savings promotion raffle are not games of chance.

**Sec. 2. 17 MRSA §1831, sub-§13,** as enacted by PL 2009, c. 487, Pt. A, §2, is amended to read:

**13. Raffle.** "Raffle" means a game of chance in which:

A. A person pays or agrees to pay something of value for a chance, represented and differentiated by a number, to win a prize;

B. One or more of the chances is to be designated the winning chance; and

C. The winning chance is to be determined as a result of a drawing from a container holding numbers representative of all chances sold.

"Raffle" does not include a savings promotion raffle.

**Sec. 3. 17 MRSA §1831, sub-§14-A** is enacted to read:

**14-A. Savings promotion raffle.** "Savings promotion raffle" means a promotion offered by a financial institution authorized to do business in this State as defined in Title 9-B, section 131, subsection 17-A or a credit union authorized to do business in this State as defined in Title 9-B, section 131, subsection 12-A in which the sole consideration required for a chance of winning the designated prize in the raffle is the deposit of at least a specified amount of money into a savings account or other savings program and in which:

A. The savings account or other savings program provides interest at a comparable rate to other savings accounts or savings programs offered by that financial institution or credit union, with the interest accruing for the benefit of the account holder, and allows account holders access to deposited money;

B. The total of the designated prizes for each raffle does not exceed $1,000 or the fair market value of $1,000 in cases when an item or items of merchandise are the designated prizes;

C. The promotion is offered no more than 2 times per year; and

D. The terms and conditions of the promotion are disclosed to account holders and prospective account holders of the financial institution or credit union.

See title page for effective date.

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## CHAPTER 600

## H.P. 1227 - L.D. 1728

### An Act To Make Supplemental Allocations from the Highway Fund and Other Funds for the Expenditures of State Government and To Change Certain Provisions of State Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2010 and June 30, 2011

**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: Reduces funding from departments and agencies statewide to recognize additional savings achieved as a result of the retirement incentive program authorized in Public Law 2009, chapter 413, Part E.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($938,959) | ($938,959) |
| HIGHWAY FUND TOTAL | ($938,959) | ($938,959) |

#### Departments and Agencies - Statewide 0016

Initiative: Provides funding to restore longevity payments and other items approved through the collective bargaining process for employees in the Executive Branch in fiscal year 2010-11.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $450,450 |
| HIGHWAY FUND TOTAL | $0 | $450,450 |

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

Initiative: Reduces funding to recognize additional savings authorized in Public Law 2009, chapter 213 from not granting merit increases.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($101,284) |
| HIGHWAY FUND TOTAL | $0 | ($101,284) |

| ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF<br>DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| HIGHWAY FUND | ($938,959) | ($589,793) |
| DEPARTMENT TOTAL - ALL FUNDS | ($938,959) | ($589,793) |

### MUNICIPAL BOND BANK, MAINE

#### Transcap Trust Fund Z064

Initiative: Allocates additional budgeted revenue from Public Law 2009, chapter 413, Part W that was not previously allocated.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $488,471 | $705,389 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $488,471 | $705,389 |

#### Transcap Trust Fund Z064

Initiative: Reduces funding to recognize revenue changes approved by the Revenue Forecasting Committee in December 2009.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($406,500) | ($390,750) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($406,500) | ($390,750) |

#### Transcap Trust Fund Z064

Initiative: Adjusts allocation to recognize revenue changes approved by the Revenue Forecasting Committee in March 2010.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $406,500 | $390,750 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $406,500 | $390,750 |

| MUNICIPAL BOND BANK, MAINE<br>DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| OTHER SPECIAL REVENUE FUNDS | $488,471 | $705,389 |
| DEPARTMENT TOTAL - ALL FUNDS | $488,471 | $705,389 |

## PUBLIC SAFETY, DEPARTMENT OF

### Information Technology Y23T

Initiative: Transfers the funding reduction eliminating pagers for the State Police originally approved in Public Law 2009, chapter 462 to the correct program.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($13,451) |
| HIGHWAY FUND TOTAL | $0 | ($13,451) |

### State Police 0291

Initiative: Eliminates one Senior Planner position in fiscal years 2009-10 and 2010-11 and reduces funding for salary savings from a Planning and Research Associate I position in fiscal year 2009-10.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($45,891) | ($37,927) |
| All Other | ($961) | ($794) |
| HIGHWAY FUND TOTAL | ($46,852) | ($38,721) |

### State Police 0291

Initiative: Eliminates one Public Service Manager II (Director of the Maine State Police Crime Laboratory) position.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($23,950) | ($55,556) |
| All Other | ($524) | ($1,173) |
| HIGHWAY FUND TOTAL | ($24,474) | ($56,729) |

### State Police 0291

Initiative: Reduces funding by freezing 4 vacant State Police Trooper positions.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($197,269) | ($227,599) |
| All Other | ($3,980) | ($4,270) |
| HIGHWAY FUND TOTAL | ($201,249) | ($231,869) |

### State Police 0291

Initiative: Reduces funding by freezing 2 Identification Specialist II positions for a portion of fiscal year 2009-10.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($17,299) | $0 |
| All Other | ($357) | $0 |
| HIGHWAY FUND TOTAL | ($17,656) | $0 |

### State Police 0291

Initiative: Transfers the funding reduction eliminating pagers for the State Police originally approved in Public Law 2009, chapter 462 to the correct program.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $13,451 |
| HIGHWAY FUND TOTAL | $0 | $13,451 |

### State Police - Support 0981

Initiative: Provides funding for the increased cost of STA-CAP in the State Police - Support program through a reduction in the Traffic Safety - Commercial Vehicle Enforcement program.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $2,260 | $2,260 |
| HIGHWAY FUND TOTAL | $2,260 | $2,260 |

### Traffic Safety - Commercial Vehicle Enforcement 0715

Initiative: Provides funding for the increased cost of STA-CAP in the State Police - Support program through a reduction in the Traffic Safety - Commercial Vehicle Enforcement program.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($2,260) | ($2,260) |
| HIGHWAY FUND TOTAL | ($2,260) | ($2,260) |

| PUBLIC SAFETY, DEPARTMENT OF<br>DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| HIGHWAY FUND | ($290,231) | ($327,319) |
| DEPARTMENT TOTAL - ALL FUNDS | ($290,231) | ($327,319) |

## TRANSPORTATION, DEPARTMENT OF

### Bond Interest - Highway 0358

Initiative: Reduces funding from savings in principal and interest costs.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($1,548,500) | ($1,953,538) |
| HIGHWAY FUND TOTAL | ($1,548,500) | ($1,953,538) |

**Bond Retirement - Highway 0359**

Initiative: Reduces funding from savings in principal and interest costs.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($4,000,000) | ($2,830,000) |
| HIGHWAY FUND TOTAL | ($4,000,000) | ($2,830,000) |

**Fleet Services 0347**

Initiative: Adjusts funding through the reorganization of 28 Bridge Maintenance Supervisor positions, 20 Heavy Vehicle and Equipment Supervisor positions and 71 Highway Crew Supervisor II positions to 119 Transportation Crew Supervisor positions as of April 1, 2010. The reorganization also affects funding in the Fleet Services and Suspense Receivable - Transportation programs.

| FLEET SERVICES FUND - DOT | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $14,152 | $57,209 |
| FLEET SERVICES FUND - DOT TOTAL | $14,152 | $57,209 |

**Fleet Services 0347**

Initiative: Adjusts funding through the reorganization of 49 Bridge Maintenance Apprentice positions, one Highway Worker I position, 157 Highway Worker II positions and 13 Motor Transport Technician positions to 220 Transportation Worker I positions, the reorganization of 498 Highway Worker Truck Driver positions and 32 Bridge Maintenance Journey positions to 530 Transportation Worker II positions and the reorganization of 32 Bridge Maintenance Master positions and 119 Highway Worker Equipment Operator positions to 151 Transportation Worker III positions. The reorganization also affects funding in the Fleet Services and Suspense Receivable - Transportation programs.

| FLEET SERVICES FUND - DOT | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $40,491 |
| FLEET SERVICES FUND - DOT TOTAL | $0 | $40,491 |

**Fleet Services 0347**

Initiative: Adjusts funding through the elimination of one Motor Transport Services Manager position, 2 Highway Crew Supervisor II positions, 2 Highway Worker Truck Driver positions, one Highway Worker Equipment Operator position, 2 seasonal Highway Crew Supervisor I positions, one seasonal Highway Worker II position and 4 project Highway Laborer positions in the Maintenance and Operations program and one Building and Trades Specialist position in the Fleet Services program to fund the new system that will reduce 3 Highway and Bridge Supervisor classifications to one Transportation Supervisor classification. Position eliminations also affect funding in the Fleet Services and Suspense Receivable - Transportation programs.

| FLEET SERVICES FUND - DOT | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - FTE COUNT | (1.000) | (1.000) |
| Personal Services | ($33,743) | ($67,485) |
| FLEET SERVICES FUND - DOT TOTAL | ($33,743) | ($67,485) |

**Fleet Services 0347**

Initiative: Adjusts funding through the elimination of 40 project Highway Laborer positions, 6 Bridge Maintenance Apprentice positions, 2 seasonal Bridge Maintenance Apprentice positions, one seasonal Highway Crew Supervisor I position, one Highway Crew Supervisor II position, 2 Highway Worker Equipment Operator positions, one seasonal Highway Worker Equipment Operator position, 18 Highway Worker II positions, one Highway Worker Truck Driver position and 2 seasonal Highway Worker Truck Driver positions in the Maintenance and Operations program and one Heavy Vehicle Equipment Technician in the Fleet Services program to fund the proposed new system that will reduce 6 Highway and Bridge classifications to 3 Transportation Worker classifications. Position eliminations also affect funding in the Fleet Services and Suspense Receivable - Transportation programs.

| FLEET SERVICES FUND - DOT | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - FTE COUNT | (1.000) | (1.000) |
| Personal Services | ($28,200) | ($56,397) |
| FLEET SERVICES FUND - DOT TOTAL | ($28,200) | ($56,397) |

**Fleet Services 0347**

Initiative: Corrects the Public Law 2009, chapter 413 initiative that eliminated 2 Heavy Vehicle and Equipment Technician crew positions in the Fleet Services program.

| FLEET SERVICES FUND - DOT | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 2.000 | 2.000 |
| POSITIONS - FTE COUNT | (2.000) | (2.000) |
| FLEET SERVICES FUND - DOT TOTAL | $0 | $0 |

### Highway and Bridge Capital 0406

Initiative: Transfers the remaining Capital Expenditures funding to the Highway and Bridge Light Capital program.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| Capital Expenditures | ($501,000) | ($3,600,000) |
| HIGHWAY FUND TOTAL | ($501,000) | ($3,600,000) |

### Highway and Bridge Light Capital Z095

Initiative: Provides funding through the reorganization of the workforce to be used for highway-related maintenance and light capital efforts.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| Capital Expenditures | $700,000 | $400,000 |
| HIGHWAY FUND TOTAL | $700,000 | $400,000 |

### Highway and Bridge Light Capital Z095

Initiative: Provides funding for the anticipated level of activities for Highway and Bridge Light Capital program projects based on available resources.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $265,000 | ($1,700,000) |
| All Other | $1,605,000 | ($1,100,000) |
| Capital Expenditures | $17,867,082 | $14,530,642 |
| HIGHWAY FUND TOTAL | $19,737,082 | $11,730,642 |

### Island Ferry Service 0326

Initiative: Reduces funding through an increase in the number of authorized hours of intermittent employees and a reduction in overtime that will allow the use of the same number of hours by intermittent employees at straight time as opposed to time and a half.

| ISLAND FERRY SERVICES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - FTE COUNT | 2.361 | 2.361 |
| Personal Services | ($30,776) | ($31,424) |
| ISLAND FERRY SERVICES FUND TOTAL | ($30,776) | ($31,424) |

### Maintenance and Operations 0330

Initiative: Adjusts funding through the reorganization of 28 Bridge Maintenance Supervisor positions, 20 Heavy Vehicle and Equipment Supervisor positions and 71 Highway Crew Supervisor II positions to 119 Transportation Crew Supervisor positions as of April 1, 2010. The reorganization also affects funding in the Fleet Services and Suspense Receivable - Transportation programs.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $105,955 | $423,814 |
| HIGHWAY FUND TOTAL | $105,955 | $423,814 |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $10,033 | $40,132 |
| FEDERAL EXPENDITURES FUND TOTAL | $10,033 | $40,132 |

### Maintenance and Operations 0330

Initiative: Adjusts funding through the reorganization of 49 Bridge Maintenance Apprentice positions, one Highway Worker I position, 157 Highway Worker II positions and 13 Motor Transport Technician positions to 220 Transportation Worker I positions, the reorganization of 498 Highway Worker Truck Driver positions and 32 Bridge Maintenance Journey positions to 530 Transportation Worker II positions and the reorganization of 32 Bridge Maintenance Master positions and 119 Highway Worker Equipment Operator positions to 151 Transportation Worker III positions. The reorganization also affects funding in the Fleet Services and Suspense Receivable - Transportation programs.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $1,535,956 |
| HIGHWAY FUND TOTAL | $0 | $1,535,956 |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $145,448 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $145,448 |

**Maintenance and Operations 0330**

Initiative: Adjusts funding through the elimination of one Motor Transport Services Manager position, 2 Highway Crew Supervisor II positions, 2 Highway Worker Truck Driver positions, one Highway Worker Equipment Operator position, 2 seasonal Highway Crew Supervisor I positions, one seasonal Highway Worker II position and 4 project Highway Laborer positions in the Maintenance and Operations program and one Building and Trades Specialist position in the Fleet Services program to fund the new system that will reduce 3 Highway and Bridge Supervisor classifications to one Transportation Supervisor classification. Position eliminations also affect funding in the Fleet Services and Suspense Receivable - Transportation programs.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | (1.000) | (1.000) |
| POSITIONS - FTE COUNT | (6.615) | (6.615) |
| Personal Services | ($242,440) | ($484,879) |
| HIGHWAY FUND TOTAL | ($242,440) | ($484,879) |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($22,957) | ($45,916) |
| FEDERAL EXPENDITURES FUND TOTAL | ($22,957) | ($45,916) |

**Maintenance and Operations 0330**

Initiative: Adjusts funding through the elimination of 40 project Highway Laborer positions, 6 Bridge Maintenance Apprentice positions, 2 seasonal Bridge Maintenance Apprentice positions, one seasonal Highway Crew Supervisor I position, one Highway Crew Supervisor II position, 2 Highway Worker Equipment Operator positions, one seasonal Highway Worker Equipment Operator position, 18 Highway Worker II positions, one Highway Worker Truck Driver position and 2 seasonal Highway Worker Truck Driver positions in the Maintenance and Operations program and one Heavy Vehicle Equipment Technician in the Fleet Services program to fund the proposed new system that will reduce 6 Highway and Bridge classifications to 3 Transportation Worker classifications. Position eliminations also affect funding in the Fleet Services and Suspense Receivable - Transportation programs.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - FTE COUNT | (25.615) | (25.615) |
| Personal Services | ($1,070,585) | ($2,141,170) |
| HIGHWAY FUND TOTAL | ($1,070,585) | ($2,141,170) |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($101,380) | ($202,758) |
| FEDERAL EXPENDITURES FUND TOTAL | ($101,380) | ($202,758) |

**Maintenance and Operations 0330**

Initiative: Adjusts funding through the reorganization of 11 Highway Worker Truck Driver positions, one Bridge Maintenance Master position, 4 Highway Worker Equipment Operator positions, one Bridge Maintenance Assistant position, one Building and Trades Specialist position, 2 Highway Crew Supervisor I positions and one Traffic Control Electrician position to 21 Transportation Worker I positions. Allocated costs also affect funding in the Suspense Receivable - Transportation program.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($20,598) | ($41,196) |
| HIGHWAY FUND TOTAL | ($20,598) | ($41,196) |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($1,951) | ($3,901) |
| FEDERAL EXPENDITURES FUND TOTAL | ($1,951) | ($3,901) |

**Maintenance and Operations 0330**

Initiative: Adjusts funding through the reorganization of one Bridge Maintenance Supervisor position and 6 Highway Crew Supervisor II positions to 7 Transportation Worker I positions. Allocated costs also affect funding in the Suspense Receivable - Transportation program.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($38,772) | ($77,543) |

| | | |
|---|---|---|
| HIGHWAY FUND TOTAL | ($38,772) | ($77,543) |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($3,672) | ($7,343) |
| FEDERAL EXPENDITURES FUND TOTAL | ($3,672) | ($7,343) |

**Maintenance and Operations 0330**

Initiative: Provides funding through the reorganization of the workforce to be used for highway-related maintenance and light capital efforts.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $566,440 | $385,619 |
| HIGHWAY FUND TOTAL | $566,440 | $385,619 |

**Maintenance and Operations 0330**

Initiative: Reduces Personal Services funding due to the light winter weather and other factors and allocates a portion of those savings for replacement of cross culverts, pothole patching, shoulder grading, bridge repair and street sweeper rental for winter sand cleanup on town-plowed state aid roads in village areas.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | ($5,577,000) | $0 |
| All Other | $1,977,000 | $0 |
| HIGHWAY FUND TOTAL | ($3,600,000) | $0 |

**Marine Highway Transportation Z016**

Initiative: Provides funding for the 50% Marine Highway Transportation share of a net reduction in funds through an increase in the number of authorized hours of intermittent employees and a reduction in overtime that will allow the use of the same number of hours by intermittent employees at straight time as opposed to time and a half.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | ($15,388) | ($15,712) |
| HIGHWAY FUND TOTAL | ($15,388) | ($15,712) |

**Suspense Receivable - Transportation 0344**

Initiative: Adjusts funding through the reorganization of 28 Bridge Maintenance Supervisor positions, 20 Heavy Vehicle and Equipment Supervisor positions and 71 Highway Crew Supervisor II positions to 119 Transportation Crew Supervisor positions as of April 1, 2010. The reorganization also affects funding in the Fleet Services and Suspense Receivable - Transportation programs.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $1,360 | $5,445 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $1,360 | $5,445 |

**Suspense Receivable - Transportation 0344**

Initiative: Adjusts funding through the reorganization of 49 Bridge Maintenance Apprentice positions, one Highway Worker I position, 157 Highway Worker II positions and 13 Motor Transport Technician positions to 220 Transportation Worker I positions, the reorganization of 498 Highway Worker Truck Driver positions and 32 Bridge Maintenance Journey positions to 530 Transportation Worker II positions and the reorganization of 32 Bridge Maintenance Master positions and 119 Highway Worker Equipment Operator positions to 151 Transportation Worker III positions. The reorganization also affects funding in the Fleet Services and Suspense Receivable - Transportation programs.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $19,734 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $19,734 |

**Suspense Receivable - Transportation 0344**

Initiative: Adjusts funding through the elimination of one Motor Transport Services Manager position, 2 Highway Crew Supervisor II positions, 2 Highway Worker Truck Driver positions, one Highway Worker Equipment Operator position, 2 seasonal Highway Crew Supervisor I positions, one seasonal Highway Worker II position and 4 project Highway Laborer positions in the Maintenance and Operations program and one Building and Trades Specialist position in the Fleet Services program to fund the new system that will reduce 3 Highway and Bridge Supervisor classifications to one Transportation Supervisor classification. Position eliminations also affect funding in the Fleet Services and Suspense Receivable - Transportation programs.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|

| | | |
|---|---|---|
| Personal Services | ($3,115) | ($6,229) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($3,115) | ($6,229) |

**Suspense Receivable - Transportation 0344**

Initiative: Adjusts funding through the elimination of 40 project Highway Laborer positions, 6 Bridge Maintenance Apprentice positions, 2 seasonal Bridge Maintenance Apprentice positions, one seasonal Highway Crew Supervisor I position, one Highway Crew Supervisor II position, 2 Highway Worker Equipment Operator positions, one seasonal Highway Worker Equipment Operator position, 18 Highway Worker II positions, one Highway Worker Truck Driver position and 2 seasonal Highway Worker Truck Driver positions in the Maintenance and Operations program and one Heavy Vehicle Equipment Technician in the Fleet Services program to fund the proposed new system that will reduce 6 Highway and Bridge classifications to 3 Transportation Worker classifications. Position eliminations also affect funding in the Fleet Services and Suspense Receivable - Transportation programs.

| **OTHER SPECIAL REVENUE FUNDS** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | ($13,755) | ($27,509) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($13,755) | ($27,509) |

**Suspense Receivable - Transportation 0344**

Initiative: Adjusts funding through the reorganization of 11 Highway Worker Truck Driver positions, one Bridge Maintenance Master position, 4 Highway Worker Equipment Operator positions, one Bridge Maintenance Assistant position, one Building and Trades Specialist position, 2 Highway Crew Supervisor I positions and one Traffic Control Electrician position to 21 Transportation Worker I positions. Allocated costs also affect funding in the Suspense Receivable - Transportation program.

| **OTHER SPECIAL REVENUE FUNDS** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | ($265) | ($529) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($265) | ($529) |

**Suspense Receivable - Transportation 0344**

Initiative: Adjusts funding through the reorganization of one Bridge Maintenance Supervisor position and 6 Highway Crew Supervisor II positions to 7 Transportation Worker I positions. Allocated costs also affect funding in the Suspense Receivable - Transportation program.

| **OTHER SPECIAL REVENUE FUNDS** | **2009-10** | **2010-11** |
|---|---|---|
| Personal Services | ($498) | ($996) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | ($498) | ($996) |

**Urban-Rural Initiative Program 0337**

Initiative: Adjusts funding for the Urban-Rural Initiative Program at the correct proportion rate under the Maine Revised Statutes, Title 23, section 1803-B.

| **HIGHWAY FUND** | **2009-10** | **2010-11** |
|---|---|---|
| All Other | $1,102,013 | $365,718 |
| HIGHWAY FUND TOTAL | $1,102,013 | $365,718 |

| **TRANSPORTATION, DEPARTMENT OF** | | |
|---|---|---|
| **DEPARTMENT TOTALS** | **2009-10** | **2010-11** |
| **HIGHWAY FUND** | **$11,174,207** | **$3,697,711** |
| **FEDERAL EXPENDITURES FUND** | **($119,927)** | **($74,338)** |
| **OTHER SPECIAL REVENUE FUNDS** | **($16,273)** | **($10,084)** |
| **FLEET SERVICES FUND - DOT** | **($47,791)** | **($26,182)** |
| **ISLAND FERRY SERVICES FUND** | **($30,776)** | **($31,424)** |
| **DEPARTMENT TOTAL - ALL FUNDS** | **$10,959,440** | **$3,555,683** |

| **SECTION TOTALS** | **2009-10** | **2010-11** |
|---|---|---|
| **HIGHWAY FUND** | **$9,945,017** | **$2,780,599** |
| **FEDERAL EXPENDITURES FUND** | **($119,927)** | **($74,338)** |
| **OTHER SPECIAL REVENUE FUNDS** | **$472,198** | **$695,305** |
| **FLEET SERVICES FUND - DOT** | **($47,791)** | **($26,182)** |
| **ISLAND FERRY SERVICES FUND** | **($30,776)** | **($31,424)** |
| **SECTION TOTAL - ALL FUNDS** | **$10,218,721** | **$3,343,960** |

## PART B

**Sec. B-1. Allocations.** There are allocated from the various funds for the fiscal years ending June 30, 2010 and June 30, 2011, to the departments listed, the sums identified in the following, in order to provide funding for approved reclassifications and range changes.

### PUBLIC SAFETY, DEPARTMENT OF

**State Police 0291**

Initiative: RECLASSIFICATIONS

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $29,932 | $10,554 |
| All Other | ($29,932) | ($10,554) |
| HIGHWAY FUND TOTAL | $0 | $0 |

| PUBLIC SAFETY, DEPARTMENT OF DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| HIGHWAY FUND | $0 | $0 |
| DEPARTMENT TOTAL - ALL FUNDS | $0 | $0 |

### SECRETARY OF STATE, DEPARTMENT OF

**Administration - Motor Vehicles 0077**

Initiative: RECLASSIFICATIONS

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $10,049 | $87,091 |
| All Other | ($10,049) | ($87,091) |
| HIGHWAY FUND TOTAL | $0 | $0 |

| SECRETARY OF STATE, DEPARTMENT OF DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| HIGHWAY FUND | $0 | $0 |
| DEPARTMENT TOTAL - ALL FUNDS | $0 | $0 |

### TRANSPORTATION, DEPARTMENT OF

**Highway and Bridge Capital 0406**

Initiative: RECLASSIFICATIONS

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $7,470 | $9,341 |
| All Other | ($7,470) | ($9,341) |
| HIGHWAY FUND TOTAL | $0 | $0 |

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $10,269 | $12,842 |
| All Other | ($10,269) | ($12,842) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $0 |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $937 | $1,163 |
| All Other | ($937) | ($1,163) |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $0 |

**Island Ferry Service 0326**

Initiative: RECLASSIFICATIONS

| ISLAND FERRY SERVICES FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $896 | $936 |
| All Other | ($896) | ($936) |
| ISLAND FERRY SERVICES FUND TOTAL | $0 | $0 |

| TRANSPORTATION, DEPARTMENT OF DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| HIGHWAY FUND | $0 | $0 |
| FEDERAL EXPENDITURES FUND | $0 | $0 |
| OTHER SPECIAL REVENUE FUNDS | $0 | $0 |
| ISLAND FERRY SERVICES FUND | $0 | $0 |
| DEPARTMENT TOTAL - ALL FUNDS | $0 | $0 |

| SECTION TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| HIGHWAY FUND | $0 | $0 |

| | | |
|---|---|---|
| FEDERAL EXPENDITURES FUND | $0 | $0 |
| OTHER SPECIAL REVENUE FUNDS | $0 | $0 |
| ISLAND FERRY SERVICES FUND | $0 | $0 |
| SECTION TOTAL - ALL FUNDS | $0 | $0 |

## PART C

**Sec. C-1. PL 2009, c. 413, Pt. I, §1** is amended to read:

**Sec. I-1. Consolidation of statewide information technology functions, systems and funding to improve efficiency and cost-effectiveness.** The Chief Information Officer shall review the current organizational structure, systems and operations of information technology units to improve organizational efficiency and cost-effectiveness. The Chief Information Officer is authorized to manage and operate all information technology systems in the executive branch, to fulfill strategic and operational objectives as expressed in a memorandum of agreement with each agency. Notwithstanding any other provision of law, the Chief Information Officer or the Chief Information Officer's designee shall provide direct oversight and management over statewide technology services and oversight over the technology personnel assigned to information technology services in accordance with such memoranda of agreement. The Chief Information Officer is authorized to identify savings and position eliminations to the Highway Fund and other funds from efficiencies to achieve the savings identified in section 2 of this Part.

The Chief Information Officer is authorized to approve all information technology expenditures from a consolidated account within each agency as provided in memoranda of agreement and this Part. Notwithstanding any other provision of law, the State Budget Officer shall transfer position counts and available balances by financial order upon approval of the Governor to the Department of Administrative and Financial Services, Office of Information Technology for the provision of those services. These transfers are considered adjustments to authorized position counts, appropriations and allocations in fiscal years 2009-10 and 2010-11. As a result of these financial orders, information technology services that are funded by the Highway Fund must be reflected in future Highway Fund budgets as Highway Fund allocations. An annual reconciliation of actual services rendered against budgeted amounts must be performed. Any savings from annual reconciliations reverts to the Highway Fund as unallocated surplus. The Chief Information Officer annually shall provide the joint standing committee of the Legislature having jurisdiction over transportation matters a report of the annual reconciliation and any transferred amounts. More frequent, more narrowly focused reconciliations may be performed upon request of an agency regarding information technology services specific to that agency, such as application development and maintenance.

## PART D

**Sec. D-1. Transfer of excess equity reserves from Workers' Compensation Management Fund.** Notwithstanding any other provision of law, the State Controller shall transfer $73,480 representing the Highway Fund share of excess equity reserve for workers' compensation by June 30, 2010 from the Workers' Compensation Management Fund in the Department of Administrative and Financial Services to the unappropriated surplus of the Highway Fund. The State Controller shall also transfer the equitable share of workers' compensation excess equity reserve to each participating fund by June 30, 2010.

**Sec. D-2. Calculation and transfer; Highway Fund; statewide workers' compensation savings.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in section 3 in the Statewide Workers' Compensation Savings account within the Department of Administrative and Financial Services that applies against each Highway Fund account for departments and agencies statewide in fiscal year 2010-11 from savings achieved through an adjustment in the rates for workers' compensation. 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 2010-11.

**Sec. D-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 from departments and agencies statewide from projected savings in Personal Services achieved through a rate reduction for workers' compensation.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($73,353) |
| HIGHWAY FUND TOTAL | $0 | ($73,353) |

## PART E

**Sec. E-1. Transfer; equity reserve fiscal year 2008-09; Retiree Health Insurance Internal Service Fund.** Notwithstanding any other provision of law, the State Controller shall transfer $5,429,219 representing the Highway Fund share of excess equity reserve for retiree health insurance on June 30, 2009 from the Retiree Health Insurance Internal Service Fund in the Department of Administrative and Financial Services to the unappropriated surplus of the Highway Fund by June 30, 2010. The State Controller shall also transfer the equitable share of retiree health insurance excess equity reserve to each participating fund by June 30, 2010.

**Sec. E-2. Transfer; equity reserve fiscal year 2009-10; Retiree Health Insurance Internal Service Fund.** Notwithstanding any other provision of law, the State Controller shall transfer $5,672,481 representing the projected Highway Fund share of excess equity reserve for retiree health insurance on June 30, 2010 from the Retiree Health Insurance Internal Service Fund in the Department of Administrative and Financial Services to the unappropriated surplus of the Highway Fund by June 30, 2010. The State Controller shall also transfer the equitable share of retiree health insurance excess equity reserve to each participating fund by June 30, 2010.

**Sec. E-3. Calculation and transfer; Highway Fund; retiree health insurance savings.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings identified in section 4 of the Statewide-Retiree Health Insurance, Highway Fund account within the Department of Administrative and Financial Services that applies against each Highway Fund account for departments and agencies statewide as a result of a rate reduction in retiree health insurance. 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 2010-11.

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

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Departments and Agencies - Statewide 0016**

Initiative: Reduces funding from departments and agencies statewide from projected savings in Personal Services achieved through a rate reduction for retiree health insurance.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | ($5,241,774) |
| HIGHWAY FUND TOTAL | $0 | ($5,241,774) |

## PART F

**Sec. F-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 Statewide Service Center account within the Department of Administrative and Financial Services in section 2 that applies against each Highway Fund account for executive branch departments and agencies statewide from a decrease in charges by the Department of Administrative and Financial Services, Division of Financial and Personnel Services associated with savings from a reduction in retiree health insurance rates. The State Budget Officer shall transfer the amounts by financial order upon the approval of the Governor. These transfers are considered adjustments to allocations in fiscal year 2010-11.

**Sec. F-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: Reduces funding from departments and agencies statewide to recognize a reduction in charges by the Division of Financial and Personnel Services as a result of a distribution of excess reserves for retiree health insurance for fiscal years 2008-09 and 2009-10 and a reduction in retiree health insurance rates for fiscal year 2010-11.

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($253,189) |
| HIGHWAY FUND TOTAL | $0 | ($253,189) |

## PART G

**Sec. G-1. PL 2009, c. 413, Pt. S, §1** is amended to read:

**Sec. S-1. Calculation and transfer; longevity payment savings.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings identified in section 2 of this Part that applies against each Highway Fund account for all departments and agencies from savings associated with implementation of Public Law 2009, chapter 213, Part SSS, section 4, as amended, and shall transfer the amounts by financial order upon the approval of the Governor. These transfers are consid-

ered adjustments to allocations in fiscal ~~years~~ year 2009-10 ~~and 2010-11~~.

## PART H

**Sec. H-1. Carrying provision; Department of Secretary of State, Administration - Motor Vehicles program.** Notwithstanding any other provision of law, the State Controller shall carry forward any unexpended balance in the All Other line category on June 30, 2010 and on June 30, 2011 in the Department of Secretary of State, Administration - Motor Vehicles program. The amount carried forward may not exceed a total of $1,000,000 for the biennium ending June 30, 2011 and may carry forward into fiscal year 2011-12. The amount carried forward must be used for the acquisition of a document management system to improve the efficiency and effectiveness of the department's operations.

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

Effective April 2, 2010.

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## CHAPTER 601

## H.P. 1271 - L.D. 1781

### An Act To Allow Electronic Filing of Vital Records and Closing of Records To Guard against Fraud and Make Other Changes to the Vital Records Laws

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

**Sec. 1. 22 MRSA §256-A, first ¶,** as amended by PL 2007, c. 631, §1, is further amended to read:

Beginning in 2006, the Department of Labor, in conjunction with the Office of ~~Health Data and Program Management's Division of~~ Data, Research and Vital Statistics, shall compile and annually update a health care occupations report to be completed and presented to the health workforce forum established in section 257 by September 15th. Beginning in 2009, the health care occupations report must be completed and presented to the health workforce forum established in section 257 by September 15th and presented every 4th year thereafter. The report must be posted on a publicly accessible site on the Internet maintained by the Department of Labor and provide the following information:

**Sec. 2. 22 MRSA §256-B, sub-§3,** as amended by PL 2007, c. 240, Pt. RR, §3, is further amended to read:

**3. Submission of surveys.** All surveys conducted pursuant to subsection 1 must be submitted to the Office of ~~Health Data and Program Management's Division of~~ Data, Research and Vital Statistics for analysis, and survey data from which personally identifiable information has been eliminated must be publicly available.

**Sec. 3. 22 MRSA §2701, first ¶,** as amended by PL 2001, c. 574, §16 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

The Department of Health and Human Services shall establish the Office of ~~Health Data and Program Management~~ Data, Research and Vital Statistics, which shall maintain a statewide system for the registration of vital statistics.

**Sec. 4. 22 MRSA §2701, sub-§5,** as amended by PL 2001, c. 574, §19, is further amended to read:

**5. Deputy State Registrar.** The state registrar may designate an employee of the Office of ~~Health Data and Program Management~~ Data, Research and Vital Statistics to represent the Office of ~~Health Data and Program Management~~ Data, Research and Vital Statistics. The representative is known as the Deputy State Registrar of Vital Statistics and has the authority of the state registrar in the state registrar's absence.

**Sec. 5. 22 MRSA §2701, sub-§7,** as amended by PL 2001, c. 574, §20, is further amended to read:

**7. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "File" means the presentation and acceptance of a vital record or report for registration by the Office of ~~Health Data and Program Management~~ Data, Research and Vital Statistics or a municipal clerk as specified in departmental rule.

B. "Date of filing" means the date a vital record is accepted for registration by the Office of ~~Health Data and Program Management~~ Data, Research and Vital Statistics or a municipal clerk.

**Sec. 6. 22 MRSA §2702,** as amended by PL 1995, c. 260, §§4 and 5, is further amended to read:

**§2702. Duties of municipal clerks**

The clerk of each municipality in this State shall keep a chronological record of all live births, marriages, deaths and fetal deaths reported to ~~him~~ the municipal clerk under this Title. Such record ~~shall~~ must be kept as prescribed by the state registrar.

**1. Enforce law and rules.** Each municipal clerk in this State shall enforce, so far as comes within ~~his~~ the municipal clerk's jurisdiction, this Title and the ~~regulations~~ rules of the department relating to the registration of vital statistics.

**2. Transmittal of certificates to state registrar.** Except as authorized by the state registrar, a record received in a municipal office must be transmitted by the clerk of the municipality to the state registrar within a reasonable period of time as specified by department rule and in the format specified by the state registrar.

**3. Transmittal of certificates to other municipalities.** Except as authorized by the state registrar, when the parents of any child born are residents of any other municipality in this State, ~~or when any deceased person was a resident of any other municipality in this State~~, the clerk of the municipality where that live birth ~~or death~~ occurred shall~~, at the same time,~~ transmit ~~the record to the state registrar and transmit~~ a ~~certified~~ copy of the certificate of the live birth ~~or death~~ to the clerk of the municipality where the parents reside~~, or where the deceased was a resident~~.

**Sec. 7. 22 MRSA §2702-A,** as enacted by PL 1987, c. 268, §2, is amended to read:

**§2702-A. Duties to furnish information**

Any person having knowledge of the facts shall furnish such information as ~~he~~ the individual may possess regarding any birth, death, spontaneous fetal death, abortion, marriage, divorce or annulment, upon demand of the state registrar.

**Sec. 8. 22 MRSA §2703** is amended to read:

**§2703. Birth in unincorporated place**

When a birth~~, marriage or death~~ occurs in an unincorporated place, it ~~shall~~ must be reported to the ~~town~~ municipal clerk in the ~~town which~~ municipality that is nearest to the place at which the birth~~, marriage or death~~ took place~~,~~ and ~~shall~~ must be recorded by the ~~town~~ municipal clerk to whom the report is made. All such reports and records ~~shall~~ must be made and recorded and returned to the state registrar.

**Sec. 9. 22 MRSA §2704,** as amended by PL 2001, c. 574, §21, is further amended to read:

**§2704. Registration of births and deaths at United States Department of Veterans Affairs at Togus**

Certificates of live births, deaths and fetal deaths occurring at the ~~Veterans Administration Center~~ United States Department of Veterans Affairs at 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 ~~or where the deceased was a resident~~.

**Sec. 10. 22 MRSA §2705, sub-§1,** as amended by PL 1989, c. 818, §3, is further amended to read:

**1. Amended certificate or record.** A certificate or record that has been altered or amended after its filing must be marked "amended," and the date on which the certificate or record was amended and a summary description of the evidence submitted in support of the correction must be endorsed on the certificate or record or permanently attached to it. Any certified copies of certificates or records amended under this section must be marked "amended." ~~Notwithstanding this subsection, administrative~~ Administrative correction of clerical errors within ~~one year~~ 90 days after the date of filing does not cause the certificate or record to be considered altered or amended.

**Sec. 11. 22 MRSA §2705, sub-§2** is amended to read:

**2. Incomplete certificates.** Incomplete certificates and records may be completed from a supplementary form within ~~one year~~ 90 days after the date of filing without being considered altered or amended.

**Sec. 12. 22 MRSA §2706,** as amended by PL 2001, c. 574, §22, is further amended to read:

**§2706. Disclosure of vital records**

Custodians of certificates and records of birth, marriage and death may permit inspection of records, or issue certified copies of certificates or records, or any parts thereof, when satisfied that the applicant therefor has a direct and legitimate interest in the matter recorded, the decision of the state registrar or the clerk of a municipality being subject to review by the Superior Court, under the limitations of this section.

~~**1. Child not born of marriage.** An official in this State may not permit inspection, or issue a certified copy of any certificate or record of birth disclosing that a child was not born of marriage. Such a record may be disclosed or a certified copy issued upon request of the child, the child's parent or the child's legal guardian or counsel or of petitioners for adoption or in response to court process. Such a record may be disclosed as necessary for the department to carry out its responsibilities as the State's child support enforcement agency.~~

**2. Statistical research.** The state registrar may permit the use of data contained in vital records for purposes of statistical research. Such data ~~shall~~ may not be used in a manner ~~which~~ that will identify any individual.

**3. National statistics.** The national agency responsible for compiling national vital statistics may be furnished such copies or data as it may require for national statistics. The State ~~shall~~ must be reimbursed for cost of furnishing such copies or data, and such data ~~shall~~ may not be used in a manner ~~which~~ that will identify any individual, except as authorized by the state registrar.

**4. Unlawful disclosure of data.** It ~~shall be~~ is unlawful for any employee of the State or of any municipality in the State to disclose data contained in such records, except as authorized in this section and except that a clerk of a municipality may cause to be printed in the annual town report the births reported within the year covered by the report, by number of births and location by city or town where birth occurred, deaths reported within the year covered by the ~~said~~ report, by date of death, name, age and location by city or town where death occurred, and marriages reported within the year covered by the report by names of parties and date of marriage. All other details of birth, marriage, divorce or death ~~shall~~ may not be available to the general public, except as specified in department rules.

**5. Records disclosed.** Vital records of a person must be made available at any reasonable time upon that person's request or ~~to~~ the request of that person's spouse, registered domestic partner, descendants, parents or guardians or that person's duly designated attorney or agent or attorney for an agent designated by that person or by a court having jurisdiction over that person whether the request be made in person, by mail, by telephone or otherwise, ~~provided~~ if the state registrar is satisfied as to the identity of the requester~~,~~ and, if an attorney or agent, ~~provided~~ if the state registrar is satisfied as to the attorney or agent's authority to act as ~~such~~ that person's agent or attorney. If ~~such~~ the agent or attorney has been appointed by a court of competent jurisdiction, or the attorney or agent's appearance for ~~such~~ the person is entered therein, the state registrar shall upon request so ascertain by telephone call to the register, clerk or recorder of ~~said~~ the court, and this must be deemed sufficient justification to compel compliance with the request for ~~said~~ the record. The state registrar shall, as soon as possible, designate persons in the Office of ~~Health Data and Program Management~~ Data, Research and Vital Statistics who may act in the state registrar's absence~~,~~ or, in case of the state registrar's disqualification, to carry out the intent of this subsection. A record of birth, death, fetal death, marriage, divorce or domestic partner registration may be disclosed as necessary for the department to carry out its responsibilities.

**6. Address Confidentiality Program.** Access to vital records may be further restricted within the parties listed in subsection 5 according to procedures of the Address Confidentiality Program under Title 5, section 90-B.

**7. Public records.** After 100 years from the date of birth for birth certificates, after 100 years from the date of death for fetal death certificates and death certificates, after 100 years from the date of marriage for marriage certificates and after 100 years from the registration of domestic partnerships, any person may obtain informational copies of these vital records in accordance with the department's rules.

**8. Genealogical research.** Custodians of certificates and records of birth, marriage and death may 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. 13. 22 MRSA §2708, sub-§1-B** is enacted to read:

**1-B. Hindering state registrar investigation.** A person who knowingly refuses to permit the state registrar to inspect vital records or hinders an investigation conducted by the state registrar pursuant to section 2709 commits a Class E crime.

**Sec. 14. 22 MRSA §2709,** as amended by PL 1973, c. 567, §20, is further amended to read:

**§2709. Duty of state registrar when law violated**

When the ~~State Registrar of Vital Statistics~~ state registrar believes that, in any place in this State, the certificates or records of live births, marriages, deaths or fetal deaths are not made or kept as is provided by law, or that any person neglects or fails to perform any duty required in the law relating to the registration of vital statistics, the ~~said~~ state registrar may visit such places and make such investigations as ~~he may deem~~ the state registrar considers necessary, and all records, blanks and papers of ~~town~~ municipal clerks relating to live births, marriages, deaths or fetal deaths ~~shall~~ must be open to ~~his~~ the state registrar's examination. ~~Any person who refuses to permit or hinders the examination or investigation shall be punished by a fine of not less than $25 nor more than $50.~~

~~When the state registrar knows, or has good reason to believe, that any penalty or forfeiture under the law relating to vital statistics has been incurred, he shall forthwith give notice thereof, in writing, to the district attorney of the county in which said penalty or forfeiture has occurred, which notice shall state as near as may be the time of such neglect, the name of the person or persons incurring the penalty or forfeiture, and such other facts relating to the default of duty as said registrar may have been able to learn, and upon receipt of such notice the district attorney shall prosecute the defaulting person or persons.~~

**Sec. 15. 22 MRSA §2710, sub-§1,** as enacted by PL 2003, c. 672, §17, is amended to read:

**1. Registry.** The Office of ~~Health Data and Program Management~~ Data, Research and Vital Statistics within the department, referred to in this section as "the registry," shall establish a domestic partner registry.

**Sec. 16. 22 MRSA §2761, first ¶,** as amended by PL 1995, c. 260, §6, is further amended to read:

A certificate of each live birth that occurs in this State must be filed with the clerk of the municipality in which the live birth occurred or with the state registrar within a reasonable period of time as specified by ~~the~~ department rules and must be registered if the certificate has been completed and filed in accordance with this section.

**Sec. 17. 22 MRSA §2761, sub-§1,** as amended by PL 1995, c. 260, §6, is further amended to read:

**1. Certificate from hospital.** When the live birth occurs in a hospital or an institution, or en route to the hospital or institution, the person in charge of the institution or the person's authorized designee shall obtain the personal data, prepare the certificate, certify by signature or by electronic process that the child was born alive at the place and time and on the date stated and file the certificate as directed in this section. The physician or other person in attendance shall provide the medical information required by the certificate in a timely fashion, ~~in accordance with~~ as specified by department rule.

**Sec. 18. 22 MRSA §2761, sub-§4,** as amended by PL 2001, c. 574, §23, is further amended to read:

**4. Child not born of marriage.** Except as otherwise provided in this subsection, if the mother was not married at the time of either conception or birth, or between conception and birth, neither the name of the putative father nor any other information about the putative father may be entered on the certificate without his written consent and that of the mother. The signature of the putative father on the written consent must be acknowledged before an official authorized to take oaths. The signature of the mother on her written consent must also be acknowledged before an official authorized to take oaths. If a determination of paternity has been made by a court of competent jurisdiction, then the name of the father as determined by the court must be entered on the birth certificate without the father's or the mother's consent. If the putative father executes an acknowledgement of paternity with the department and the putative father is either named in writing by the mother as the father or is presumed to be the father based on the results of blood or tissue-typing tests, the name of the father must be entered on the birth certificate without the father's or the mother's consent. All voluntary acknowledgments and adjudications of paternity in this State must be filed with the Office of ~~Health Data and Program Management~~ Data, Research and Vital Statistics for comparison with information in the state registry of support orders as established in Title 19-A, section 2104.

**Sec. 19. 22 MRSA §2761-A,** as enacted by PL 1993, c. 738, Pt. C, §4, is amended to read:

**§2761-A. Baptismal records in lieu of birth certificates**

Any ~~Indian~~ Native American whose birth is not recorded pursuant to this Title relating to the registration of live births may, in lieu of a birth certificate, present an official copy of the baptismal record from the files of the mission where the ~~Indian~~ Native American was baptized. The baptismal record has the same evidentiary character as an unamended and undelayed birth certificate under section 2707.

**Sec. 20. 22 MRSA §2765, sub-§2-A, ¶B,** as enacted by PL 1989, c. 818, §9, is amended to read:

B. When a new certificate is established after legitimation pursuant to subsection 1, paragraph B, the actual place and date of birth, the name of the child and the names and personal data of both parents at the time of birth must be shown. Notwithstanding section 2705, the new certificate may not be marked "amended." The new certificate must be filed with all other birth certificates and is not subject to the provisions of ~~section 2706, subsection 1, or~~ section 2761, subsection 4.

**Sec. 21. 22 MRSA §2766, 2nd ¶,** as amended by PL 2001, c. 574, §25, is further amended to read:

Upon verification of the information in this section, the state registrar shall prepare a form identifying the birth parents of the adoptee. This form must be attached to the new certificate of birth established pursuant to section 2765. A copy of the form must be attached to an abstract of birth issued by the Office of ~~Health Data and Program Management~~ Data, Research and Vital Statistics and must be provided to the adoptee.

**Sec. 22. 22 MRSA §2768, sub-§5,** as enacted by PL 2007, c. 409, §4 and affected by §6, is amended to read:

**5. Forms; rules.** The state registrar shall develop by rule the data elements required in the contact preference form, medical history form and application form as required by this section and may adopt other rules for the administration of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 23. 22 MRSA §2769, sub-§5,** as enacted by PL 2007, c. 409, §5 and affected by §6, is amended to read:

**5. Forms; rules.** The state registrar shall develop by rule the data elements required for forms as required by this section and may adopt other rules for the administration of this section. Rules adopted pur-

suant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 24. 22 MRSA §2841, sub-§1,** as amended by PL 1977, c. 232, §1, is further amended to read:

**1. Certificate filed by funeral director.** The funeral director or other authorized person in charge of the disposition of the dead fetus or its removal from the State ~~shall be~~ is responsible for filing the certificate. In the absence of such a person, the physician or other person in attendance at or after the delivery ~~shall be~~ is responsible for filing the certificate. ~~He~~ The funeral director or authorized person or physician or other person in attendance at or after delivery shall obtain the personal data from the best qualified person or source available and shall present the certificate to the person responsible for completing the medical certification of the cause of death.

**Sec. 25. 22 MRSA §2842,** as amended by PL 2007, c. 56, §§1 and 2, is further amended to read:

**§2842. Registration of deaths**

Except as authorized by the department, a certificate of each death ~~which~~ that occurs in this State ~~shall~~ must be filed with the State Registrar of Vital Statistics or clerk of the municipality where death occurred within a reasonable period of time, as specified by department ~~regulation~~ rule, after the day on which death occurred and prior to the removal of the body from the State.

**1. Certificate filed by funeral director.** The funeral director or other authorized person in charge of the disposition of the dead human body or its removal from the State ~~shall be~~ is responsible for filing the certificate. ~~He~~ The funeral director or authorized person shall obtain the personal data from the best qualified person or source available ~~and he shall present the certificate to the physician or medical examiner responsible for completing the medical certification of the cause of death~~.

**2. Medical certificate by physician, nurse practitioner or physician assistant.** The medical certification of the cause of death must be completed ~~in typewritten or legibly hand-printed style~~ and signed in a timely ~~fashion~~ manner, as specified by department rule, by a physician, nurse practitioner or physician assistant authorized to practice in the State who has knowledge of the patient's recent medical condition, in accordance with department ~~regulations~~ rules and other laws detailing who can certify and in what time frame, except when the death falls under the jurisdiction of the medical examiner as provided in section 3025. If the patient was a resident of a nursing home licensed under section 1817 at the time of death and if the health care provider in charge of the patient's care or another health care provider designated by the health care provider in charge had not examined the patient within 48 hours prior to death, or within 2 weeks prior to death in the case of a terminally ill patient, the health care provider in charge or another health care provider designated by the health care provider in charge shall examine the body prior to completing the certification of death process. Any health care provider who fails to complete the medical certification of the cause of death fully, ~~in typewritten or legibly hand-printed style and~~ in a timely manner, or who fails to examine the body of a nursing home resident prior to certifying cause of death as required by this section must be reported to the Board of Licensure in Medicine, the Board of Osteopathic Licensure or the State Board of Nursing, whichever is appropriate, by the State Registrar of Vital Statistics of the Department of Health and Human Services.

For the purposes of this subsection, the following terms have the following meanings.

A. "Life-sustaining procedure" means any medical procedure or intervention that, when administered to a qualified patient, will serve only to prolong the dying process and does not include nutrition and hydration.

B. "Terminally ill patient" means a patient who has been diagnosed as having an incurable or irreversible condition that, without the administration of life-sustaining procedures, will, in the opinion of the attending health care provider, result in death within a short time.

C. "Health care provider" means a physician authorized to practice in this State, nurse practitioner or physician assistant.

D. "Nurse practitioner" means an advanced practice registered nurse who is a certified nurse practitioner authorized to practice without the supervision of a physician pursuant to Title 32, chapter 31.

E. "Physician assistant" means a person who has graduated from a physician assistant or surgeon assistant program accredited by the American Medical Association Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs or its successor and who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants or its successor.

**2-A. Medical certification.** Notwithstanding subsection 2, with respect to a person who dies within the State naturally and for whom the physician, nurse practitioner or physician assistant was the attending health care provider, the medical certification of the cause of death may be completed and signed by a physician, nurse practitioner or physician assistant authorized to practice at the ~~Veterans Administration Hospital~~ United States Department of Veterans Affairs at

Togus or at another federal medical facility within the State or by a physician, an advanced practice registered nurse or physician assistant licensed to practice in New Hampshire, Vermont or Massachusetts who, at the request of the Chief Medical Examiner, is willing to do so.

**3. Medical certificate by medical examiner.** When a death occurs under circumstances that make it a medical examiner case as defined in section 3025, or when inquiry as to the cause of death is required by law, the medical examiner shall complete ~~in typewritten or legibly hand-printed style~~ the medical certification of the cause of death as specified by department rule and sign the death certificate. A certification need not be completed before the remains are ready for release.

The medical examiner is responsible for the identity of the deceased and the time, date, place, cause, manner and circumstances of death on the death certificate. Entries may be left "pending" if further study is needed; or, at the specific direction of the Attorney General relative to cases under investigation by the Attorney General's office, entries must be left "withheld" until such time as the Attorney General, in the Attorney General's sole discretion, determines that any criminal investigation and prosecution will not be harmed by public disclosure of such information. Notwithstanding section 2706, subsection 4, unless directed otherwise by the Attorney General as specified in this subsection, this information for which the medical examiner is responsible may be made available to the general public by the Office of Chief Medical Examiner.

**4. Correction of errors on death statistic records filed under chapter 711.** Certificates of death in medical examiner cases, as defined in section 3025, may be completed or amended at any time by means ~~of forms provided~~ described in rule by the department to the Office of Chief Medical Examiner. Either the Chief Medical Examiner or the medical examiner assigned to the case may sign the forms. A person authorized by the Chief Medical Examiner may amend a certificate of death with respect to the time, date, place and circumstances of death. The medical examiner assigned shall submit the form to the Office of the Chief Medical Examiner for filing with the State Registrar of Vital Statistics. These forms may be filed at any time after death and need not include a summary description of the evidence in support of the completion or amendment.

**Sec. 26. 22 MRSA §2842-B,** as repealed and replaced by PL 2001, c. 601, §1, is amended to read:

**§2842-B. Native American human remains**

**1. Transfer of remains.** Except as provided in subsections 2 and 3, a person or entity who possesses any human remains identified as ~~Indian~~ Native American human remains shall transfer the remains to the intertribal repatriation organization that is appointed by the Passamaquoddy Tribe, Penobscot Nation, Houlton Band of Maliseet Indians and Aroostook Band of Micmacs for reburial. The intertribal repatriation organization shall make reasonable inquiry to locate the next of kin of the deceased. If next of kin are located, the intertribal repatriation organization shall transfer the remains to the next of kin.

**2. Medical Examiner cases.** In cases within the jurisdiction of the Medical Examiner Act, the Chief Medical Examiner has authority over ~~Indian~~ Native American human remains until the remains are no longer required for legal purposes. At that time, the Chief Medical Examiner shall make reasonable inquiry to locate the next of kin of the deceased. If next of kin are located, the Chief Medical Examiner shall release the remains to the next of kin of the deceased. If no next of kin are located, the remains must be released to the intertribal repatriation organization for reburial.

**3. Native American Graves Protection and Repatriation Act.** Subsection 1 does not apply to any human remains or any person or entity subject to the Native American Graves Protection and Repatriation Act, 25 United States Code, Chapter 32.

**4. Memorandum of understanding.** The Chief Medical Examiner, the Maine Historic Preservation Commission and the Maine State Museum shall enter into a memorandum of understanding concerning the disposition of human remains in the possession of the Chief Medical Examiner that are subject to the Native American Graves Protection and Repatriation Act.

**Sec. 27. 22 MRSA §2843,** as amended by PL 2007, c. 56, §§3 and 4, is further amended to read:

**§2843. Permits for final disposition of dead human bodies**

Except as authorized by the department, a dead human body may not be buried, cremated or otherwise disposed of or removed from the State until a funeral director or other authorized person in charge of the disposition of the dead human body or its removal from the State has obtained a permit from the State Registrar of Vital Statistics or the clerk of the municipality where death occurred or where the establishment of a funeral director having custody of the dead human body is located as specified by department rule. The permit is sufficient authority for final disposition in any place where dead human bodies are disposed of in this State, as long as the requirements of Title 32, section 1405 are met in appropriate cases. The permit may not be issued to anyone other than a funeral director until the state registrar or the clerk of the municipality receives a medical certificate that has been signed by a physician or a medical examiner that indicates that the physician or medical examiner has per-

sonally examined the body after death. A permit must also be issued if a nurse practitioner or physician assistant has signed the medical certificate indicating that the nurse practitioner or physician assistant has knowledge of the deceased's recent medical condition or was in charge of the deceased's care and that the nurse practitioner or physician assistant has personally examined the body after death. The authorized person may transport a dead human body only upon receipt of this permit.

~~A~~ The State Registrar of Vital Statistics or a municipal clerk may issue a permit for final disposition by cremation, burial at sea, use by medical science or removal from the State only upon receipt of a certificate of release by a duly appointed medical examiner as specified in Title 32, section 1405.

~~A~~ The State Registrar of Vital Statistics or a municipal clerk may issue a disposition of human remains permit to a funeral director who presents a report of death and states that the funeral director has been unable to obtain a medical certification of the cause of death. The funeral director shall name the attending physician, attending nurse practitioner, attending physician assistant or medical examiner who will certify to the cause of death and present assurances that the attending physician, attending nurse practitioner, attending physician assistant or medical examiner has agreed to do so. The funeral director shall exercise due diligence to secure the medical certification and file the death certificate as soon as possible.

**1. Permit for transportation.** Each dead human body transported into this State for final disposition ~~shall~~ must be accompanied by a permit issued by the duly constituted authority at the place of death. Such permit ~~shall be~~ is sufficient authority for final disposition in any place where dead human bodies are disposed of in this State.

**2. Permit for disinterment or removal.** ~~No~~ A dead human body may not be disinterred or removed from any vault or tomb until the person in charge of the disinterment or removal has obtained a permit from the clerk of the municipality where the dead human body is buried or entombed. The permit must be issued upon receipt of a notarized application signed by the next of kin of the deceased who verifies that the signer is the closest surviving known relative and, where any other family member of equal or greater legal or blood relationship or a domestic partner of the decedent also survives, that all such persons are aware of, and do not object to, the disinterment or removal. Nothing contained in this subsection precludes a court of competent jurisdiction from ordering or enjoining disinterment or removal pursuant to section 3029 or in other appropriate circumstances. For purposes of this subsection, "domestic partner" means one of 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare.

**3. Permit for burial.** The person in charge of each burying ground or crematory in this State shall endorse each such permit with which ~~he~~ that person is presented, and return it to the clerk of the municipality in which such burying ground or crematory is located within 7 days after the date of disposition. If there is no person in charge of the burying ground, an official of the municipality in which the burying ground is located shall endorse each such permit, and present it to the clerk of the municipality. The funeral director or authorized person shall present a copy of each permit, after endorsement, to the State Registrar of Vital Statistics or the clerk of the municipality where death occurred and to the clerk who issued the permit.

**4. Records.** Each municipality shall maintain a record of any endorsed permit received pursuant to subsection 3. These records ~~shall~~ must be open to public inspection.

**Sec. 28. 22 MRSA §2843-A, sub-§1, ¶B-1** is enacted to read:

B-1. "Dead body" or "dead human body" means a body or fetus for which it reasonably can be determined that death occurred.

**Sec. 29. 22 MRSA §2843-A, sub-§2,** as enacted by PL 1993, c. 609, §1, is amended to read:

**2. Custody and control generally.** The custody and control of the remains of deceased residents of this State, dead bodies or dead human bodies are governed by the following provisions.

A. If the subject has designated a person to have custody and control in a written and signed document, custody and control belong to that person.

B. If the subject has not left a written and signed document designating a person to have custody and control, or if the person designated by the subject refuses custody and control, custody and control belong to the next of kin.

C. If the next of kin is 2 or more persons with the same relationship to the subject, the majority of the next of kin have custody and control. If the next of kin can not, by majority vote, make a decision regarding the subject's remains, the court shall make the decision upon petition under subsection 4, paragraph D.

**Sec. 30. 22 MRSA §2844,** as amended by PL 2001, c. 574, §29, is further amended to read:

**§2844. Subregistrars**

The ~~town or city~~ State Registrar of Vital Statistics or municipal clerk may appoint one or more suitable and proper persons in ~~the~~ a municipality as subregistrars, who are authorized to issue permits for transpor-

tation and final disposition of dead human bodies in the same manner as is required of the ~~town or city~~ state registrar or municipal clerk, as specified by department rule. ~~Permits may be issued by a subregistrar only when the town or city clerk or deputy clerk is not available.~~ The completed death certificate or report of death, upon which the permit is issued, together with a copy of the disposition of human remains permit must be forwarded to the ~~town~~ municipal clerk at the earliest opening of the municipal office after the date of issue, and all permits by whomsoever issued must be returned to the ~~town~~ municipal clerk as required by section 2843. The appointment of subregistrars must be made with reference to locality, so as to best suit the convenience of the inhabitants of the ~~town~~ municipality, and such annual appointment must be in writing and recorded in the office of the ~~town or city~~ state registrar or municipal clerk. The subregistrars in any ~~town~~ municipality hold office at the pleasure of the ~~town~~ state registrar or municipal clerk.

**Sec. 31. Appropriations and allocations.** The following appropriations and allocations are made.

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

**Division of Data, Research and Vital Statistics Z037**

Initiative: Allocates funds for program operating expenses.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $185,638 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $185,638 |

See title page for effective date.

## CHAPTER 602

## S.P. 698 - L.D. 1787

## An Act To Provide for Legislative Review of Recently Proposed Revisions to Certain Rules Adopted Pursuant to the Site Location of Development Laws and the Storm Water Management 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,** rulemaking relating to the site location of development laws and the storm water management laws is currently in progress and could be complete before this legislation goes into effect unless this legislation is 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. 38 MRSA §420-D, sub-§9,** as amended by PL 2005, c. 602, §4, is further amended to read:

**9. Rules.** Rules adopted pursuant to this section after January 1, 2010 and before January 1, 2012 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Any rules adopted by the department pursuant to this section on or after January 1, 2012 are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that those rules that qualify as state mandates pursuant to the Constitution of Maine, Article IX, Section 21 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 2. 38 MRSA §485-A,** as amended by PL 2009, c. 293, §2, is further amended to read:

**§485-A. Notification required; board action; administrative appeals**

**1. Application.** Any person intending to construct or operate a development shall, before commencing construction or operation, notify the commissioner in writing of the intent, nature and location of the development, together with such other information as the board may by rule require. The department shall approve the proposed development, setting forth such terms and conditions as are appropriate and reasonable, disapprove the proposed development, setting forth the reasons for the disapproval, or schedule a hearing in the manner described in section 486-A.

**1-A. Wood supply.** For a new or expanded development requiring an annual supply of wood or wood-derived materials in excess of 150,000 tons green weight, the applicant shall submit a wood supply plan for informational purposes to the Maine Forest Service concurrent with the application required in subsection 1. The wood supply plan must include, but is not limited to, the following information:

A. The expected operational life of the development;

B. The projected annual wood consumption of wood mill residue, wood fiber and recycled mate-

rials from forest products during the entire operational life of the development;

C. The expected market area for wood supply necessary to supply the development; and

D. Other relevant wood supply information.

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

**2. Hearing request.** If the department has issued an order without a hearing regarding any person's development, that person may request, in writing, a hearing before the board within 30 days after notice of the department's decision. This request must set forth, in detail, the findings and conclusions of the department to which that person objects, the basis of the objections and the nature of the relief requested. Upon receipt of the request, the board shall schedule and hold a hearing limited to the matters set forth in the request. Hearings must be scheduled in accordance with section 486-A.

**3. Failure to notify commissioner.** The commissioner may, at any time with respect to any person who has commenced construction or operation of any development without having first notified the commissioner pursuant to this section, schedule and conduct a public hearing with respect to that development.

**4. Permit display.** A person issued a permit pursuant to this article for activities in a great pond watershed shall have a copy of the permit on site while work authorized by that permit is being conducted.

**Sec. 3. 38 MRSA §489-E** is enacted to read:

**§489-E. Rulemaking**

Except for rules adopted pursuant to section 488, subsections 14 and 18, rules adopted pursuant to this article by the department after January 1, 2010 and before January 1, 2012 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Any rules adopted by the department pursuant to this article on or after January 1, 2012 are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 4. Rules.** The Department of Environmental Protection shall submit any major substantive rules provisionally adopted in 2010 pursuant to this Act to the joint standing committee of the 125th Legislature having jurisdiction over natural resources matters for review.

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

Effective April 2, 2010.

## CHAPTER 603

## H.P. 15 - L.D. 20

### An Act To Require Insurance Companies To Cover the Cost of Prosthetics Containing Microprocessors

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

**Sec. 1. 24-A MRSA §4315, sub-§6,** as enacted by PL 2003, c. 459, §1 and affected by §2, is amended to read:

**6. Exclusions.** Coverage is not required pursuant to this section for a prosthetic device ~~that contains a microprocessor or~~ that is designed exclusively for athletic purposes.

**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, 2011. 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.

## CHAPTER 604

## S.P. 627 - L.D. 1662

### An Act To Improve Maine's Air Quality and Reduce Regional Haze at Acadia National Park and Other Federally Designated Class I Areas

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

**Sec. 1. 38 MRSA §603-A, sub-§2,** as amended by PL 2007, c. 95, §5, is further amended to read:

**2. Prohibitions.** Except as provided in subsections 4~~, 5~~ and ~~8~~ 9, ~~no~~ a person may not use any liquid

fossil fuel with a sulfur content exceeding the limits in paragraph A or any solid fossil fuel with a sulfur content to heat content ratio exceeding the limits of paragraph B.

A. The sulfur content for liquid fossil fuels is as follows.

(1) In the Central Maine, Downeast, Aroostook County and Northwest Maine Air Quality Control Regions and the Metropolitan Portland Air Quality Control Region outside the Portland Peninsula Air Quality Control Region, ~~no~~ a person may not use any ~~liquid fossil~~ residual fuel oil with a sulfur content greater than ~~2.5% until November 1, 1991, and~~ 2.0% by weight ~~any time thereafter~~; beginning January 1, 2018, the limit for those regions is 0.5% by weight. ~~In the Metropolitan Portland Air Quality Control Region outside the Portland Peninsula Air Quality Control Region, no person may use any liquid fossil fuel with a sulfur content greater than 2.5% until November 1, 1991, and 2.0% by weight any time thereafter.~~

(2) In the Portland Peninsula Air Quality Control Region, ~~no~~ a person may not use any ~~liquid fossil~~ residual fuel oil with a sulfur content greater than 1.5% by weight ~~any time after November 1, 1975~~; beginning January 1, 2018, the limit for that region is 0.5% by weight.

(3) Statewide, a person may not use a distillate fuel:

(a) Beginning January 1, 2016, with a sulfur content greater than 0.005% by weight; and

(b) Beginning January 1, 2018, with a sulfur content greater than 0.0015% by weight.

The sulfur content requirements in this subparagraph do not apply to the use of distillate fuel for manufacturing purposes.

B. The sulfur content for solid fossil fuels is as follows:

(1) One and two-tenths pounds sulfur per million British Thermal Units until November 1, 1991, and .96 pounds sulfur per million British Thermal Units thereafter, calculated as a calendar quarter average for sources in the Central Maine, Downeast, Aroostook County, Northwest Maine Air Quality Control Regions and that portion of the Metropolitan Portland Air Quality Region outside the Portland Peninsula Air Quality Region. A calendar quarter is composed of the months as follows: (1) January, February, March; (2) April, May, June; (3) July, August, September; and (4) October, November, December; and

(2) Seventy-two hundredths pounds sulfur per million British Thermal Units calculated as a calendar quarter average for sources in the Portland Peninsula Air Quality Region. A calendar quarter is composed of the months as follows: (1) January, February, March; (2) April, May, June; (3) July, August, September; and (4) October, November, December.

**Sec. 2. 38 MRSA §603-A, sub-§9** is enacted to read:

**9. Equivalent alternative sulfur reduction application.** The department shall adopt major substantive rules as defined in Title 5, chapter 375, subchapter 2-A that provide an opportunity for a licensed air contamination source that holds a license on the effective date of this subsection to apply for an equivalent alternative sulfur reduction strategy to the residual fuel oil and distillate fuel requirements in subsection 2. The rules must provide for the achievement of equivalent sulfur emission reductions through other means, including, but not limited to, reductions in consumption of residual fuel oil and distillate fuel, early sulfur emission reductions from a baseline emissions inventory year of 2002 and conversions to alternative fuels. The department shall submit the major substantive rules to the Legislature by January 31, 2014. Approved alternate sulfur reduction strategies must be in effect by January 1, 2018.

**Sec. 3. Advisory committee on reducing reliance on fuel oil.** The Department of Environmental Protection shall establish an advisory committee to assess the barriers and impediments to air emissions sources' reducing their reliance on fuel oils, including, but not limited to, the feasibility of increased gas supply, conversion to other fuels that reduce air pollution including greenhouse gases and the reductions in demand for energy derived from fuel oil. The advisory committee shall present its findings with initial recommendations to the Legislature by January 15, 2011 and a final report with recommendations by January 15, 2012. The advisory committee consists of 9 members including the Commissioner of Environmental Protection, who serves as the chair. The commissioner shall appoint the members of the advisory committee, which include 4 members representing the industrial sector, 2 members representing environmental interests and 2 representatives from other state agencies.

**Sec. 4. Fuel oil supply study.** The Department of Environmental Protection shall conduct a fuel oil supply study in 2014 and submit the results of its findings to the Legislature by January 15, 2015. The department shall hold a public hearing on the subject

matter of this section and allow for submittal of oral and written comment.

See title page for effective date.

## CHAPTER 605

## S.P. 598 - L.D. 1561

### An Act To Regulate the Use of Automated License Plate Recognition Systems

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

**Sec. 1. 29-A MRSA §2117-A** is enacted to read:

**§2117-A. Use of automated license plate recognition systems**

**1. Definitions.** As used in this section, unless the context otherwise indicates, "automated license plate recognition system" means a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of registration plates into computer-readable data. "Automated license plate recognition system" does not include a photo-monitoring system, as defined in Title 23, section 1980, subsection 2-A, paragraph B, subparagraph (4), when used by the Maine Turnpike Authority or a law enforcement agency for toll enforcement purposes.

**2. Prohibition.** Except as otherwise provided in subsection 3, a person may not use an automated license plate recognition system.

**3. Exception.** Subsection 2 does not apply to:

A. The Department of Transportation for the purposes of protecting public safety and transportation infrastructure;

B. The Department of Public Safety, Bureau of State Police for the purposes of commercial motor vehicle screening and inspection; and

C. Any state, county or municipal law enforcement agency when providing public safety, conducting criminal investigations and ensuring compliance with local, state and federal laws. For purposes of this paragraph, an automated license plate recognition system may use only information entered by a law enforcement officer as defined by Title 17-A, section 2, subsection 17 and based on specific and articulable facts of a concern for safety, wrongdoing or a criminal investigation or pursuant to a civil order or records from the National Crime Information Center database or an official published law enforcement bulletin.

An authorized user under this subsection of an automated license plate recognition system may use an automated license plate recognition system only for the official and legitimate purposes of the user's employer.

**4. Confidentiality.** Data collected or retained through the use of an automated license plate recognition system in accordance with subsection 3 are confidential under Title 1, chapter 13 and are available for use only by a law enforcement agency in carrying out its functions or by an agency collecting information under subsection 3 for its intended purpose and any related civil or criminal proceeding.

A law enforcement agency may publish and release as public information summary reports using aggregate data that do not reveal the activities of an individual or firm and may share commercial motor vehicle screening data with the Federal Motor Carrier Safety Administration for regulatory compliance purposes.

**5. Data retention.** Data collected or retained through the use of an automated license plate recognition system in accordance with subsection 3 that are not considered intelligence and investigative information as defined by Title 16, section 611, subsection 8, or data collected for the purposes of commercial motor vehicle screening, may not be stored for more than 21 days.

**6. Penalty.** Violation of this section is a Class E crime.

**Sec. 2. Working group to study the use of automated license plate recognition systems.** The Secretary of State shall establish a working group to study and assess potential issues relating to the use of automated license plate recognition systems by law enforcement agencies and other authorized agencies. In addition to the Secretary of State, the working group must include, but is not limited to, representatives of the Department of Public Safety, Bureau of State Police, representatives of local and county law enforcement, representatives of the Department of Transportation, representatives of the Maine Turnpike Authority and representatives of organizations or individuals representing privacy and constitutional interests.

The working group report under section 3 must include a review of a September 2009 report, completed by an international association of chiefs of police that studied the privacy impact of enhanced collection, analysis and dissemination of license plate data made possible by automated license plate recognition system technology. The working group report must include model policy or draft legislation, either developed by the working group or by an association

representing users of automated license plate recognition systems.

**Sec. 3. Report.** The working group under section 2 shall submit a report including its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over transportation matters no later than January 15, 2011.

See title page for effective date.

## CHAPTER 606

## H.P. 1086 - L.D. 1542

### An Act To Make Maine's Laws Consistent with the Federal Family Smoking Prevention and Tobacco Control Act

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

**Sec. 1. 22 MRSA §1560-D,** as amended by PL 2007, c. 612, §1, is further amended to read:

**§1560-D. Flavored cigars**

**1. Definitions.** As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Characterizing flavor" means a distinguishable taste or aroma of candy, chocolate, vanilla, fruit, berry, nut, herb, spice, honey or an alcoholic drink that is imparted to tobacco or tobacco smoke either prior to or during consumption~~, other than a taste or aroma from tobacco, menthol, clove, coffee, nuts or peppers~~. "Characterizing flavor" does not include a taste or aroma from tobacco. A cigar is deemed to have a characterizing flavor if the cigar is advertised or marketed as having or producing the taste or aroma of candy, chocolate, vanilla, fruit, berry, nut, herb, spice, honey or an alcoholic drink.

B. "Component part" includes but is not limited to the tobacco, filter and paper in a ~~cigarette or~~ cigar.

C. "Constituent" means any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by the manufacturer to the tobacco, paper or filter of a ~~cigarette or~~ cigar during the processing, manufacture or packing of the ~~cigarette or~~ cigar. "Constituent" includes a smoke constituent.

D. "Flavored cigar" means a cigar or any component part ~~thereof~~ of the cigar that contains a constituent that imparts a characterizing flavor.

~~E. "Flavored cigarette" means a cigarette or any component part thereof that contains a constituent that imparts a characterizing flavor.~~

E-1. "Premium cigar" means a cigar that weighs more than 3 pounds per 1,000 cigars and is wrapped in whole tobacco leaf.

F. "Smoke constituent" means any chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the ~~cigarette or~~ cigar to the smoke or that is formed by the combustion or heating of tobacco, additives or other component of the tobacco product.

**2. Prohibition on sale or distribution of flavored cigars.** ~~Beginning July 1, 2009~~ Except as provided in subsection 5-A, a person may not sell or distribute or offer to sell or distribute in this State any flavored ~~cigarette or flavored~~ cigar unless~~:~~ the cigar is a premium cigar.

~~A. The flavored cigarette or flavored cigar was first on the market prior to January 1, 1985, based on a statement to that effect filed with the Attorney General by the current manufacturer and verified by the Attorney General.~~

~~B. The flavored cigarette or flavored cigar is exempt under subsection 5; or~~

~~C. The sale is allowed under the transition provisions of subsection 7.~~

**3. Violation.** A person who violates this section commits a civil violation for which fines may be imposed under subsection 4.

**4. Fines.** The fines that apply to violations of this section are as set out in this subsection.

A. A person who violates subsection 2 ~~or 6~~ commits a civil violation for which a fine of $1,000 may be adjudged.

B. A person who violates subsection 2 ~~or 6~~ after having previously been convicted of a violation of ~~the same~~ that subsection commits a civil violation for which a fine of $5,000 may be adjudged.

~~**5. Exemptions.** For flavored cigarettes and flavored cigars that were first on the market after January 1, 1985, the Attorney General shall establish and administer a process by rule for granting exemptions based on a determination by the Attorney General that the characterizing flavor is not one known to appeal or likely to appeal to youth.~~

~~A. After an exemption has been granted for a flavored cigarette or flavored cigar under this subsection, a person or entity to whom an exemption has been granted has an affirmative duty to inform the Attorney General at the time that a material change is made in the characterizing flavor of the~~

~~flavored cigarette or flavored cigar. A violation of the duty to inform imposed by this paragraph constitutes a civil violation for which a fine of not more than $10,000 may be adjudged.~~

~~B. The Attorney General may revoke an exemption granted under this subsection if the Attorney General determines that a material change has been made to the product's characterizing flavor.~~

**5-A. Exemptions.** Any flavored cigar that the Attorney General determined had no characterizing flavor or was otherwise exempt under former subsection 5 is exempt from the prohibition on flavored nonpremium cigars in subsection 2 so long as no material change is made to the cigar's flavoring, packaging or labeling subsequent to the Attorney General's determination.

~~**6. Tobacco distributors.** Beginning on July 1, 2009, a tobacco distributor may not purchase or accept for sale new stock of flavored cigarettes and flavored cigars except for flavored cigarettes or flavored cigars that are exempt under subsection 5.~~

~~**7. Transition.** Notwithstanding the prohibitions of subsection 2, from July 1, 2009 to December 31, 2009, a tobacco distributor or retailer may sell flavored cigarettes and flavored cigars that the distributor or retailer held in stock prior to July 1, 2009.~~

**8. Website information.** To the extent that resources permit, the Attorney General shall maintain on a publicly accessible website a list of ~~flavored cigarettes and~~ flavored cigars that are exempt from the prohibition under subsection 5-A and authorized for distribution and sale in the State.

~~**9. Rulemaking.** No later than January 15, 2008, the Attorney General shall adopt rules to implement this section. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.~~

**10. Transfers of funds.** Notwithstanding any other provision of law, for fiscal years beginning on or after July 1, 2009 the State Controller shall transfer $92,660 no later than June 30, 2010 and $145,147 no later than June 30, 2011 from the Fund for a Healthy Maine to General Fund undedicated revenue.

For fiscal years beginning on or after July 1, 2011 the State Controller in consultation with the State Tax Assessor shall determine the General Fund revenue loss resulting from this section and transfer that amount at least annually from the Fund for a Healthy Maine to General Fund undedicated revenue.

**Sec. 2. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 22, chapter 262-A, subchapter 5, in the subchapter headnote, the words "flavored cigarettes and flavored cigars" are amended to read "flavored cigars" 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 607

## S.P. 666 - L.D. 1737

### An Act To Clarify Safety Requirements in Acadia National Park

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

**Sec. 1. 12 MRSA §756** is enacted to read:

**§756. Acadia National Park**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Firearm" has the same meaning as in section 10001, subsection 21.

B. "Residential dwelling" means a fixed housing structure that either is the principal residence of its occupants or is occupied on a regular and recurring basis by its occupants as an alternate residence or vacation home.

**2. Possession of firearms.** A person may not use or possess a firearm in Acadia National Park except:

A. Within a residential dwelling;

B. To the extent the firearm is used in connection with hunting when and where authorized by state or federal law;

C. Within a mechanical mode of conveyance as long as the firearm is rendered temporarily inoperable or is packed, cased or stored in a manner that prevents its ready use;

D. When the firearm is carried by an authorized federal, state or local law enforcement officer in the performance of the officer's official duties;

E. When the firearm is a concealed firearm carried by a qualified law enforcement officer pursuant to 18 United States Code, Section 926B. The 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;

F. When the firearm is a concealed firearm carried by a qualified retired law enforcement officer pursuant to 18 United States Code, Section 926C. The 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 is carrying the concealed firearm, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm; 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 is carrying the concealed firearm, been tested or otherwise found by the state to meet the standards established by the state for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm; or

G. When the firearm is a concealed firearm carried by a person to whom a valid permit to carry a concealed firearm has been issued as provided in Title 25, chapter 252. The person must have in that person's possession the permit as required in Title 25, section 2003.

**3. Violation.** The following penalties apply to violations of this section.

A. A person who, in violation of subsection 2, possesses or uses a firearm that is not concealed commits a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

B. A person who, in violation of subsection 2, possesses or uses a concealed firearm commits a Class D crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

C. A person who is authorized to use or possess a firearm under subsection 2, paragraphs E to G who does not have the required identification or permit in that person's possession at all times when possessing or using the firearm commits a civil violation for which a fine of not more than $100 may be adjudged.

**Sec. 2. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 12, chapter 209, in the chapter headnote, the words "national forests" are amended to read "national forests and parks" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

## CHAPTER 608

## H.P. 1277 - L.D. 1789

### An Act Containing the Recommendations of the Criminal Law Advisory Commission

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

**Sec. 1. 15 MRSA §3314, sub-§1, ¶E,** as amended by PL 2005, c. 507, §10, is further amended to read:

E. The court may require the juvenile to make restitution for any damage to the victim or other authorized claimant as compensation for economic loss upon reasonable conditions that the court determines appropriate. For the purposes of this paragraph, ~~the definitions in Title 17-A, section 1322 and~~ the provisions of Title 17-A, ~~sections 1324, 1326-B, 1326-E, 1328-A and 1329~~ chapter 54 apply, except that section 1329~~, subsection 3, paragraph A~~ does not apply. Enforcement of restitution order is available pursuant to subsection 7. If the restitution was a condition of probation, the attorney for the State may with written consent of the juvenile community corrections officer, file a motion to revoke probation.

**Sec. 2. 15 MRSA §3314, sub-§7,** as amended by PL 2007, c. 536, §3, is further amended to read:

**7. Enforcement of a dispositional order or order to appear.** After notice and hearing and in accordance with the Maine Rules of Civil Procedure, Rule 66, the court may exercise its inherent contempt power by way of a plenary contempt proceeding involving punitive sanctions, accompanied or unaccompanied by remedial sanctions, to enforce the disposition ordered following an adjudication for a juvenile crime or to enforce any order requiring the appearance of a juvenile before the court. Any confinement imposed as a punitive or remedial sanction upon a person who has not attained 18 years of age may not exceed 30 days and must be served in a facility approved or operated by the Department of Corrections exclusively for juveniles. Any confinement imposed as a punitive or remedial sanction upon a person who has attained 18 years of age, if to be served in a facility approved or operated by the Department of Corrections exclusively for juveniles, may not exceed 30 days. To enforce the disposition ordered following an adjudication for a juvenile crime defined in section 3103, subsection 1,

paragraph B or C upon a person who has not attained 18 years of age, the court shall, at the time of the disposition, provide written notice to the juvenile of the court's authority to enforce the dispositional order through an exercise of its inherent contempt power and that a contempt order could include an order of confinement for up to 30 days as a punitive sanction and for up to 30 days as a remedial sanction. Except as explicitly set out in this subsection, nothing in this subsection affects the court's ability to exercise its contempt powers for persons who have attained 18 years of age.

In addition to the contempt powers described in this subsection, upon a default in payment of a fine or restitution, execution may be levied and other measures authorized for the collection of unpaid civil judgments may be taken to collect the unpaid fine or restitution. A levy of execution does not discharge a juvenile confined as a punitive sanction and does not discharge a juvenile confined as a remedial sanction until the full amount of the fine or restitution has been paid.

**Sec. 3. 17-A MRSA §283, sub-§3** is enacted to read:

**3.** For purposes of this section, any element of age of the person depicted means the age of the person at the time the sexually explicit conduct occurred, not the age of the person depicted at the time of dissemination or possession of the sexually explicit visual image or material.

**Sec. 4. 17-A MRSA §284, sub-§5** is enacted to read:

**5.** For purposes of this section, any element of age of the person depicted means the age of the person at the time the sexually explicit conduct occurred, not the age of the person depicted at the time of dissemination or possession of the sexually explicit visual image or material.

**Sec. 5. 17-A MRSA §756,** as amended by PL 2009, c. 142, §4, is further amended to read:

**§756. Aiding escape**

**1.** A person is guilty of aiding escape if, with the intent to aid another person to violate section 755:

A. The ~~actor~~ person conveys or attempts to convey to the other person any ~~contraband~~ tool or other thing that may be used to facilitate a violation of section 755. Violation of this paragraph is a Class C crime;

A-1. The ~~actor~~ person conveys or attempts to convey to the other person ~~contraband that includes~~ a dangerous weapon. Violation of this paragraph is a Class B crime;

B. The ~~actor~~ person furnishes plans, information or other assistance to the other person. Violation of this paragraph is a Class C crime; or

C. The ~~actor~~ person whose official duties include maintaining persons in official custody, as defined in section 755, subsection 3, permits such violation or an attempt at such violation. Violation of this paragraph is a Class C crime.

~~**2.** As used in this section, "contraband" means a dangerous weapon, any tool or other thing that may be used to facilitate a violation of section 755, any thing that a person is prohibited by statute from making, possessing or trafficking in or a scheduled drug as defined in section 1101, subsection 11, unless the drug was validly prescribed to the person in official custody and was approved for use by the person pursuant to the procedures of the custodial agency.~~

**4.** A person may not be indicted or charged in an information with both a violation of this section and as an accomplice to a violation of section 755.

**Sec. 6. 17-A MRSA §757, sub-§2,** as repealed and replaced by PL 1977, c. 510, §65, is amended to read:

**2.** As used in this section, "official custody" has the same meaning as in section 755. As used in this section, "contraband" ~~has the same meaning as in section 756~~ means a dangerous weapon or anything that a person confined in official custody is prohibited by statute from making, possessing or trafficking in or a scheduled drug as defined in section 1101, subsection 11, unless the drug was validly prescribed to the person in official custody and was approved for use by the person pursuant to the procedures of the custodial agency.

**Sec. 7. 17-A MRSA §1177** is enacted to read:

**§1177. Certain communications by victims confidential**

The following communications are privileged from disclosure:

**1.** Communications by a victim as described in Title 16, section 53-A, subsection 2 to a sexual assault counselor as defined in Title 16, section 53-A, subsection 1, paragraph B are privileged from disclosure as provided in Title 16, section 53-A, subsection 2.

**2.** Communications by a victim as defined in Title 16, section 53-B, subsection 1, paragraph B, to an advocate, as defined in Title 16, section 53-B, subsection 1, paragraph A, are privileged from disclosure as provided in Title 16, section 53-B, subsection 2, subject to exceptions in Title 16, section 53-B, subsection 3.

**3.** Communications by a victim as defined in Title 16, section 53-C, subsection 1, paragraph B, to a victim witness advocate or a victim witness coordinator, as defined in Title 16, section 53-C, subsection 1, paragraph C, are privileged from disclosure as pro-

vided in Title 16, section 53-C, subsection 2, subject to exceptions in Title 16, section 53-C, subsection 3.

**Sec. 8. 17-A MRSA §1202, sub-§1-A, ¶A,** as repealed and replaced by PL 2003, c. 711, Pt. B, §14, is amended to read:

A. If the State pleads and proves that at the time of the crime the victim had not attained 12 years of age or, in the case of a crime under sections 283 and 284, the victim had not attained 12 years of age at the time the sexually explicit conduct occurred, the period of probation for a person convicted under chapter 11 or 12 may not exceed:

(1) Eighteen years for a Class A crime;

(2) Twelve years for a Class B crime; and

(3) Six years for a Class C crime;

**Sec. 9. 17-A MRSA §1204, sub-§2-A, ¶B,** as repealed and replaced by PL 1977, c. 455, §2, is amended to read:

B. To make restitution pursuant to chapter 54 to each victim of ~~his~~ the convicted person's crime, or to the county where the offense is prosecuted if the identity of the victim cannot be ascertained or if the victim voluntarily refuses the restitution. If the court orders as a condition of probation that the convicted person forfeit and pay a specific amount of restitution, that order, as a matter of law, also constitutes the imposition of restitution pursuant to chapter 54 as a sentencing alternative and no additional order in this regard is necessary.

**Sec. 10. 17-A MRSA §1304, sub-§1-A** is enacted to read:

**1-A.** For purposes of this section, if an offender is returned to court pursuant to a warrant, both the court located where the warrant is issued and the court located where the warrant is executed are authorized to conduct the default hearing pursuant to subsection 3.

**Sec. 11. 17-A MRSA §1304, sub-§3, ¶A,** as repealed and replaced by PL 2007, c. 517, §1, is 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 $5 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. 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 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 not less than $5 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.

**Sec. 12. 17-A MRSA §1326-A,** as amended by PL 2009, c. 94, §3, is further amended to read:

**§1326-A. Time and method of restitution**

When restitution is authorized, and the offender is not committed to the Department of Corrections ~~or~~ and does not receive a sentence that includes a period of probation, the time and method of payment or of the performance of the services must be specified by the court and monetary compensation may be ordered paid to the office of the prosecuting attorney who is prosecuting the case or to the clerk of the court. If the offender is committed to the Department of Corrections or receives a sentence that includes a period of probation, monetary compensation must be paid to the Department of Corrections and the time and method of payment must be determined by the Department of Corrections during the term of commitment or the period of probation. Once any term of commitment to

the Department of Corrections or period of probation is completed and if the restitution ordered has not been paid in full, the offender is subject to the provisions of section 1326-F and, in the event of a default, the provisions of section 1329~~, including a specification by the court of the time and method of payment of monetary compensation upon a finding of excusable default~~. The state agency receiving the restitution shall deposit any money received in the account maintained by the Treasurer of State for deposit of state agency funds, from which funds are daily transferred to an investment account and invested. Interest accrued on that money is the property of and accrues to the State for deposit in the General Fund. The agency receiving the restitution shall make the disbursement to the victim or other authorized claimant as soon as possible after the agency receives the money.

**Sec. 13. 17-A MRSA §1326-B, sub-§1,** as enacted by PL 1999, c. 469, §1, is amended to read:

**1.** When restitution is required of an offender who will not be commencing service of a period of institutional confinement, who does not receive a sentence that includes a period of probation and who is employed, the court shall, at the time of ordering restitution, enter a separate order for income withholding. When restitution is required of an offender who receives a sentence that includes a period of probation and who is employed, upon application of the offender's probation officer, the court shall enter a separate order for income withholding. The withholding order must direct the employer to deduct from all income due and payable to the offender an amount ~~required by the court~~ determined pursuant to section 1326-A to meet the offender's restitution obligation. The withholding order must include an instruction to the employer that upon receipt of a copy of the withholding order the employer shall:

A. Immediately begin to withhold the offender's income when the offender is usually paid;

B. Send each amount withheld to the agency to which restitution has been ordered to be paid at the address set forth in the order within 7 business days of the withholding; and

C. Identify each amount sent to the agency by indicating the court's docket number.

**Sec. 14. 17-A MRSA §1326-F** is enacted to read:

**§1326-F. Former Department of Corrections' clients owing restitution**

An offender is responsible for paying any restitution outstanding at the time the term of commitment to the Department of Corrections or period of probation is completed. An offender who has complied with the time and method of payment of monetary compensation determined by the Department of Corrections during the period of probation shall continue to make payments to the Department of Corrections in accordance with that payment schedule unless modified by the court pursuant to section 1328-A or 1329. An offender who has not complied with the time and method of payment of monetary compensation determined by the Department of Corrections during the period of probation must be returned to the court for further disposition pursuant to section 1329. An offender who is unconditionally released and discharged from institutional confinement with the Department of Corrections upon the expiration of the sentence must, upon application of the office of the attorney for the State, be returned to the court for specification by the court of the time and method of payment of monetary compensation, which may be ordered paid to the office of the attorney for the State who prosecuted the case or to the clerk of the court. Prior to the offender's release and discharge, the Department of Corrections shall provide the office of the attorney for the State who prosecuted the case written notice as to the amount of restitution outstanding.

**Sec. 15. 17-A MRSA §1329, sub-§6** is enacted to read:

**6.** Payments made pursuant to this section must be made to the same agency to which the restitution was required to be paid under section 1326-A or section 1326-F, except that if the offender is no longer in the custody or under the supervision of the Department of Corrections the payments must be made to the office of the attorney for the State who prosecuted the case or the clerk of the court, as ordered by the court.

See title page for effective date.

## CHAPTER 609

## S.P. 735 - L.D. 1819

### An Act To Implement the Recommendations of the Advisory Council on Health Systems Development Relating to Payment Reform

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

**Sec. 1. 2 MRSA §104, sub-§7, ¶F,** as enacted by PL 2007, c. 441, §1, is amended to read:

F. Identifying specific potential reductions in total health care spending without shifting costs onto consumers and without reducing access to needed items and services for all persons, regardless of individual ability to pay. In identifying specific potential reductions pursuant to this paragraph, the council shall recommend methods to reduce the rate of increase in overall health care

spending and the rate of increase in health care costs to a level that is equivalent to the rate of increase in the cost of living to make health care and health coverage more affordable for people in this State; ~~and~~

**Sec. 2. 2 MRSA §104, sub-§7, ¶G,** as enacted by PL 2007, c. 441, §1, is amended to read:

G. Beginning March 1, 2008 and annually thereafter, ~~make~~ making specific recommendations relating to paragraphs A to F and to paragraph H to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters and the joint standing committee of the Legislature having jurisdiction over health and human services matters and to any appropriate state agency~~.~~; and

**Sec. 3. 2 MRSA §104, sub-§7, ¶H** is enacted to read:

H. Reviewing and evaluating strategies for payment reform in the State's health care system to assess whether proposed payment reform efforts follow the guiding principles developed by the council and identifing any statutory or regulatory barriers to implementation of payment reform.

**Sec. 4. Advisory Council on Health Systems Development; payment reform.** The Advisory Council on Health Systems Development, referred to in this section as "the council," shall work collaboratively with sponsors of payment reform models and other stakeholders to advance payment reform efforts in the State. The council shall:

1. Consider emerging research and its implications for payment reform in the State;

2. Assess the merits of proposed payment reform models against the guiding principles developed by the council;

3. Develop an approach for building consumer awareness of payment reform models;

4. Identify any statutory and regulatory changes needed to advance models for payment reform; and

5. Design a 3-year demonstration project to advance payment reform models.

The council shall consult with the Attorney General and the Department of Professional and Financial Regulation, Bureau of Insurance for technical expertise. The council shall submit 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 insurance and financial services matters a preliminary report outlining suggested legislation no later than December 1, 2010. The council shall submit a report that includes its findings and recommendations, including suggested legislation, for presentation 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 insurance and financial services matters no later than January 15, 2011.

See title page for effective date.

## CHAPTER 610

## H.P. 1105 - L.D. 1568

### An Act To Clarify Maine's Phaseout of Polybrominated Diphenyl Ethers

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

**Sec. 1. 38 MRSA §1310-B, sub-§2,** as amended by PL 2009, c. 397, §1, is further amended to read:

**2. Hazardous waste information and information on mercury-added products and electronic devices and mercury reduction plans; chemicals.** Information relating to hazardous waste submitted to the department under this subchapter, information relating to mercury-added products submitted to the department under chapter 16-B, information relating to electronic devices submitted to the department under section 1610, subsection 6-A ~~or~~, information relating to mercury reduction plans submitted to the department under section 585-B, subsection 6 or information related to products that contain the "deca" mixture of polybrominated diphenyl ethers submitted to the department under section 1609 may be designated by the person submitting it as being only for the confidential use of the department, its agents and employees, the Department of Agriculture, Food and Rural Resources and the Department of Health and Human Services and their agents and employees, other agencies of State Government, as authorized by the Governor, employees of the United States Environmental Protection Agency and the Attorney General and, for waste information, employees of the municipality in which the waste is located. The designation must be clearly indicated on each page or other portion of information. The commissioner shall establish procedures to ensure that information so designated is segregated from public records of the department. The department's public records must include the indication that information so designated has been submitted to the department, giving the name of the person submitting the information and the general nature of the information. Upon a request for information, the scope of which includes information so designated, the commissioner shall notify the submittor. Within 15 days after receipt of the notice, the submittor shall demonstrate to the satisfaction of the department that the designated informa-

tion should not be disclosed because the information is a trade secret or production, commercial or financial information, the disclosure of which would impair the competitive position of the submittor and would make available information not otherwise publicly available. Unless such a demonstration is made, the information must be disclosed and becomes a public record. The department may grant or deny disclosure for the whole or any part of the designated information requested and within 15 days shall give written notice of the decision to the submittor and the person requesting the designated information. A person aggrieved by a decision of the department may appeal only to the Superior Court in accordance with the provisions of section 346. All information provided by the department to the municipality under this subsection is confidential and not a public record under Title 1, chapter 13. In the event a request for such information is submitted to the municipality, the municipality shall submit that request to the commissioner to be processed by the department as provided in this subsection.

**Sec. 2. 38 MRSA §1609, sub-§5-A** is enacted to read:

**5-A. "Deca" mixture of polybrominated diphenyl ethers in shipping pallets.** This subsection governs the manufacture and sale of shipping pallets and products made from shipping pallets containing the "deca" mixture of polybrominated diphenyl ethers, referred to in this subsection as "the "deca" mixture."

A. A person may not manufacture, sell or offer for sale or distribute for sale or use in the State a product that is manufactured from recycled shipping pallets containing the "deca" mixture, except that this prohibition does not apply to the manufacturing, selling or distribution of shipping pallets that are manufactured from recycled shipping pallets containing the "deca" mixture.

B. Beginning January 1, 2012, a person may not manufacture, sell or offer for sale or distribute for sale or use in the State a shipping pallet containing the "deca" mixture, other than a shipping pallet made from recycled shipping pallets or described in subsection 11, paragraph A-1.

C. By January 1, 2013, and annually thereafter, a manufacturer or owner of shipping pallets subject to the restrictions of this subsection shall submit a report to the department that certifies its compliance with the restrictions of this subsection. The report must include data on the bromine content of a representative number of shipping pallets and an interpretive analysis of the data sufficient to demonstrate compliance with this subsection. The board may adopt rules to implement the reporting requirements of this subsection. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 3. 38 MRSA §1609, sub-§5-B** is enacted to read:

**5-B. Exemptions.** Notwithstanding subsection 5-A, paragraph B, a person may sell or distribute a shipping pallet containing the "deca" mixture of polybrominated diphenyl ethers for which an exemption is obtained pursuant to this subsection. A manufacturer or owner of a shipping pallet may apply for an exemption by filing a written petition with the commissioner. The petition must include a proposed duration for the exemption. The commissioner shall grant an exemption upon finding that:

A. A safer alternative that meets the criteria of subsection 14 does not exist;

B. A shipping pallet containing a proposed safer alternative fails to meet applicable fire safety standards, approvals and tests or relevant performance standards;

C. Additional time is needed by the petitioner to complete testing or obtain approval to ensure that a shipping pallet containing a proposed safer alternative complies with applicable fire safety standards, approvals and tests; or

D. Additional time is needed by the petitioner to modify the manufacturing process in order to produce a shipping pallet containing the safer alternative.

The commissioner may not grant an exemption pursuant to this subsection that extends beyond January 1, 2013.

**Sec. 4. 38 MRSA §1609, sub-§7,** as enacted by PL 2007, c. 296, §1, is amended to read:

**7. Manufacturer responsibility.** Effective January 1, 2008, a manufacturer of a product containing polybrominated diphenyl ethers restricted under subsection 1, 4 or 5 must notify persons that sell the manufacturer's product of the requirements of this section. Beginning January 1, 2013, a manufacturer of a product containing polybrominated diphenyl ethers restricted under subsection 5-A must notify persons that sell the manufacturer's product of the requirements of this section.

**Sec. 5. 38 MRSA §1609, sub-§11,** as amended by PL 2009, c. 121, §18, is further amended to read:

**11. Application.** This section does not ~~apply to~~ prohibit the sale, distribution or use of:

A. Used products;

A-1. Shipping pallets manufactured before January 1, 2012 that contain the "deca" mixture of polybrominated diphenyl ethers or shipping pallets for which an exemption has been granted under subsection 5-B;

B. ~~Products~~ Except as provided in subsection 5-A, products if the presence of polybrominated diphenyl ether is due solely to the use of recycled material; or

C. Replacement parts that contain the "octa" or "penta" mixtures of polybrominated diphenyl ether if the parts are for use in a product manufactured before January 1, 2006.

**Sec. 6. 38 MRSA §1609, sub-§13,** as amended by PL 2007, c. 655, §18, is further amended to read:

**13. Department rule-making authority; flame retardants.** If the commissioner determines, in consultation with the Department of Health and Human Services, Maine Center for Disease Control and Prevention and the Department of Public Safety, Office of the State Fire Marshal, that a flame retardant is harmful to the public health and the environment or meets the criteria as a prohibited replacement pursuant to subsection 14, paragraph B and ~~an~~ a safer alternative to the flame retardant ~~that is safer to the public health and the environment is nationally available and the State Fire Marshal determines that a safer alternative meets applicable fire safety standards~~ as set forth in subsection 14 is available, the commissioner may adopt rules to prohibit the manufacture, sale or distribution in the State of:

A. A mattress, a mattress pad or upholstered furniture intended for indoor use in a home or other residential occupancy that contains that flame retardant; ~~or~~

B. A television or computer that has a plastic housing containing that flame retardant.~~;~~ or

C. A plastic shipping pallet that contains that flame retardant.

The commissioner's rulemaking under this subsection must be made in accordance with Title 5, chapter 375, subchapter 2-A. The department shall report any rulemaking undertaken pursuant to this subsection to the joint standing committee of the Legislature having jurisdiction over natural resources matters. The joint standing committee of the Legislature having jurisdiction over natural resources matters may submit legislation relating to the department's report. For purposes of this subsection, "flame retardant" means any chemical that is added to a plastic, foam or textile to inhibit flame formation. Rules adopted pursuant to this subsection are routine technical rules.

**Sec. 7. 38 MRSA §1609, sub-§14** is enacted to read:

**14. Safer alternatives; policy.** It is the policy of the State that the "deca" mixture of polybrominated diphenyl ethers be replaced with safer alternatives as soon as practicable.

A. For the purposes of this subsection, "safer alternative" means a substitute process, product, material, chemical, strategy or any combination of these that:

(1) When compared to the chemical to be replaced would reduce the potential for harm to human health or the environment or has not been shown to pose the same or greater potential for harm to human health or the environment as the chemical to be replaced;

(2) Serves a functionally equivalent purpose that enables applicable fire safety standards, approvals and tests and relevant performance standards to be met;

(3) Is commercially available on a national basis; and

(4) Is not cost-prohibitive.

B. Effective June 1, 2011, a person subject to the restrictions under this section may not replace the "deca" mixture of polybrominated diphenyl ethers with a chemical alternative that the commissioner, in consultation with the Department of Health and Human Services, Maine Center for Disease Control and Prevention, determines:

(1) Has been identified as or meets the criteria for identification as a persistent, bioaccumulative and toxic chemical by the United States Environmental Protection Agency;

(2) Is a brominated or chlorinated flame retardant; or

(3) Creates another chemical as a breakdown product through degradation or metabolism that meets the provisions of subparagraph (1).

A replacement to the "deca" mixture of polybrominated diphenyl ethers may contain an amount of the chemicals listed or described in subparagraphs (1), (2) and (3) equal to or less than 0.1%, except that a replacement may contain an amount of a halogenated organic chemical containing the element fluorine equal to or less than 0.2%.

Upon request by the commissioner, a person subject to the restrictions under this subsection shall provide the commissioner with all existing information about the hazard and exposure characteristics of the replacement chemical that is known to, in the possession or control of or reasonably ascertainable by the person.

**Sec. 8. 38 MRSA §1609, sub-§15** is enacted to read:

**15. Confidentiality.** Information submitted to the department pursuant to this section may be designated as confidential by the submitting party in accordance with the provisions set forth in section 1310-B

and, if the information is so designated, the provisions of section 1310-B apply.

**Sec. 9. Alternatives assessment study.** The Department of Environmental Protection may supervise an alternatives assessment study to determine the availability of safer alternatives to the use of the "deca" mixture of polybrominated diphenyl ethers in shipping pallets. The study may be voluntarily funded by a manufacturer or owner of pallets that is subject to the restrictions in the Maine Revised Statutes, Title 38, section 1609, subsection 5-A that chooses to participate in the study. Any funding received must be deposited in a dedicated account managed by the department. The study must be coordinated with any research, development and demonstration work funded by a manufacturer or owner of shipping pallets subject to the restrictions in Title 38, section 1609, subsection 5-A that supports the planned transition away from the "deca" mixture of polybrominated diphenyl ethers to safer alternatives as soon as practicable. The department may contract with a 3rd party for a study undertaken pursuant to this section, and the study must be prepared consistent with current methodologies for alternatives assessment. Upon the department's request, a manufacturer or owner of shipping pallets subject to the restrictions of Title 38, section 1609, subsection 5-A shall submit to the commissioner all existing information regarding safer alternatives to the "deca" mixture in shipping pallets that is known to, in the possession or control of or reasonably ascertainable by the manufacturer or owner. Information submitted to the department pursuant to this section may be designated as confidential by the submitting party in accordance with Title 38, section 1609, subsection 15.

By January 1, 2011, the department shall determine whether there is a reasonable basis to conclude that a study undertaken pursuant to this section or other information available to the department demonstrates that a safer alternative to the use of the "deca" mixture in shipping pallets that meets the criteria in Title 38, section 1609, subsection 14 exists. In making the determination, the department shall consider any study supervised by the department pursuant to this section and may consider the effect of the safer alternative on the recyclability of the shipping pallets.

**Sec. 10. Standards and approvals.** For purposes of the Maine Revised Statutes, Title 38, section 1609, subsection 5-B and an alternatives assessment study undertaken pursuant to section 9 of this Act, the Commissioner of Environmental Protection shall consider the applicable fire safety standards, approvals and tests and relevant performance standards that are consistent with specifications of the manufacturer and industry practices. If they are approved by the commissioner, the commissioner shall use the applicable fire safety standards, approvals and tests and relevant performance standards submitted by the manufacturer.

**Sec. 11. Study issues.** The Department of Environmental Protection shall, within existing resources, study the issues related to the implementation of the restrictions that a person may not replace the "deca" mixture of polybrominated diphenyl ethers with a chemical alternative that is a brominated or chlorinated flame retardant. By January 15, 2011, the Department of Environmental Protection shall report to the joint standing committee of the Legislature having jurisdiction over natural resources matters its findings and recommendations.

See title page for effective date.

## CHAPTER 611

## S.P. 662 - L.D. 1730

### An Act To Strengthen the Ballot Initiative Process

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

**Sec. 1. 21-A MRSA §901-A, sub-§2,** as amended by PL 2009, c. 341, §5, is further amended to read:

**2. Required statements; placement of information.** ~~The~~ On each page of a petition that contains space intended for voter signatures, the Secretary of State shall include a space at the top right or left corner of each ~~petition~~ such page to be submitted to the voters, which must be filled in with the name of the circulator collecting signatures on that petition and a unique identifying number, and include the fiscal impact of the initiative as described in Title 1, section 353 directly below the following statement at the top of the petition in a type size of no less than 16 points:

> "Freedom of Citizen Information: Before a registered voter signs any initiative petition, signature gatherers must offer the voter the opportunity to read the proposed initiative summary and fiscal impact statement prepared by the Secretary of State."

**Sec. 2. 21-A MRSA §902, 2nd ¶,** as enacted by PL 1997, c. 581, §5, is amended to read:

The petitions must be signed, verified and certified in the same manner as are nonparty nomination petitions under section 354, subsections 3 and 4 and subsection 7, paragraphs A and C. The circulator of a petition must sign the petition and verify the petition by oath or affirmation as described in section 354, subsection 7, paragraph A prior to submitting the petition to the registrar. If the petitions submitted to the registrar are not signed and verified in accordance with this paragraph, the registrar may not certify the petitions and is required only to return the petitions.

**Sec. 3. 21-A MRSA §902-A** is enacted to read:

**§902-A. Copies of petitions required**

If the registrar or clerk suspects that a petition was submitted in violation of any provision of this chapter, the registrar or clerk shall immediately notify the Secretary of State and provide a copy of the petition to the Secretary of State.

**Sec. 4. 21-A MRSA §903-C** is enacted to read:

**§903-C. Direct initiative and people's veto petition organization required to be registered**

A petition organization shall register with the Secretary of State in accordance with this section. For the purposes of this section, "petition organization" means a business entity that receives compensation for organizing, supervising or managing the circulation of petitions for a direct initiative of legislation or a people's veto referendum.

**1. Registration.** Prior to organizing, supervising or managing the circulation of petitions for a direct initiative of legislation or a people's veto referendum, a petition organization, in addition to meeting any other requirement to transact business in this State, shall register with the Secretary of State on a form prescribed by the Secretary of State. The registration form must include the following:

A. The ballot question or title of each direct initiative of legislation or people's veto referendum for which the petition organization will receive compensation;

B. Contact information for the petition organization, including the name of the petition organization, street address or post office box, telephone number and e-mail address; and

C. The name and signature of a designated agent for the petition organization.

The information contained in the registration must be made available for public inspection and must be posted on the publicly accessible website of the Secretary of State.

**Sec. 5. 21-A MRSA §905, sub-§1,** as repealed and replaced by PL 1993, c. 352, §2, is amended to read:

**1. Secretary of State.** The Secretary of State shall review all petitions filed in the Department of the Secretary of State for a people's veto referendum under the Constitution of Maine, Article IV, Part Third, Section 17, or for a direct initiative under the Constitution of Maine, Article IV, Part Third, Section 18.

The Secretary of State shall determine the validity of the petition and issue a written decision stating the reasons for the decision within 30 days ~~after the final~~ from the date ~~for~~ of filing ~~the petitions~~ of a written petition in the Department of the Secretary of State under the Constitution of Maine, Article IV, Part Third, Section 17 or 18.

**Sec. 6. 21-A MRSA §905, sub-§2,** as amended by PL 1987, c. 119, §1, is further amended to read:

**2. Superior Court.** Any voter named in the application under section 901, or any person who has validly signed the petitions, if these petitions are determined to be invalid, or any other voter, if these petitions are determined to be valid, may appeal the decision of the Secretary of State by commencing an action in the Superior Court. This action ~~shall~~ must be conducted in accordance with the Maine Rules of Civil Procedure, Rule 80C, except as modified by this section. In reviewing the decision of the Secretary of State, the court shall determine whether the description of the subject matter is understandable to a reasonable voter reading the question for the first time and will not mislead a reasonable voter who understands the proposed legislation into voting contrary to ~~his~~ that voter's wishes. This action must be commenced within ~~5~~ 10 days of the date of the decision of the Secretary of State ~~and shall be tried, without a jury, within 15 days of the date of that decision~~. Upon timely application, anyone may intervene in this action when the applicant claims an interest relating to the subject matter of the petitions, unless the applicant's interest is adequately represented by existing parties. The court shall issue its written decision containing its findings of fact and stating the reasons for its decision within ~~30 days of the commencement of the trial or within 45~~ 40 days of the date of the decision of the Secretary of State~~, if there is no trial~~.

See title page for effective date.

## CHAPTER 612

## H.P. 1265 - L.D. 1778

### An Act To Enable the Installation of Broadband Infrastructure

**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 address in a timely fashion certain important issues relating to a dark fiber project that was recently awarded a grant by the United States Department of Commerce, National Telecommunications and Information Administration pursuant to the federal American Recovery and Reinvestment Act of 2009, Public Law 111-5, 123 Stat. 115 (2009); 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. 35-A MRSA §102, sub-§4-A** is enacted to read:

**4-A. Dark fiber provider.** "Dark fiber provider" means a person, its lessees, trustees, receivers or trustees appointed by any court, owning, controlling, operating or managing federally supported dark fiber that:

A. Offers its federally supported dark fiber on an open-access basis without unreasonable discrimination as confirmed in a schedule of rates, terms and conditions filed for informational purposes with the commission;

B. Is required to conduct its business subject to restrictions established and enforced by the Federal Government pursuant to Title VI of the federal American Recovery and Reinvestment Act of 2009, Public Law 111-5, 123 Stat. 115 (2009) and to grant security interests to the Federal Government under that Act; and

C. Does not transmit communications for compensation inside this State.

**Sec. 2. 35-A MRSA §102, sub-§4-B** is enacted to read:

**4-B. Federally supported dark fiber.** "Federally supported dark fiber" means one or more strands within a bundle of fiber-optic cable through which an associated light signal or light communication transmission must be provided to provide communications service, but excluding the electronic equipment required in order to render the fiber capable of transmitting communications, the construction of which is financed in whole or in part with funds provided by a grant awarded before January 1, 2010 by the United States Department of Commerce, National Telecommunications and Information Administration pursuant to the federal American Recovery and Reinvestment Act of 2009, Public Law 111-5, 123 Stat. 115 (2009).

**Sec. 3. 35-A MRSA §102, sub-§19,** as amended by PL 2003, c. 153, §1, is further amended to read:

**19. Telephone utility.** "Telephone utility" includes every person, its lessees, trustees, receivers or trustees appointed by any court, that provides telephone service for compensation inside this State. "Telephone utility" also includes a dark fiber provider. "Telephone utility" does not include any person or entity that is excluded from the definition of "public utility" as defined in subsection 13, subject to the provisions of subsection 13, paragraphs A to C.

**Sec. 4. 35-A MRSA §711, sub-§5** is enacted to read:

**5. Dark fiber provider.** This section applies to a dark fiber provider only with respect to the construction and maintenance of federally supported dark fiber.

**Sec. 5. 35-A MRSA §2102, sub-§1,** as amended by PL 2007, c. 638, §1, is further amended to read:

**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.

**Sec. 6. 35-A MRSA §2102, sub-§4** is enacted to read:

**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. 7. 35-A MRSA §2301,** as amended by PL 1995, c. 225, §8, is further amended to read:

**§2301. Telephone utilities, federally supported dark fiber providers and television corporations may construct lines**

Except as limited, every corporation organized under section 2101 for the purpose of operating telephones, every 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. 8. 35-A MRSA §2501, sub-§2,** as amended by PL 2007, c. 268, §2, is further amended to read:

**2. Applicability of section 2503.** Except as otherwise provided, a person may not construct facilities upon and along highways and public roads without applying for and obtaining a written location permit from the applicable licensing authority under section 2503. Included within this requirement is every person operating telephones or transmitting television signals by wire; every person that owns, controls, operates or manages any pipeline within or through this State for the transportation as a common carrier for hire of oil, gas, gasoline, petroleum or any other liquids or gases; every water utility and every person making, generating, selling, distributing and supplying gas or electricity; every water utility or sewer company, district or system privately or municipally owned; every municipally owned or operated fire alarm, police alarm or street lighting circuit or system; every cooperative organized under chapter 35; the University of Maine System, for purposes described in section 2301-A; every dark fiber provider for the purposes of constructing and maintaining its federally supported dark fiber; and any other person engaged in telecommunications or the transmission of heat or electricity.

**Sec. 9. 35-A MRSA §7902,** as amended by PL 1995, c. 225, §14, is further amended to read:

**§7902. Lines along highways and across waters**

Every telephone utility 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. 10. 35-A MRSA §9216** is enacted to read:

**§9216. Broadband sustainability fee**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "First assessment period" means the period:

(1) Commencing on the first day of the month following the date on which a dark fiber provider first sells, leases or otherwise provides one or more strands of federally supported dark fiber to an entity in this State; and

(2) Ending on the last day of the 60th month following the commencement under subparagraph (1).

B. "Incumbent local exchange carrier" means a telephone utility that provided single-party service, voice grade access to the public switched telephone network in a defined service territory in the State on February 8, 1996, or its successor, or that is designated as an incumbent local exchange carrier pursuant to 47 United States Code, Section 251(h)(2).

C. "Second assessment period" means the period:

(1) Commencing on the first day of the month following the end of the first assessment period; and

(2) Ending on December 31, 2017.

**2. Broadband sustainability fee.** An entity that purchases, leases or otherwise obtains federally supported dark fiber from a dark fiber provider is subject to the following broadband sustainability fees:

A. During the first assessment period, a monthly fee equal to $3 multiplied by the number of miles of federally supported dark fiber strand purchased, leased or used by the entity during the month; and

B. During the 2nd assessment period, a monthly fee equal to $2 multiplied by the number of miles of federally supported dark fiber strand purchased, leased or used by the entity during the month.

**3. Collection.** A dark fiber provider shall collect the broadband sustainability fees under subsection 2 and within 15 days after the end of each month remit the amounts collected to the authority. When remitting funds to the authority, the dark fiber provider shall include sufficient information to allow the authority to

determine the number of miles of federally supported dark fiber strands sold, leased or used in the service territory of each incumbent local exchange carrier.

**4. Deposit.** The authority shall:

A. Deposit 5% of the funds received under subsection 3 into the ConnectME Fund established under section 9211 and may use these funds to support the activities of the authority under this section and for the purposes of section 9204; and

B. Deposit 95% of the funds received under subsection 3 into the broadband sustainability fund established pursuant to subsection 5.

**5. Broadband sustainability fund.** The authority shall establish a broadband sustainability fund, separate and distinct from any other funds held or maintained by the authority, for use in accordance with subsection 6. The fund is nonlapsing and all interest on funds in the fund remains in the fund for use in accordance with subsection 6. The authority may contract with an appropriate independent fiscal agent that is not a state entity to serve as the administrator of the fund. All funds deposited in the broadband sustainability fund are deemed to be encumbered for purposes of subsection 6 at the time the funds are deposited in the fund.

**6. Use of the broadband sustainability fund.** The authority shall provide incumbent local exchange carriers a right of first refusal to access the broadband sustainability fund established pursuant to subsection 5 in accordance with this subsection.

A. The authority shall allocate funds in the broadband sustainability fund established pursuant to subsection 5 to each incumbent local exchange carrier in accordance with this paragraph. Each month, the authority shall allocate to each incumbent local exchange carrier an amount equal to the total amount deposited that month into the broadband sustainability fund multiplied by a fraction, the denominator of which is the total number of miles of federally supported dark fiber leased, sold or used in this State during the previous month and the numerator of which is the total number of miles of federally supported dark fiber leased, sold or used in that incumbent local exchange carrier's service territory during the previous month. Any accumulated interest in the fund must be allocated proportionally. Only those amounts allocated to an incumbent local exchange carrier under this paragraph are available for disbursement to that carrier pursuant to paragraph B. By December 31st of each calendar year, the authority shall make an accounting of the total funds allocated during that calendar year to each incumbent local exchange carrier under this paragraph, and if by December 31st of the following calendar year some or all of those funds allocated to a carrier are not disbursed to that carrier in accordance with paragraph B, the authority shall transfer those unspent funds to the ConnectME Fund established under section 9211 for use in accordance with that section. Funds transferred to the ConnectME Fund under this paragraph cease to be available to any incumbent local exchange carrier pursuant to the provisions of this section.

B. To receive a disbursement from the broadband sustainability fund established pursuant to subsection 5, an incumbent local exchange carrier must file with the authority a request for funds together with a certification indicating that the funds requested will be used to deploy broadband infrastructure in unserved areas within the carrier's service territory. The certification must include the projected cost for the project and the scope of work, which must indicate how the funds will be spent. Upon receipt of a request for funds accompanied by the required certification, the authority shall disburse the requested amount to the incumbent local exchange carrier up to an amount not to exceed the total amount allocated under paragraph A to the requesting carrier.

C. An incumbent local exchange carrier may not expend funds received under paragraph B in a manner inconsistent with the certification provided by the carrier under paragraph B. The authority may audit the use by an incumbent local exchange carrier of funds disbursed in accordance with paragraph B.

D. On the last day of the 12th month following the end of the 2nd assessment period, the authority shall transfer all funds remaining in the broadband sustainability fund established pursuant to subsection 5 to the ConnectME Fund established under section 9211 for use in accordance with that section. Funds transferred to the ConnectME Fund pursuant to this paragraph cease to be available to any incumbent local exchange carrier pursuant to the provisions of this section.

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

Effective April 6, 2010.

## CHAPTER 613

## H.P. 1088 - L.D. 1544

## An Act To Amend the Laws Governing the Maine Health Data Processing Center and the Maine Health Data Organization

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

**Sec. 1. 10 MRSA §681,** as enacted by PL 2001, c. 456, §1, is amended to read:

**§681. Authority to establish**

The Maine Health Data Organization, established pursuant to Title 22, chapter 1683, and a nonprofit health data processing entity referred to in this chapter as ~~the "Maine Health Information Center"~~ "Onpoint Health Data" or its successor organization may form a nonprofit corporation under Title 13-B in order to collect and process health care claims data, to be known as the Maine Health Data Processing Center, referred to in this chapter as the "center." The center shall carry out its purposes in complement to and in coordination with the Maine Health Data Organization and ~~the Maine Health Information Center~~ Onpoint Health Data.

The center is a nonprofit corporation with a public purpose and the exercise by the center of the powers conferred by this chapter is an essential governmental function.

**Sec. 2. 10 MRSA §682, sub-§2,** as enacted by PL 2001, c. 456, §1, is amended to read:

**2. Developing claims-based data.** Building upon the experience and expertise of the Maine Health Data Organization and ~~the Maine Health Information Center~~ Onpoint Health Data to collect, process and maintain health care data extracted from claims data in a cost-effective manner;

**Sec. 3. 10 MRSA §683,** as amended by PL 2009, c. 71, §1, is further amended to read:

**§683. Board of directors; officers**

The Board of Directors of the Maine Health Data Processing Center, referred to in this chapter as the "board of directors," consists of ~~13~~ 11 directors.

**1. Nominations.** The director of the Maine Health Data Organization and the president of ~~the Maine Health Information Center~~ Onpoint Health Data are ex officio members of the board of directors and are authorized to vote. ~~The~~ In order to achieve balanced representation, the director and president shall nominate the following representatives for service on the board of directors:

A. ~~One member~~ Three members representing different constituencies of the ~~Maine Health Information Center~~ Onpoint Health Data board of directors and ~~one member~~ 3 members representing different constituencies of the Maine Health Data Organization board of directors; and

B. ~~Four representatives of health care providers, 2 of whom must represent hospitals;~~ Three nominees chosen from among the following constituency categories that are underrepresented on the board of directors:

(1) Health care providers;

(2) Third-party payors;

(3) Employers; and

(4) Consumers of health care.

~~C. Two representatives of 3rd-party payors;~~

~~D. One representative of consumers of health care; and~~

~~E. Two representatives of employers.~~

**2. Election.** The names of the representatives nominated under this section must be presented to the boards of directors of the Maine Health Data Organization and ~~the Maine Health Information Center~~ Onpoint Health Data for election to the board of directors.

**3. Limitation on terms.** An elected person may serve as a director for not more than 2 5-year terms in succession and continues to serve until a successor has been appointed.

**4. Chairs.** The board of directors shall elect a chair and a vice-chair from among its members at the first meeting of the board each year.

**5. Manager.** The board of directors shall appoint a manager to serve at the pleasure of the board and to represent the board in the management of the center. The manager has the necessary authority and responsibility for the operational management of the center in all of the activities of the center.

**Sec. 4. 10 MRSA §688,** as enacted by PL 2001, c. 456, §1, is amended to read:

**§688. Audit; public access**

Before January 1st of each year, the center shall provide an independent audit of the activities of the center to the boards of directors of the Maine Health Data Organization and ~~the Maine Health Information Center~~ Onpoint Health Data. Audits must be done as required by law or by the Department of Administrative and Financial Services. To ensure public accountability, the center is subject to the provisions of Title 1, chapter 13, subchapter ~~I~~ 1.

**Sec. 5. 10 MRSA §689, sub-§1,** as amended by PL 2005, c. 565, §4, is further amended to read:

**1. Net earnings of center.** The annual net earnings of the center must be distributed to the Maine Health Data Organization and ~~the Maine Health Information Center~~ Onpoint Health Data in proportion to the average annual funding provided by each entity for the operational costs of the center. The net earnings of the center may not inure to the benefit of any officer, director or employee, except that the center is authorized and empowered to pay reasonable compensation

for services rendered and otherwise hold, manage and dispose of its property in furtherance of the purposes of the center.

**Sec. 6. 10 MRSA §689, sub-§2,** as enacted by PL 2001, c. 456, §1, is amended to read:

**2. Dissolution of center.** Upon dissolution of the center, the board of directors shall, after paying or making provision for the payment of all liabilities of the center, cause all of the remaining assets of the center to be transferred to the Maine Health Data Organization and ~~the Maine Health Information Center~~ Onpoint Health Data in shares proportionate to the total revenue transferred to the center by each entity.

**Sec. 7. 22 MRSA §8705-A, sub-§6** is enacted to read:

**6. Exception.** Notwithstanding the provisions of subsections 3, 4 and 5, the board or the Attorney General may not assess fines, initiate enforcement actions or seek injunctive relief against a payor that has submitted claims data for any billing provider data element contained in a claim furnished by the billing provider or for any service provider data element when associated with the billing provider elements or that fails to meet the thresholds for the data elements related to billing providers established by the organization or the Maine Health Data Processing Center under the requirements of Title 10, section 682. This subsection is repealed July 1, 2011.

**Sec. 8. 22 MRSA §8712,** as amended by PL 2009, c. 71, §8 and c. 350, Pt. A, §1, is further amended to read:

**§8712. Reports**

The organization shall produce clearly labeled and easy-to-understand reports as follows. Unless otherwise specified, the organization shall distribute the reports on a publicly accessible site on the Internet or via mail or e-mail, through the creation of a list of interested parties. ~~The organization shall publish a notice of the availability of these reports at least once per year in the 3 daily newspapers of the greatest general circulation published in the State.~~ The organization shall make reports available to members of the public upon request.

**1. Quality.** ~~At a minimum, the~~ The organization~~,~~ shall promote public transparency of the quality and cost of health care in the State in conjunction with the Maine Quality Forum, established in Title 24-A, section 6951~~,~~ and shall ~~develop and produce annual quality reports~~ collect, synthesize and publish information and reports on an annual basis that are easily understandable by the average consumer and in a format that allows the user to compare the information listed in this section to the extent practicable. The organization's publicly accessible websites and reports must, to the extent practicable, coordinate, link and compare information regarding health care services, their outcomes, the effectiveness of those services, the quality of those services by health care facility and by individual practitioner and the location of those services. The organization's health care costs website must provide a link in a publicly accessible format to provider-specific information regarding quality of services required to be reported to the Maine Quality Forum.

**2. Payments.** The organization shall create a publicly accessible interactive website that presents reports related to health care facility and practitioner payments for services rendered 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.

~~A. The organization shall promote public transparency of the quality and cost of health care in the State, in conjunction with the Maine Quality Forum as established in Title 24-A, section 6951, and shall collect, synthesize and publish information and reports on an annual basis that are easily understandable by the average consumer and in a format that allows the user to compare the information listed in this section to the extent practicable. The organization's publicly accessible websites and reports shall, to the extent practicable, coordinate, link and compare information regarding health care services, their outcomes, the effectiveness of those services, the quality of those services by health care facility and by individual practitioner and the location of those services. The organization's health care costs website must provide a link in a publicly accessible format to provider-specific information regarding quality of services required to be reported to the Maine Quality Forum.~~

**3. Comparison report.** At a minimum, the organization shall develop and produce an annual report that compares the 15 most common diagnosis-related groups and the 15 most common outpatient procedures for all hospitals in the State and the 15 most common procedures for nonhospital health care facilities in the State to similar data for medical care rendered in other states, when such data are available.

**4. Physician services.** The organization shall provide an annual report of the 10 services and procedures most often provided by osteopathic and allopathic physicians in the private office setting in this State. The organization shall distribute this report to all physician practices in the State. The first report must be produced by July 1, 2004.

**Sec. 9. 24-A MRSA §2436, sub-§2-A,** as amended by PL 2003, c. 469, Pt. D, §4 and affected by §9, is repealed and the following enacted in its place:

**2-A.** For a claim submitted by a health care provider or health care facility with respect to a health plan as defined in section 4301-A, subsection 7, for purposes of this section, "undisputed claim" means a timely claim for payment of covered health care expenses that is submitted to a carrier in conformity with the following requirements.

A. The claim must be submitted on one of the following claims forms:

(1) For a health care facility claim submitted on paper, the standard claim form, using standards approved by a national uniform billing committee;

(2) For a health care provider claim submitted on paper, the standard claim form, using standards approved by a national uniform claim committee; and

(3) For health care facility and health care provider claims submitted electronically, an electronic form using standards approved by an accredited standards committee of the American National Standards Institute.

**Sec. 10. 24-A MRSA §2436, sub-§2-B** is enacted to read:

**2-B.** If a claim does not conform to the requirements specified in subsection 2-A and payment is denied to a health care provider or health care facility by a carrier, the health care provider or health care facility may not request payment from the insured or beneficiary and shall attempt to rectify the deficiencies with the claim and resubmit the claim to the carrier.

**Sec. 11. Claim forms.** For the purposes of the Maine Revised Statutes, Title 24-A, section 2436, subsection 2-A, paragraph A, subparagraph (1), it is the intent of the Legislature that the standard claim form is the UB-04. For the purposes of Title 24-A, section 2436, subsection 2-A, paragraph A, subparagraph (2), it is the intent of the Legislature that the standard claim form is the CMS-1500.

**Sec. 12. Working group.** The Maine Health Data Organization shall convene a working group including representatives of health care providers, health coverage carriers and other interested parties to resolve issues regarding submission of data concerning service and billing providers and to present a plan of action and implementation schedule to provide the data to the Maine Health Data Organization in a timely and accurate fashion. The working group must be cochaired by one person chosen by the providers and one person chosen by the carriers. By November 15, 2010, the working group shall report to the Joint Standing Committee on Health and Human Services with a plan to resolve the service and provider issues and with an implementation schedule.

See title page for effective date.

## CHAPTER 614

## H.P. 1206 - L.D. 1705

### An Act To Align the Duties of School Boards Concerning Student Safety with the Requirements of the Federal Gun-Free Schools Act and To Prohibit the Discharge of Firearms within 500 Feet of Public and Private School Properties

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

**Sec. 1. 20-A MRSA §1001, sub-§9-A,** as enacted by PL 1995, c. 322, §5, is amended to read:

**9-A. Students expelled or suspended under the requirements of the federal Gun-Free Schools Act.** The school boards shall adopt a policy for expelling a student who is determined to have brought a firearm, as defined in 18 United States Code, Section 921, to school or to have possessed a firearm at school and for referring the matter to the appropriate local law enforcement agency.

A. A student who is determined to have brought a firearm to school or to have possessed a firearm at school under this subsection must be expelled from school for a period of not less than one year, except that the school board may authorize the superintendent to modify the requirement for expulsion of a student on a case-by-case basis. A decision to change the placement of a student with a disability must be made in accordance with the federal Individuals With Disabilities Education Act, 20 United States Code, Section 1400 et seq.

B. Nothing in this subsection prevents a school board from:

(1) Offering instructional activities related to firearms or from allowing a firearm to be brought to school for instructional activities sanctioned by the ~~district~~ school board and for which the school board has adopted appropriate safeguards to ensure student safety; or

(2) Providing educational services in an alternative setting to a student who has been expelled.

C. In accordance with the proper investigation and due process provisions required in subsection 9, a principal may suspend immediately for good cause a student who is determined to have brought a firearm to school or to have possessed a firearm at school under this subsection.

**Sec. 2. 20-A MRSA §6552, sub-§1,** as amended by PL 2007, c. 67, §1, is further amended to read:

**1. Prohibition.** A person may not possess a firearm on public school property or the property of an approved private school or discharge a firearm within 500 feet of public school property or the property of an approved private school. ~~For purposes of this subsection, public school property includes property of a community college that adopts a policy imposing such a prohibition.~~

**Sec. 3. 20-A MRSA §6552, sub-§2,** as enacted by PL 1981, c. 693, §§5 and 8, is repealed and the following enacted in its place:

**2. Exceptions.** The provisions under subsection 1 do not apply to the following.

A. The prohibition on the possession and discharge of a firearm does not apply to law enforcement officials.

B. The prohibition on the possession of a firearm does not apply to the following persons, if the possession is authorized by a written policy adopted by the school board:

(1) A person who possesses an unloaded firearm for use in a supervised educational program approved and authorized by the school board and for which the school board has adopted appropriate safeguards to ensure student safety; and

(2) A person who possesses an unloaded firearm that is stored inside a locked vehicle in a closed container, a zipped case or a locked firearms rack while the person is attending a hunter's breakfast or similar event that:

(a) Is held during an open firearm season established under Title 12, Part 13 for any species of wild bird or wild animal;

(b) Takes place outside of regular school hours; and

(c) Is authorized by the school board.

C. The prohibition on possession and discharge of a firearm does not apply to a person possessing a firearm at a school-operated gun range or a person discharging a firearm as part of a school-sanctioned program at a school-operated gun range if the gun range and the program are authorized by a written policy adopted by the school's governing body.

See title page for effective date.

## CHAPTER 615
## S.P. 710 - L.D. 1810

### An Act To Implement the Recommendations of the Governor's Ocean Energy Task Force

**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 2008, crude oil prices reached $147 per barrel, and gasoline and heating oil prices reached over $4 per gallon, highlighting our State's long over-reliance on oil for home-heating and fuel for our vehicles and on natural gas and other fossil fuels to produce electricity; and

**Whereas,** along with the foreseeable prospect of prolonged high or higher fossil fuel prices, the implications of climate change, driven by greenhouse gas emissions from combustion of fossil fuels, and its attendant threats to the environment, economy, social fabric and human health underscore the urgent need to significantly reduce and minimize our State's dependence on oil and gas; and

**Whereas,** renewable ocean energy holds enormous promise to address our state and regional energy goals, including energy independence and security and limiting exposure to fossil fuels' price and supply volatility; to ensure attainment of our greenhouse gas emissions reduction goals; and to provide significant economic opportunities for our citizens; and

**Whereas,** state and adjoining federal waters feature significant offshore wind, tidal and wave power energy resources, including world-class and untapped deep-water wind resources with the potential to make a significant contribution to the State's energy sources to meet the State's changing needs for renewable sources of light and power, heat and transportation fuel; to meet the State's ambitious renewable energy portfolio standards; and to position the State to be an exporter of clean, renewable indigenous energy; and

**Whereas,** the Governor's Ocean Energy Task Force identified and made recommendations to overcome economic, technical and regulatory obstacles and to provide economic incentives for vigorous and efficient development of these promising indigenous, renewable ocean energy resources in ways that recognize the concurrent need to sustain the ongoing biological integrity of the State's waters, the vitality and

productivity of ocean harvests and the differing needs and uses of the seas and other natural resources and to ensure the provision of these benefits to the people of the State by careful use of such public resources for renewable ocean energy production; and

**Whereas,** although additional research and related technological advances are needed for efficient commercialization of deep-water offshore wind power, varied and significant potential public benefits attributable to development and transition over time to optimal use of this resource and the State's other renewable ocean energy resources necessitates timely action to position the State to capture these benefits for the people of 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:**

## PART A

**Sec. A-1. 35-A MRSA §3132, sub-§6,** as amended by PL 2009, c. 309, §3, is further amended to read:

**6. Commission order; certificate of public convenience and necessity.** In its order, the commission shall make specific findings with regard to the public need for the proposed transmission line. If the commission finds that a public need exists, it shall issue a certificate of public convenience and necessity for the transmission line. In determining public need, the commission shall, at a minimum, take into account economics, reliability, public health and safety, scenic, historic and recreational values, state renewable energy generation goals, the proximity of the proposed transmission line to inhabited dwellings and alternatives to construction of the transmission line, including energy conservation, distributed generation or load management. If the commission orders or allows the erection of the transmission line, the order is subject to all other provisions of law and the right of any other agency to approve the transmission line. The commission shall, as necessary and in accordance with subsections 7 and 8, consider the findings of the Department of Environmental Protection under Title 38, chapter 3, subchapter 1, article 6, with respect to the proposed transmission line and any modifications ordered by the Department of Environmental Protection to lessen the impact of the proposed transmission line on the environment. A person may submit a petition for and obtain approval of a proposed transmission line under this section before applying for approval under municipal ordinances adopted pursuant to Title 30-A, Part 2, Subpart 6-A; and Title 38, section 438-A and, except as provided in subsection 4, before identifying a specific route or route options for the proposed transmission line. Except as provided in subsection 4, the commission may not consider the petition insufficient for failure to provide identification of a route or route options for the proposed transmission line. The issuance of a certificate of public convenience and necessity establishes that, as of the date of issuance of the certificate, the decision by the person to erect or construct was prudent. At the time of its issuance of a certificate of public convenience and necessity, the commission shall send to each municipality through which a proposed corridor or corridors for a transmission line extends a separate notice that the issuance of the certificate does not override, supersede or otherwise affect municipal authority to regulate the siting of the proposed transmission line. The commission may deny a certificate of public convenience and necessity for a transmission line upon a finding that the transmission line is reasonably likely to adversely affect any transmission and distribution utility or its customers.

**Sec. A-2. 35-A MRSA §3402, sub-§1,** as enacted by PL 2007, c. 661, Pt. A, §4, is amended to read:

**1. Contribution of wind energy development.** The Legislature finds and declares that the wind energy resources of the State constitute a valuable indigenous and renewable energy resource and that wind energy development, which is unique in its benefits to and impacts on the natural environment, makes a significant contribution to the general welfare of the citizens of the State for the following reasons:

A. Wind energy is an economically feasible, large-scale energy resource that does not rely on fossil fuel combustion or nuclear fission, thereby displacing electrical energy provided by these other sources and avoiding air pollution, waste disposal problems and hazards to human health from emissions, waste and by-products; consequently, wind energy development may address energy needs while making a significant contribution to achievement of the State's renewable energy and greenhouse gas reduction objectives, including those in Title 38, section 576; ~~and~~

B. At present and increasingly in the future with anticipated technological advances that promise to increase the number of places in the State where grid-scale wind energy development is economically viable, and changes in the electrical power market that favor clean power sources, wind energy may be used to displace electrical power that is generated from fossil fuel combustion and thus reduce our citizens' dependence on imported oil and natural gas and improve environmental quality and state and regional energy security~~.~~; and

C. Renewable energy resources within the State and in the Gulf of Maine have the potential, over time, to provide enough energy for the State's homeowners and businesses to reduce their use of oil and liquid petroleum-fueled heating systems by transition to alternative, renewable energy-based heating systems and to reduce their use of petroleum-fueled motor vehicles by transition to electric-powered motor vehicles. Electrification of heating and transportation has potential to increase the State's energy independence, to help stabilize total residential and commercial energy bills and to reduce greenhouse gas emissions.

**Sec. A-3. 35-A MRSA §3404, sub-§1,** as enacted by PL 2007, c. 661, Pt. A, §6, is amended to read:

**1. Encouragement of wind energy-related development.** It is the policy of the State ~~that,~~ in furtherance of the goals established in subsection 2, ~~its political subdivisions, agencies and public officials take every reasonable action~~ to encourage the attraction of appropriately sited development related to wind energy, including any additional transmission and other energy infrastructure needed to transport additional offshore wind energy to market, consistent with all state environmental standards; the permitting and financing of wind energy projects; and the siting, permitting, financing and construction of wind energy research and manufacturing facilities.

**Sec. A-4. 35-A MRSA §3404, sub-§2,** as enacted by PL 2007, c. 661, Pt. A, §6, is amended to read:

**2. State wind energy generation goals.** The goals for wind energy development in the State are that there be:

A. At least 2,000 megawatts of installed capacity by 2015; ~~and~~

B. At least 3,000 megawatts of installed capacity by 2020, ~~of which there is a potential to produce~~ including 300 megawatts or more from generation facilities located in coastal waters, as defined by Title 12, section 6001, subsection 6, or in proximate federal waters.~~;~~ and

C. At least 8,000 megawatts of installed capacity by 2030, including 5,000 megawatts from generation facilities located in coastal waters, as defined by Title 12, section 6001, subsection 6, or in proximate federal waters.

**Sec. A-5. 38 MRSA §631, sub-§3** is enacted to read:

**3. Encouragement of tidal and wave power development.** It is the policy of the State to encourage the attraction of appropriately sited development related to tidal and wave energy, including any additional transmission and other energy infrastructure needed to transport such energy to market, consistent with all state environmental standards; the permitting and siting of tidal and wave energy projects; and the siting, permitting, financing and construction of tidal and wave energy research and manufacturing facilities.

**Sec. A-6. Competitive solicitation; long-term contracts; deep-water offshore wind energy pilot projects and tidal energy demonstration projects.** By September 1, 2010, in accordance with the Maine Revised Statutes, Title 35-A, section 3210-C, except as otherwise provided by this section, the Public Utilities Commission shall conduct a competitive solicitation for proposals for long-term contracts to supply installed capacity and associated renewable energy and renewable energy credits from one or more deep-water offshore wind energy pilot projects or tidal energy demonstration projects.

The commission shall consult with the University of Maine, Department of Industrial Cooperation, Office of Research and Economic Development and the Department of Economic and Community Development in developing the request for proposals under this section and in its review of proposals submitted in response to the request.

Subject to the requirements of this section, the commission may direct one or more transmission and distribution utilities, as appropriate, to enter into a long-term contract of up to 20 years for the installed capacity and associated renewable energy and renewable energy credits of one or more deep-water offshore wind energy pilot projects or tidal energy demonstration projects.

For purposes of this section, "deep-water offshore wind energy pilot project" means a wind energy development, as defined by Title 35-A, section 3451, subsection 11, that is connected to the electrical transmission system located in the State and employs one or more floating wind energy turbines in the Gulf of Maine at a location 300 feet or greater in depth no less than 10 nautical miles from any land area of the State other than coastal wetlands, as defined by Title 38, section 480-B, subsection 2, or an uninhabited island. "Tidal energy demonstration project" has the same meaning as in Title 38, section 636-A, subsection 1, paragraph A.

1. Following review of proposals submitted in response to the competitive solicitation, the commission may negotiate with one or more potential suppliers to supply an aggregate total of no more than 30 megawatts of installed capacity and associated renewable energy and renewable energy credits from deep-water offshore wind energy pilot projects or tidal energy demonstration projects as long as no more than 5 megawatts of the total is supplied by tidal energy demonstration projects. Consistent with such negotiations, the commission may direct one or more trans-

mission and distribution utilities, as appropriate, to enter into a long-term contract under this section only if the commission determines that the potential supplier:

A. Proposes sale of renewable energy produced by a deep-water offshore wind energy pilot project or a tidal energy demonstration project, referred to in this section as "the project;"

B. Has the technical and financial capacity to develop, construct, operate and, to the extent consistent with applicable federal law, decommission and remove the project in the manner provided by Title 38, section 480-HH, subsection 3, paragraph G;

C. Has quantified the tangible economic benefits of the project to the State, including those regarding goods and services to be purchased and use of local suppliers, contractors and other professionals, during the proposed term of the contract;

D. Has experience relevant to tidal power or the offshore wind energy industry, as applicable, including, in the case of a deep-water offshore wind energy pilot project proposal, experience relevant to the construction and operation of floating wind turbines, and has the potential to construct a deep-water offshore wind energy project 100 megawatts or greater in capacity in the future to provide electric consumers in the State with project-generated power at reduced rates;

E. Has demonstrated a commitment to invest in manufacturing facilities in the State that are related to deep-water offshore wind energy or tidal energy, as applicable, including, but not limited to, component, turbine, blade, foundation or maintenance facilities; and

F. Has taken advantage of all federal support for the project, including subsidies, tax incentives and grants, and incorporated those resources into its bid price.

2. To mitigate any impacts of a long-term contract entered into under this section on electric rates, the commission shall:

A. Require the supplier, as part of the long-term contract, to take advantage of future federal support that may become available to the project over the contract term to mitigate impacts of the contract on electric rates;

B. Use the following funds to the full extent that such funds are available to mitigate impacts of the long-term contract on electric rates over the contract term:

(1) A portion of federal revenues from leasing areas of the Outer Continental Shelf for the project that is received by the State;

(2) A portion of the rent received by the State for leasing state submerged lands;

(3) A portion of the funds collected in the energy independence fund under Title 5, section 282, subsection 9; and

(4) Any other sources of revenue or funds accessible to the commission to mitigate impacts on ratepayers;

C. Develop and market an ocean wind green power offer, in accordance with provisions governing green power offers under Title 35-A, section 3212-A, that is composed of electricity or renewable energy credits for electricity generated from deep-water offshore wind energy pilot projects to coincide with the start-up date of any deep-water offshore wind energy pilot project that secures a long-term contract under this section. In its annual report under Title 35-A, section 120, subsection 7, the commission shall report on the development, marketing and purchase of the ocean wind green power offer.

The commission may not approve any long-term contract under this section that would result in an increase in electric rates in any customer class that is greater than the amount of the assessment charged under Title 35-A, section 10110, subsection 4 at the time that the contract is entered.

Any contract entered into pursuant to this section must require that the deep-water offshore wind energy pilot project or tidal energy demonstration project, as appropriate, be constructed and operating within 5 years of the date the contract is finalized, unless the commission and project developer mutually agree to a longer time period.

In purchasing electricity for state-owned buildings pursuant to Title 5, section 1766-A, the State shall consider the ocean wind green power offer. In purchasing electricity for the university system, the University of Maine System shall consider the ocean wind green power offer.

**Sec. A-7. Review of terms and conditions for long-term contracts for renewable ocean energy.** No later than January 15, 2012, the Executive Department, Governor's Office of Energy Independence and Security shall make a recommendation to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters regarding terms and conditions for long-term contracts for installed capacity and associated renewable energy and renewable energy credits produced by renewable ocean energy projects, except for those addressed in section 8. For the purposes of this section, "renewable ocean energy project" has the same meaning as in the Maine Revised Statutes, Title 12, section 1862, subsection 1, paragraph F-1. In making a recommendation

under this section, the office shall, at a minimum, consider the following issues:

1. Risks to ratepayers associated with fossil fuel price volatility over the next 20 years;

2. State goals for the reduction of greenhouse gas emissions established in Title 38, section 576;

3. State wind energy generation goals under Title 35-A, section 3404, subsection 2; and

4. Other potential benefits attributable to the development of offshore wind, tidal and wave energy projects, including but not limited to public health, job creation and other economic benefits and energy security.

**Sec. A-8. State energy plan amendment.** No later than September 15, 2010, the Executive Department, Governor's Office of Energy Independence and Security shall amend the state energy plan under Title 2, section 9 to acknowledge the need for new transmission capacity to support attainment of state offshore wind energy generation goals established in the Maine Revised Statutes, Title 35-A, section 3404, subsection 2.

**Sec. A-9. Assess the need for port-side land acquisition.** No later than January 15, 2011, the Maine Port Authority shall assess existing port facilities in the State and make a recommendation to the joint standing committees of the Legislature having jurisdiction over transportation matters and utilities and energy matters regarding acquisition of real estate needed to facilitate renewable ocean energy development opportunities.

## PART B

**Sec. B-1. 12 MRSA §1862,** as amended by PL 2009, c. 270, Pt. B, §1 and c. 316, §§1 to 6 and affected by §7, is further amended to read:

**§1862. Submerged and intertidal lands owned by State**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Commercial fishing activity" means any activity involving the landing or processing of shellfish, finfish or other natural products of the sea or other activities directly related to landing or processing shellfish, finfish or natural sea products. "Commercial fishing activity" includes loading or selling those products and fueling.

B. "Dockominium" means slip space that is sold or leased by a lessee of submerged lands to a boat or vessel owner for more than one year.

C. "Fair market rental value," for all uses of submerged lands except slip space rented or otherwise made available for private use for a fee, means the municipally assessed value per square foot for the adjacent upland multiplied by a reduction factor plus a base rate based on the use of the leased submerged land as specified in this section. This value is then multiplied by the square foot area of the proposed lease area to determine the annual rental rate. For slip space rented or otherwise made available for private use for a fee, the fair market rental value is the gross income from that space multiplied by a reduction factor as specified in this section based on the use of the leased submerged land.

D. "Gross income" means the total annual income received by a lessee from seasonal or transient rental to the general public of slip space over submerged land. For dockominiums, slips that are part of a residential condominium, boat clubs and other facilities with slip space that is not rented or leased to the general public, the director shall determine gross income by calculating a regional average slip space rental fee and applying that to the portion of total linear length of slip space made available to private users for any portion of that year.

E. "Occupying," in terms of a structure or alteration, means covering the total area of the structure or alteration itself to the extent that the area within its boundaries is directly on or over the state-owned lands.

E-1. "Offshore project" means a project that extends beyond localized development adjacent to a single facility or property. "Offshore project" includes, but is not limited to, tanker ports, ship berthing platforms requiring secondary transport to shore, an interstate or international pipeline or cable and similar projects. "Offshore project" does not include a shore-based pier, marina or boatyard or utility cable and pipelines serving neighboring communities or islands. "Offshore project" does not include a wind ~~farms~~, tidal ~~and~~, wave ~~energy facilities~~ or other ~~offshore~~ renewable ocean energy ~~projects~~ project.

F. "Permanent" means occupying submerged and intertidal lands owned by the State during 7 or more months during any one calendar year.

F-1. "Renewable ocean energy project" means one or more of the following located in coastal wetlands, as defined by Title 38, section 480-B, subsection 2:

(1) An offshore wind power project, as defined by Title 38, section 480-B, subsection 6-A or by Title 38, section 482, subsection 8, and with an aggregate generating capacity of 3 megawatts or more;

(2) A community-based offshore wind energy project, as defined by section 682, subsection 19;

(3) A hydropower project, as defined by Title 38, section 632, subsection 3, that uses tidal or wave action as a source of electrical or mechanical power; or

(4) Other development activity that produces electric or mechanical power solely through use of wind, waves, tides, currents, ocean temperature clines, marine biomass or other renewable sources in, on or over the State's coastal waters, as defined by section 6001, subsection 6, to the 3-mile limit of state ownership recognized under the federal Outer Continental Shelf Lands Act, 43 United States Code, Chapter 29, Subchapter III (2009), and that includes both "generating facilities," as defined by Title 35-A, section 3451, subsection 5 and "associated facilities," as defined by Title 35-A, section 3451, subsection 1.

G. "Slip space" means the area adjacent to a pier or float that is used for berthing a boat.

**2. Submerged lands leasing program.** The director may conduct a submerged lands leasing ~~progam~~ program under which, except as otherwise provided by subsection 13, the director may lease, for a term of years not exceeding 30 and with conditions the director considers reasonable, the right to dredge, fill or erect permanent causeways, bridges, marinas, wharves, docks, pilings, moorings or other permanent structures on submerged and intertidal land owned by the State. The director may refuse to lease submerged lands if the director determines that the lease will unreasonably interfere with customary or traditional public access ways to or public trust rights in, on or over the intertidal or submerged lands and the waters above those lands.

A. For fill, permanent causeways, bridges, marinas, wharves, docks, pilings, moorings or other permanent structures and for nonpermanent structures occupying a total of 500 square feet or more of submerged land or occupying a total of 2,000 square feet or more of submerged land if used exclusively for commercial fishing activities:

(1) ~~The~~ Except as otherwise provided by subsection 13, the director shall charge the lessee a rent that practically approximates the fair market rental value of the submerged land. The reduction factors and base rate for use categories are as follows:

(a) A reduction factor of 0% with no base rate or rental fee for nonprofit organizations or publicly owned facilities that offer free public use or public use with nominal user fees. Public uses include, but are not limited to, municipal utilities and facilities that provide public access to the water, town wharves, walkways, fishing piers, boat launches, parks, nature reserves, swimming or skating areas and other projects designed to allow or enhance public recreation, fishing, fowling and navigation and for which user fees are used exclusively for the maintenance of the facility;

(b) A reduction factor of 0.1% plus a base rate of $0.025 per square foot for commercial fishing uses of renewable aquatic resources. Commercial uses of renewable aquatic resources include, but are not limited to, facilities that are directly involved in commercial fishing activities. Such facilities include, but are not limited to, fish piers, lobster impoundments, fish processing facilities and floats or piers for the storage of gear;

(c) A reduction factor of 2% for any slip space rented or otherwise made available for private use by commercial fishing boats for a fee;

(d) A reduction factor of 0.2% plus a base rate of $0.05 per square foot for water-dependent commerce, industry and private uses. Water-dependent commerce, industry and private uses other than commercial uses of renewable aquatic resources include, but are not limited to, all facilities that are functionally dependent upon a waterfront location, can not reasonably be located or operated on an upland site or are essential to the operation of the marine industry. Such facilities include, but are not limited to, privately owned piers and docks, cargo ports, private boat ramps, shipping and ferry terminals, tug and barge facilities, businesses that are engaged in watercraft construction, maintenance or repair, aquariums and the area within marinas occupied by service facilities, gas docks, breakwaters and other structures not used for slip space;

(e) A reduction factor of 4% for any slip space rented or otherwise made available for private use for recreational boats for a fee; and

(f) A reduction factor of 0.2% for upland uses and fill located on submerged lands prior to July 1, 2009 and 0.4% for new upland uses and fill after July 1, 2009

plus a base rate of $0.05 per square foot. Upland uses include, but are not limited to, all uses that can operate in a location other than on the waterfront or that are not essential to the operation of the marine industry. These facilities include, but are not limited to, residences, offices, restaurants and parking lots. Fill must include the placement of solid material other than pilings or other open support structures upon submerged lands.

If the director determines that the municipally assessed value of the adjacent upland is not an accurate indicator of the value of submerged land, the director may make adjustments in the municipally assessed value so that it more closely reflects the value of comparable waterfront properties in the vicinity or require the applicant to provide an appraisal of the submerged land. The appraisal must be approved by the director.

For offshore projects where municipally assessed value for the adjacent upland or submerged lands appraisals are unavailable or the director determines that such assessment or appraisals do not accurately indicate the value of the submerged land, the director may establish the submerged lands annual rental rate and other public compensation as appropriate by negotiation between the bureau and the applicant. In such cases the annual rent and other public compensation must take into account the proposed use of the submerged lands, the extent to which traditional and customary public uses may be diminished, the public benefit of the project, the economic value of the project and the avoided cost to the applicant. If the State's ability to determine the values listed in this paragraph or to carry out negotiations requires expertise beyond the program's capability, the applicant must pay for the costs of contracting for such expertise;

(2) After October 1, 1990, the director may revalue all existing rents to full fair market rental value. Rents for all uses except slip space may be adjusted annually as needed over a period not to exceed 5 years until the full fair market rental value is reached. After the full fair market rental value is reached, the director may revalue rents for all uses except slip space every 5 years based on changes in municipally assessed value and programmatic cost adjustments to the base rate. Adjustments to the base rate may not exceed 4% per year. Rents for slip space may fluctuate annually depending on the gross income of the facility;

(3) ~~The~~ Except as otherwise provided by subsection 13, the director may also lease a buffer zone of not more than 30 feet in width around a permanent structure located on submerged or intertidal land, ~~provided that~~ as long as the lease is necessary to preserve the integrity and safety of the structure and that the Commissioner of Marine Resources consents to that lease;

(4) Any existing or proposed lease may be subleased for the period of the original lease for the purpose of providing berthing space for any boat or vessel;

(5) No portion of an existing or proposed lease may be transferred from a person subleasing that portion to provide berthing space for any boat or vessel except for a transfer to heirs upon death of the sublessee holder or a transfer to the original leaseholder subject to terms agreed to by the lessor and sublessee at the time of the sublease. This subparagraph does not apply to any subleasing arrangements entered into before June 15, 1989; and

(6) The director may grant the proposed lease if the director finds that, in addition to any other findings that the director may require, the proposed lease:

(a) Will not unreasonably interfere with navigation;

(b) Will not unreasonably interfere with fishing or other existing marine uses of the area;

(c) Will not unreasonably diminish the availability of services and facilities necessary for commercial marine activities; and

(d) Will not unreasonably interfere with ingress and egress of riparian owners.

~~The bureau shall adopt rules pertaining to this subparagraph by March 15, 1990.~~

B. For dredging, impounded areas and underwater cables and pipelines, the director shall develop terms and conditions the director considers reasonable.

C. The director shall charge an administrative fee of $100 for each lease in addition to any rent. A fee of $200 must be charged for a lease application that is received after work has begun for the proposed project.

D. ~~The~~ Except as otherwise provided by subsection 13, the minimum rent to which any lease is subject is $150 per year.

F. Within 15 days of receipt of a copy of an application submitted to the Department of Environmental Protection for a general permit under Title 38, section 480-HH or Title 38, section 636-A, the director shall, if requested by the applicant, provide the applicant a lease option, to be effective on the date of receipt of the application, for use of state-owned submerged lands that are necessary to fulfill the project purposes as identified in the application. Within 30 days of receiving notice and a copy of a general permit granted pursuant to Title 38, section 480-HH or Title 38, section 636-A, the director shall waive the review procedures and standards under this section and issue a submerged lands lease for the permitted activity. The term of the lease must be consistent with that of the permit, including any extension of the permit, and the period of time needed to fully implement the project removal plan approved pursuant to Title 38, section 480-HH or Title 38, section 636-A, as applicable. The director may include lease conditions that the director determines reasonable, except that the conditions may not impose any requirement more stringent than those in a permit granted under Title 38, section 480-HH or Title 38, section 636-A, as applicable, and may not frustrate achievement of the purpose of the project.

In making findings pursuant to this subsection regarding a renewable ocean energy project, the director shall adopt all pertinent findings and conclusions in a permit issued for the project pursuant to chapter 206-A or pursuant to Title 38, chapter 3, subchapter 1, article 5-A or 6 or Title 38, chapter 5, subchapter 1, article 1, subarticle 1-B, as applicable, and may condition issuance of a lease for such a project on receipt of all pertinent approvals by the Department of Environmental Protection or the Maine Land Use Regulation Commission, as applicable, and other conditions the director considers reasonable.

**2-A. Lease renewal.** A lessee who is in compliance with all terms of that person's lease may apply at any time to renew the lease. The director shall approve the lease renewal if the existing lease complies with or can be amended to comply with all applicable laws, rules and public trust principles in effect at the time of the renewal application. This subsection applies to all leases in effect on the effective date of this subsection and to all leases executed on or subsequent to the effective date of this subsection.

**3. Easements.** The director may grant, upon terms and conditions the director considers reasonable, assignable easements for a term not to exceed 30 years for the use of submerged and intertidal lands for the purposes permitted in subsection 2. The grantee shall pay an administrative fee of $100 for each easement at the time of processing and a registration fee of $50 due every 5 years. An administrative fee of $200 must be charged for an easement application that is received after work has begun for the proposed project. The director may refuse to grant an easement for the use of submerged and intertidal lands if the director determines that the easement will unreasonably interfere with customary or traditional public access ways to or public trust rights in, on or over the intertidal or submerged lands and the waters above those lands. The director may grant an easement for submerged and intertidal lands if a structure:

A. Is for the exclusive benefit of the abutting upland owner for charitable purposes as defined in the United States Internal Revenue Code, Section 501, (c) (3);

B. Occupies a total of not more than 500 square feet of submerged and intertidal land for any lawful purpose and is permanent; or

C. Occupies a total of not more than 2,000 square feet of submerged and intertidal land for the exclusive purpose of commercial fishing activities and is permanent.

**4. Adjustment of terms.** The director may adjust from time to time, consistent with the provisions of this section, conditions applicable to any leasehold or easement entered into under this section in any parcel of state-owned submerged or intertidal land. Rent may not be charged for leases entered into before July 1, 1984 if the actual use of the leased land is eligible for an easement under subsection 3.

**5. Review of uses.** In the case of easements, the director shall review from time to time the purposes for which the land conveyed has actually been used, and, in the event any such purpose is found to be inconsistent with the criteria set forth in subsection 3 for eligibility for an easement, the easement must terminate and the director may enter into a leasehold agreement with the holder of the easement in accordance with subsection 2.

**6. Constructive easements.** The owner of any structure actually upon submerged and intertidal lands on October 1, 1975 is deemed to have been granted a constructive easement for a term of 30 years on the submerged land directly underlying the structure. Beginning on January 1, 1991, the bureau shall undertake a registration program for all structures granted constructive easements. Constructive easements are subject to administrative and registration fees for easements pursuant to subsection 3. The director shall develop procedures, rules and registration forms necessary to accomplish the purposes of this subsection. The bureau shall complete the registration of constructive easements on or before December 31, 1996.

**7. Consultation.** The director shall consult with the commissioner, the Commissioner of Marine Resources, the Commissioner of Inland Fisheries and Wildlife and any other agencies or organizations the

director considers appropriate in developing and implementing terms, conditions and consideration for conveyances under this section. When rental terms under subsection 13 for a renewable ocean energy project are at issue, the director also shall consult with the Public Utilities Commission. The director may determine to make proprietary conveyances under this section solely on the basis of the issuance of environmental or regulatory permits by other appropriate state agencies.

**9. Public compensation.** ~~With~~ Except as otherwise provided by subsection 13, with respect to any lease, including, but not limited to, leases for offshore projects, when the director determines that the public should be compensated for the loss or diminution of traditional and customary public uses resulting from the activities proposed by the lessee, the director may negotiate with the lessee to provide public access improvements such as walkways, boat launching ramps, parking space or other facilities or negotiate a fee in lieu of such improvements as a condition of the lease. The determination of loss or diminution of traditional and customary public uses and appropriate public compensation must be made in consultation with local municipal officials.

**10. Aquaculture exemption.** A lease for the use of lands under this section is not required for the development and operation of any aquaculture facility if the owner or operator of the facility has obtained a lease from the Commissioner of Marine Resources under section 6072. Ancillary equipment and facilities permanently occupying submerged lands on the lease site and not explicitly included in the lease granted by the Commissioner of Marine Resources are not exempt from the requirements of this section.

**11. Revenues.** ~~All~~ Except as otherwise provided by subsection 13, all revenues from the bureau's activities under this section accrue to the Submerged Lands Fund established in section 1861.

**12. Annual report dealing with submerged lands.** The bureau shall prepare and submit a written report on or before March 1st of each year to the joint standing committee of the Legislature having jurisdiction over submerged lands matters. The report must include the following information:

A. A complete account of the income and expenditures pertaining to submerged lands during the preceding calendar year;

B. A summary of the bureau's management activities during the preceding calendar year regarding leases, easements and other appropriate subjects;

C. A summary of any Shore and Harbor Management Fund grants made under section 1863; and

D. A description of the proposed budget, including allocations for the bureau's dedicated funds and any revenues of the bureau from leases and easements for the following fiscal year.

The joint standing committee of the Legislature having jurisdiction over submerged lands matters shall review the report and submit a written recommendation regarding the bureau's proposed budget to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs on or before March 15th of each year.

**13. Special provisions regarding renewable ocean energy projects.** The provisions in this subsection govern renewable ocean energy projects.

A. The Legislature finds that:

(1) The State's coastal waters and submerged lands provide unique and valuable opportunities for development of wind and tidal power and, potentially, other indigenous, renewable ocean energy resources, such as wave power;

(2) Climate change and related degradation or loss of marine resources and related human uses make development of and transition to use of renewable ocean energy resources consistent with sound stewardship of the State's public trust resources;

(3) Proper and efficient functioning of certain generation and associated facilities that use the energy potential of the State's indigenous, renewable ocean energy resources depends upon their deployment in a marine environment and, accordingly, such facilities may to the extent necessary be located in, on or over state-owned submerged lands; and

(4) With appropriate provision for avoidance and minimization of and compensation for harm to existing public trust-related uses and resources, such as fishing and navigation; consideration of potential adverse effects on existing uses of the marine environment; restoration of affected lands upon completion of authorized uses pursuant to permitting criteria; and adequate compensation to the public for use of its trust resources pursuant to state submerged lands leasing criteria, development of these renewable ocean energy resources in appropriate locations promises significant public trust-related benefits to the people of this State for whom the State holds and manages submerged lands and their resources.

B. In accordance with the findings in paragraph A, the following provisions apply to an application for a lease or easement for a renewable ocean energy project.

(1) No more than 30 days prior to filing applications in accordance with this paragraph, an applicant for a lease or easement for a renewable ocean energy project shall participate in a joint interagency preapplication meeting that includes the Department of Marine Resources and is in accordance with permitting procedures of the Department of Environmental Protection or the Maine Land Use Regulation Commission, as applicable.

(2) An applicant for a lease or easement for a renewable ocean energy project must file and certify to the director that it has filed completed applications for requisite state permits under chapter 206-A or Title 38, chapter 3, subchapter 1, article 5-A or 6 or Title 38, chapter 5, subchapter 1, article 1, subarticle 1-B, as applicable, prior to or concurrently with submission of its submerged lands lease application under this section and shall provide a copy of any such applications to the director upon request.

(3) The director shall provide notice to the Marine Resources Advisory Council under section 6024 and any lobster management policy council established pursuant to section 6447 in whose or within 3 miles of whose designated lobster management zone created pursuant to section 6446 the proposed development is located. The Marine Resources Advisory Council and any lobster management policy council notified pursuant to this subparagraph may provide comments within a reasonable period established by the director, and the director shall consider the comments in making findings pursuant to subsection 2, paragraph A, subparagraph (6).

(4) The director may issue a lease or easement for a hydropower project, as defined in Title 38, section 632, subsection 3, that uses tidal or wave action as a source of electrical or mechanical power, for a term not to exceed 50 years, as long as the lease term is less than or equal to the term of the license for the project issued by the Federal Energy Regulatory Commission.

(5) If requested by an applicant, and with provision for public notice and comment, the director may issue one or more of the following for a renewable ocean energy project prior to issuance of a 30-year lease for the project:

(a) A lease option, for a term not to exceed 2 years, that establishes that the leaseholder, for purposes of consideration of its application for state permit approvals under chapter 206-A or Title 38, chapter 3, subchapter 1, article 5-A or 6 or Title 38, chapter 5, subchapter 1, article 1, subarticle 1-B, as applicable, has title, right or interest in a specific area of state submerged lands needed to achieve the purposes of the project as described in conceptual plans in the lease application;

(b) A submerged lands lease, for a term not to exceed 3 years, that authorizes the leaseholder to undertake feasibility testing and predevelopment monitoring for ecological and human use impacts as described in conceptual plans in the lease application and conditioned on receipt of requisite federal, state and local approvals; and

(c) A submerged lands lease, for a term not to exceed 5 years, that authorizes the leaseholder to secure requisite federal, state and local approvals and complete preoperation construction, as long as the applicant provides detailed development plans describing all operational conditions and restrictions.

(6) Except as otherwise provided in this paragraph, the annual rent for a wind energy demonstration project for which a general permit has been issued under Title 38, section 480-HH is $10,000 per year for the term of the general permit. The annual rent for a tidal energy demonstration project for which a general permit has been issued under Title 38, section 636-A is $100 per acre of submerged lands occupied by the project for the term of the general project, except that the annual rent may not exceed $10,000. As used in this paragraph, "submerged lands occupied" includes the sum of the area on which turbines, testing and monitoring equipment, anchoring or mooring lines, submerged transmission cables or other structures are placed and any additional area from which the director finds it necessary to exclude transient public trust uses to avoid unreasonable interference with the project's purposes. An annual rent is not required for an offshore wind energy demonstration project located in the Maine Offshore Wind Energy Research Center, as designated by the department under section 1868, subsection 2.

(7) The director shall charge a lessee an annual rent in accordance with a fee schedule, established by the bureau by rule, that balances state goals of assurance of fair compensation for use and mitigation of potential adverse effects on or conflict with existing uses

of state-owned submerged lands that are held in trust for the people of the State with state renewable ocean energy-related goals, including state wind energy generation goals established in Title 35-A, section 3404, subsection 2. Rules adopted pursuant to this subparagraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

(8) The director may not require additional public compensation pursuant to subsection 9.

(9) The director may issue a lease for a buffer zone comprising a land or water area around permanent structures located on submerged or intertidal land if:

(a) The director determines such a buffer zone is necessary to preserve the integrity or safety of the structure or fulfill the purposes of the project; and

(b) The director consults with the Commissioner of Marine Resources regarding the need for such a buffer, its location and size and options to minimize its potential effects on existing uses.

**Sec. B-2. 12 MRSA §1863, sub-§3,** as repealed and replaced by PL 1999, c. 401, Pt. I, §1, is amended to read:

**3. Fund sources.** Annual revenues, less funds deposited in the Renewable Ocean Energy Trust pursuant to section 1863-A and operating expenses from the submerged and intertidal lands program and the abandoned watercraft program and conveyances of submerged and intertidal lands by the Legislature, must be deposited in the fund.

**Sec. B-3. 12 MRSA §1863-A** is enacted to read:

**§1863-A. Renewable Ocean Energy Trust**

**1. Trust established.** The Renewable Ocean Energy Trust, referred to in this section as "the trust," is established as a nonlapsing, dedicated fund to be used to protect and enhance the integrity of public trust-related resources and related human uses of the State's submerged lands.

**2. Administration.** The Treasurer of State shall administer the trust as provided in this section.

**3. Sources of funds.** The following funds must be transferred on receipt to the Treasurer of State for deposit in the trust:

A. Eighty percent of the submerged lands leasing rental payments for renewable ocean energy projects under section 1862, subsection 13 and offshore wind energy demonstration projects and tidal energy demonstration projects for which a general permit has been issued under Title 38, section 480-HH or Title 38, section 636-A, respectively; and

B. The State's share, pursuant to 43 United States Code, Section 1337(p)(2)(B), of federal revenues from alternative energy leasing.

**4. Disbursement of funds; required uses.** The Treasurer of State shall annually disburse the funds in the trust for credit to the Ocean Energy Fund established within the Department of Marine Resources, in consultation with the Marine Resources Advisory Council established under section 6024, for use as follows:

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 fisheries, 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

B. Fifty percent to fund resource enhancement, research on fish behavior and species abundance and distribution and other issues 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 commercial fishing and related activities.

**Sec. B-4. Establishment of fee schedule for renewable ocean energy development projects.** No later than one year from the effective date of this section and in accordance with the Maine Revised Statutes, Title 12, section 1862, subsection 13, paragraph B, subparagraph (6), the Department of Conservation, Bureau of Parks and Lands shall amend its submerged lands leasing rules to establish a fee schedule for leasing submerged lands for a renewable ocean energy project as defined in Title 12, section 1862, subsection 1, paragraph F-1 that balances state goals of assurance of fair compensation for use and mitigation of potential adverse effects on or conflict with existing uses of state-owned submerged lands that are held in trust for the people of the State with state renewable ocean energy-related goals, including state wind energy generation goals established in Title 35-A, section 3404, subsection 2. Rules adopted pur-

suant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Prior to adoption of such a fee schedule, the Director of the Bureau of Parks and Lands shall determine the rent on a case-by-case basis. In developing rules pursuant to this section, the bureau shall:

1. Establish fees that are commercially reasonable and comparable to pertinent lease fees in other jurisdictions both in terms of the fee amounts and provision for a graduated fee schedule that reflects consideration of energy production levels and debt service obligations in the initial years of a renewable ocean energy project;

2. Consider renewable ocean energy-related submerged lands leasing fees in other states; fees provided for by the United States Department of Interior, Minerals Management Service's Renewable Energy Program; current market practices in the wind power industry regarding lease arrangements; and other pertinent information;

3. Include in the fee schedule an amount adequate to cover the bureau's pertinent administrative costs;

4. Allow the developer of a renewable ocean energy project to enter into a contract for sale or use of project-generated power that, through reduced rates or otherwise, provides the State or electric consumers in this State a portion of the dollar value of the pertinent rental fee for use of state submerged lands and obligates the developer to provide monetary payment to the State for the remaining portion of the rental fee as provided in this Act;

5. Consult with and consider the recommendations of the Public Utilities Commission regarding provisions in the rules regarding subsection 4 and related permit terms and conditions for a lease for a renewable ocean energy project;

6. Clarify that potential adverse effects on existing uses, such as fishing, are addressed through the fee schedule and that the bureau may not require case-by-case payment of an amount in addition to rent as compensation for such project-specific effects;

7. Incorporate the annual rent and exemption established in Title 12, section 1862, subsection 13, paragraph B, subparagraph (5); and

8. Otherwise amend its rules for consistency with the provisions of this Act.

## PART C

**Sec. C-1. Personal property-related taxation; renewable ocean energy development.** No later than November 1, 2010, the Department of Administrative and Financial Regulation, Bureau of Revenue Services shall develop and provide to the joint standing committees of the Legislature having jurisdiction over taxation matters and utilities and energy matters an analysis of whether and under what circumstances renewable ocean energy-generating machinery, equipment and related components, including but not limited to turbines, support structures, transmission cables and their component parts, that are in transit to be located in, on or above state submerged lands as defined in the Maine Revised Statutes, Title 12, section 1801, subsection 9 and that are in the State on the first day of April on the applicable tax year are exempt from taxation under Title 36, section 655, subsection 1, paragraph A, B, G or H.

## PART D

**Sec. D-1. 12 MRSA §682, sub-§1,** as amended by PL 1999, c. 333, §1, is further amended to read:

**1. Unorganized and deorganized areas.** "Unorganized and deorganized areas" includes all unorganized and deorganized townships, plantations that have not received commission approval under section 685-A, subsection 4 to implement their own land use controls, municipalities that have organized since 1971 but have not received commission approval under section 685-A, subsection 4 to implement their own land use controls and all other areas of the State that are not part of an organized 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. D-2. 12 MRSA §682, sub-§19** is enacted to read:

**19. Community-based offshore wind energy project.** "Community-based offshore wind energy project" means a wind energy development, as defined by Title 35-A, section 3451, subsection 11, with an aggregate generating capacity of less than 3 megawatts that meets the following criteria: the generating facilities are wholly or partially located on or above the coastal submerged lands of the State; the generating facilities are located within one nautical mile of one or more islands that are within the unorganized and deorganized areas of the State and the project will offset part or all of the electricity requirements of those island communities; and the development meets the definition of "community-based renewable energy project" as defined by Title 35-A, section 3602, subsection 1.

**Sec. D-3. 12 MRSA §685-B, sub-§2-C,** as repealed and replaced by PL 2009, c. 492, §1, is amended to read:

**2-C. Wind energy development; community-based offshore wind energy projects; determination**

**deadline.** 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. 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. 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. 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 nonvoting member of the commission and may participate fully but is not required to attend hearings when the commission considers an application for an expedited wind energy development or 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. For purposes of this subsection, "expedited permitting area," "expedited wind energy development" and "wind energy development" have the same meanings as in Title 35-A, section 3451.

B. 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 A 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. D-4. 12 MRSA §685-B, sub-§4,** as amended by PL 2009, c. 492, §2, 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;

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 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. D-5. 12 MRSA §685-B, sub-§4-B,** as enacted by PL 2007, c. 661, Pt. C, §4, is amended to read:

**4-B. Special provisions; wind energy development or 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;

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. D-6. Maine Land Use Regulation Commission to adopt rule.** No later than December 1, 2010, the Maine Land Use Regulation Commission shall adopt a rule amending its land use districts and standards to provide that offshore wind power projects, as defined in the Maine Revised Statutes, Title 38, section 480-B, subsection 6-A, and community-based offshore wind energy projects, as defined in Title 12, section 682, subsection 19, are uses requiring a permit, but not a special exception, in all subdistricts. Prior to the commission's adoption of a rule in accordance with this section, an offshore wind power project or a community-based offshore wind energy project is considered a use requiring a permit, but not a special exception, in all subdistricts.

Rules adopted by the Maine Land Use Regulation Commission pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

## PART E

**Sec. E-1. 38 MRSA §341-D, sub-§2,** as amended by PL 2007, c. 661, Pt. B, §1, is further amended to read:

**2. Permit and license applications.** Except as otherwise provided in this subsection, the board shall decide each application for approval of permits and licenses that in its judgment:

A. Involves a policy, rule or law that the board has not previously interpreted;

B. Involves important policy questions that the board has not resolved;

C. Involves important policy questions or interpretations of a rule or law that require reexamination; or

D. Has generated substantial public interest.

The board shall assume jurisdiction over applications referred to it under section 344, subsection 2-A, when

it finds that the criteria of this subsection have been met.

The board may vote to assume jurisdiction of an application if it finds that one or more of the criteria in this subsection have been met.

Any interested party may request the board to assume jurisdiction of an application.

The board may not assume jurisdiction over an application for an expedited wind energy development as defined in Title 35-A, section 3451, subsection 4 ~~or~~, for a certification pursuant to Title 35-A, section 3456 or for a general permit pursuant to section 480-HH or section 636-A.

**Sec. E-2. 38 MRSA §341-D, sub-§4, ¶D,** as enacted by PL 2007, c. 661, Pt. B, §4, is amended to read:

D. License or permit decisions regarding an expedited wind energy development as defined in Title 35-A, section 3451, subsection 4 or a general permit pursuant to section 480-HH or section 636-A. In reviewing an appeal of a license or permit decision by the commissioner ~~on an application for an expedited wind energy development~~ under this paragraph, the board shall base its decision on the administrative record of the department, including the record of any adjudicatory hearing held by the department, and any supplemental information allowed by the board using the standards contained in subsection 5 for supplementation of the record. The board may remand the decision to the department for further proceedings if appropriate. The chair of the Public Utilities Commission or the chair's designee ~~shall serve~~ serves as a nonvoting member of the board and is entitled to fully participate but is not required to attend hearings when the board considers an appeal pursuant to this paragraph. The chair's participation on the board pursuant to this paragraph does not affect the ability of the Public Utilities Commission to submit information to the department for inclusion in the record of any proceeding before the department.

**Sec. E-3. 38 MRSA §344, sub-§2-A, ¶A,** as amended by PL 2007, c. 661, Pt. B, §5, is further amended to read:

A. Except as otherwise provided in this paragraph, the commissioner shall decide as expeditiously as possible if an application meets one or more of the criteria set forth in section 341-D, subsection 2 and shall request that the board assume jurisdiction of that application. If at any subsequent time during the review of an application the commissioner decides that the application falls under section 341-D, subsection 2, the commissioner shall request that the board assume jurisdiction of the application.

(1) The commissioner may not request the board to assume jurisdiction of an application for any permit or other approval required for an expedited wind energy development, as defined in Title 35-A, section 3451, subsection 4, ~~or~~ a certification pursuant to Title 35-A, section 3456 or a general permit pursuant to section 480-HH or section 636-A. Except as provided in subparagraph (2), the commissioner shall issue a decision on an application for an expedited wind energy development, an offshore wind power project or a hydropower project, as defined in section 632, subsection 3, that uses tidal action as a source of electrical or mechanical power within 185 days of the date on which the department accepts the application as complete pursuant to this section or within 270 days of the department's acceptance of the application if the commissioner holds a hearing on the application pursuant to section 345-A, subsection 1-A.

(2) The expedited review periods of 185 days and 270 days specified in subparagraph (1) do not apply to the associated facilities, as defined in Title 35-A, section 3451, subsection 1, of the development if the commissioner 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. If an expedited review period does not apply, a review period specified pursuant to section 344-B applies.

The commissioner may stop the processing time with the consent of the applicant for a period of time agreeable to the commissioner and the applicant.

**Sec. E-4. 38 MRSA §344-A, first ¶,** as amended by PL 2009, c. 270, Pt. A, §1, is further amended to read:

The commissioner may enter into agreements with individuals, partnerships, firms and corporations outside the department, referred to throughout this section as "outside reviewers," to review applications or portions of applications submitted to the department. The commissioner has sole authority to determine the applications or portions of applications to be reviewed by outside reviewers and to determine which outside reviewer is to perform the review. When selecting an outside reviewer, all other factors being equal, the commissioner shall give preference to an outside reviewer who is a public or quasi-public entity, such as state agencies, the University of Maine System or the soil and water conservation districts. Except for an agreement for outside review regarding review of an application for a wind energy development as de-

fined in Title 35-A, section 3451, subsection 11, a certification pursuant to Title 35-A, section 3456, an application for an offshore wind power project as defined in section 480-B, subsection 6-A or a general permit pursuant to section 480-HH or section 636-A or an application for a hydropower project, as defined in section 632, subsection 3, that uses tidal action as a source of electrical or mechanical power, the commissioner may enter into an agreement with an outside reviewer only with the consent of the applicant and only if the applicant agrees in writing to pay all costs associated with the outside review.

**Sec. E-5. 38 MRSA §346, sub-§4,** as enacted by PL 2007, c. 661, Pt. B, §8, is amended to read:

**4. Appeal of decision.** A person aggrieved by an order or decision of the board or commissioner regarding an application for an expedited wind energy development, as defined in Title 35-A, section 3451, subsection 4, or a general permit pursuant to section 480-HH or section 636-A may appeal to the Supreme Judicial Court sitting as the law court. These appeals to the law court must be taken in the manner provided in Title 5, chapter 375, subchapter 7.

**Sec. E-6. 38 MRSA §480-B, sub-§6-A** is enacted to read:

**6-A. Offshore wind power project.** "Offshore wind power project" means a project that uses a windmill or wind turbine to convert wind energy to electrical energy and is located in whole or in part within coastal wetlands. "Offshore wind power project" includes both generating facilities as defined by Title 35-A, section 3451, subsection 5 and associated facilities as defined by Title 35-A, section 3451, subsection 1, without regard to whether the electrical energy is for sale or use by a person other than the generator.

**Sec. E-7. 38 MRSA §480-D, first paragraph,** as amended by PL 2007, c. 353, §9, is further amended to read:

The department shall grant a permit upon proper application and upon such terms as it considers necessary to fulfill the purposes of this article. The department shall grant a permit when it finds that the applicant has demonstrated that the proposed activity meets the standards set forth in subsections 1 to ~~9~~ 11, except that when an activity requires a permit only because it is located in, on or over a community public water system primary protection area the department shall issue a permit when it finds that the applicant has demonstrated that the proposed activity meets the standards set forth in subsections 2 and 5.

**Sec. E-8. 38 MRSA §480-D, sub-§1,** as amended by PL 2007, c. 661, Pt. B, §10, is further amended to read:

**1. Existing uses.** The activity will not unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses.

In making a determination under this subsection regarding an expedited wind energy development, as defined in Title 35-A, section 3451, subsection 4, or an offshore wind power project, the department 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 decision under this subsection regarding an application for an offshore wind power project, the department may not consider whether the project meets the specific criteria designated in Title 12, section 1862, subsection 2, paragraph A, subparagraph (6), divisions (a) to (d). This limitation is not intended to restrict the department's review of related potential impacts of the project as determined by the department.

**Sec. E-9. 38 MRSA §480-D, sub-§11** is enacted to read:

**11. Offshore wind power project.** This subsection applies to an offshore wind power project.

A. If an offshore wind power project does not require a permit from the department pursuant to article 6, the applicant must demonstrate that the generating facilities:

(1) Will meet the requirements of the noise control rules adopted by the board pursuant to article 6;

(2) Will be designed and sited to avoid unreasonable adverse shadow flicker effects; and

(3) Will be constructed with setbacks adequate to protect public safety, while maintaining existing uses to the extent practicable. 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.

B. If an offshore wind power project does not require a permit from the department pursuant to article 6, the applicant must demonstrate adequate financial capacity to decommission the offshore wind power project.

C. An applicant for an offshore wind power project is not required to demonstrate compliance with requirements of this article that the department determines are addressed by criteria specified in Title 12, section 1862, subsection 2, paragraph A, subparagraph (6).

**Sec. E-10. 38 MRSA §480-E, sub-§1,** as enacted by PL 1989, c. 656, §4 and affected by c. 890, Pt. A, §40 and amended by Pt. B, §73, is repealed and the following enacted in its place:

**1. Municipal and other notification.** The department shall provide notice according to this subsection.

A. Except as otherwise provided in paragraph B, the department may not review a permit without notifying the municipality in which the proposed activity is to occur. The municipality may provide comments within a reasonable period established by the commissioner and the commissioner shall consider any such comments.

B. The department may not review an application for an offshore wind power project without providing:

(1) Notice to the Maine Land Use Regulation Commission when the proposed development is located within 3 miles of an area of land within the jurisdiction of the Maine Land Use Regulation Commission; and

(2) Notice to any municipality with land located within 3 miles of the proposed development and any municipality in which development of associated facilities is proposed.

The Maine Land Use Regulation Commission and any municipality notified pursuant to this paragraph may provide comments within a reasonable period established by the commissioner and the commissioner shall consider such comments.

**Sec. E-11. 38 MRSA §480-E-1, first ¶,** as repealed and replaced by PL 2005, c. 330, §14, is amended to read:

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. E-12. 38 MRSA §480-E-1, sub-§3** is enacted to read:

**3. Offshore wind power project.** The department shall issue all permits under this article for offshore wind power projects except for community-based offshore wind energy projects as defined in Title 12, section 682, subsection 19.

**Sec. E-13. 38 MRSA §482, sub-§2, ¶D,** as amended by PL 1999, c. 468, §6, is further amended to read:

D. Is a subdivision as defined in this section; ~~or~~

**Sec. E-14. 38 MRSA §482, sub-§2, ¶F,** as enacted by PL 1997, c. 502, §5, is amended to read:

F. Is an oil terminal facility as defined in this section.~~;~~ or

**Sec. E-15. 38 MRSA §482, sub-§2, ¶J** is enacted to read:

J. Is an offshore wind power project with an aggregate generating capacity of 3 megawatts or more.

**Sec. E-16. 38 MRSA §482, sub-§8** is enacted to read:

**8. Offshore wind power project.** "Offshore wind power project" means a project that uses a windmill or wind turbine to convert wind energy to electrical energy and is located in whole or in part within coastal wetlands as defined in section 480-B, subsection 2. "Offshore wind power project" includes both generating facilities as defined by Title 35-A, section 3451, subsection 5 and associated facilities as defined by Title 35-A, section 3451, subsection 1, without regard to whether the electrical energy is for sale or use by a person other than the generator.

**Sec. E-17. 38 MRSA §484, sub-§3, ¶G,** as enacted by PL 2007, c. 661, Pt. B, §11, is amended to read:

G. In making a determination under this subsection regarding an expedited wind energy development, as defined in Title 35-A, section 3451, subsection 4, or an offshore wind power project with an aggregate generating capacity of 3 megawatts or more, the department 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.

**Sec. E-18. 38 MRSA §484, sub-§10,** as enacted by PL 2007, c. 661, Pt. B, §12, is 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 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. E-19. 38 MRSA §488, sub-§9,** as repealed and replaced by PL 2005, c. 330, §19, is 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 ~~or~~, 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. E-20. 38 MRSA §488, sub-§25** is enacted to read:

**25. Offshore wind power project and certain standards.** An offshore wind power project with an aggregate generation capacity of 3 megawatts or more is exempt from review under the existing use standard in section 484, subsection 3, insofar as the department determines that review is required under criteria specified in Title 12, section 1862, subsection 2, paragraph A, subparagraph (6).

**Sec. E-21. Rulemaking.** No later than June 1, 2011, the Department of Environmental Protection shall adopt rules pursuant to the Maine Revised Statutes, Title 38, chapter 3, subchapter 1, article 5-A and Title 38, section 344, subsection 7 to provide permit by rule standards for meteorological towers in coastal wetlands that are associated with resource analysis activities in anticipation of an offshore wind power project as defined by Title 38, section 480-B, subsection 6-A. The rules must specify the class of eligible activities and may establish standards of location, design, construction or use that the department considers necessary to avoid adverse environmental impacts. These rules are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

## PART F

**Sec. F-1. 12 MRSA §685-B, sub-§1-A, ¶E,** as enacted by PL 2009, c. 270, Pt. D, §4, is amended to read:

E. A permit or other approval by the commission is not required for a hydropower project that uses tidal or wave action as a source of electrical or mechanical power or is located partly within an organized municipality and partly within an unorganized territory.

**Sec. F-2. 38 MRSA §634-A, sub-§1, ¶B,** as enacted by PL 2009, c. 270, Pt. D, §5, is amended to read:

B. Uses tidal or wave action as a source of electrical or mechanical power, regardless of the hydropower project's location.

**Sec. F-3. 38 MRSA §634-A, sub-§2,** as enacted by PL 2009, c. 270, Pt. D, §5, is amended to read:

**2. Maine Land Use Regulation Commission.** The Maine Land Use Regulation Commission shall administer the permit process for a hydropower project that is located wholly within the State's unorganized and deorganized areas as defined by Title 12, section 682, subsection 1 and that does not use tidal or wave action as a source of electrical or mechanical power.

**Sec. F-4. 38 MRSA §636, sub-§5,** as amended by PL 2009, c. 270, Pt. D, §7, is further amended to read:

**5. Maine Land Use Regulation Commission.** Within the jurisdiction of the Maine Land Use Regulation Commission, the project is consistent with zoning adopted by the commission. This criterion does not apply to any project that uses tidal or wave action as a source of electrical or mechanical power.

## PART G

**Sec. G-1. 30-A MRSA §4352, sub-§4,** as amended by PL 2007, c. 656, Pt. A, §2, is further amended to read:

**4. Exemptions.** Real estate used or to be used by a public utility, as defined in Title 35-A, section 102, subsection 13, ~~or~~ by a person who is issued a certificate by the Public Utilities Commission under Title 35-A, section 122 or by a renewable ocean energy project as defined in Title 12, section 1862, subsection 1, paragraph F-1 is wholly or partially exempt from an ordinance only when on petition, notice and public hearing the Public Utilities Commission determines that the exemption is reasonably necessary for public welfare and convenience. The Public Utilities Commission shall adopt by rule procedures to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. G-2. 30-A MRSA §4361** is enacted to read:

**§4361. Coordination of state and municipal decision making; renewable ocean energy projects**

**1. 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 in Title 38, section 1802, subsection 1.

B. "Renewable ocean energy project" has the same meaning as in Title 12, section 1862, subsection 1, paragraph F-1.

C. "Submerged lands" has the same meaning as in Title 12, section 1801, subsection 9.

**2. Location of renewable ocean energy projects.** A municipality may not enact or enforce a land use ordinance that prohibits siting of renewable ocean energy projects, including but not limited to their associated facilities, within the municipality. Nothing in this section is intended to authorize a municipality to enact or enforce a land use ordinance as applied to submerged lands.

**3. Boundaries; rebuttable presumption.** A municipality may not enact or enforce any land use standard or other requirement regarding a renewable ocean energy project unless the project or part of the project over which the municipality asserts approval authority is located within its boundaries, as established in its legislative charter, prior to the effective date of this subsection. In any proceeding regarding the location of a municipality's boundaries for purposes of this section, there is a rebuttable presumption that the boundaries of a municipality in the coastal area do not extend below the mean low-water line on waters subject to tidal influence.

## PART H

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

**MARINE RESOURCES, DEPARTMENT OF**

**Bureau of Resource Management 0027**

Initiative: Establishes the Ocean Energy Fund with a base allocation.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $500 | $500 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $500 | $500 |

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

Effective April 7, 2010.

# CHAPTER 616

## S.P. 706 - L.D. 1801

## An Act To Promote the Establishment of Innovative Schools

**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 is currently no provision for school administrative units to establish innovative schools as set forth in the federal Race to the Top Assessment Program application authorized under the federal American Recovery and Reinvestment Act of 2009; and

**Whereas,** immediate enactment of this legislation is necessary to ensure the State's eligibility to apply for a significant amount of federal funding for continued education reform that is jeopardized by significant and continuing reductions in state funding for education; and

**Whereas,** the residents of the Town of Otis and the Town of Mariaville are in immediate need of dissolving their union school agreement because the Town of Mariaville has become a member of Regional School Unit 24 and the Town of Otis has not and dissolving their union school agreement will enhance the ability of the Town of Otis and the Town of Mariaville to compete as innovative public schools; 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 §6212** is enacted to read:

**§6212. Innovative, autonomous public schools**

A school administrative unit may establish and operate an innovative, autonomous public school. The school board may approve an instruction design, a school calendar, a staff selection process and a method for assessing professional development to be used in an innovative, autonomous public school that exceed or differ from, but do not conflict with, applicable statutory and regulatory requirements. The school board shall propose, receive and allocate funding for an innovative, autonomous public school as part of the budget process for that school administrative unit in accordance with this Title. A school board may request waivers as necessary to implement an instructional model and associated curriculum that meet the standards of this section for innovation and autonomy.

**1. Open enrollment.** Any resident student in a school administrative unit is eligible to request enrollment in an innovative, autonomous public school. Enrollment may not be limited to a target population of students. A school board shall establish a method for selecting students when requests for enrollment exceed capacity. A school board may establish a process for determining the maximum enrollment from each municipality in the school administrative unit.

**2. More accountability for student achievement.** An innovative, autonomous public school must demonstrate a system for accountability for student achievement that exceeds, but is not in conflict with, the State's accountability standards and the State's assessment system.

**Sec. 2. Dissolution of Otis-Mariaville Union School authorized.** Notwithstanding the provisions of the Maine Revised Statutes, Title 20-A, chapter 109 and any other provision of law, dissolution of the Otis-Mariaville Union School is governed by the Otis-Mariaville Union School Agreement made in 1985, and a majority town meeting vote by the voters of either the Town of Otis or the Town of Mariaville is sufficient to terminate the Otis-Mariaville Union School Agreement in accordance with the terms of the agreement.

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

Effective April 7, 2010.

## CHAPTER 617

## H.P. 1297 - L.D. 1813

### An Act Relating to the Recommendations of the Office of Program Evaluation and Government Accountability Regarding Emergency Communications 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,** in order to ensure the public safety and health and avoid confusion with regard to the E-9-1-1 surcharge, the provisions of this legislation must 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. 25 MRSA §1531, sub-§2, ¶E,** as enacted by PL 2003, c. 678, §2, is amended to read:

E. ~~A representative of participating municipalities with populations of less than 5,000, selected from and recommended by the boards of selectmen, town councils or city councils of those municipalities~~ Three representatives of municipalities recommended by a statewide association of municipalities and appointed by the Governor;

**Sec. 2. 25 MRSA §1531, sub-§2, ¶F,** as enacted by PL 2003, c. 678, §2, is repealed.

**Sec. 3. 25 MRSA §1531, sub-§2, ¶G,** as enacted by PL 2003, c. 678, §2, is repealed.

**Sec. 4. 25 MRSA §1531, sub-§4, ¶B,** as enacted by PL 2003, c. 678, §2, is amended to read:

B. The ~~member~~ 3 members representing municipalities ~~with populations of less than 5,000 is~~

serve for staggered terms, with one member appointed for a one-year term, ~~the member representing municipalities with populations of 5,000 or more but less than 15,000 is~~ one member appointed for a 2-year term and ~~the member representing municipalities with populations of 15,000 or more is~~ one member appointed for a 3-year term;

**Sec. 5. 25 MRSA §1535,** as enacted by PL 2007, c. 622, §1, is amended to read:

**§1535. Fees for public safety answering point services and dispatch services**

The ~~Public Utilities Commission may, on its own motion or at the request of the department or a political subdivision of the State,~~ board, in accordance with this section, shall establish ~~in an adjudicatory proceeding~~ the fees that must be paid by political subdivisions for public safety answering point services and dispatch services provided by the department to those political subdivisions, including services provided pursuant to section 2923-A. ~~In the proceeding, the commission shall establish the revenue requirement for the department's relevant dispatch and public safety answering point services and a fee design for the recovery of the department's revenue requirement to ensure the fees reasonably reflect services provided. In any proceeding held under this section, the department and all~~ All political subdivisions that are to be provided public safety answering point services and dispatch services shall provide to the ~~commission~~ board all information the ~~commission~~ board determines necessary in order to establish the fees.

**1. Fees.** The board shall seek to establish fees under this section that are based on the incremental costs of providing public safety answering point services and dispatch services to political subdivisions.

**2. Base funding level.** In order to determine incremental costs under subsection 1, the board shall first establish a base funding level, consistent with the department's legislatively approved budget for public safety answering point services and dispatch services, required to provide public safety answering point services and dispatch services to State Government entities. The base funding level must be based on services provided by the department prior to the provision of emergency dispatch and E-9-1-1 call-taking services to municipal and county governments as a result of actions taken by the bureau under section 1533. The base funding level must be excluded by the board from its determination of incremental costs under subsection 1.

**Sec. 6. 25 MRSA §2926, sub-§1-A** is enacted to read:

**1-A. Quality assurance.** The bureau shall develop and implement a quality assurance program to audit and monitor compliance with emergency dispatching standards, practices and procedures of public safety answering points.

**Sec. 7. 25 MRSA §2927, sub-§1-B,** as repealed by PL 2009, c. 400, §6 and affected by §15 and amended by c. 416, §1, is repealed.

**Sec. 8. 25 MRSA §2927, sub-§1-E, ¶A,** as enacted by PL 2009, c. 400, §9 and affected by §15, is amended to read:

A. The statewide E-9-1-1 surcharge is ~~30¢~~ 37¢ per month per line or number. Beginning July 1, 2010, the statewide E-9-1-1 surcharge is 45¢ per month per line or number. The statewide E-9-1-1 surcharge may not be imposed on more than 25 lines or numbers per customer billing account.

**Sec. 9. 25 MRSA §2927, sub-§1-F, ¶A,** as enacted by PL 2009, c. 400, §10 and affected by §15, is amended to read:

A. The prepaid wireless E-9-1-1 surcharge is ~~30¢~~ 37¢ per retail transaction. Beginning July 1, 2010, the prepaid wireless E-9-1-1 surcharge is 45¢ per retail transaction.

**Sec. 10. 25 MRSA §2927, sub-§3-B** is enacted to read:

**3-B. Support of supervisory positions.** Revenues in the E-9-1-1 fund may be used to fund 2 legislatively authorized supervisory positions relating to emergency dispatch and E-9-1-1 call-taking services provided by the department.

This subsection is repealed on June 30, 2011.

**Sec. 11. 25 MRSA §2927, sub-§5,** as amended by PL 2009, c. 122, §6 and c. 219, §3, is repealed and the following enacted in its place:

**5. Legislative annual report.** The bureau shall include in the Public Utilities Commission's annual report pursuant to Title 35-A, section 120, subsection 7 to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters:

A. The bureau's planned expenditures for the year and use of funds for the previous year;

B. The statewide E-9-1-1 surcharge collected under this section;

C. The bureau's recommended statewide E-9-1-1 surcharge for the coming year;

D. The bureau's recommendations for amending existing and enacting new law to improve the E-9-1-1 system; and

E. The performance of each of the public safety answering points in the State during the previous calendar year, including the results of the bureau's quality assurance program audits under section 2926, subsection 1-A and any recommendations of the bureau relating to the emergency dispatch-

ing standards, practices and procedures of public safety answering points.

**Sec. 12. Transition.** The terms of the 3 members of the Maine Communications System Policy Board who are first appointed under the section of this Act that amends the Maine Revised Statutes, Title 25, section 1531, subsection 2, paragraph E must be staggered, with one member appointed for a one-year term, one member appointed for a 2-year term and one member appointed for a 3-year term.

**Sec. 13. Retroactivity; application.** That section of this Act that repeals the Maine Revised Statutes, Title 25, section 2927, subsection 1-B and those sections that amend Title 25, section 2927, subsections 1-E and 1-F apply retroactively to January 1, 2010. The provisions of Title 25, section 2927, subsection 1-F, paragraph F do not apply to that section of this Act that amends Title 25, section 2927, subsection 1-F, paragraph A.

**Sec. 14. Appropriations and allocations.** The following appropriations and allocations are made.

**PUBLIC UTILITIES COMMISSION**

**Emergency Services Communication Bureau 0994**

Initiative: Allocates funds for consulting services to implement an E-9-1-1 quality assurance program.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $150,000 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $150,000 |

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

Effective April 7, 2010.

## CHAPTER 618

## H.P. 1266 - L.D. 1779

### An Act To Prohibit Surcharges on the Use of Debit Cards

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

**Sec. 1. 9-A MRSA §1-301, sub-§17-A** is enacted to read:

**17-A. Debit card.** "Debit card" has the same meaning as in Title 10, section 1271, subsection 3.

**Sec. 2. 9-A MRSA §8-303, sub-§2,** as enacted by PL 1981, c. 243, §25, is amended to read:

**2.** ~~No~~ A seller in ~~any~~ a sales transaction may not impose a surcharge on a cardholder who elects to use a credit card or debit card in lieu of payment by cash, check or similar means.

See title page for effective date.

## CHAPTER 619

## H.P. 1294 - L.D. 1807

### An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2010-11 and To Make Certain Changes in the Laws Governing Tax Increment Financing Payments in the Unorganized Territories

**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 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. 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 2010-11 is as follows:

| | |
|---|---|
| Audit - Fiscal Administration | $198,691 |
| Education | 12,529,594 |
| Forest Fire Protection | 93,916 |
| Human Services - General Assistance | 58,000 |

| | |
|---|---|
| Property Tax Assessment - Operations | 788,218 |
| Maine Land Use Regulation Commission - Operations | 525,931 |
| TOTAL STATE AGENCIES | $14,194,350 |
| County Reimbursements for Services: | |
| Aroostook | $933,290 |
| Franklin | 600,521 |
| Hancock | 158,542 |
| Kennebec | 933 |
| Oxford | 494,827 |
| Penobscot | 904,838 |
| Piscataquis | 1,033,573 |
| Somerset | 911,530 |
| Washington | 782,970 |
| TOTAL COUNTY SERVICES | $5,821,024 |
| TOTAL REQUIREMENTS | $20,015,374 |
| COMPUTATION OF ASSESSMENT | |
| Requirements | $20,015,374 |
| Less Deductions: | |
| General - | |
| State Revenue Sharing | $198,640 |
| Homestead Reimbursement | 70,000 |
| Miscellaneous Revenues | 50,000 |
| TOTAL | $318,640 |
| Educational - | |
| Land Reserved Trust | $61,000 |
| Tuition/Travel | 250,000 |
| Miscellaneous | 5,000 |
| Special - Teacher Retirement | 250,000 |
| TOTAL | $566,000 |
| TOTAL DEDUCTIONS | $884,640 |
| TAX ASSESSMENT | $19,130,734 |

## PART B

**Sec. B-1. 36 MRSA §1603,** as amended by PL 2007, c. 627, §34, is further amended to read:

**§1603. Definition of "municipal cost component"**

**1. Definition.** For the purposes of this chapter, "municipal cost component" means the cost of funding services in the Unorganized Territory Tax District that would not be borne by the State if the Unorganized Territory Tax District were a municipality, but does not include a state cost allocation charge, including, without limitation, reimbursement to the General Fund for departmental functions such as accounting, personnel administration and supervision. "Municipal cost component" also includes the cost of funding obligations of the unorganized territory under the terms of a tax increment financing district approved by the Commissioner of Economic and Community Development ~~prior to July 1, 2008~~ pursuant to Title 30-A, chapter 206. The "municipal cost component" includes, but is not limited to:

A. The cost of education, as would be determined by the Essential Programs and Services Funding Act if the unorganized territory were a municipality;

B. The cost of services the state funds in the unorganized territory that are funded locally by a municipality; the cost of forest fire protection to be included in the cost component must be determined in accordance with Title 12, section 9205-A and collected in the same manner as other portions of the municipal cost component;

C. The cost of reimbursement by the State for services a county provides to the unorganized territory in accordance with Title 30-A, chapter 305. A county may not be reimbursed for services provided on or after January 1, 1979, unless a legislative allocation is obtained pursuant to this chapter. If a county receives, in addition to its budget, funds that are designated by the Legislature for a specific purpose and the county does not spend those funds for that specific purpose in that fiscal year, then the reimbursement under this chapter to that county for the next fiscal year must be reduced by an amount equal to the amount of funds so designated that were not expended for that specific purpose; and

D. The cost for payments that the unorganized territory is required to make pursuant to the terms of a tax increment financing district approved by the Commissioner of Economic and Community Development pursuant to Title 30-A, chapter 206 ~~prior to July 1, 2008~~ with respect to taxable property in the Unorganized Territory Tax District.

**Sec. B-2. 36 MRSA §1606, sub-§2,** as enacted by PL 2007, c. 627, §35, is amended to read:

**2. Tax increment financing payments.** With respect to a tax increment financing district located in the unorganized territory and approved by the Commissioner of Economic and Community Development pursuant to Title 30-A, chapter 206 ~~prior to July 1, 2008~~, the Treasurer of State must deposit into the development program fund established by a county for the tax increment financing district pursuant to Title 30-A, section 5227, subsection 3 the tax increment revenues on the captured assessed value, as that term is defined in Title 30-A, section 5222. The payment must be made on or before October 15th following the date of assessment or within 30 days after the taxes constituting the tax increment are paid, whichever is later. The amount of the assessment is appropriated for the purposes of this subsection.

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

Effective April 8, 2010.

## CHAPTER 620
## H.P. 473 - L.D. 659

### An Act To Reduce the Sales Tax on Certain Watercraft

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

**Sec. 1. 36 MRSA §1760, sub-§25,** as amended by PL 2009, c. 361, §18, is repealed and the following enacted in its place:

**25. Watercraft purchased by nonresidents.** Sales to or use by a person that is not a resident of this State of watercraft or materials used in watercraft as specified in this subsection.

A. The following are exempt when the sale is made in this State to a person that is not a resident of this State and the watercraft is sailed or transported outside the State within 30 days of delivery by the seller:

(1) A watercraft;

(2) Sales, under contract for the construction of a watercraft, of materials to be incorporated in that watercraft; and

(3) Sales of materials to be incorporated in the watercraft for the repair, alteration, refitting, reconstruction, overhaul or restoration of that watercraft.

B. Notwithstanding subsection 45, paragraph A-1, the sale of a watercraft is exempt if the watercraft is purchased and used by the present owner outside the State if the watercraft is registered outside the State by an owner who is an individual and the watercraft is present in the State not more than 30 days for a purpose other than temporary storage during the 12 months following its purchase.

C. If, for a purpose other than temporary storage, a watercraft is present in the State for more than 30 days during the 12-month period following its date of purchase, the exemption is 60% of the sale price of the watercraft or materials for the construction, repair, alteration, refitting, reconstruction, overhaul or restoration of the watercraft, as specified in paragraph A.

**Sec. 2. Effective date.** This Act takes effect August 1, 2010.

Effective August 1, 2010.

## CHAPTER 621
## H.P. 1019 - L.D. 1464

### An Act To Amend Licensing, Certification and Registration Requirements for Health Care Providers and Other Facilities

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

**Sec. 1. 22 MRSA §1723** is enacted to read:

**§1723. Criminal background checks**

Beginning October 1, 2010, a facility or health care provider subject to the licensing or certification processes of chapter 405, 412 or 419 shall obtain, prior to hiring an individual who will work in direct contact with a consumer, criminal history record information on that individual, including, at a minimum, criminal history record information from the Department of Public Safety, State Bureau of Identification. The facility or health care provider shall pay for the criminal background check required by this section.

The department may adopt rules necessary 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. 22 MRSA §2131, sub-§1,** as enacted by PL 1989, c. 579, §4, is amended to read:

**1. Registration; renewal.** ~~Effective January 1, 1990, every~~ A temporary nurse agency shall register with the department and renew the registration as required by rule thereafter. For purposes of this chapter, unless the context otherwise indicates, "temporary nurse agency" means a business entity or subdivision thereof that provides nurses to another organization on a temporary basis within this State.

**Sec. 3. 22 MRSA §2131, sub-§4,** as amended by PL 2001, c. 494, §2, is repealed and the following enacted in its place:

**4. Penalty.** The following penalties apply to violations of this chapter.

A. A person who operates a temporary nurse agency without registering or who fails to verify the inclusion of a certified nursing assistant on the Maine Registry of Certified Nursing Assistants established under section 1812-G before hiring that certified nursing assistant pursuant to subsection 1-A commits a civil violation for which a fine of not less than $500 per day but not more than $10,000 per day may be adjudged. Each day constitutes a separate violation.

B. A person who operates a temporary nurse agency in violation of the employment prohibitions in section 2138 commits a civil violation for which a fine of not less than $500 per day but not more than $10,000 per day may be adjudged. Each day constitutes a separate violation.

**Sec. 4. 22 MRSA §2131, sub-§5** is enacted to read:

**5. Rules.** The department may adopt rules 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.

**Sec. 5. 22 MRSA c. 417-A** is enacted to read:

## CHAPTER 417-A

## BACKGROUND CHECKS FOR TEMPORARY NURSE AGENCIES

### §2136. Definitions

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

**1. Hire, employ or place.** "Hire, employ or place" means to recruit, select, train, declare competent, schedule, direct, define the scope of the position of or supervise an individual who provides temporary care pursuant to chapter 417.

**2. Temporary nurse agency.** "Temporary nurse agency" means a business entity or subdivision thereof that provides nurses to another organization on a temporary basis within this State.

### §2137. Criminal background checks

Beginning October 1, 2010, a temporary nurse agency shall obtain, prior to hiring, employing or placing an individual who will work in direct contact with a consumer, criminal history record information on that individual, including, at a minimum, criminal history record information from the Department of Public Safety, State Bureau of Identification. The temporary nurse agency shall pay for the criminal background check required by this section.

The department may adopt rules necessary to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

### §2138. Prohibited employment

A temporary nurse agency may not hire, employ or place an individual who:

**1. Subject of notation.** Has worked as a certified nursing assistant and has been the subject of a notation by the state survey agency for a substantiated complaint of abuse, neglect or misappropriation of property in a health care setting that was entered on the Maine Registry of Certified Nursing Assistants established under section 1812-G;

**2. Convicted of crime involving abuse, neglect or misappropriation.** Has been convicted in a court of law of a crime involving abuse, neglect or misappropriation of property; or

**3. Other prior conviction.** Has a prior criminal conviction within 10 years prior to application of:

A. A crime for which incarceration of 3 years or more may be imposed under the laws of the state in which the conviction occurred; or

B. A crime for which incarceration of less than 3 years may be imposed under the laws of the state in which the conviction occurred involving sexual misconduct or involving abuse, neglect or exploitation in a setting other than a health care setting.

### §2139. Complaints

**1. Complaint investigation.** The department is authorized to investigate complaints against a temporary nurse agency to ensure compliance with this chapter.

**2. Injunctive relief.** Notwithstanding any other remedies provided by law, the Attorney General may seek an injunction to require compliance with the provisions of this chapter.

**3. Enforcement.** The Attorney General may file a complaint with the District Court seeking civil penalties or injunctive relief or both for violations of this chapter.

**4. Jurisdiction.** The District Court has jurisdiction pursuant to Title 4, section 152 for violations of this chapter.

**5. Burden of proof.** The burden is on the department to prove, by a preponderance of the evidence, that the alleged violation of this chapter occurred.

**6. Right of entry.** This subsection governs the department's right of entry with respect to temporary nurse agencies.

A. An application for registration of a temporary nurse agency constitutes permission for entry and inspection to verify compliance with applicable laws and rules.

B. The department has the right to enter and inspect the premises of a temporary nurse agency registered by the department at a reasonable time and, upon demand, has the right to inspect and copy any books, accounts, papers, records and other documents in order to determine the state of compliance with applicable laws and rules.

C. To inspect a temporary nurse agency that the department knows or believes is being operated without being registered, the department may enter only with the permission of the owner or person in charge or with an administrative inspection warrant issued pursuant to the Maine Rules of Civil Procedure, Rule 80E by the District Court authorizing entry and inspection.

**7. Administrative inspection warrant.** The department and a duly designated officer or employee of the department have the right to enter upon and into the premises of an unregistered temporary nurse agency with an administrative inspection warrant issued pursuant to the Maine Rules of Civil Procedure, Rule 80E by the District Court at a reasonable time and, upon demand, have the right to inspect and copy any books, accounts, papers, records and other documents in order to determine the state of compliance with this chapter. The right of entry and inspection may extend to any premises and documents of a person, firm, partnership, association, corporation or other entity that the department has reason to believe is operating a temporary nurse agency without being registered.

**8. Noninterference.** An owner or operator of an unregistered temporary nurse agency may not interfere with, impede or obstruct an investigation by the department, including, but not limited to, interviewing persons receiving services or persons with knowledge of the agency.

**9. Violation of injunction.** A person, firm, partnership, association, corporation or other entity that violates the terms of an injunction issued under this chapter shall pay to the State a fine of not less than $500 nor more than $10,000 for each violation. Each day of violation constitutes a separate offense. In any action brought by the Attorney General against a person, firm, partnership, association, corporation or other entity for violating the terms of an injunction under this chapter, the District Court may make the necessary orders or judgments regarding violation of the terms of the injunction.

In an action under this chapter, when a permanent injunction has been issued, the District Court may order the person, firm, partnership, association, corporation or other entity against which the permanent injunction is issued to pay to the General Fund the costs of the investigation of that person, firm, partnership, association, corporation or other entity by the Attorney General and the costs of suit, including attorney's fees.

**10. Suspension or revocation of registration.** A temporary nurse agency found to be in violation of this chapter may have its registration to operate as a temporary nurse agency suspended or revoked. The department may file a complaint with the District Court requesting suspension or revocation of a registration to operate a temporary nurse agency.

**11. Rules.** The department 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. 6. 22 MRSA §7704** is enacted to read:

**§7704. Criminal background checks**

Beginning October 1, 2010, a facility or health care provider subject to the licensing or certification processes of chapter 1663, a nursery school subject to chapter 1675 or a hospice provider subject to chapter 1681 shall obtain, prior to hiring an individual who will work in direct contact with a consumer, criminal history record information on that individual, including, at a minimum, criminal history record information from the Department of Public Safety, State Bureau of Identification. The entity seeking to employ the individual shall pay for the criminal background check required by this section.

The department may adopt rules necessary 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. 7. 22 MRSA §7946, sub-§4,** as enacted by PL 1987, c. 774, §4, is amended to read:

**4. Income from penalties.** Any income from penalties ~~shall~~ must be placed in a special revenue account and be used ~~if needed and available when a receiver is appointed pursuant to section 7933, or for other costs associated with the protection of health or property of residents of long-term care facilities which are fined or sanctioned pursuant to this chapter~~ by the department for purposes related to improving the quality of care for residents of long-term care facilities.

**Sec. 8. 34-B MRSA §1224** is enacted to read:

**§1224. Criminal background checks**

Beginning October 1, 2010, a facility or health care provider subject to the licensing provisions of section 1203-A shall obtain, prior to hiring an individual who will work in direct contact with a consumer, criminal history record information on that individual, including, at a minimum, criminal history record information from the Department of Public Safety, State

Bureau of Identification. The facility or health care provider shall pay for the criminal background check required by this section.

The department may adopt rules necessary 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. 9. Appropriations and allocations.** The following appropriations and allocations are made.

**PUBLIC SAFETY, DEPARTMENT OF**

**State Police 0291**

Initiative: Provides funding for 400 hours of overtime within the State Bureau of Identification.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $6,887 |
| GENERAL FUND TOTAL | $0 | $6,887 |

| HIGHWAY FUND | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $6,617 |
| HIGHWAY FUND TOTAL | $0 | $6,617 |

See title page for effective date.

## CHAPTER 622

## H.P. 569 - L.D. 833

### An Act To Distribute Funds Received from the Racino in Bangor to the Department of Health and Human Services, Office of Substance Abuse

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

**Sec. 1. 5 MRSA §20006-B** is enacted 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. 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 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, 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 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. 2. 8 MRSA §1036, sub-§2, ¶A,** as amended by PL 2005, c. 663, §12, is further amended to read:

A. Three percent of the net slot machine income must be deposited to the General Fund for administrative expenses of the board~~, including gambling addiction counseling services,~~ in accordance with rules adopted by the board~~;~~, except that of the amount calculated pursuant to this paragraph, the following amounts must be transferred annually to the Gambling Addiction Prevention and Treatment Fund established by Title 5, section 20006-B:

(1) For the fiscal year beginning July 1, 2011, $50,000;

(2) For the fiscal year beginning July 1, 2012, $50,000; and

(3) For the fiscal year beginning July 1, 2013 and for each fiscal year thereafter, $100,000;

**Sec. 3. Baseline appropriations in 2012-2013 for gambling addiction services.** The one-time General Fund deappropriations of $50,000 annually in fiscal years 2009-10 and 2010-11 from the Department of Public Safety, Gambling Control Board program to reduce funding for gambling addiction services included as one-time adjustments in Public Law 2009, chapter 213, Part A, section 59 are intended as a result of the changes included in this Act to be considered ongoing reductions to be replaced by the revenue transferred in this Act to the Department of Health and Human Services, Office of Substance Abuse for gambling addiction services.

See title page for effective date.

# CHAPTER 623

## S.P. 386 - L.D. 1022

## An Act To Amend the Laws Governing the Legislative Youth Advisory Council

**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 allow new appointments to the Legislative Youth Advisory Council to be made immediately and to allow the council to begin to plan meetings and hold meetings immediately according to the altered provisions of the 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. 3 MRSA §168-A,** as amended by PL 2007, c. 679, §§1 and 2, is repealed.

**Sec. 2. 3 MRSA §168-B** is enacted to read:

**§168-B. Legislative Youth Advisory Council**

The Legislative Youth Advisory Council, referred to in this section as "the council," is created to advise the Legislature on policy matters related to youth.

**1. Membership.** The council consists of 20 members appointed in accordance with this subsection. In appointing members, the appointing authorities shall strive to ensure a balance among members in terms of statewide geographic distribution and gender. All appointments are for the duration of the legislative term for which the members are appointed and expire upon the convening of the next Legislature. Members may be reappointed to subsequent terms on the council as long as they are eligible at the time of their reappointment.

A. The President of the Senate shall appoint the following 10 members:

(1) Two members of the Senate representing the 2 largest political parties in the Senate; and

(2) Eight youths who have attained 15 years of age and who are enrolled in programs that lead to a secondary school diploma or certificate of attendance or a general equivalency diploma or are enrolled in equivalent instruction programs under Title 20-A, chapter 211, subchapter 1-A. The youth members must be appointed from names recommended for appointment by the 2 appointed members of the Senate.

B. The Speaker of the House shall appoint the following 10 members:

(1) Two members of the House of Representatives representing the 2 largest political parties in the House; and

(2) Eight youths who have attained 15 years of age and who are enrolled in programs that lead to a secondary school diploma or certificate of attendance or a general equivalency diploma or are enrolled in equivalent instruction programs under Title 20-A, chapter 211, subchapter 1-A. The youth members must be appointed from names recommended for appointment by the 2 appointed members of the House of Representatives.

**2. Chairs.** The first appointed Senate member is the Senate chair of the council and the first appointed House member is the House chair of the council.

**3. Compensation.** Members of the council who are Legislators are entitled to the legislative per diem and to reimbursement of reasonable expenses incurred in attending meetings of the council. Youth members of the council are entitled to reimbursement of reasonable expenses incurred in attending meetings of the council only upon a demonstration of financial hardship.

**4. Meetings.** The council may hold 2 meetings in each calendar year in a location in the State chosen by the chairs. There is no quorum requirement for the meetings. Legislative members shall encourage the use of social networking media during and between meetings to facilitate communication and participation of council members and others interested in the council's work. The legislative members shall encourage the participation of youth members in the legislative process by providing opportunities during the legislative session for youth members to shadow legislative members, attend hearings and work sessions of legislative committees and testify before the committees on legislation of interest to youth. Shadowing and participatory activities are not considered meetings of the council.

**5. Report.** The council shall submit a biennial report to the Legislative Council no later than the 2nd Friday in February of even-numbered years, beginning in 2012. The report may include recommendations on policy issues before the Legislature pertaining to youth and may include recommended legislation.

**6. Staff.** The Legislative Council may authorize staff support for the council for meetings held during the legislative interim.

**Sec. 3. 5 MRSA §12004-I, sub-§54-C,** as enacted by PL 2001, c. 439, Pt. PPPP, §2 and affected by §4, is amended to read:

**54-C.**

| | | | |
|---|---|---|---|
| Legislature | Legislative Youth Advisory Council | Legislative Per Diem and Expenses for Legislators and Expenses Only for ~~Certain Members~~ Youth Members upon Demonstration of Financial Hardship | 3 MRSA ~~§168-A~~ §168-B |

**Sec. 4. Funding.** No funds are appropriated or allocated to the Legislative Youth Advisory Council in this Act. All activities of the Legislative Youth Advisory Council during fiscal years 2009-10 and 2010-11 must be funded from funds budgeted by the Legislative Council in the current biennium.

**Sec. 5. Transition.** Legislative members and youth members appointed to the Legislative Youth Advisory Council on or after January 1, 2009 under the Maine Revised Statutes, Title 3, former section 168-A are entitled to remain as members of the Legislative Youth Advisory Council formed under Title 3, section 168-B until the expiration of their terms upon the convening of the 125th Legislature.

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

Effective April 9, 2010.

## CHAPTER 624

## S.P. 647 - L.D. 1675

### An Act To Reduce Noise Caused by Motorcycles and Improve Public Health

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

**Sec. 1. 29-A MRSA §1758, sub-§2,** as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

**2. Without windshield.** If the vehicle is not normally equipped with a windshield, the certificate of inspection must be kept with the registration certificate of the vehicle. This subsection does not apply to motorcycles.

**Sec. 2. 29-A MRSA §1758, sub-§3** is enacted to read:

**3. Motorcycles; proof of inspection.** If a motorcycle meets the inspection standard, upon payment of applicable inspection fees pursuant to section 1751, subsection 3-A a valid certificate of inspection and an official inspection sticker for the motorcycle must be issued. The certificate of inspection must be kept with the registration certificate of the motorcycle and the official inspection sticker must be affixed to the rear of the motorcycle:

A. On a mounting plate that must be securely fastened to the motorcycle frame or similar integral component of the motorcycle; or

B. On a rear fender or similar frame or integral body part of the motorcycle.

The official inspection sticker must be located so that it is completely and clearly visible from the rear of the motorcycle and may not be affixed to the registration plate.

**Sec. 3. Working group; motorcycle noise.** The Department of Public Safety, Bureau of State Police shall convene a working group to study issues relating to motorcycle noise. The working group must include, but is not limited to, representatives from affected citizen groups, local municipalities, the motorcycle industry, motorcycle enthusiast groups and local law enforcement agencies. The working group shall investigate and research industry sound testing standards, particularly the Society of Automotive Engineers Standard J2825, "Measurement of Exhaust Sound Pressure Levels of Stationary On-Highway Motorcycles," and the feasibility of incorporating United States Environmental Protection Agency noise emission labeling standards into state law. The report of the working group must include an analysis of motorcycle safety inspections and a requirement that an inspection sticker be displayed visibly on the motorcycle. The Bureau of State Police shall report to the joint standing committee of the Legislature having jurisdiction over transportation matters, with findings and recommendations, no later than January 15, 2011.

**Sec. 4. Effective date.** Those sections of this Act that amend the Maine Revised Statutes, Title 29-A, section 1758 take effect January 1, 2012.

See title page for effective date, unless otherwise indicated.

# CHAPTER 625

## H.P. 1084 - L.D. 1540

### An Act To Amend the Tax Laws

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

**Sec. 1. 30-A MRSA §706,** 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:

**§706. Apportionment of county tax; warrants**

When a county tax is authorized, the county commissioners~~, within 30 days of that authorization,~~ shall apportion it upon the municipalities, unorganized territory and other places in that county according to the ~~last~~ most recent state valuation ~~and fix the date for the payment of the tax~~. ~~This date may not be earlier than the first day of the following September.~~ They may add ~~that sum above~~ to the sum ~~so~~ authorized~~,~~ an amount not exceeding 2% of that sum, ~~as~~ if a fractional division necessitates that addition and if they demonstrate that necessity in the record of that apportionment~~, and issue their warrant to the assessors requiring them to immediately assess the sum apportioned to their municipality or place, and to commit their assessment to the constable or collector for collection~~. ~~The county treasurer shall immediately certify the millage rate to the State Tax Assessor. The State Tax Assessor shall separately assess this millage rate upon the real and personal property in the unorganized territory within the appropriate county.~~ The county commissioners shall establish the date for the payment of the tax. The date may not be earlier than the first day of the following September.

No later than the 15th of July preceding the date established for payment of the tax, the county commissioners shall issue their warrant to the assessors of the municipalities and other places and to the State Tax Assessor for the unorganized territory within that county. Those officers shall assess the sum apportioned to their tax jurisdiction and commit their assessment for collection in the same manner as other amounts to be raised by the property tax during the tax year to which the county tax warrant applies.

If a municipality or place or the State Tax Assessor must make a supplemental assessment due to failure by the county commissioners to issue their warrant by July 15th, the county must bear the costs of that supplemental assessment. Those costs may be recovered by the tax jurisdiction through an offset against the county tax that the tax jurisdiction would otherwise be required to pay over to the county.

The county may collect delinquent county taxes and charge interest on delinquent county taxes as provided under Title 36, sections 891~~, 892~~ and 892-A.

**Sec. 2. 36 MRSA §111, sub-§5,** as amended by PL 2009, c. 434, §4, is further amended to read:

**5. Tax.** "Tax" means the total amount required to be paid, withheld and paid over or collected and paid over with respect to estimated or actual tax liability under this Title, any credit or reimbursement allowed or paid pursuant to this Title that is recoverable by the assessor and any amount assessed by the ~~State Tax Assessor~~ assessor pursuant to this Title, including any interest or penalties provided by law. For purposes of this chapter, "tax" also means any fee, fine, penalty or other debt owed to the State provided for by law if ~~this~~ that fee, fine, penalty or other debt is subject to collection by the assessor pursuant to statute or transferred to the bureau for collection pursuant to section 112-A.

**Sec. 3. 36 MRSA §186,** as amended by PL 2003, c. 673, Pt. KK, §1 and affected by §3, is further amended to read:

**§186. Interest**

~~Any~~ A person who fails to pay any tax, other than a tax imposed pursuant to chapter 105, on or before the last date prescribed for payment is liable for interest on the tax, calculated from that date and compounded monthly. The rate of interest for any calendar year equals the highest prime rate as published in the Wall Street Journal on the first day of September of the preceding calendar year or, if the first day of September falls on a weekend or holiday, on the next succeeding business day, rounded up to the next whole percent plus 3 percentage points. For purposes of this section, the last date prescribed for payment of tax must be determined without regard to any extension of time permitted for filing a return. A tax that is upheld on administrative or judicial review bears interest from the date on which payment would have been due in the absence of review. Any ~~tax, interest or penalty imposed by this Title~~ amount that has been erroneously refunded and is recoverable by the assessor bears interest at the ~~above~~ rate determined pursuant to this section from the date of payment of the refund. A credit or reimbursement that has been allowed or paid pursuant to this Title and is recoverable by the assessor bears interest at the rate determined pursuant to this section from the date it was allowed or paid. Interest accrues automatically, without being assessed by the assessor, and is recoverable by the assessor in the same manner as if it were a tax assessed under this Title. If the failure to pay a tax when required is explained to the satisfaction of the assessor, the assessor may abate or waive the payment of all or any part of that interest.

Except as otherwise provided in this Title, and except for taxes imposed pursuant to chapter 105, inter-

est~~,~~ at the rate determined ~~by the assessor for underpayments~~ pursuant to this section~~,~~ must be paid on overpayments of tax from the date the return listing the overpayment was filed~~,~~ or the date payment was made, whichever is later.

**Sec. 4. 36 MRSA §1752, sub-§14, ¶B,** as amended by PL 2009, c. 496, §15 and affected by §30, is further amended to read:

B. "Sale price" does not include:

(1) Discounts allowed and taken on sales;

(2) Allowances in cash or by credit made upon the return of merchandise pursuant to warranty;

(3) The price of property returned by customers, when the full price is refunded either in cash or by credit;

(4) The price received for labor or services used in installing or applying or repairing the property sold, if separately charged or stated;

(5) Any amount charged or collected, in lieu of a gratuity or tip, as a specifically stated service charge, when that amount is to be disbursed by a hotel, restaurant or other eating establishment to its employees as wages;

(6) The amount of any tax imposed by the United States on or with respect to retail sales, whether imposed upon the retailer or the consumer, except any manufacturers', importers', alcohol or tobacco excise tax;

(7) The cost of transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, provided that those charges are separately stated and the transportation occurs by means of common carrier, contract carrier or the United States mail;

(8) The fee imposed by Title 10, section 1169, subsection 11;

(9) The fee imposed by section 4832, subsection 1;

(10) The lead-acid battery deposit imposed by Title 38, section 1604, subsection 2-B;

(11) Any amount charged or collected by a person engaged in the rental of living quarters as a forfeited room deposit or cancellation fee if the prospective occupant of the living quarters cancels the reservation on or before the scheduled date of arrival; ~~or~~

(12) The premium imposed on bulk motor vehicle oil and prepackaged motor vehicle oil by Title 10, section 1020, subsection 6-A~~.~~; or

(13) Any amount charged for the disposal of used tires.

**Sec. 5. 36 MRSA §1752, sub-§14, ¶B,** as amended by PL 2009, c. 496, §16 and affected by §31, is further amended to read:

B. "Sale price" does not include:

(1) Discounts allowed and taken on sales;

(2) Allowances in cash or by credit made upon the return of merchandise pursuant to warranty;

(3) The price of property returned by customers, when the full price is refunded either in cash or by credit;

(5) Any amount charged or collected, in lieu of a gratuity or tip, as a specifically stated service charge, when that amount is to be disbursed by a hotel, restaurant or other eating establishment to its employees as wages;

(6) The amount of any tax imposed by the United States on or with respect to retail sales, whether imposed upon the retailer or the consumer, except any manufacturers', importers', alcohol or tobacco excise tax;

(7) The cost of transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, provided that those charges are separately stated and the transportation occurs by means of common carrier, contract carrier or the United States mail;

(8) The fee imposed by Title 10, section 1169, subsection 11;

(9) The fee imposed by section 4832, subsection 1;

(10) The lead-acid battery deposit imposed by Title 38, section 1604, subsection 2-B;

(11) Any amount charged or collected by a person engaged in the rental of living quarters as a forfeited room deposit or cancellation fee if the prospective occupant of the living quarters cancels the reservation on or before the scheduled date of arrival; ~~or~~

(12) The premium imposed on bulk motor vehicle oil and prepackaged motor vehicle oil by Title 10, section 1020, subsection 6-A~~.~~; or

(13) Any amount charged for the disposal of used tires.

**Sec. 6. 36 MRSA §1760, sub-§5** is amended to read:

**5. Medicines.** Sales of medicines for human beings sold on doctor's prescription. This subsection

does not apply to the sale of marijuana pursuant to Title 22, chapter 558-C.

**Sec. 7. 36 MRSA §1760, sub-§9,** as amended by PL 2007, c. 675, §1 and affected by §2, 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 purchase of 200 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.

**Sec. 8. 36 MRSA §1760, sub-§45, ¶A,** as amended by PL 2007, c. 438, §45, is further amended to read:

A. If the property is an automobile, as defined in Title 29-A, section 101, subsection 7, and if the owner is an individual who was, at the time of purchase, a resident of the other state ~~and either employed or registered to vote there~~;

**Sec. 9. 36 MRSA §2513, first ¶,** as amended by PL 2007, c. 627, §52, is further amended to read:

Every insurance company or association that does business or collects premiums or assessments including annuity considerations in the State, including surety companies and companies engaged in the business of credit insurance or title insurance, shall, for the privilege of doing business in this State and in addition to any other taxes imposed for that privilege, pay a tax upon all gross direct premiums including annuity considerations, whether in cash or otherwise, on contracts written on risks located or resident in the State for insurance of life, annuity, fire, casualty and other risks at the rate of 2% a year. Every surplus lines insurer that does business or collects premiums in the State shall, for the privilege of doing business in this State and in addition to any other taxes imposed for that privilege, pay a tax upon all gross direct premiums, whether in cash or otherwise, on contracts written on risks located or resident in the State at the rate of 3% a year. The producer of those contracts must collect the tax and report and pay the tax to the State Tax Assessor as provided in section 2521-A, except that 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. For purposes of this section, the term "annuity considerations" includes amounts paid to an insurance company ~~when received~~ for the purchase of a contract that may result in an annuity, even ~~when~~ if the annuitization never occurs or does not occur until some time in the future and the amounts are in the meantime applied to an investment vehicle other than an annuity. This section does not apply to mutual fire insurance companies subject to tax under section 2517 or to captive insurance companies formed or licensed under Title 24-A, chapter 83 or under the laws of another state.

**Sec. 10. 36 MRSA §2903, sub-§4, ¶A,** as enacted by PL 1997, c. 738, §4, is amended to read:

A. Sold wholly for exportation from this State by a licensed distributor or an exporter;

**Sec. 11. 36 MRSA §3204-A, sub-§5,** as enacted by PL 1995, c. 271, §7, is amended to read:

**5. Exportation.** Special fuel sold only for exportation from this State by a licensed supplier;

**Sec. 12. 36 MRSA §5122, sub-§2, ¶FF** is enacted to read:

FF. To the extent included in the taxpayer's federal adjusted gross income, the recovery of a portion of a federal standard deduction claimed in a prior year for which the taxpayer was not allowed under this Part to reduce federal adjusted gross income or Maine adjusted gross income for that year.

**Sec. 13. PL 2009, c. 470, §9** is enacted to read:

**Sec. 9. Application.** This section determines the application of this Act to media production certificates issued pursuant to the Maine Revised Statutes, Title 5, section 13090-L.

**1. Certificates issued on or after January 1, 2010.** This Act applies to visual media production certificates issued pursuant to Title 5, section 13090-L on or after January 1, 2010.

**2. Certificates issued prior to January 1, 2010.** For media production certificates issued prior to January 1, 2010, a media production company to which a certificate has been issued is allowed a tax credit and reimbursement of wages as determined pursuant to this subsection.

A. A media production company is allowed a credit against the taxes imposed by Title 36, Part 8 in an amount equal to the Maine income tax imposed on income directly related to a certified media production.

If the media production company realizes income from a certified media production and also has Maine-source income from other sources, the credit allowed under this paragraph is based on a fraction of the media production company's entire Maine income tax liability for the year. The fraction is equal to the media production company's compensation paid during the tax year related to the certified media production divided by the media production company's total Maine compensa-

tion paid. If the calculation provided by this paragraph does not fairly reflect the tax liability associated with the media production company's certified media production, the media production company may petition for, or the State Tax Assessor may require, the employment of another reasonable method to make an equitable determination of the Maine tax associated with the media production company's certified media production. The credit allowed by this paragraph may not reduce the tax otherwise due under Title 36, Part 8 below zero and may be used only in the year in which the certified media production income is generated. Taxpayers claiming a credit under Title 36, section 5219-W are not eligible for this credit.

B. A media production company is allowed reimbursement equal to 12% of certified production wages paid to employees who are residents of Maine and 10% of certified production wages paid to other employees.

C. As used in this subsection, the following terms have the following meanings.

(1) "Certified media production" has the same meaning as "certified visual media production" as that term is defined in section 6901, subsection 1.

(2) "Certified production wages" means wages that are paid during the project period by a media production company that was issued a tax reimbursement certificate and that are subject to withholding pursuant to Title 36, chapter 827. "Certified production wages" does not include any wages in excess of $1,000,000 paid to a single individual for personal services rendered in connection with a particular certified media production.

(3) "Compensation" has the same meaning as in Title 36, section 5210, subsection 3.

(4) "Media production company" has the same meaning as in the former Title 5, section 13090-L, subsection 2, paragraph B.

**Sec. 14. Transfer from short-term emergency contingency account.** The State Controller shall transfer $692,000 from the short-term emergency contingency account established pursuant to Public Law 2009, chapter 571, Part KK to the General Fund unappropriated surplus no later than June 30, 2011.

**Sec. 15. Application.** That section of this Act that enacts the Maine Revised Statutes, Title 36, section 5122, subsection 2, paragraph FF applies to tax years beginning on or after January 1, 2009.

**Sec. 16. Contingent effective date.** That section of this Act that amends the Maine Revised Statutes, Title 36, section 1752, subsection 14, paragraph B, as amended by Public Law 2009, chapter 496, section 15 and affected by section 30, takes effect only if Public Law 2009, chapter 382 is rejected by a majority of the electors voting on that measure pursuant to the Constitution of Maine, Article IV, Part Third, Section 17.

**Sec. 17. Contingent effective date.** That section of this Act that amends the Maine Revised Statutes, Title 36, section 1752, subsection 14, paragraph B, as amended by Public Law 2009, chapter 496, section 16 and affected by section 31, takes effect only if Public Law 2009, chapter 382 is not rejected by a majority of the electors voting on that measure pursuant to the Constitution of Maine, Article IV, Part Third, Section 17.

**Sec. 18. Retroactivity.** That section of this Act that amends the Maine Revised Statutes, Title 36, section 1752, subsection 14, paragraph B applies retroactively to January 1, 2009.

See title page for effective date, unless otherwise indicated.

## CHAPTER 626

## S.P. 623 - L.D. 1658

### An Act To Increase Maine's High School Graduation Rates

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

**Sec. 1. 20-A MRSA c. 211, sub-c. 1-B** is enacted to read:

**SUBCHAPTER 1-B**

**HIGH SCHOOL GRADUATION RATE**

**§5031. High school graduation rate**

**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.

**2. Technical assistance.** The department shall provide forms to publicly supported secondary schools for reporting graduation rates. The commissioner shall provide technical assistance to publicly supported secondary schools in the State that have not attained a graduation rate of 80% by the end of the 2012-2013 school year. Publicly supported secondary schools that do not meet the 80% graduation rate by the end of the 2012-2013 school year shall provide the commissioner with a copy of the action plan developed under section 5103, subsection 5 no later than December 31, 2013. The action plan may include the steps necessary to achieve a graduation rate of 90% by the end of the 2015-2016 school year.

**3. Rules.** The department shall adopt rules specifying the method to be used to calculate publicly supported secondary school graduation rates through 2016 and dates by which graduation rates must be reported to the department. Rules adopted under this section are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A and must be provisionally adopted and submitted to the Legislature for review no later than January 14, 2011.

**Sec. 2. Stakeholder group.** The Commissioner of Education shall establish a stakeholder group to develop methodologies and recommendations relating to increasing publicly supported secondary school graduation rates, as well as policies related to school expulsion, suspension, zero-tolerance practices and truancy, in the State. The stakeholder group must include, but is not limited to, the Commissioner of Education or the commissioner's designee, educators and other persons the commissioner determines will contribute to the development of effective policies. The commissioner shall invite the participation of:

1. Representatives of the following educational associations nominated by the respective associations:

A. The Maine School Boards Association;

B. The Maine School Superintendents Association;

C. The Maine Education Association;

D. The Maine Administrators of Services for Children with Disabilities; and

E. The Maine School Counselor Association;

2. A school attendance coordinator in a secondary school in the State; and

3. An elementary school teacher or administrator in the State.

The commissioner and the stakeholder group shall review existing plans developed by the advisory committee on truancy, dropouts and alternative education established pursuant to the Maine Revised Statutes, Title 20-A, section 5152, the performance plans developed by the Maine Administrators of Services for Children with Disabilities and other existing plans developed by an educational association in the State.

**Sec. 3. Report to Joint Standing Committee on Education and Cultural Affairs.** The Commissioner of Education and the stakeholder group under section 2 shall report their recommendations for increasing graduation rates to the Joint Standing Committee on Education and Cultural Affairs by November 1, 2010. The report must include, but is not limited to, recommendations relating to:

1. The establishment of guidelines for school suspensions and expulsions, including notification of hearings, time frames, provision of educational support services, pathways to reinstatement and alternatives to expulsion and suspension;

2. The impact and implementation of zero-tolerance practices;

3. Best practices for secondary schools, families and youth for increasing secondary school graduation rates;

4. The maximum age of mandatory school attendance; and

5. The impact and effectiveness of the current truancy laws.

The Joint Standing Committee on Education and Cultural Affairs may accept and discuss the report at an authorized interim committee meeting. After receipt and review of the report, the committee may make recommendations to the Commissioner of Education for further action and provide these recommendations and comments to the joint standing committee of the 125th Legislature having jurisdiction over education matters.

See title page for effective date.

## CHAPTER 627

## S.P. 651 - L.D. 1679

### An Act To Create Jobs and Stimulate Economic Development by Making Captive Insurers Eligible for Pine Tree Development Zone Benefits

**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 the First Regular Session of the 124th Legislature, Public Law 2009, chapter 335 was enacted to modernize the State's insurance laws to encourage the formation of new captive insurance companies in this State; and

**Whereas,** this legislation would stimulate economic development by amending the State's tax laws to attract captive insurance companies to the State by making captive insurance companies eligible for Pine Tree Development Zone tax credits; 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 §5223, sub-§3,** as amended by PL 2009, c. 314, §8, is further amended to read:

**3. Conditions for approval.** Designation of a development district is subject to the following conditions.

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; or

(3) Must be suitable for commercial or arts district uses.

B. The total area of a single development district may not exceed 2% of the total acreage of the municipality. The total area of all development districts may not exceed 5% of the total acreage of the municipality.

C. The original assessed value of a proposed tax increment financing district plus the original assessed value of all existing tax increment financing districts within the municipality may not exceed 5% of the total value of taxable property within the municipality as of April 1st preceding the date of the commissioner's approval of the designation of the proposed tax increment financing district.

Excluded from the calculation in this paragraph is any district excluded from the calculation under former section 5253, subsection 1, paragraph C and any district designated on or after the effective date of this chapter that meets the following criteria:

(1) The development program contains project costs, authorized by section 5225, subsection 1, paragraph A, that exceed $10,000,000;

(2) The geographic area consists entirely of contiguous property owned by a single taxpayer;

(3) The assessed value exceeds 10% of the total value of taxable property within the municipality; and

(4) The development program does not contain project costs authorized by section 5225, subsection 1, paragraph C.

For the purpose of this paragraph, "contiguous property" includes a parcel or parcels of land divided by a road, power line or right-of-way.

D. The aggregate value of municipal 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 installment of all real and personal property improvements, buildings, structures, fixtures and equipment included within the development program and financed through municipal bonded indebtedness must be completed within 5 years of the commissioner's approval of the designation of the tax increment financing district.

The conditions in paragraphs A to D do not apply to approved downtown tax increment financing districts, ~~tax increment financing districts included within Pine Tree Development Zones designated and approved under subchapter 3,~~ tax increment financing districts that consist solely of one or more community wind power generation facilities owned by a community wind power generator that has been certified by the Public Utilities Commission pursuant to Title 35-A, section 3403, subsection 3 or transit-oriented development districts.

**Sec. 2. 30-A MRSA §5250-I, sub-§8,** as enacted by PL 2003, c. 688, Pt. D, §2, is amended to read:

**8. Financial services.** "Financial services" means services provided by an insurance company subject to taxation under Title 36, chapter 357; a captive insurance company formed or licensed under Title 24-A, chapter 83; a financial institution subject to taxation under Title 36, chapter 819; or a mutual fund service provider as defined in Title 36, section 5212, subsection 1, paragraph E.

**Sec. 3. 30-A MRSA §5250-I, sub-§14, ¶E,** as enacted by PL 2005, c. 351, §3, is amended to read:

E. Discounted rates approved by the Public Utilities Commission, if applicable, and offered by transmission and distribution utilities as authorized under Title 35-A, section ~~3210-B~~ 3210-E, subsection 1; and

**Sec. 4. 30-A MRSA §5250-I, sub-§14, ¶F,** as enacted by PL 2005, c. 351, §3, is amended to read:

F. Line extensions and conservation programs approved or authorized ~~by the Public Utilities Commission~~ under Title 35-A, section ~~3210-B, subsections 2 and 3~~ 3210-E.

**Sec. 5. 35-A MRSA §3210-E** is enacted to read:

**§3210-E. Electric utility and conservation benefits**

**1. Discount rates.** Transmission and distribution utilities may offer discounted rates to qualified Pine Tree Development Zone businesses established under Title 30-A. If a transmission and distribution utility requires approval prior to offering any such rate, the transmission and distribution utility shall apply to the commission in accordance with applicable provisions of this Title, and the commission may approve the rate if it finds it to be in accord with applicable requirements of this Title, except that the commission may take into account the overall benefits to ratepayers resulting from state efforts to promote economic development within Pine Tree Development Zones.

**2. Line extensions.** When approving or authorizing line extension terms and conditions for qualified Pine Tree Development Zone businesses established under Title 30-A, the commission may take into account the overall benefits to ratepayers resulting from state efforts to promote economic development within Pine Tree Development Zones established pursuant to Title 30-A.

**3. Conservation programs.** In designing and implementing conservation programs pursuant to section 3211-A, the commission may make available to qualified Pine Tree Development Zone businesses established under Title 30-A special programs of enhanced value to aid state efforts to promote economic development within Pine Tree Development Zones. A program made available pursuant to this subsection must be cost-effective as defined by the commission by rule or order pursuant to section 3211-A. This subsection is repealed July 1, 2010.

**4. Conservation programs.** Beginning July 1, 2010, in designing and implementing conservation programs pursuant to section 10110, the Efficiency Maine Trust may make available to qualified Pine Tree Development Zone businesses established under Title 30-A special programs of enhanced value to aid state efforts to promote economic development within Pine Tree Development Zones. A program made available pursuant to this subsection must be cost-effective as defined by the Efficiency Maine Trust by rule or order pursuant to section 10110.

**5. Electricity sales.** Notwithstanding section 3210, the sale of electricity by a competitive electricity provider to a qualified Pine Tree Development Zone business established under Title 30-A is exempt from the requirements of that section and, at the request of the competitive electricity provider, sales to qualified Pine Tree Development Zone businesses must be excluded from any calculation by the commission to determine compliance with that section.

**6. Repeal.** This section is repealed December 31, 2028.

**Sec. 6. 36 MRSA §1760, sub-§87,** as amended by PL 2005, c. 351, §8 and affected by §26, is further amended to read:

**87. Sales of tangible personal property to qualified development zone businesses.** Beginning July 1, 2005, sales of tangible personal property to a qualified Pine Tree Development Zone business, as defined in Title 30-A, section 5250-I, subsection 17, for use directly and primarily in one or more qualified business activities, as defined in Title 30-A, section 5250-I, subsection 16. The exemption provided by this subsection is limited for each qualified Pine Tree Development Zone business to sales occurring within a period of 10 years in the case of a business located in a tier 1 location, as defined in Title 30-A, section 5250-I, subsection 21-A, and 5 years in the case of a business located in a tier 2 location, as defined in Title 30-A, section 5250-I, subsection 21-B, from the date the business is certified pursuant to Title 30-A, section 5250-O or until December 31, ~~2018~~ 2028, whichever occurs first. As used in this subsection, "primarily" means more than 50% of the time during the period that begins on the date on which the property is first placed in service by the purchaser and ends 2 years from that date or at the time the property is sold, scrapped, destroyed or otherwise permanently removed from service by the purchaser, whichever occurs first.

**Sec. 7. 36 MRSA §2016, sub-§4, ¶A,** as enacted by PL 2005, c. 351, §9 and affected by §26, is amended to read:

A. Reimbursements made by the assessor pursuant to this section are limited to taxes paid in connection with sales of tangible personal property that occur within a period of 10 years in the case of a qualified Pine Tree Development Zone business located in a tier 1 location, as defined in Title 30-A, section 5250-I, subsection 21-A, and 5 years in the case of a qualified Pine Tree Development Zone business located in a tier 2 location, as defined in Title 30-A, section 5250-I, subsection 21-B, from the date the qualified Pine Tree Development Zone business receiving the property is certified pursuant to Title 30-A, section 5250-O or by December 31, ~~2018~~ 2028, whichever occurs first.

**Sec. 8. 36 MRSA §2529, sub-§1, ¶B,** as repealed and replaced by PL 2005, c. 351, §10 and affected by §26, is amended to read:

B. ~~Fifty percent~~ For a business located in a tier 1 location, as defined in Title 30-A, section 5250-I, subsection 21-A, 50% of the tax that would otherwise be due under this chapter upon premiums that are attributable to a qualified business activity as defined in Title 30-A, section 5250-I, subsection 16 for each of the 5 tax years following the time period in paragraph A.

**Sec. 9. 36 MRSA §2529, sub-§3,** as enacted by PL 2003, c. 451, Pt. NNN, §4 and affected by §8, is amended to read:

**3. Limitation.** The credit provided by this section may not be claimed for calendar years beginning on or after January 1, ~~2019~~ 2029.

**Sec. 10. 36 MRSA §5219-W, sub-§1, ¶B,** as repealed and replaced by PL 2005, c. 351, §13 and affected by §26, is amended to read:

B. ~~Fifty percent~~ For a business located in a tier 1 location, as defined in Title 30-A, section 5250-I, subsection 21-A, 50% of the tax that would otherwise be due under this Part for each of the 5 tax years following the time period in paragraph A.

**Sec. 11. 36 MRSA §5219-W, sub-§4,** as enacted by PL 2003, c. 451, Pt. NNN, §5 and affected by §8, is amended to read:

**4. Limitation.** The credit provided by this section may not be claimed for tax years beginning on or after January 1, ~~2019~~ 2029.

**Sec. 12. Retroactivity.** That section of this Act that enacts the Maine Revised Statutes, Title 35-A, section 3210-E applies retroactively to December 31, 2009. Those sections of this Act that amend Title 36, section 1760, subsection 87; section 2016, subsection 4, paragraph A; section 2529, subsection 1, paragraph B; and section 5219-W, subsection 1, paragraph B apply retroactively to September 12, 2009.

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

Effective April 9, 2010.

## CHAPTER 628

## H.P. 1205 - L.D. 1704

### An Act To Amend the Laws Regarding Authority over and Oversight of Certified Nursing Assistant Educational Programs

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

**Sec. 1. 26 MRSA §2164, sub-§3,** as amended by PL 1993, c. 306, §5 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

**3. Certification.** Participants who complete training under this section with a 200-hour curriculum approved by the Department of ~~Education~~ Health and Human Services to include both theoretical and practical training receive a statewide certificate granted by the Department of ~~Education~~ Health and Human Services. This certificate or a certificate issued under subsection 4 is required for employment as an activities coordinator in this State after December 31, 1993, except that a person employed as an activities coordinator on ~~the effective date of this chapter~~ October 9, 1991 who has completed a training program approved by the Department of Health and Human Services is not required to obtain a certificate under this section.

**Sec. 2. 26 MRSA §2164, sub-§4,** as amended by PL 1993, c. 306, §5 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

**4. Reciprocity.** Certification may also be issued to candidates who can document completion of comparable training and experience in accordance with rules adopted by ~~the Commissioner of Education and~~ the Commissioner of Health and Human Services after consultation with the activities coordinator board of a state health care association.

**Sec. 3. 32 MRSA §2104, sub-§4,** as amended by PL 1993, c. 600, Pt. A, §114, is further amended to read:

**4. Approval and monitoring of nursing assistant training curriculum and faculty.** An educational institution or health care facility desiring to conduct an educational program for nursing assistants to prepare individuals for a certificate of training and subsequent listing on the Maine Registry of Certified Nursing Assistants must apply to the ~~Department of Education~~ Department of Health and Human Services and submit evidence:

A. That it is prepared to carry out the curriculum for nursing assistants as prescribed by the board;

B. That it is prepared to meet those standards established by the board;

C. That it is prepared to meet those standards for educational programming and faculty as established by the ~~Department of Education~~ Department of Health and Human Services; and

D. With respect to an application by a health care facility, that an educational institution cannot provide a nursing assistant training program within 30 days of the application date.

The ~~Department of Education~~ Department of Health and Human Services shall issue a notice of approval to an educational institution or health care facility that meets the requirements of this subsection.

~~The Department of Education shall consult with the board in approving and monitoring of nursing assistant training programs.~~

**Sec. 4. 32 MRSA §2202-B,** as amended by PL 1993, c. 435, §§11 to 13, is further amended to read:

**§2202-B. Certification fee; disposition of fee; nursing assistants**

**1. Fees authorized.** The Commissioner of ~~Education~~ Health and Human Services may assess fees for certification of nursing assistants, for the competency testing of nursing assistants and for validation of test results to determine eligibility for certification and charge fees for certificates issued and duplicated for out-of-state vocational reciprocity, renewal of certificates and replacement of certificates.

**2. Amounts.** Amounts of fees are as follows:

A. For competency testing, ~~$20~~ $45, which must be included in the training course fee;

B. For initial certificate, $5;

C. For replacement certificate, $5;

D. ~~For certificate of comparable training, $10~~ For letter of verification of completion of a certified nursing assistant program, $20;

E. For converted certificate, $5;

F. For renewal certificate, $5; and

G. For validation of test results, $5.

**3. Accounting.** The Commissioner of ~~Education~~ Health and Human Services shall:

A. Collect and account for testing and certification fees; and

B. Report and pay fees to the Treasurer of State to be credited to the General Fund.

**4. Staff.** The Commissioner of ~~Education~~ Health and Human Services shall employ staff necessary to carry out the requirements of this section.

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

**EDUCATION, DEPARTMENT OF**

**PK-20 Curriculum, Instruction and Assessment Z081**

Initiative: Eliminates one vacant Office Assistant II position from the PK-20 Curriculum, Instruction and Assessment program due to the responsibilities related to the certification of activities coordinators and certified nursing assistants being transferred from the Department of Education to the Department of Health and Human Services.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | (1.000) |
| Personal Services | $0 | ($52,015) |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | ($52,015) |

| EDUCATION, DEPARTMENT OF DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| **FEDERAL EXPENDITURES FUND** | **$0** | **($52,015)** |
| **DEPARTMENT TOTAL - ALL FUNDS** | **$0** | **($52,015)** |

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

**Division of Licensing and Regulatory Services Z036**

Initiative: Appropriates funds for the costs of one Social Services Program Specialist II position to be established in the Division of Licensing and Regulatory Services to align the functions of the certified nursing assistant educational programs within one department.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $61,051 |
| All Other | $0 | $5,417 |
| GENERAL FUND TOTAL | $0 | $66,468 |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| Personal Services | $0 | $20,656 |
| All Other | $0 | $1,833 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $22,489 |

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

| DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | $0 | $66,468 |
| OTHER SPECIAL REVENUE FUNDS | $0 | $22,489 |
| DEPARTMENT TOTAL - ALL FUNDS | $0 | $88,957 |

| SECTION TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | $0 | $66,468 |
| FEDERAL EXPENDITURES FUND | $0 | ($52,015) |
| OTHER SPECIAL REVENUE FUNDS | $0 | $22,489 |
| SECTION TOTAL - ALL FUNDS | $0 | $36,942 |

See title page for effective date.

## CHAPTER 629

## H.P. 1118 - L.D. 1580

### An Act To Replace the Maine Limited Liability Company Act

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

### PART A

**Sec. A-1. 31 MRSA c. 13,** as amended, is repealed.

**Sec. A-2. 31 MRSA c. 21** is enacted to read:

### CHAPTER 21

### LIMITED LIABILITY COMPANIES

### SUBCHAPTER 1

### GENERAL PROVISIONS

**§1501. Short title**

This chapter may be known and cited as "the Maine Limited Liability Company Act."

**§1502. Definitions**

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

**1. Articles of organization.** "Articles of organization" means the articles described in former chapter 13, section 622.

**2. Certificate of formation.** "Certificate of formation" means the certificate described in section 1541, and the certificate as amended or restated.

**3. Constituent limited liability company.** "Constituent limited liability company" means a constituent organization that is a limited liability company.

**4. Constituent organization.** "Constituent organization" means an organization that is party to a merger.

**5. Converted organization.** "Converted organization" means the organization into which a converting organization converts pursuant to sections 1645 to 1648.

**6. Converting limited liability company.** "Converting limited liability company" means a converting organization that is a limited liability company.

**7. Converting organization.** "Converting organization" means an organization that converts into a converted organization pursuant to section 1645.

**8. Debtor in bankruptcy.** "Debtor in bankruptcy" means a person that is the subject of:

A. An order for relief under Title 11 of the United States Code or a successor statute of general application; or

B. A comparable order under federal, state or foreign law governing insolvency.

**9. Distribution.** "Distribution," except as otherwise provided in section 1555, subsection 4, means a transfer of money or other property from a limited liability company to another person on account of a transferable interest.

**10. Electronic transmission.** "Electronic transmission" means any process of communication that does not directly involve the physical transfer of paper and that is suitable for the retention, retrieval and reproduction of information by the recipient.

**11. Foreign limited liability company.** "Foreign limited liability company" means an organization that is:

A. An unincorporated association or entity;

B. Organized under laws of a state other than the laws of this State, or under the laws of any foreign country;

C. Organized under a statute pursuant to which an association or an entity may be formed that affords to each of its members limited liability with respect to the liabilities of the association or entity; and

D. Not required to be registered or organized under any statute of this State other than this chapter.

**12. Foreign organization.** "Foreign organization" means an organization that is formed under the laws of a jurisdiction other than this State.

**13. Governing statute.** "Governing statute" means the statute that governs an organization's internal affairs.

**14. Limited liability company.** "Limited liability company," except in the phrase "foreign limited liability company," means an entity formed under this chapter or under former chapter 13 and having one or more members and a limited liability company agreement. The fact that the limited liability company has a certificate of formation filed with the office of the Secretary of State and has one or more members is conclusive evidence that a limited liability company agreement exists.

**15. Limited liability company agreement.** "Limited liability company agreement" means any agreement, whether referred to as a limited liability company agreement, operating agreement or otherwise, written, oral or implied, of the member or members as to the affairs of a limited liability company and the conduct of its activities. A limited liability company agreement of a limited liability company having only one member is not unenforceable by reason of there being only one person who is a party to the limited liability company agreement. A limited liability company agreement includes any amendments to the limited liability company agreement.

**16. Low-profit limited liability company.** "Low-profit limited liability company" means a domestic for-profit limited liability company that satisfies the requirements of section 1611 or a foreign for-profit limited liability company that satisfies the requirements of the laws of the jurisdiction where it was formed and that, in either case, does not have as a significant purpose the production of income or the appreciation of property.

**17. Majority of the members.** Unless otherwise provided in the limited liability company agreement, "majority of the members" means a majority of members who own more than 50% of the then current percentage or other interest in the profits of the limited liability company owned by all of the members or by the members in each class or group, as appropriate.

**18. Member.** "Member" means a person that has been admitted as a member of a limited liability company under section 1551.

**19. Organization.** "Organization" means, whether domestic or foreign: a partnership, whether general or limited; a limited liability company; a business trust; an association; a corporation; a professional corporation; a professional association; a nonprofit corporation; a government, including a state, county or any other governmental subdivision, agency or instrumentality; or other entity.

**20. Organizational documents.** "Organizational documents" means:

A. For a domestic or foreign general partnership, its partnership agreement;

B. For a limited partnership or foreign limited partnership, its certificate of limited partnership and partnership agreement;

C. For a domestic or foreign limited liability company, its certificate of formation and limited liability company agreement, or comparable records as provided in its governing statute;

D. For a domestic or foreign business trust, its agreement of trust and declaration of trust, or comparable records as provided in its governing statute;

E. For a domestic or foreign corporation for profit, its articles of incorporation, bylaws and other agreements among its shareholders that are authorized by its governing statute, or comparable records as provided in its governing statute;

F. For a domestic or foreign nonprofit corporation, its articles of incorporation, bylaws and other agreements that are authorized by its governing statute, or comparable records as provided in its governing statute;

G. For a domestic or foreign professional corporation for profit, its articles of incorporation, bylaws and other agreements among its shareholders that are authorized by its governing statute, or comparable records as provided in its governing statute; and

H. For any other organization, the basic records that create the organization, determine its internal governance and determine the relations among the persons that own it, have an interest in it or are members of it.

**21. Person.** "Person" means, whether domestic or foreign: an individual; a partnership, whether general or limited; a limited liability company; a trust; a business trust; an estate; an association; a corporation; a professional corporation; a professional association; a nonprofit corporation; a government, including a country, state, county or any other governmental subdivision, agency or instrumentality; a custodian; a nominee; a trustee; a personal representative; a fiduciary; or any other individual or entity, or series thereof, in its own or any representative capacity.

**22. Record.** "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in written or paper form.

**23. Secretary of State.** "Secretary of State" means the Secretary of State for the State.

**24. Sign.** "Sign" means, with the present intent to authenticate or adopt a record:

A. To execute or adopt a tangible symbol; or

B. To attach to or logically associate with the record an electronic symbol, sound or process.

**25. State.** "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

**26. Statement of authority.** "Statement of authority" means a statement described in section 1542, subsection 1.

**27. Surviving organization.** "Surviving organization" means an organization into which one or more other organizations are merged whether the organization preexisted the merger or was created by the merger.

**28. Transfer.** "Transfer" includes an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift and transfer by operation of law.

**29. Transferable interest.** "Transferable interest" means the right, as originally associated with a person's capacity as a member, to receive distributions from a limited liability company in accordance with the limited liability company agreement, whether or not the person remains a member or continues to own any part of the right.

**30. Transferee.** "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a member.

**§1503. Knowledge; notice**

**1. Knows.** A person knows a fact when the person:

A. Has actual knowledge of it; or

B. Is deemed to know it under law other than this chapter.

**2. Notice.** A person has notice of a fact when the person:

A. Knows of it;

B. Receives notification of it;

C. Has reason to know the fact from all of the facts known to the person at the time in question; or

D. Is deemed to have notice of the fact under subsection 4.

**3. Notifies.** A person notifies another of a fact by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person knows the fact.

**4. Nonmember; notice.** A person that is not a member is deemed to have notice of a limited liability company's:

A. Matters included in the certificate of formation under section 1531, subsection 1, paragraphs A and B, upon filing;

B. Termination, 90 days after a certificate of cancellation under section 1533 becomes effective;

C. Merger or conversion, 90 days after a statement of merger or statement of conversion under subchapter 12 becomes effective; and

D. Revival, 90 days after a certificate of revival under section 1604 becomes effective.

**5. Member; knowledge, notice or receipt of notification.** A member's knowledge, notice or receipt of a notification of a fact relating to the limited liability company is not knowledge, notice or receipt of a notification of a fact by the limited liability company solely by reason of the member's capacity as a member.

**§1504. Nature, purpose and duration of limited liability company**

**1. Distinct entity.** A limited liability company is an entity distinct from its members.

**2. Any lawful purpose.** A limited liability company may have any lawful purpose, regardless of whether for profit.

**3. Duration.** A limited liability company has perpetual duration.

**§1505. Capacities and powers**

**1. To sue, be sued.** A limited liability company has the capacity to sue and be sued in its own name.

**2. To hold property.** A limited liability company has the capacity to hold property in its own name.

**3. Power to carry out activities.** A limited liability company has the power to do all things necessary or convenient to carry on its activities.

**§1506. Governing law**

The law of this State governs:

**1. Internal affairs.** The internal affairs of a limited liability company; and

**2. Liability.** The liability of a member as a member for the debts, obligations or other liabilities of a limited liability company.

**§1507. Rules of construction**

**1. Freedom of contract.** It is the policy of this chapter and this State to give maximum effect to the principles of freedom of contract and to the enforceability of limited liability company agreements.

**2. Principles of law and equity.** Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

**3. No application.** Rules that statutes in derogation of the common law are to be strictly construed do not apply to this chapter.

**4. Subject to amendment or repeal.** A limited liability company and a foreign limited liability company are subject to any amendment or repeal of this chapter.

**5. Assignments.** Title 11, sections 9-1406 and 9-1408 do not apply to any interest in a limited liability company, including all rights, powers and interests arising under a limited liability company agreement or this chapter. This subsection prevails over Title 11, sections 9-1406 and 9-1408 and is intended to permit the enforcement of the provisions of a limited liability company agreement that would otherwise be ineffective under Title 11, sections 9-1406 and 9-1408.

**§1508. Limited liability company name**

**1. Requirements.** A limited liability company name must contain the words "limited liability company" or "limited company" or the abbreviation "L.L.C.," "LLC," "L.C." or "LC" or, in the case of a low-profit limited liability company, "L3C" or "13c." The word "limited" may be abbreviated as "Ltd.," and "company" may be abbreviated as "Co." unless the limited liability company is filing an assumed name under section 1510 or a registration of a name of a foreign limited liability company under section 1511. If the words "Limited Liability Company," "Limited Liability Company, Chartered," "Limited Liability Company, Professional Association," "Limited Liability Company, P.A." or any of the designations without commas are used, a limited liability company may also use the abbreviation "L.L.C." or the designation "LLC" without filing an assumed name under section 1510. In the case of a low-profit limited liability company, if the words "Low-profit Limited Liability Company" are used, a limited liability company may also use the abbreviation "L3C" or the designation "l3c" without filing an assumed name under section 1510.

**2. Distinguishable name.** Except as authorized by subsections 4 and 5, a limited liability company name must be distinguishable on the records of the office of the Secretary of State from:

A. The name of a corporation, limited liability company, limited liability partnership or limited partnership that is incorporated, organized or authorized to transact business or carry on activities in this State;

B. Assumed, fictitious, reserved and registered name filings for all entities; and

C. Marks registered under Title 10, chapter 301-A unless the registered owner or holder of the mark is the same person or entity as the limited liability company seeking to use a name that is not distinguishable on the records of the office of the Secretary of State and files proof of ownership with the Secretary of State.

**3. Refuse to file name.** The Secretary of State, in the Secretary of State's discretion, may refuse to file a name that:

A. Consists of or comprises language that is obscene;

B. Inappropriately promotes abusive or unlawful activity;

C. Falsely suggests an association with public institutions; or

D. Violates any other provision of the law of this State with respect to names.

**4. Authorization to use name.** A limited liability company may apply to the Secretary of State for authorization to use a name that is not distinguishable on the records of the office of the Secretary of State from one or more of the names described in subsection 2. The Secretary of State shall authorize use of the name applied for if:

A. The entity in possession of the name consents to the use in writing and submits an undertaking in a form satisfactory to the Secretary of State to change its name to a name that is distinguishable on the records of the office of the Secretary of State from the name of the applicant; or

B. The applicant delivers to the office of the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this State.

**5. Use of another limited liability company's name.** A limited liability company may use the name, including the assumed or fictitious name, of another domestic or foreign limited liability company that is used in this State if the other limited liability company is organized or authorized to transact business in this State and the limited liability company proposing to use the name:

A. Has merged with the other limited liability company;

B. Has been formed by reorganization of the other limited liability company; or

C. Has acquired all or substantially all of the assets, including the limited liability company name, of the other limited liability company.

**6. Determining distinguishability.** In determining whether names are distinguishable on the records, the Secretary of State shall disregard the following:

A. Words or abbreviations of words that describe the nature of the entity, including "professional association," "corporation," "company," "incorporated," "chartered," "limited," "limited company," "limited partnership," "limited liability company," "professional limited liability company," "limited liability partnership," "registered limited liability partnership," "limited liability limited partnership," "service corporation" and "professional corporation";

B. The presence or absence of the words or symbols of the words "and" and "the"; and

C. Differences in the use of punctuation, capitalization or special characters.

**7. Change of limited liability company name by foreign limited liability company.** If a foreign limited liability company that has filed a statement of foreign qualification in this State changes its name to one that does not satisfy the requirements of this section, it may not transact business in this State under the proposed new name until it adopts a name satisfying the requirements of this section and files an amended statement of foreign qualification under section 1622, subsection 3 that is accompanied by a statement of use of a fictitious name under section 1510.

**8. Exception.** Notwithstanding subsection 2, a foreign limited liability company may use a name that is not distinguishable on the records of the office of the Secretary of State if the foreign limited liability company was authorized to do business in this State before January 1, 1995 and had the right to use that name as its legal name before that date.

**§1509. Reservation of name**

**1. Reserve use of name.** A person may reserve the exclusive use of a limited liability company name, including an assumed or fictitious name, by executing and delivering for filing an application to the office of the Secretary of State. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the Secretary of State finds that the limited liability company name applied for is available, the Secretary of State shall reserve the name for the applicant's exclusive use for a nonrenewable period of 120 days.

**2. Transfer of reservation.** The owner of a reserved limited liability company name under subsection 1 may transfer the reservation to another person by executing and delivering for filing to the office of the Secretary of State a notice of the transfer, signed by the transferor, that states the name and address of the transferee.

**§1510. Assumed or fictitious name of limited liability company**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Assumed name" means a trade name or any name other than the real name of a limited liability company except a fictitious name.

B. "Fictitious name" means a name adopted by a foreign limited liability company that has filed a statement of foreign qualification in this State because its real name is unavailable pursuant to section 1508.

**2. Authorized to transact business.** Upon complying with this section, a domestic or foreign limited liability company that has filed a statement of foreign qualification in this State may transact its business in this State under one or more assumed or fictitious names.

**3. File statement indicating use of assumed or fictitious name.** Prior to transacting business in this State under an assumed or fictitious name, a limited liability company shall execute and deliver to the office of the Secretary of State for filing a statement setting forth:

A. The limited liability company name;

B. That the limited liability company intends to transact business under an assumed or fictitious name;

C. The assumed or fictitious name that the limited liability company proposes to use;

D. If the assumed name is not to be used at all of the limited liability company's places of business in this State, the locations where that name will be used; and

E. If the company is a foreign limited liability company:

(1) The jurisdiction of organization; and

(2) The date on which it was authorized to transact business in this State.

A separate statement must be executed and delivered to the office of the Secretary of State for filing with respect to each assumed or fictitious name that the limited liability company proposes to use.

**4. Compliance required.** An assumed or fictitious name must comply with the requirements of section 1508.

**5. Enjoin use of assumed or fictitious name.** If a limited liability company uses an assumed or fictitious name without complying with the requirements of this section, the continued use of the assumed or fictitious name may be enjoined upon suit by the Attorney General or by any person adversely affected by the use of the assumed or fictitious name.

**6. Enjoin use despite compliance.** Notwithstanding its compliance with the requirements of this section, the use of an assumed or fictitious name may be enjoined upon suit by the Attorney General or by any person adversely affected by such use if:

A. The assumed or fictitious name did not, at the time the statement required by subsection 3 was filed, comply with the requirements of section 1508; or

B. The assumed or fictitious name is not distinguishable on the records of the office of the Secretary of State from a name in which the plaintiff has prior rights by virtue of the common law or statutory law of unfair competition, unfair trade practices and common law copyright or similar law.

The mere filing of a statement pursuant to subsection 3 does not constitute actual use of the assumed or fictitious name set out in that statement for the purpose of determining priority of rights.

**7. Terminate use of assumed or fictitious name.** A limited liability company may terminate an assumed or fictitious name by executing and delivering to the office of the Secretary of State a statement setting forth:

A. The name of the limited liability company;

B. That the limited liability company no longer intends to transact business under the assumed or fictitious name; and

C. The assumed or fictitious name the limited liability company intends to terminate.

### §1511. Registered name of foreign limited liability company

**1. Register limited liability company name.** A foreign limited liability company may register its limited liability company name if the name is distinguishable on the records of the office of the Secretary of State pursuant to section 1508.

**2. Application.** To register its limited liability company name, a foreign limited liability company must execute and deliver to the office of the Secretary of State for filing an application that:

A. Sets forth its limited liability company name, the state or other jurisdiction of its organization, the date of its organization in its jurisdiction of organization, the address of its principal office wherever located and a brief description of the nature of the business in which it is engaged; and

B. Is accompanied by a certificate of existence or a document of similar import duly authenticated by the secretary of state or other official having custody of limited liability company records in the state or other jurisdiction under whose law the foreign limited liability company is organized. The certificate of existence must have been made not more than 90 days prior to the delivery of the application for filing.

**3. Applicant's exclusive use.** A limited liability company name is registered for a foreign limited liability company's exclusive use upon the effective date of the application under subsection 2 until the end of the calendar year in which the application was filed.

**4. Renewal of registered name.** A foreign limited liability company whose registration under this section is effective may renew it for a successive year by delivering for filing to the office of the Secretary of State between October 1st and December 31st a renewal application that complies with the requirements of subsection 2. The renewal application, when filed, renews the registration for the following calendar year.

**5. Qualify as foreign limited liability company.** A foreign limited liability company whose registration under this section is effective may, after the registration is effective, file a statement of foreign qualification as a foreign limited liability company under the registered name or may consent in writing to the use of that name by a limited liability company organized under this chapter or by another foreign limited liability company authorized to transact business in this State. The registration terminates when the domestic limited liability company is organized or the foreign limited liability company files a statement of foreign qualification or consents to the qualification of another foreign limited liability company under the registered name.

## SUBCHAPTER 2

## LIMITED LIABILITY COMPANY AGREEMENT; PROVISIONS OF CHAPTER THAT MAY NOT BE MODIFIED BY THE LIMITED LIABILITY COMPANY AGREEMENT

### §1521. Limited liability company agreement; scope, function and limitations

**1. Agreement governs.** Except as otherwise provided in subsection 3 and section 1522, the limited liability company agreement governs relations among the members as members and between the members and the limited liability company.

**2. When agreement does not otherwise provide.** To the extent the limited liability company agreement does not otherwise provide for a matter

described in subsection 1, this chapter governs the matter.

**3. Expansion, restriction or elimination of duties.** Except as provided in section 1611, a member's or other person's duties may be expanded, restricted or eliminated as provided in this subsection.

A. To the extent that, at law or in equity, a member or other person has duties, including fiduciary duties, to the limited liability company or to another member or to another person that is a party to or is otherwise bound by a limited liability company agreement, the member's or other person's duties may be expanded or restricted or eliminated by provisions in a written limited liability company agreement; except that the implied contractual covenant of good faith and fair dealing may not be eliminated.

B. A written limited liability company agreement may provide for the limitation or elimination of any liabilities for breach of contract and breach of duties, including fiduciary duties, of a member or other person to a limited liability company or to another member or to another person that is a party to or is otherwise bound by a limited liability company agreement.

**4. No liability for good faith reliance on agreement.** Unless otherwise provided in a limited liability company agreement, a member or other person is not liable to a limited liability company or to another member or to another person that is a party to or is otherwise bound by a limited liability company agreement for breach of fiduciary duty for the member's or other person's good faith reliance on the provisions of the limited liability company agreement.

**§1522. Provisions of the chapter that may not be modified by the limited liability company agreement**

**1. Prohibited contents.** A limited liability company agreement may not:

A. Vary the distinction between the limited liability company as an entity and its members under section 1504, subsection 1;

B. Vary a limited liability company's capacity under section 1505 to sue and be sued in its own name;

C. Vary the law applicable under section 1506;

D. Except as otherwise provided in section 1523, subsection 2, restrict the rights under this chapter of a person other than a member or transferee;

E. Vary the power of the court under section 1677;

F. Eliminate or limit a member's liability to the limited liability company and members for money damages for a bad faith violation of the implied contractual covenant of good faith and fair dealing;

G. Waive the requirement of section 1553, subsection 1 that a contribution obligation be in writing; or

H. Vary the requirement to wind up the limited liability company's business as specified in section 1597.

**2. Good faith and fair dealing.** Notwithstanding any contrary provision of law, there exists an implied contractual covenant of good faith and fair dealing in every limited liability company agreement, which may not be eliminated by the terms of the limited liability company agreement.

**§1523. Limited liability company agreement; effect on limited liability company and persons admitted as members; preformation agreement**

**1. Agreement binding and enforceable.** A limited liability company is bound by and may enforce the limited liability company agreement, whether or not the limited liability company has itself manifested assent to the limited liability company agreement.

**2. Member a party.** A person that is admitted as a member of a limited liability company becomes a party to and assents to the limited liability company agreement except as provided in section 1553, subsection 1.

**3. Initial members agreement.** Two or more persons intending to be the initial members of a limited liability company may make an agreement providing that upon the formation of the limited liability company the agreement becomes the limited liability company agreement. One person intending to be the initial member of a limited liability company may assent to terms providing that upon the formation of the limited liability company the terms will become the limited liability company agreement.

**§1524. Limited liability company agreement; effect on 3rd parties and relationship to records effective on behalf of limited liability company**

**1. Manner of amendment.** If a limited liability company agreement provides for the manner in which it may be amended, including by requiring the approval of a person who is not a party to the limited liability company agreement or the satisfaction of conditions, it may be amended only in that manner or as otherwise permitted by law. The approval of the person may be waived by the person and any conditions may be waived by all persons for whose benefit those conditions were intended.

**2. Rights provided.** A limited liability company agreement may provide rights to any person, including a person who is not a party to the limited liability company agreement, to the extent set forth in the agreement.

**3. Obligations to transferee or dissociated member.** The obligations of a limited liability company and its members to a person in the person's capacity as a transferee or dissociated member are governed by the limited liability company agreement. An amendment to the limited liability company agreement made after a person becomes a transferee or dissociated member is effective with regard to any debt, obligation or other liability of the limited liability company or its members to the person in the person's capacity as a transferee or dissociated member.

## SUBCHAPTER 3

## FORMATION, CERTIFICATE OF FORMATION AND OTHER FILINGS

### §1531. Formation of limited liability company; certificate of formation

**1. Formation requirements.** In order to form a limited liability company:

A. One or more authorized persons must execute a certificate of formation. The certificate of formation must be filed in the office of the Secretary of State and set forth:

(1) The name of the limited liability company;

(2) The information required by Title 5, section 105, subsection 1; and

(3) Any other matters the members determine to include. The certificate of formation may include the information required for a statement of authority as provided in section 1542, subsection 1;

B. A limited liability company agreement must be entered into or otherwise existing. The limited liability company agreement may be entered into either before, after or at the time of the filing of a certificate of formation. Whether entered into or otherwise existing before, after or at the time of the filing of a certificate of formation, a limited liability company agreement may be made effective as of the formation of the limited liability company or at another time or date as provided in or reflected by the limited liability company agreement; and

C. The limited liability company must have one or more members.

**2. Time formed.** A limited liability company is formed at the time of the filing of the initial certificate of formation in the office of the Secretary of State or at any later date or time specified in the certificate of formation if, in either case, there has been substantial compliance with the requirements of this section. A limited liability company formed under this chapter is a separate legal entity.

**3. Notice.** The fact that a certificate of formation is on file in the office of the Secretary of State is notice of the matters required to be included by subsection 1, paragraphs A and B and matters that may be included pursuant to section 1611, subsection 2, but is not notice of any other fact.

### §1532. Amendment or restatement of certificate of formation

**1. Time of amendment or restatement.** A certificate of formation may be amended or restated at any time.

**2. Restatement with or without amendment.** A certificate of formation may be restated with or without amendment at any time.

**3. Contents of amendment.** To amend its certificate of formation, a limited liability company must deliver to the office of the Secretary of State for filing an amendment stating:

A. The name of the limited liability company;

B. The date of filing of the limited liability company's certificate of formation; and

C. The changes the amendment makes to the certificate of formation as most recently amended or restated.

**4. Restated certificate of formation.** A restated certificate of formation may be delivered to the office of the Secretary of State for filing in the same manner as an amendment. Any amendment or change effected in connection with the restatement of the certificate of formation is subject to any other provision of this chapter, not inconsistent with this section, that would apply if a separate certificate of amendment were filed to effect such amendment or change.

**5. Superseded.** The original certificate of formation, as amended or supplemented, is superseded by the restated certificate of formation, and from that time forward the restated certificate of formation, including any further amendment or changes made thereby, is the certificate of formation of the limited liability company, but the original effective date of formation remains unchanged.

### §1533. Cancellation of certificate of formation

**1. Cancellation.** A certificate of formation is cancelled upon each of the following:

A. The dissolution and the completion of winding up and liquidation of the activities and affairs of a limited liability company;

B. As provided in section 1593, subsection 4;

C. Upon the filing of a certificate of merger or consolidation if the limited liability company is not the surviving or resulting entity in a merger or consolidation, or upon the future effective date or time of a certificate of merger or consolidation if the limited liability company is not the surviving or resulting entity in a merger or consolidation; or

D. Upon the filing of a certificate of conversion to a foreign organization or upon the future effective date or time of a certificate of conversion to a foreign organization.

**2. Certificate of cancellation.** A certificate of cancellation must be delivered for filing in the office of the Secretary of State to accomplish the cancellation of a certificate of formation upon the dissolution and the completion of winding up of a limited liability company and must set forth:

A. The name of the limited liability company;

B. The date of filing of the limited liability company's certificate of formation;

C. A statement that the limited liability company is dissolved and the date of dissolution, if known;

D. The future effective date or time, which must be a date or time certain, of cancellation if it is not to be effective upon the filing of the certificate of cancellation; and

E. Any other information the person filing the certificate of cancellation determines necessary.

**3. Certificate of good standing.** The Secretary of State may not issue a certificate of good standing with respect to a limited liability company if its certificate of formation is cancelled.

**4. Application of section 1544.** The filing of a certificate of cancellation by the Secretary of State does not abate, suspend or otherwise alter the application of section 1544.

## SUBCHAPTER 4

## RELATIONS OF MEMBERS TO PERSONS DEALING WITH LIMITED LIABILITY COMPANY

### §1541. Power to bind limited liability company

A person may not bind a limited liability company except:

**1. Under or pursuant to agreement.** To the extent the person is authorized to act as the limited liability company's agent under or pursuant to the limited liability company agreement;

**2. By members.** To the extent the person is authorized by the members to act as the limited liability company's agent pursuant to section 1556;

**3. Pursuant to statement of authority.** To the extent provided in section 1542;

**4. No statement of authority.** If there is no statement of authority in effect, any manager, member, president or treasurer of a limited liability company has the authority to bind the limited liability company; or

**5. As provided by law.** To the extent otherwise provided by law.

### §1542. Statement of authority

**1. Statement delivered for filing.** A limited liability company may deliver to the office of the Secretary of State for filing a statement of authority. The statement:

A. Must include the name of the limited liability company;

B. May state the authority, or limitations on the authority, of a specific person or persons to enter into transactions on behalf of, or otherwise act for or bind, the limited liability company; and

C. With respect to any position that exists in or with respect to the limited liability company, may state the authority, or limitations on the authority, of all persons holding the position to enter into transactions on behalf of, or otherwise act for or bind, the limited liability company.

**2. Amendment or cancellation delivered for filing.** To amend or cancel a statement of authority filed with the office of the Secretary of State, a limited liability company must deliver to the office of the Secretary of State for filing an amendment or cancellation stating:

A. The name of the limited liability company;

B. The date the statement of authority was filed; and

C. The contents of the amendment or a declaration that the statement of authority being affected is cancelled.

**3. Effective statement of authority conclusive.** An effective statement of authority is conclusive in favor of a person that gives value in reliance on the grant, except to the extent that when the person gives value the person has knowledge to the contrary.

**4. Certificate of cancellation.** Upon filing, a certificate of cancellation filed pursuant to section 1533 operates as a cancellation under subsection 2 of each statement of authority.

**5. Statement of denial.** Upon filing, a statement of denial filed pursuant to section 1543 operates as an amendment under subsection 2 of the statement of authority to which the statement of denial pertains.

**§1543. Statement of denial**

A person named in a filed statement of authority may deliver to the office of the Secretary of State for filing a statement of denial that:

**1. Name and date.** States the name of the limited liability company and the date of filing of the statement of authority to which the statement of denial pertains;

**2. Denial of authority.** Denies the person's authority; and

**3. Notice to limited liability company.** States that the person has furnished the limited liability company with a copy of the statement of denial.

**§1544. Liability of members to 3rd parties**

A person who is a member of a limited liability company is not liable, solely by reason of being a member, under a judgment, decree or order of a court, or in any other manner, for a debt, obligation or liability of the limited liability company, whether arising in contract, tort or otherwise or for the acts or omissions of any other member, agent or employee of the limited liability company.

## SUBCHAPTER 5

## RELATIONS OF MEMBERS TO EACH OTHER AND TO LIMITED LIABILITY COMPANY

**§1551. Admission of a member**

**1. In connection with formation.** In connection with the formation of a limited liability company, a person is admitted as a member of the limited liability company upon the later of:

A. The formation of the limited liability company; and

B. The time provided in and upon compliance with the limited liability company agreement or, if the limited liability company agreement does not so provide, when the person's admission is reflected in the records of the limited liability company.

**2. After formation.** After formation of a limited liability company, a person is admitted as a member of the limited liability company:

A. As provided in the limited liability company agreement;

B. As the result of a transaction effective under subchapter 10;

C. With the consent of all the members; or

D. If, within 90 consecutive days after the limited liability company ceases to have any members:

(1) All holders of the transferable interest last transferred by the last person to have been a member consent to the designation of a person to be admitted as a member; and

(2) The designated person consents to be admitted as a member effective as of the date the last person to have been a member ceased to be a member.

**3. Admission without transferable interest or contribution.** A person may be admitted as a member without acquiring a transferable interest and without making or being obligated to make a contribution to the limited liability company.

**§1552. Form of contribution**

A contribution may consist of cash, property or services rendered or a promissory note or other obligation to contribute cash or property or to perform services.

**§1553. Liability for contributions**

**1. Promise in writing.** A promise by a member to make a contribution to a limited liability company is not enforceable unless set forth in a writing signed by the member.

**2. Obligation not excused.** A member's obligation to make a contribution to a limited liability company is not excused by the member's death, disability or other inability to perform personally. If a member does not make a contribution required by an enforceable promise, the member or the member's estate is obligated, at the option of the limited liability company, to contribute money equal to the value of the portion of the contribution that has not been made. The limited liability company's option is in addition to, and not in lieu of, any other rights, including the right to specific performance, that the limited liability company may have under the limited liability company agreement or applicable law.

**3. Obligation compromised.** The obligation of a member may be compromised only by consent of all the members. Notwithstanding the compromise, a creditor of a limited liability company who extends credit after the entering into of a limited liability company agreement or an amendment to the agreement that, in either case, reflects the obligation and before an amendment to the agreement that reflects the compromise may enforce the original obligation to the extent that, in extending credit, the creditor reasonably relied on the obligation of a member to make a contribution. A conditional obligation of a member to make a contribution to a limited liability company may not be enforced unless the conditions of the obligation have been satisfied or waived as to or by such member. Conditional obligations include contributions payable upon a discretionary call of a limited liability company prior to the time the call occurs.

**§1554. Sharing of and right to distributions**

**1. Agreed value.** Distributions by a limited liability company before its dissolution and winding up must be made on the basis of the agreed value, as stated in any written records of the limited liability company, of the contributions made by each person or the person's predecessor in interest to the extent contributions have been received by the limited liability company and not returned.

**2. Interim distribution.** A person has a right to a distribution before the dissolution and winding up of a limited liability company only if the limited liability company decides to make an interim distribution. A member's dissociation does not entitle the dissociated member to a distribution.

**3. Form of distribution.** A person does not have a right to demand and receive a distribution from a limited liability company in any form other than money. Except as otherwise provided in section 1601, subsection 3, a limited liability company may distribute an asset in kind if each person receives a percentage of the asset equal in value to the member's share of distributions.

**4. Status of creditor.** If a member or transferee becomes entitled to receive a distribution, the member or transferee has the status of, and is entitled to all remedies available to, a creditor of the limited liability company with respect to the distribution.

**§1555. Limitations on distribution and liability for improper distributions**

**1. Improper distribution.** A limited liability company may not make a distribution to the extent that at the time of the distribution, after giving effect to the distribution, all liabilities of the limited liability company, other than liabilities to members on account of their limited liability company interests and liabilities for which the recourse of creditors is limited to specific property of the limited liability company, exceed the fair value of the assets of the limited liability company, except that the fair value of the property that is subject to a liability for which recourse of creditors is limited must be included in the assets of the limited liability company only to the extent that the fair value of the property exceeds that liability.

**2. Liability for improper distribution.** A person who receives a distribution in violation of subsection 1, and who knew at the time of the distribution that the distribution violated subsection 1, is liable to the limited liability company for the amount of the distribution. A person who receives a distribution in violation of subsection 1, and who did not know at the time of the distribution that the distribution violated subsection 1, is not liable for the amount of the distribution. Subject to subsection 4, this subsection does not affect any obligation or liability of a person under an agreement or other applicable law for the amount of a distribution.

**3. Action barred after 2 years.** An action under this section is barred if not commenced within 2 years after the distribution.

**4. Distribution exclusions.** For purposes of this section, "distribution" does not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business under a bona fide retirement plan or other benefits program.

**5. Distribution made in accordance with section 1601.** This section does not apply to distributions made in accordance with section 1601.

**§1556. Activities and affairs of limited liability company**

**1. Direction; oversight of members.** The activities and affairs of a limited liability company are under the direction, and subject to the oversight, of its members.

**2. Majority of members.** A matter in the ordinary course of activities of a limited liability company may be decided by a majority of the members.

**3. All members.** The consent of all members of a limited liability company is required to:

A. Approve a merger or conversion under subchapter 12;

B. Amend the limited liability company agreement;

C. Undertake any other act outside the ordinary course of the limited liability company's activities; or

D. Undertake, authorize or approve any other act or matter for which this chapter requires the consent of all members.

**4. Without meeting; agent.** Any matter requiring the consent of the members of a limited liability company may be decided without a meeting, and a member may appoint a proxy or other agent to consent or otherwise act for the member by signing an appointing record, personally or by the member's agent.

**5. After dissolution, majority of members.** After dissolution, a matter in the ordinary course of winding up the activities of a limited liability company may be decided by a majority of the members.

**6. No entitlement to remuneration.** This chapter does not entitle a member to remuneration for services performed for a limited liability company.

**§1557. Indemnification, advancement, reimbursement and insurance**

A limited liability company may indemnify and hold harmless a member or other person, pay in advance or reimburse expenses incurred by a member or other person and purchase and maintain insurance on behalf of a member or other person.

**§1558. Right of members and dissociated members to information**

**1. Member; inspect and copy record.** On 10 days' notice made in a record received by a limited liability company, a member may inspect and copy during regular business hours, at a reasonable location specified by the limited liability company, any record maintained by the limited liability company, to the extent the information is material to the member's rights and duties under the limited liability company agreement or this chapter.

**2. Dissociated member; inspect and copy.** On 30 days' notice made in a record received by a limited liability company, a dissociated member may inspect and copy, during regular business hours, at a reasonable location specified by the limited liability company, any record maintained by the limited liability company, to the extent the information pertains to the period during which the person was a member, the information was material to the person's rights and duties under the limited liability company agreement or this chapter when the person was a member and the person seeks the information in good faith.

**3. Reasonable costs.** A limited liability company may charge a person that makes a demand under this section the reasonable costs of copying, limited to the costs of labor and material.

**4. Agent or representative.** A member or dissociated member may exercise rights under this section through an agent or, in the case of an individual under legal disability, a legal representative. Any restriction or condition imposed by the limited liability company agreement or under subsection 6 applies both to the agent or legal representative and the member or dissociated member.

**5. Transferee.** The rights under this section do not extend to a transferee.

**6. Additional restrictions.** In addition to any restriction or condition stated in its limited liability company agreement, a limited liability company, as a matter within the ordinary course of its activities, may:

A. Impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient; and

B. Keep confidential from the members and any other persons, for a period of time the limited liability company considers reasonable, any information that the limited liability company reasonably believes to be in the nature of trade secrets or other information the disclosure of which the limited liability company in good faith believes is not in the best interest of the limited liability company or could damage the limited liability company or its activities or that the limited liability company is required by law or by agreement with a 3rd party to keep confidential.

**§1559. Duties of members and other persons**

Except as may be set forth in the limited liability company agreement in accordance with sections 1521 and 1522, the following provisions apply.

**1. Good faith; diligence; care; skill.** Persons shall discharge their duties under this chapter in good faith with a view to the interests of the limited liability company and of the members and with the degree of diligence, care and skill that ordinarily prudent persons would exercise under similar circumstances in like positions. For purposes of this section, the interests of each low-profit limited liability company and its members include furthering the purposes set forth in its certificate of formation consistent with statements required to be made in its certificate of formation pursuant to section 1611, subsection 2.

**2. Personal liability.** A member or other person may not be held personally liable for monetary damages for failure to discharge any duty unless the member or other person is found not to have acted honestly or in the reasonable belief that the action was in or not opposed to the best interests of the limited liability company or its members.

**3. Fiduciary duty.** Subject to the terms of section 1521, subsection 3, paragraph A, a member not involved in the management of a limited liability company does not have a fiduciary duty to the limited liability company, or to any other member, or to another person that is a party to or is otherwise bound by a limited liability company agreement, solely by reason of being a member. A member may not be considered to be involved in the management of a limited liability company as a result of the following:

A. Having the right to vote or elect those persons that will manage the business of a limited liability company; or

B. Having the power to vote on, approve or veto certain material transactions or actions involving the limited liability company, including the sale, merger, conversion or dissolution of a limited liability company, the amendment of the limited liability company agreement or its certificate of formation, the issuance of additional interests or admission of new members, the incurrence of in-

debtedness or granting of liens, the acquisition of another business or any portion of another business, however effected, the timing and amount of distributions or the undertaking of any other action outside the ordinary course of the limited liability company's activities. The actions and transactions described in this paragraph are not intended to be exclusive and no inference may be made from the absence of a particular action or transaction from the list of actions and transactions in this paragraph.

**§1560. Nature of professional limited liability company business**

A professional limited liability company, as defined in Title 13, section 723, subsection 5, is subject to the Maine Professional Service Corporation Act except as follows.

**1. No application.** Title 13, sections 722, 733, 736, 751, 762 and 763, Title 13, section 771, subsection 2, paragraph A and Title 13, section 772 do not apply.

**2. Application.** All references to:

A. Shareholders are deemed to be references to members and transferees;

B. Corporations or corporations organized or incorporated under the Maine Professional Service Corporation Act are deemed to be references to professional limited liability companies;

C. Stock are deemed to be references to transferable interests; and

D. Officers and directors are deemed to be references to the officers and directors of the limited liability company, if any, and otherwise to any individuals having comparable management authority in respect of the limited liability company. References to clerk, treasurer and secretary are deemed to be references to such persons having comparable authority in respect of the limited liability company.

## SUBCHAPTER 6

## TRANSFERABLE INTERESTS AND RIGHTS OF TRANSFEREES AND CREDITORS

**§1571. Member's transferable interest**

The only interest of a member that is transferable is the member's transferable interest. A transferable interest in a limited liability company is personal property.

**§1572. Transfer of transferable interest**

**1. Transferable interest.** A transfer, in whole or in part, of a transferable interest:

A. Is permissible;

B. Does not by itself cause a member's dissociation or a dissolution and winding up of the limited liability company's activities; and

C. Subject to section 1574, does not entitle the transferee to:

(1) Participate in the management or conduct of the limited liability company's activities; or

(2) Have access to records or other information concerning the limited liability company's activities.

**2. Distributions.** A transferee has the right to receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled.

**3. Evidence.** A transferable interest may be evidenced by a certificate of transferable interest issued by a limited liability company. A limited liability company agreement may provide for the transfer of the transferable interest represented by the certificate and make other provisions with respect to the certificate. A limited liability company does not have the power to issue a certificate of transferable interest in bearer form.

**4. Written notice of transfer required.** A limited liability company need not give effect to a transferee's rights under this section until the limited liability company has written notice of the transfer.

**5. Rights and duties of member after transfer.** Except as otherwise provided in section 1582, subsection 4, paragraph B and section 1582, subsection 11, when a member transfers a transferable interest, the transferor retains the rights of a member other than the interest in distributions transferred and retains all duties and obligations of a member.

**6. Transferee an admitted member.** When a member transfers a transferable interest to a person that is admitted as a member with respect to the transferred interest, the transferee is liable for the member's obligations under section 1553 and section 1555, subsection 2 known to the transferee when the transferee voluntarily accepts admission as a member.

**7. Account of transactions.** In a dissolution and winding up of a limited liability company, a transferee is entitled to an account of the limited liability company's transactions only from the date of dissolution.

**§1573. Charging order**

**1. Transferable interest of judgment debtor.** On application to a court of competent jurisdiction by any judgment creditor of a member or transferee, the court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment with interest. To the extent so charged and after the limited liability company has been served with the charging order and its terms, the judgment creditor has only the right to receive any distribution

or distributions to which the judgment debtor would otherwise be entitled in respect of such transferable interest.

**2. Payment to clerk of court.** A limited liability company, after being served with the charging order and its terms, is entitled to pay or deposit any distribution or distributions to which the judgment debtor would otherwise be entitled in respect of the charged transferable interest into the hands of the clerk of the court issuing the charging order, and the payment or deposit has the effect of discharging the limited liability company and the judgment debtor from liability for the amount so paid and any interest that might accrue thereon. Upon receipt of the payment, the clerk of the court shall notify the judgment creditor of the receipt of the payment. The judgment creditor shall, after the payment or deposit into the court, petition the court for payment of so much of the amount paid or deposited as is held by the court as may be necessary to pay the judgment creditor's judgment. To the extent the court has excess amounts paid or deposited on hand after the payment to the judgment creditor, the excess amounts paid or deposited must be distributed to the judgment debtor and the charging order must be extinguished. The court may in its discretion order the clerk to deposit, pending the judgment creditor's petition, any money paid or deposited with the clerk in an interest-bearing account at a bank authorized to receive deposits of public funds.

**3. Lien.** A charging order constitutes a lien on the judgment debtor's transferable interest. The charging order lien may not be foreclosed upon under this chapter or any other law.

**4. Judgment debtor.** Subject to subsection 3:

A. A judgment debtor that is a member retains the rights of a member and remains subject to all duties and obligations of a member; and

B. A judgment debtor that is a transferee retains the rights of a transferee and remains subject to all duties and obligations of a transferee.

**5. Exemptions apply.** This chapter does not deprive any member or transferee of the benefit of any exemption laws applicable to the member's or transferee's transferable interest.

**6. No right to property.** Subject to the laws against fraudulent conveyances, a judgment creditor of a judgment debtor who is a member or transferee has no right to obtain possession of, or otherwise exercise legal or equitable remedies with respect to, the property of a limited liability company.

**7. Exclusive remedy.** This section provides the exclusive remedy by which a judgment creditor of a member or transferee may satisfy a judgment out of the judgment debtor's transferable interest, and the judgment creditor may not foreclose upon the charging order or the judgment debtor's transferable interest. Court orders for actions or requests for accounts and inquiries that the judgment debtor might have made are not available under this chapter to the judgment creditor attempting to satisfy the judgment out of the judgment debtor's transferable interest and may not be ordered by a court.

### §1574. Power of personal representative of deceased member

If a member dies, the deceased member's personal representative or other legal representative may, for purposes of settling the estate, exercise the rights of a current member under section 1558.

## SUBCHAPTER 7

## MEMBER'S DISSOCIATION

### §1581. Member's power to dissociate; wrongful dissociation

**1. Power to dissociate.** A person has the power to dissociate as a member.

**2. Wrongful dissociation.** A person's dissociation from a limited liability company is wrongful only if:

A. It is in breach of an express provision of the limited liability company agreement; or

B. It occurs before the termination of the limited liability company and:

(1) The person dissociates as a member by express will;

(2) The person is expelled as a member by judicial determination under section 1582, subsection 5;

(3) The person is dissociated by becoming a debtor in bankruptcy or making a general assignment for the benefit of creditors; or

(4) In the case of a person that is not an individual, a trust other than a business trust or an estate, the person is expelled or otherwise dissociated as a member because the person willfully dissolved or terminated.

**3. Liability.** A person that wrongfully dissociates as a member is liable to the limited liability company and, subject to section 1631, to the other members for damages caused by the dissociation. The liability is in addition to any other debt, obligation or liability of the member to the limited liability company or the other members.

### §1582. Events causing dissociation

A person is dissociated as a member from a limited liability company when:

**1. Notice.** The limited liability company has notice from the person of the person's express will to

dissociate as a member, except if the person specifies in the notice a dissociation date later than the date the limited liability company had notice the person is dissociated as a member, on that later date;

**2. Event.** An event stated in the limited liability company agreement as causing the person's dissociation occurs;

**3. Expulsion pursuant to agreement.** The person is expelled as a member pursuant to the limited liability company agreement;

**4. Expulsion upon unanimous consent.** The person is expelled as a member by the unanimous consent of the other members. A person is expelled under this subsection if:

A. It is unlawful to carry on the limited liability company's activities with the person as a member;

B. There has been a transfer of all of the person's transferable interest in the limited liability company other than a transfer for security purposes;

C. The person is an organization and, within 90 days after the limited liability company notifies the person that it will be expelled as a member because the person has filed a statement of dissolution or the equivalent, its charter has been revoked or its right to conduct activities has been suspended by its jurisdiction of formation, the statement of dissolution or the equivalent has not been revoked or its charter or right to conduct activities has not been reinstated; or

D. The person is an organization that has been dissolved and whose activities are being wound up;

**5. Expulsion by judicial order.** On application by the limited liability company, the person is expelled as a member by judicial order because the person:

A. Has engaged, or is engaging, in wrongful conduct that has adversely and materially affected, or will adversely and materially affect, the limited liability company's activities;

B. Has willfully and persistently committed, or is willfully and persistently committing, a material breach of the limited liability company agreement or the person's duty or obligation under this chapter or other applicable law; or

C. Has engaged, or is engaging, in conduct relating to the limited liability company's activities that makes it not reasonably practicable to carry on the activities with the person as a member;

**6. Death; appointment of guardian or conservator; determination.** In the case of a person who is an individual, the person dies, there is appointed a guardian or general conservator for the person or there is a judicial determination that the person has otherwise become incapable of performing the person's duties as a member under this chapter or the limited liability company agreement;

**7. Bankruptcy; assignment; appointment of trustee, receiver or liquidator.** The person becomes a debtor in bankruptcy, executes an assignment for the benefit of creditors or seeks, consents or acquiesces to the appointment of a trustee, receiver or liquidator of the person or of all or substantially all of the person's property. This subsection does not apply to a person who is the sole remaining member of a limited liability company;

**8. Successor trustee.** In the case of a person that is a trust or is acting as a member by virtue of being a trustee of a trust, the trust's entire transferable interest in the limited liability company is distributed, but not solely by reason of the substitution of a successor trustee;

**9. Estate; personal representative of estate.** In the case of a person that is an estate or is acting as a member by virtue of being a personal representative of an estate, the estate's entire transferable interest in the limited liability company is distributed, but not solely by reason of the substitution of a successor personal representative;

**10. Termination of legal existence.** In the case of a member that is not an individual, the legal existence of the person otherwise terminates; or

**11. Transfer of remaining interest.** A person who is a member transfers the person's entire remaining transferable interest but not until the later of:

A. The transferee's becoming a member; and

B. The time the transfer is completed.

**§1583. Effect of person's dissociation as a member**

**1. No right to participate.** A person who has dissociated as a member has no right to participate in the activities and affairs of the limited liability company and is entitled only to receive the distributions to which that member would have been entitled if the member had not dissociated.

**2. No discharge from dissociation.** A person's dissociation as a member does not of itself discharge the person from any debt, obligation or liability to a limited liability company or the other members that the person incurred while a member.

**3. No right to payment.** If a person is dissociated as a member under section 1582 and the limited liability company is not dissolved due to that dissociation, that person has no right on account of that dissociation to any payment from the limited liability company for that person's interest in the limited liability company.

## SUBCHAPTER 8

## DISSOLUTION, WINDING UP, REINSTATEMENT AND REVIVAL

### §1591. Grounds for administrative dissolution of domestic limited liability company

Notwithstanding Title 4, chapter 5 and Title 5, chapter 375, the Secretary of State may commence a proceeding under section 1592 to administratively dissolve a domestic limited liability company if:

**1. Nonpayment of fees or penalties.** The domestic limited liability company does not pay when due any fees or penalties imposed by this chapter or other law;

**2. Failure to file annual report.** The domestic limited liability company does not deliver its annual report to the Secretary of State as required by section 1665;

**3. Failure to pay late filing penalty.** The domestic limited liability company does not pay the annual report late filing penalty as required by section 1667;

**4. Failure to maintain registered agent.** The domestic limited liability company is without a registered agent in this State as required by section 1661 and Title 5, section 105, subsection 1;

**5. Failure to notify of change of registered agent or address.** The domestic limited liability company does not notify the Secretary of State that its registered agent has changed as required by Title 5, section 108, subsection 1 or the address of its registered agent has been changed as required by Title 5, section 109 or 110 or that its registered agent has resigned as required by Title 5, section 111; or

**6. Filing of false information.** A member, manager or agent of the domestic limited liability company signed a document with the knowledge that the document was false in a material respect and with the intent that the document be delivered to the office of the Secretary of State for filing.

### §1592. Procedure for and effect of administrative dissolution of domestic limited liability company

**1. Notice of determination to administratively dissolve domestic limited liability company.** If the Secretary of State determines that one or more grounds exist under section 1591 for dissolving a domestic limited liability company, the Secretary of State shall serve the limited liability company with written notice of that determination as required by subsection 8.

**2. Administrative dissolution.** The domestic limited liability company is administratively dissolved if, within 60 days after the notice under subsection 1 is issued and is perfected under subsection 8, the Secretary of State determines that the limited liability company has failed to correct the ground or grounds for the dissolution. The Secretary of State shall send notice to the limited liability company as required by subsection 8 that recites the ground or grounds for dissolution and the effective date of dissolution.

**3. Effect of administrative dissolution; prohibition.** A domestic limited liability company administratively dissolved continues its existence but may not transact any business in this State except as necessary to wind up the affairs of the limited liability company.

**4. Validity of contracts; right to be sued; right to defend suit.** The administrative dissolution of a domestic limited liability company under this section does not impair:

A. The validity of any contract or act of the domestic limited liability company;

B. The right of any other party to the contract to maintain any action, suit or proceeding on the contract; or

C. The right of the domestic limited liability company to defend any action, suit or proceeding in any court of this State.

**5. Authority of registered agent.** The administrative dissolution of a domestic limited liability company does not terminate the authority of its registered agent.

**6. Protecting domestic limited liability company name after administrative dissolution.** The name of a domestic limited liability company remains in the office of the Secretary of State's record of limited liability company names and is protected for a period of 3 years following administrative dissolution.

**7. Notice to Superintendent of Financial Institutions in case of financial institution or credit union.** In the case of a financial institution authorized to do business in this State or a credit union authorized to do business in this State, as defined in Title 9-B, section 131, the Secretary of State shall notify the Superintendent of Financial Institutions within a reasonable time prior to administratively dissolving the financial institution or credit union under this section.

**8. Delivery of notice.** The Secretary of State shall send notice of its determination under subsection 1 by regular mail or other medium as defined by rule by the Secretary of State and the service upon the domestic limited liability company is perfected 5 days after the Secretary of State deposits its determination in the United States mail, as evidenced by the postmark if mailed postpaid and correctly addressed or delivered by a medium authorized by the Secretary of State to the registered agent of the limited liability company.

**§1593. Reinstatement following administrative dissolution of domestic limited liability company**

**1. Application for reinstatement.** A domestic limited liability company administratively dissolved under section 1592 may apply to the Secretary of State for reinstatement within 6 years after the effective date of administrative dissolution. The application must:

A. State the name of the domestic limited liability company and the effective date of its administrative dissolution;

B. State that the ground or grounds for dissolution of the domestic limited liability company either did not exist or have been eliminated; and

C. State that the domestic limited liability company's name satisfies the requirements of section 1508.

**2. Reinstatement after administrative dissolution.** If the Secretary of State determines that the application contains the information required under subsection 1 and is accompanied by the reinstatement fee set forth in section 1680, subsection 17 and that the information is correct, the Secretary of State shall cancel the administrative dissolution and prepare a notice of reinstatement that recites that determination and the effective date of reinstatement. The Secretary of State shall use the procedures set forth in section 1592, subsection 8 to deliver the notice to the domestic limited liability company.

**3. Effect of reinstatement.** When the reinstatement is effective under subsection 2, the reinstatement relates back to and takes effect as of the effective date of the administrative dissolution, and the domestic limited liability company resumes business as if the administrative dissolution had not occurred.

**4. Cancellation of certificate of formation.** In the event a domestic limited liability company that is administratively dissolved under section 1592 fails to be reinstated in accordance with the terms of this section within 6 years after the effective date of administrative dissolution, the certificate of formation of the limited liability company must be cancelled, effective on the 6th anniversary of the effective date of administrative dissolution.

**§1594. Appeal from denial of reinstatement of domestic limited liability company**

**1. Denial of reinstatement.** If the Secretary of State denies a domestic limited liability company's application for reinstatement following administrative dissolution, the Secretary of State shall serve the domestic limited liability company under section 1592, subsection 8 with a written notice that explains the reason or reasons for denial.

**2. Appeal.** A domestic limited liability company may appeal a denial of reinstatement under subsection 1 to the Superior Court of the county where the limited liability company's principal office is located or, if there is no principal office in this State, in Kennebec County within 30 days after the date of the notice of denial. The limited liability company appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the Secretary of State's notice of administrative dissolution, the limited liability company's application for reinstatement and the Secretary of State's notice of denial.

**3. Court action.** The court may summarily order the Secretary of State to reinstate an administratively dissolved domestic limited liability company or may take other action the court considers appropriate.

**4. Final decision.** The court's final decision in an appeal under this section may be appealed as in other civil proceedings.

**§1595. Events causing dissolution**

**1. Events causing dissolution.** A limited liability company is dissolved, and its activities must be wound up, upon the occurrence of any of the following:

A. An event or circumstance that the limited liability company agreement states causes dissolution;

B. The consent of all the members;

C. The passage of 90 consecutive days during which the limited liability company has no members;

D. On application by a member, the entry by the Superior Court of an order dissolving the limited liability company on the grounds that it is not reasonably practicable to carry on the limited liability company's activities in conformity with the limited liability company agreement;

E. On application by a member, the entry by the Superior Court of an order dissolving the limited liability company on the grounds that the members in control of the limited liability company have acted, are acting or will act in a manner that is illegal or fraudulent; or

F. On application by a holder of a transferable interest, the entry by the Superior Court of an order dissolving the limited liability company on the grounds that the limited liability company has no members.

**2. Other remedy.** In a proceeding brought under subsection 1, paragraph E, the court may order a remedy other than dissolution.

**§1596. Effect of dissolution**

**1. Existence; activities.** Until the filing of a certificate of cancellation as provided in section 1533, a dissolved limited liability company continues its existence as a limited liability company but may not carry on any activities except as is appropriate to wind up and liquidate its activities and affairs, including:

A. Collecting the dissolved limited liability company's assets;

B. Disposing of the dissolved limited liability company's properties that will not be distributed in kind to persons owning transferable interests;

C. Discharging or making provisions for discharging the dissolved limited liability company's liabilities;

D. Distributing the dissolved limited liability company's remaining property in accordance with section 1601; and

E. Doing every other act necessary to wind up and liquidate the dissolved limited liability company's business and affairs.

**2. No change upon dissolution.** The dissolution of a limited liability company does not:

A. Transfer title to the limited liability company's property;

B. Prevent the commencement of a proceeding by or against the limited liability company in its limited liability company name;

C. Abate or suspend a proceeding pending by or against the limited liability company on the effective date of dissolution; or

D. Terminate the authority of the limited liability company's registered agent.

**§1597. Right to wind up business and activities**

**1. Wind up activities.** After dissolution, the remaining members, if any, and if none, a person appointed by all holders of the transferable interest last transferred by the last person to have been a member, may wind up the limited liability company's activities.

**2. Judicial supervision.** The Superior Court may order judicial supervision of the winding up of a dissolved limited liability company, including the appointment of a person to wind up the limited liability company's activities:

A. On application of a member, if the applicant establishes good cause;

B. On the application of a transferee, if:

(1) The limited liability company does not have any members; and

(2) Within a reasonable time following the dissolution, a person has not been appointed pursuant to subsection 1; or

C. In connection with a proceeding under section 1595, subsection 1, paragraph E or F.

**§1598. Power to bind limited liability company after dissolution**

After dissolution, a limited liability company is bound by:

**1. Act of authorized person if appropriate.** The act of a person authorized to wind up the affairs if the act is appropriate for winding up the limited liability company's activities; or

**2. Act of authorized person if binding before dissolution.** The act of a person authorized to act on behalf of the limited liability company before dissolution if the act would have bound the limited liability company before dissolution, if the other party to the transaction did not have notice of the dissolution.

**§1599. Known claims against dissolved limited liability company**

**1. Disposal of claims.** A dissolved limited liability company may dispose of any known claims against it by following the procedures described in subsection 2 at any time after the effective date of the dissolution of the limited liability company.

**2. Notice.** A dissolved limited liability company may give written notice of the dissolution in a record to the holder of any known claim. The notice must:

A. Describe the information required to be included in a claim;

B. Provide a mailing address to which the claim is to be sent;

C. State the deadline, which may not be fewer than 120 days from the effective date of the notice, by which the dissolved limited liability company must receive the claim; and

D. State that, if not sooner barred, the claim will be barred pursuant to subsection 3 if not received by the deadline.

**3. Claims barred.** Unless sooner barred by any other statute limiting actions, a claim against a dissolved limited liability company is barred:

A. If a claimant who was given notice under subsection 2 does not deliver the claim to the dissolved limited liability company by the deadline; or

B. If a claimant whose claim was rejected by the dissolved limited liability company does not commence a proceeding to enforce the claim within 90 days from the effective date of the rejection notice.

**4. Claims.** For purposes of this section, "known claim" or "claim" includes unliquidated claims but not does include a contingent liability that has not matured so that there is no immediate right to bring suit or a claim based on an event occurring after the effective date of dissolution.

**5. No extension of statute of limitations.** Nothing in this section may be deemed to extend any otherwise applicable statute of limitations.

**§1600. Other claims against dissolved limited liability company**

**1. Newspaper notice.** In addition to the written notice under section 1599, subsection 2, a dissolved limited liability company may publish notice of its dissolution and request that persons with claims against the dissolved limited liability company present them in accordance with the notice.

**2. Notice.** The notice authorized by subsection 1 must:

A. Be published at least one time in a newspaper of general circulation in the county in which the dissolved limited liability company's principal office is located or, if it has none in this State, in Kennebec County;

B. Describe the information that must be included in a claim and provide a mailing address to which the claim is to be sent; and

C. State that, if not sooner barred, a claim against the dissolved limited liability company will be barred unless a proceeding to enforce the claim is commenced within 3 years after the publication of the notice.

**3. Three-year statute of limitations.** If a dissolved limited liability company publishes a newspaper notice in accordance with subsection 2, unless sooner barred by any other statute limiting actions, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved limited liability company within 3 years after the publication date of the newspaper notice:

A. A claimant who was not given written notice under section 1599, subsection 2;

B. A claimant whose claim was timely sent to the dissolved limited liability company but not acted on by the dissolved limited liability company; and

C. A claimant whose claim is contingent at the effective date of the dissolution of the limited liability company or is based on an event occurring after the effective date of the dissolution of the limited liability company.

**4. Enforcement of claim.** A claim that is not barred under this section, any other statute limiting actions or section 1599 may be enforced:

A. Against a dissolved limited liability company, to the extent of its undistributed assets; and

B. Except as provided in subsection 8, if the assets of a dissolved limited liability company have been distributed after dissolution, against a member or transferee to the extent of that person's proportionate share of the claim or of the assets distributed to the member or transferee after dissolution, whichever is less. A person's total liability for all claims under this subsection may not exceed the total amount of assets distributed to the person after dissolution of the limited liability company.

**5. Determination of amount and form of security.** A dissolved limited liability company that published a notice under this section may file an application with the Superior Court of the county where the dissolved limited liability company's principal office is located or, if it has none in this State, in Kennebec County, for a determination of the amount and form of security to be provided for payment of claims that are contingent or have not been made known to the dissolved limited liability company or that are based on an event occurring after the effective date of the dissolution of the limited liability company but that, based on the facts known to the dissolved limited liability company, are reasonably estimated to arise after the effective date of the dissolution of the limited liability company. Provision need not be made for any claim that is or is reasonably anticipated to be barred under subsection 3.

**6. Notice to potential claimants.** Within 10 days after the filing of the application under subsection 5, notice of the proceeding must be given by the dissolved limited liability company to each potential claimant as described in subsection 5.

**7. Guardian ad litem.** The Superior Court may appoint a guardian ad litem to represent all claimants whose identities are unknown in any proceeding brought under this section. The reasonable fees and expenses of such guardian, including all reasonable expert witness fees, must be paid by the dissolved limited liability company.

**8. Satisfaction of obligation; claims not enforceable.** Provision by the dissolved limited liability company for security in the amount and the form ordered by the Superior Court under subsection 5 satisfies the dissolved limited liability company's obligation with respect to claims that are contingent, have not been made known to the dissolved limited liability company or are based on an event occurring after the effective date of the dissolution of the limited liability company, and such claims may not be enforced

against a person owning a transferable interest to whom assets have been distributed by the dissolved limited liability company after the effective date of the dissolution of the limited liability company.

**9. No extension of statutes of limitations.** Nothing in this section may be considered to extend any otherwise applicable statute of limitations.

**§1601. Application of assets in winding up limited liability company's activities**

Upon the winding up of a limited liability company, the assets must be applied as follows.

**1. Payment to creditors.** Payment, or adequate provision for payment, must be made to creditors, including, to the extent permitted by law, members who are creditors, in satisfaction of liabilities of the limited liability company.

**2. Surplus.** After a limited liability company complies with subsection 1, any surplus must be distributed:

A. To each person owning a transferable interest that reflects contributions made on account of such transferable interest and not previously returned, in an amount equal to the value of the unreturned contributions; and

B. After the distribution under paragraph A, to each person owning a transferable interest in the proportions in which the owners of transferable interests share in distributions prior to dissolution.

**3. Distribution in proportion to value.** If the limited liability company does not have sufficient surplus to comply with subsection 2, paragraph A, any surplus must be distributed among the owners of transferable interests in proportion to the value of their respective unreturned contributions.

**§1602. Revocation of dissolution**

**1. Continued; conditions.** Notwithstanding the occurrence of an event set forth in section 1595, subsection 1, paragraph A, B or C, a limited liability company may not be dissolved and its affairs may not be wound up if, prior to the filing of a certificate of cancellation in the office of the Secretary of State, the limited liability company is continued, effective as of the occurrence of such event, pursuant to the following conditions:

A. The affirmative vote or consent has been obtained from the members or other persons entitled to vote or consent at the time that is:

(1) Required to prevent or revoke dissolution under its limited liability company agreement; or

(2) If its limited liability company agreement does not state the vote or consent required to prevent or revoke dissolution, sufficient for dissolution under this chapter, or such greater or lesser vote or consent as is required for dissolution under its limited liability company agreement; and

B. The members and other persons having authority under this chapter and under its limited liability company agreement to bring about or prevent dissolution of the limited liability company have not, before or at the time of the vote or consent required by paragraph A, voted against revocation of dissolution or delivered to the limited liability company their written objection to revocation of dissolution.

**2. Agreement; vote; consent; objection.** To the extent that a limited liability company's limited liability company agreement provides for the voting rights of members or other persons, for the calling of meetings, for notices of meetings, for consents and actions of members and other persons without a meeting, for establishing a record date for meetings or for other matters concerning the voting or consent of members and other persons, such provisions govern the vote or consent required by subsection 1, paragraph A with respect to the limited liability company and the vote or objection of members and other persons under subsection 1, paragraph B with respect to the limited liability company.

**§1603. Effect of revocation of dissolution**

**1. Continuation of activities.** Subject to subsection 2, upon the revocation of dissolution, the limited liability company is deemed for all purposes to have continued its activities as if dissolution had never occurred. Each right inuring to, and each debt, obligation and liability incurred by, the limited liability company after the dissolution must be determined as if the dissolution had never occurred.

**2. Reliance on dissolution.** The rights of members and other persons arising by reason of reliance on the dissolution before those persons had notice of the revocation of dissolution are not adversely affected by the revocation of dissolution.

**§1604. Revival of domestic limited liability company after dissolution**

**1. Determination of need to revive company.** If the Secretary of State finds that a domestic limited liability company has dissolved in any manner under this chapter, that the certificate of formation for that domestic limited liability company has been cancelled pursuant to section 1533 and that the domestic limited liability company should be revived for any specified purpose or purposes for a specific period of time, the Secretary of State may upon application by an interested party accompanied by the payment of the fee required by section 1680 file a certificate of revival in a form or format prescribed by the Secretary of State for reviving the domestic limited liability company.

**2. Certificate of revival.** The certificate of revival must include:

A. The name of the limited liability company prior to revival;

B. The name of the limited liability company following revival, which limited liability company name must comply with section 1508;

C. The date of formation of the limited liability company;

D. The date of dissolution of the limited liability company, if known, together with the date the certificate of cancellation was filed by the Secretary of State;

E. The name and address of the registered agent of the limited liability company prior to revival. If the registered agent has resigned or no longer can be located by the limited liability company, the limited liability company shall deliver for filing a form appointing a registered agent as required by Title 5, chapter 6-A, which form must accompany the certificate under this section;

F. The name and address of the party or parties requesting the revival;

G. The purpose or purposes for which revival is requested; and

H. The time period needed to complete the purpose or purposes specified under paragraph G.

**3. Notice of revival.** The Secretary of State shall issue a notice to the domestic limited liability company to the address provided in subsection 2, paragraph F stating that the revival has been granted for the purpose or purposes and for the time period specified pursuant to the certificate of revival filed under this section.

**4. Amendment to certificate of formation.** Once the revival has been granted in accordance with subsection 3, the certificate of revival is deemed to be an amendment to the certificate of formation of the limited liability company, and the limited liability company may not be required to take any further action to amend its certificate of formation under this chapter with respect to the matters set forth in the certificate of revival.

**5. Termination of revival.** When the time period specified in subsection 2, paragraph H has expired, the Secretary of State shall issue a notice to the domestic limited liability company at the address provided in subsection 2, paragraph F that the status of the limited liability company has returned to the status prior to filing the certificate of revival under this section.

## SUBCHAPTER 9

## LOW-PROFIT LIMITED LIABILITY COMPANIES

### §1611. Low-profit limited liability company

**1. Purpose.** A low-profit limited liability company must at all times significantly further the accomplishment of one or more charitable or educational purposes within the meaning of Section 170(c)(2)(B) of the Internal Revenue Code of 1986, as it may be amended, revised or succeeded, and will not qualify as a low-profit limited liability company but for the relationship to the accomplishment of those charitable or educational purposes.

**2. Qualifications of low-profit limited liability company to be set forth in certificate of formation.** In order to qualify as a low-profit limited liability company pursuant to this section, the limited liability company's certificate of formation must state that:

A. The company intends to qualify as a low-profit limited liability company;

B. The company must at all times significantly further the accomplishment of one or more of the charitable or educational purposes within the meaning of Section 170(c)(2)(B) of the Internal Revenue Code of 1986, as it may be amended, revised or succeeded, and must list the specific charitable or educational purposes the company will further;

C. No significant purpose of the company is the production of income or the appreciation of property. The fact that a person produces significant income or capital appreciation is not, in the absence of other factors, conclusive evidence of a significant purpose involving the production of income or the appreciation of property; and

D. No purpose of the company is to accomplish one or more political or legislative purposes within the meaning of Section 170(c)(2)(D) of the Internal Revenue Code of 1986, or its successor.

The limited liability company agreement of a low-profit limited liability company must include each statement made in the limited liability company's certification of formation required by this subsection. The fact that the low-profit limited liability company has a certificate of formation filed with the office of the Secretary of State meeting the requirements of this subsection is conclusive evidence that statements set forth in the certificate of formation are included in the low-profit limited liability company's limited liability company agreement.

**3. Change of status.** A company that no longer satisfies the requirements of this section continues to exist as a limited liability company and shall promptly amend its certificate of formation so that its name and

purpose no longer identify it as a low-profit limited liability company, L3C or 13C.

**4. Duties of members and other persons.** Notwithstanding section 1521, subsection 3, any company formed as a low-profit limited liability company under this chapter is bound by section 1559 and no member or person may, through the limited liability company agreement or otherwise, restrict or eliminate the duties, including fiduciary duties, set forth in section 1559.

**5. No limitation.** Nothing in this section prevents a limited liability company that is not organized under this section from electing a charitable or educational purpose in whole or in part for doing business under this chapter.

## SUBCHAPTER 10

## FOREIGN LIMITED LIABILITY COMPANIES

### §1621. Governing law

**1. Jurisdiction where formed.** The laws of the State or other jurisdiction under which a foreign limited liability company is formed govern its formation and internal affairs and the liability and authority of its members and agents.

**2. Statement of foreign qualification.** A foreign limited liability company's statement of foreign qualification may not be denied by reason of any difference between the laws of the jurisdiction under which the foreign limited liability company is formed and the laws of this State.

**3. Forbidden activities.** A foreign limited liability company, including a foreign limited liability company that has filed a statement of foreign qualification, may not engage in any activities in this State that a limited liability company is forbidden to engage in by the laws of this State.

**4. Rights; privileges; duties; restrictions; penalties; liabilities.** A foreign limited liability company that has filed a statement of foreign qualification has in this State the same but no greater rights of, has in this State the same but no greater privileges as and, except as otherwise provided by this chapter, is in this State subject to the same duties, restrictions, penalties and liabilities now or later imposed on a limited liability company of like character.

**5. Organization; formation; existence; internal affairs.** Nothing in this subchapter authorizes this State to regulate the organization, formation, existence or internal affairs of a foreign limited liability company authorized to conduct activities in this State.

### §1622. Statement of foreign qualification to conduct activities required

**1. Conduct of activities.** A foreign limited liability company may not conduct activities in this State except in compliance with this subchapter and not until its statement of foreign qualification is filed in the records of the Secretary of State.

**2. Contents.** A statement of foreign qualification must include:

A. The name of the foreign limited liability company and, if the name does not comply with section 1508, the fictitious name adopted pursuant to section 1624, subsection 1;

B. The name of the state or other jurisdiction under whose law the foreign limited liability company is formed and the date the foreign limited liability company was formed;

C. The street and mailing address of the foreign limited liability company's principal office;

D. The information required by Title 5, section 105, subsection 1;

E. A statement that the foreign limited liability company is a foreign limited liability company as defined in section 1502, subsection 11;

F. The nature of the business or purposes to be conducted or promoted in this State;

G. The name and business, residence and mailing address of each of its managers, if any;

H. A certificate of existence or such other document that the Secretary of State determines to be suitable for purposes of proving the valid existence of the foreign limited liability company under the law of the State or other jurisdiction referenced in paragraph B, as long as the certificate or other document was issued not more than 90 days before the delivery of the statement to the office of the Secretary of State;

I. The date the foreign limited liability company commenced or expects to commence conducting activities in this State; and

J. If the foreign limited liability company is governed by an agreement that establishes or provides for the establishment of designated series having separate rights, powers or duties with respect to specified property or obligations of the foreign limited liability company or profits and losses associated with specified property or obligations, a statement to that effect. In addition, the statement must declare whether the debts, liabilities and obligations incurred, contracted for or otherwise existing with respect to a particular series, if any, are enforceable against the assets of such series only, and not against the assets of the foreign limited liability company generally or any other series thereof, and whether any of the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to the foreign limited liability company generally or any other

series thereof are enforceable against the assets of such series.

**3. Statement of change.** Upon any change in circumstances that makes any statement contained in its filed statement of foreign qualification no longer true, a foreign limited liability company authorized to conduct activities in this State shall promptly deliver to the office of the Secretary of State, for filing, an appropriate statement of change so that its statement of foreign qualification is in all respects true.

**4. Period to conduct activities.** A foreign limited liability company is authorized to conduct activities in this State from the effective date of its statement of foreign qualification until the earlier of the effective date of its statement of foreign qualification cancellation and the effective date of the Secretary of State's revocation of the statement of foreign qualification in accordance with section 1625.

**§1623. Actions not constituting transacting business or conducting activities**

**1. Actions.** A foreign limited liability company may not be considered to be conducting activities in this State within the meaning of this subchapter by reason of carrying on in this State any one or more of the following actions:

A. Maintaining, defending or settling in its own behalf any proceeding or dispute;

B. Holding meetings or carrying on any other activities concerning its internal affairs;

C. Maintaining accounts in financial institutions;

D. Maintaining offices or agencies for the transfer, exchange and registration of the foreign limited liability company's own securities or interests or maintaining trustees or depositories with respect to those securities or interests;

E. Selling through independent contractors;

F. Soliciting or obtaining orders, whether by mail or electronic means or through employees or agents or otherwise, if the orders require acceptance outside this State before they become contracts;

G. Creating, as borrower or lender, or acquiring indebtedness, mortgages or security interests in real or personal property;

H. Securing or collecting debts in its own behalf or enforcing mortgages or other security interests in real or personal property securing such debts and holding, protecting and maintaining property so acquired;

I. Owning, without more, real or personal property;

J. Conducting an isolated transaction that is completed within 30 days and that is not one in the course of similar or repeated transactions of a like nature; or

K. Conducting activities in interstate commerce.

**2. Status.** A foreign limited liability company may not be considered to be conducting activities in this State solely because it:

A. Owns a controlling interest in an organization that is conducting activities in this State;

B. Is a limited partner of a limited partnership or foreign limited partnership that is conducting activities in this State; or

C. Is a member of a limited liability company or foreign limited liability company that is conducting activities in this State.

**3. Service of process; taxation; regulation.** This section does not apply in determining the contacts or activities that may subject a foreign limited liability company to service of process, taxation or regulation under laws of this State other than this chapter.

**4. Jurisdiction; process, notice or demand.** Nothing in this section limits or affects the right to subject a foreign limited liability company that does not, or is not required to, have authority to conduct activities in this State to the jurisdiction of the courts of this State or to serve upon any foreign limited liability company any process, notice or demand required or permitted by law to be served upon a foreign limited liability company pursuant to any other provision of law or pursuant to the applicable rules of civil procedure.

**§1624. Noncomplying name of foreign limited liability company**

**1. Fictitious name.** A foreign limited liability company whose name does not comply with section 1508 may not file a statement of foreign qualification until it adopts, for the purpose of conducting activities in this State, a fictitious name that complies with section 1508.

**2. Name change.** If a foreign limited liability company to which a statement of foreign qualification has been filed changes its name to one that does not comply with section 1508, it may not thereafter conduct activities in this State until it complies with subsection 1 by filing an amended statement of foreign qualification.

**§1625. Grounds for revocation of statement of foreign qualification**

Notwithstanding Title 4, chapter 5 and Title 5, chapter 375, the Secretary of State may commence a proceeding under section 1626 to revoke a statement of foreign qualification if:

**1. Nonpayment of fees or penalties.** The foreign limited liability company does not pay when due any fees or penalties imposed by this chapter or other law;

**2. Failure to file annual report.** The foreign limited liability company does not deliver its annual report to the Secretary of State as required by section 1665;

**3. Failure to pay late filing penalty.** The foreign limited liability company does not pay the annual report late filing penalty as required by section 1680;

**4. Failure to maintain registered agent.** The foreign limited liability company is without a registered agent in this State as required by Title 5, section 105, subsection 1;

**5. Failure to notify of change of registered agent or address.** The foreign limited liability company does not notify the Secretary of State that its registered agent has changed as required by Title 5, section 108, subsection 1 or the address of its registered agent has been changed as required by Title 5, section 109 or 110 or that its registered agent has resigned as required by Title 5, section 111;

**6. Filing of false information.** A member, manager or agent of the foreign limited liability company signed a document with the knowledge that the document was false in a material respect and with the intent that the document be delivered to the Secretary of State for filing;

**7. Amended application.** The foreign limited liability company fails to file with the Secretary of State an amended application for authority required by section 1622, subsection 3; or

**8. Authenticated certificate of cancellation or merger.** The Secretary of State receives a duly authenticated certificate from the secretary of state or other official having custody of limited liability company records in the state or other jurisdiction under whose law the foreign limited liability company is formed stating that the foreign limited liability company has been cancelled or has disappeared as the result of a merger.

**§1626. Procedure for and effect of revocation**

**1. Notice of determination.** If the Secretary of State determines that one or more grounds exist under section 1625 for the revocation of a statement of foreign qualification, the Secretary of State shall serve the foreign limited liability company with a written notice of the Secretary of State's determination as required by subsection 7.

**2. Revocation.** The statement of foreign qualification is revoked if within 60 days after the notice under subsection 1 was issued the Secretary of State determines that the foreign limited liability company has failed to correct the ground or grounds for revocation. The Secretary of State shall send notice to the foreign limited liability company as required by subsection 7 that recites the ground or grounds for revocation and the effective date of revocation.

**3. Authority to transact business ceases.** The authority of a foreign limited liability company to transact business in this State ceases on the date of revocation of its authority.

**4. Secretary of State appointed as agent for service of process.** The Secretary of State's revocation of a statement of foreign qualification appoints the Secretary of State as the foreign limited liability company's agent for service of process in any proceeding based on a cause of action that arose during the time the foreign limited liability company was authorized to transact business in this State. Service of process on the Secretary of State under this subsection is service on the foreign limited liability company. Upon receipt of process, the Secretary of State shall mail a copy of the process to the foreign limited liability company at its principal office shown in its most recent annual report or in any subsequent communication received from the foreign limited liability company stating the current mailing address of its principal office or, if no other address is on file, in its statement of foreign qualification.

**5. Registered agent; not terminated.** Revocation of a statement of foreign qualification in this State does not terminate the authority of the registered agent of the foreign limited liability company.

**6. Authorization after revocation.** A foreign limited liability company whose statement of foreign qualification in this State has been revoked under this section and that wishes to transact business again in this State must be authorized as provided in this chapter.

**7. Delivery of notice.** The Secretary of State shall send notice of its determination under subsection 1 by regular mail and the service upon the foreign limited liability company is perfected 5 days after the Secretary of State deposits its determination in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed to the registered agent in this State and the registered or principal office, wherever located, on file for the foreign limited liability company.

**§1627. Appeal from revocation**

**1. Petition to appeal revocation.** A foreign limited liability company may appeal the Secretary of State's revocation of its statement of foreign qualification to the Kennebec County Superior Court within 30 days after the notice of revocation. The foreign limited liability company may appeal by petitioning the court to set aside the revocation and attaching to the

petition copies of its statement of foreign qualification and the Secretary of State's notice of revocation.

**2. Court order.** The court may summarily order the Secretary of State to reinstate the statement of foreign qualification or may take any other action the court considers appropriate.

**3. Appeal of court's decision.** The court's final decision may be appealed as in other civil proceedings.

**§1628. Statement of cancellation of foreign qualification**

**1. Statement of cancellation.** A foreign limited liability company that has filed a statement of foreign qualification with the Secretary of State may cancel its statement of foreign qualification by filing a statement of cancellation of foreign qualification with the Secretary of State.

**2. Contents.** A statement of cancellation of foreign qualification must set forth:

A. The name of the foreign limited liability company, any fictitious name adopted for use in this State, the name of the jurisdiction under whose law the foreign limited liability company is organized and the date of organization in the foreign limited liability company's jurisdiction of organization;

B. The street and mailing address of the foreign limited liability company's principal office;

C. The information required by Title 5, section 105, subsection 1 or, if a registered agent is no longer to be maintained, a statement that the foreign limited liability company will not maintain a registered agent, and the mailing address to which service of process may be mailed pursuant to section 1662;

D. That the foreign limited liability company will no longer conduct business in this State and that it relinquishes its authority to conduct business in this State;

E. That the foreign limited liability company is cancelling its statement of foreign qualification; and

F. That any statement of adopting for use any assumed name with respect to the foreign limited liability company is withdrawn upon the effective date of the statement of cancellation of foreign qualification.

**3. Cancellation effective.** The statement of cancellation of foreign qualification is effective upon filing by the Secretary of State, whereupon the statement of foreign qualification is cancelled and the foreign limited liability company is without authority to conduct activities in this State.

**4. Relieved of annual report or filing fee.** If a foreign limited liability company causes a statement of cancellation of foreign qualification to be delivered to the Secretary of State for filing before the date on which an annual report is due under section 1665, the foreign limited liability company is relieved of its obligation to file its annual report or pay the filing fee.

**§1629. Effect of failure to have statement of foreign qualification**

**1. Conducting activities; maintaining proceeding.** A foreign limited liability company conducting activities in this State, or anyone on its behalf, may not maintain a proceeding in any court in this State for the collection of its debts unless an effective statement of foreign qualification for the foreign limited liability company is in the records of the office of the Secretary of State.

**2. Stay proceeding.** A court may stay a proceeding commenced by a foreign limited liability company until it determines whether the foreign limited liability company should have a statement of foreign qualification on file with the office of the Secretary of State. If the court determines that the foreign limited liability company should have a statement of foreign qualification on file with the office of the Secretary of State, the court may further stay the proceeding until there is an effective statement of foreign qualification on file with the office of the Secretary of State with respect to the foreign limited liability company. If a court determines that a foreign limited liability company is required to have a statement of foreign qualification on file with the office of the Secretary of State, and the foreign limited liability company subsequently delivers for filing to the office of the Secretary of State a statement of foreign qualification, a proceeding in any court in this State to which the foreign limited liability company is a party may not, after the effective date of the statement of foreign qualification, be dismissed by reason of the foreign limited liability company's prior noncompliance with section 1622.

**3. Civil penalty.** A foreign limited liability company is liable for a civil penalty of $500 for each year, or portion thereof, it transacts business in this State without first complying with the requirements of section 1622.

**4. Recovery of civil penalty.** The civil penalty set forth in subsection 3 may be recovered in an action brought by the Attorney General. Upon a finding by the court that a foreign limited liability company has conducted activities in this State in violation of this subchapter, the court may issue, in addition to or in lieu of the imposition of a civil penalty, an injunction restraining the further conducting of activities by the foreign limited liability company and its agents and the further exercise of any rights and privileges of a foreign limited liability company in this State until all amounts plus any interest and court costs that the court

may assess have been paid and until the foreign limited liability company has otherwise complied with this subchapter.

**5. Validity of acts; defending proceeding.** Notwithstanding subsections 1 and 2, the conducting of activities in this State by a foreign limited liability company without having a statement of foreign qualification on file in the records of the office of the Secretary of State does not impair the validity of the acts of the foreign limited liability company or prevent the foreign limited liability company from defending any proceeding in this State.

**6. Debts; obligations; liabilities.** A member or agent of a foreign limited liability company is not liable for the debts, obligations or other liabilities of the foreign limited liability company solely because the foreign limited liability company conducted activities in this State without a statement of foreign qualification being on file with the office of the Secretary of State.

## SUBCHAPTER 11

## ACTIONS BY MEMBERS

### §1631. Direct action by member

**1. Direct action against member.** Subject to subsection 2, a member may maintain a direct action against another member, a manager or the limited liability company to enforce the member's rights and otherwise protect the member's interests, including rights and interests under the operating agreement or this chapter or arising independently of the membership relationship.

**2. Actual or threatened injury.** A member maintaining a direct action under this section must plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited liability company.

### §1632. Derivative action

A member may maintain a derivative action to enforce a right of a limited liability company if:

**1. Demand.** The member first makes a demand on the limited liability company to take suitable action, and the limited liability company does take suitable action within a reasonable time; or

**2. Futility of demand.** A demand under subsection 1 would be futile.

### §1633. Proper plaintiff

**1. Plaintiff must be a member.** Except as otherwise provided in subsection 2, a derivative action under section 1632 may be maintained only by a person that is a member at the time the action is commenced and remains a member while the action continues.

**2. Death of plaintiff.** If the sole plaintiff in a derivative action dies while the action is pending, the court may permit another member of the limited liability company to be substituted as plaintiff.

### §1634. Pleading

In a derivative action under section 1632 the complaint must state with particularity:

**1. Demand and response.** The date and content of the plaintiff's demand and the response to the demand by the limited liability company; or

**2. Futility of demand.** If a demand has not been made, the reasons a demand under section 1632, subsection 1 would be futile.

### §1635. Special litigation committee

**1. Stay of court proceeding upon appointment of special litigation committee.** If a limited liability company is named as or made a party in a derivative proceeding, the limited liability company may appoint a special litigation committee to investigate the claims asserted in the proceeding and determine whether pursuing the action is in the best interests of the limited liability company. If the limited liability company appoints a special litigation committee, on motion by the special litigation committee made in the name of the limited liability company, except for good cause shown, the court shall stay discovery for the time reasonably necessary to permit the special litigation committee to make its investigation. This subsection does not prevent the court from enforcing a person's right to information under section 1558 or, for good cause shown, granting extraordinary relief in the form of a temporary restraining order or preliminary injunction.

**2. Composition of special litigation committee.** A special litigation committee may be composed of one or more disinterested and independent individuals, who may be members.

**3. Appointment of special litigation committee.** A special litigation committee may be appointed:

A. By the consent of a majority of the members not named as defendants or plaintiffs in the proceeding; and

B. If all members are named as defendants or plaintiffs in the proceeding, by a majority of the members named as defendants.

**4. Determination by special litigation committee.** After appropriate investigation, a special litigation committee may determine that it is in the best interests of the limited liability company that the proceeding:

A. Continue under the control of the plaintiff;

B. Continue under the control of the special litigation committee;

C. Be settled on terms approved by the special litigation committee; or

D. Be dismissed.

**5. Filing of determination with court.** After making a determination under subsection 4, a special litigation committee shall file with the court a statement of its determination and its report supporting its determination, giving notice to the plaintiff. The court shall determine whether the members of the special litigation committee were disinterested and independent and whether the special litigation committee conducted its investigation and made its recommendation in good faith, independently and with reasonable care, with the special litigation committee having the burden of proof. If the court finds that the members of the special litigation committee were disinterested and independent and that the special litigation committee acted in good faith, independently and with reasonable care, the court shall enforce the determination of the special litigation committee. Otherwise, the court shall dissolve the stay of discovery entered under subsection 1 and allow the action to proceed under the direction of the plaintiff.

**§1636. Proceeds and expenses**

**1. Proceeds.** Except as otherwise provided in subsection 2:

A. Any proceeds or other benefits of a derivative action under section 1632, whether by judgment, compromise or settlement, belong to the limited liability company and not to the plaintiff; and

B. If the plaintiff receives any proceeds, the plaintiff shall remit them immediately to the limited liability company.

**2. Expenses.** If a derivative action under section 1632 is successful in whole or in part, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees and costs, from the recovery of the limited liability company.

**§1637. Closely held limited liability company**

**1. Definition.** As used in this section, "closely held limited liability company" means a limited liability company that has:

A. Fewer than 35 members; and

B. No membership interests listed on a national securities exchange or regularly quoted in an over-the-counter market by one or more members of a national securities association.

**2. Limitation on derivative actions.** Except to the extent ordered by the court in an action under subsection 3, paragraph A, sections 1632 to 1636 do not apply to a closely held limited liability company.

**3. Exception to limitation on derivative actions.** If justice requires:

A. A derivative action commenced by a member of a closely held limited liability company may be treated by a court as a direct action brought by the member for the member's own benefit; and

B. Recovery in a direct or derivative action by a member of a closely held limited liability company may be paid directly to the plaintiff or to the closely held limited liability company if necessary to protect the interests of creditors or of other members.

## SUBCHAPTER 12

## MERGER AND CONVERSION

**§1641. Merger**

**1. Merger requirements.** A limited liability company may merge with one or more other constituent organizations pursuant to this section, sections 1642 to 1644 and a plan of merger, if:

A. The governing statute of each of the other organizations authorizes the merger;

B. The merger is not prohibited by the law of a jurisdiction that enacted any of the governing statutes; and

C. Each of the other organizations complies with its governing statute in effecting the merger.

**2. Plan of merger.** A plan of merger must be in a record and must include:

A. The name, current jurisdiction and form of each constituent organization;

B. The name, jurisdiction and form of the surviving organization and, if the surviving organization is to be created by the merger, a statement to that effect;

C. The terms and conditions of the merger, including the manner and basis for converting the interests in each constituent organization into any combination of money, interests in the surviving organization and other consideration as allowed in subsection 3;

D. If the surviving organization is to be created by the merger, the surviving organization's organizational documents that are proposed to be in a record; and

E. If the surviving organization is not to be created by the merger, any amendments to be made by the merger to the surviving organization's organizational documents that are, or are proposed to be, in a record or a statement that the organizing documents remain unchanged.

**3. Exchange or conversion.** In connection with a merger, rights or securities of or interests in the constituent organization may be exchanged for or converted into cash, property or rights or securities of or

interests in the surviving organization or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property or rights or securities of or interests in another organization or may be cancelled.

**§1642. Action on plan of merger by constituent limited liability company**

**1. Consent by constituent members.** A plan of merger must be consented to by all the members of a constituent limited liability company.

**2. Amend plan; abandon merger.** After the plan of merger is approved, and at any time before a statement of merger is delivered to the office of the Secretary of State for filing under section 1643, a constituent limited liability company may amend the plan or abandon the merger:

A. As provided in the plan; or

B. Except as otherwise prohibited in the plan, with the same consent as was required to approve the plan.

**§1643. Filings required for merger; effective date**

**1. Signature on statement of merger.** After each constituent organization has approved the plan of merger, a statement of merger must be signed on behalf of:

A. Each constituent limited liability company, as provided in section 1676, subsection 1; and

B. Each other constituent organization, as provided in its governing statute.

**2. Contents.** A statement of merger under this section must include:

A. The name and form of each constituent organization and the jurisdiction of its governing statute and the date of organization of each constituent organization;

B. The name and form of the surviving organization, the jurisdiction of its governing statute, the date of its organization, the address of its principal office and, if the surviving organization is created by the merger, a statement to that effect;

C. The date the merger is effective under the governing statute of the surviving organization;

D. If the surviving organization is to be created by the merger:

(1) If the surviving organization will be a limited liability company, the limited liability company's certificate of formation; or

(2) If the surviving organization will be an organization other than a limited liability company, the organizational document that creates the organization that is in a public record;

E. If the surviving organization exists before the merger, any amendments provided for in the plan of merger for the organizational document that created the surviving organization that are in a public record or a statement that the organizational documents remain unchanged;

F. A statement as to each constituent organization that the merger was approved as required by the constituent organization's governing statute and as required by the organizational documents of each constituent organization;

G. If the surviving organization is a foreign organization not authorized to conduct business in this State, an acknowledgment that it may be served with process in this State by certified mail and the address of its principal office for the purposes of section 1644, subsection 2; and

H. Any additional information required by the governing statute of any constituent organization.

**3. Filing of statement of merger.** The surviving organization shall deliver the statement of merger signed by each constituent organization for filing with the office of the Secretary of State.

**4. Effective date of merger.** A merger becomes effective under this subchapter:

A. If the surviving organization is a limited liability company, upon the later of:

(1) Compliance with subsection 3; and

(2) As specified in the statement of merger; or

B. If the surviving organization is not a limited liability company, as provided by the governing statute of the surviving organization.

**§1644. Effect of merger**

**1. Effect of merger.** When a merger becomes effective:

A. The surviving organization continues or comes into existence;

B. Each constituent organization that merges into the surviving organization ceases to exist as a separate entity;

C. All property owned by each constituent organization that ceases to exist vests in the surviving organization;

D. All debts, obligations or other liabilities of each constituent organization that ceases to exist continue as debts, obligations or other liabilities of the surviving organization;

E. An action or proceeding pending by or against any constituent organization that ceases to exist may be continued as if the merger had not oc-

curred, and the surviving organization may be, but need not be, substituted in the action;

F. Except as prohibited by other law, all of the rights, privileges, immunities, powers and purposes of each constituent organization that ceases to exist vest in the surviving organization;

G. Except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger take effect;

H. Except as otherwise agreed, if a constituent limited liability company ceases to exist, the merger does not dissolve the limited liability company for the purposes of subchapter 7;

I. If the surviving organization is created by the merger:

(1) If the surviving organization is a limited liability company, the certificate of formation becomes effective; or

(2) If the surviving organization is an organization other than a limited liability company, the organizational document that creates the organization becomes effective; and

J. If the surviving organization existed before the merger, any amendments provided for in the statement of merger for the organizational document that created the surviving organization become effective.

**2. Jurisdiction.** A surviving organization that is a foreign organization consents to the jurisdiction of the courts of this State to enforce any debt, obligation or other liability owed by a constituent organization if before the merger the constituent organization was subject to suit in this State on the debt, obligation or other liability. Service of process on a surviving organization that is a foreign organization and not authorized to conduct business in this State for the purposes of enforcing a debt, obligation or other liability may be made in the same manner and has the same consequences as provided in Title 5, chapter 6-A as if the surviving organization were a foreign limited liability company.

**§1645. Conversion**

**1. Conversion.** An organization other than a limited liability company, including but not limited to a foreign organization, may convert to a limited liability company, and a limited liability company may convert to an organization other than a limited liability company pursuant to this section, sections 1646 to 1648 and a plan of conversion, if:

A. The governing statute of the organization that is not a limited liability company authorizes the conversion;

B. The law of the jurisdiction governing the converting organization and the converted organization does not prohibit the conversion; and

C. The converting organization and the converted organization each complies with its respective governing statute in effecting the conversion.

**2. Plan of conversion.** A plan of conversion must be in a record and must include:

A. The name, date of organization, jurisdiction and form of the converting organization before conversion;

B. The name, jurisdiction and form of the converted organization after conversion;

C. The terms and conditions of the conversion, including the manner and basis for converting interests in the converting organization into any combination of money, interests in the converted organization and other consideration as allowed in subsection 3; and

D. The organizational documents of the converted organization that are, or are proposed to be, in a record.

**3. Exchange or conversion.** In connection with a conversion, rights or securities of or interests in the converting organization may be exchanged for or converted into cash, property or rights or securities of or interests in the converted organization or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property or rights or securities of or interests in another organization or may be cancelled.

**§1646. Action on plan of conversion by converting limited liability company**

**1. Consent.** A plan of conversion must be consented to by all the members of a converting limited liability company.

**2. Amend or abandon.** After a conversion is approved, and at any time before the statement of conversion is delivered to the office of the Secretary of State for filing under section 1647, a converting limited liability company may amend the plan or abandon the conversion:

A. As provided in the plan; or

B. Except as otherwise prohibited in the plan, by the same consent as was required to approve the plan.

**§1647. Filings required for conversion; effective date**

**1. After conversion approved.** After a plan of conversion is approved:

A. A converting limited liability company shall deliver to the office of the Secretary of State for filing a statement of conversion, which must be

signed as provided in section 1676, subsection 1 and must include:

(1) A statement that the converting limited liability company has been converted into the converted organization;

(2) The name and form of the converted organization, the jurisdiction of its governing statute, the date of its organization and the address of its principal office;

(3) The date the conversion is effective under the governing statute of the converted organization;

(4) A statement that the conversion was approved as required by this chapter and the limited liability company agreement;

(5) A statement that the conversion was approved as required by the governing statute of the converted organization; and

(6) If the converted organization is a foreign organization not authorized to conduct business in this State, an acknowledgment that it may be served with process in this State by certified mail and the address of its principal office for the purposes of section 1648, subsection 3; and

B. If the converted organization is a limited liability company, the converting organization shall deliver to the office of the Secretary of State for filing a certificate of formation, which must include, in addition to the information required by section 1531, subsection 1:

(1) A statement that the converted organization was converted from the converting organization;

(2) The name and form of the converting organization, the jurisdiction of the converting organization's governing statute and the date of its organization; and

(3) A statement that the conversion was approved as required by the governing statute of the converting organization.

**2. Effective date.** A conversion becomes effective:

A. If the converted organization is a limited liability company, when the certificate of formation takes effect; and

B. If the converted organization is not a limited liability company, as provided by the governing statute of the converted organization.

**§1648. Effect of conversion**

**1. Same organization.** An organization that has been converted pursuant to this subchapter is for all purposes the same entity that existed before the conversion.

**2. Effect of conversion.** When a conversion takes effect:

A. All property owned by the converting organization remains vested in the converted organization;

B. All debts, obligations or other liabilities of the converting organization continue as debts, obligations or other liabilities of the converted organization;

C. An action or proceeding pending by or against the converting organization may be continued as if the conversion had not occurred, or the converted organization may be, but need not be, substituted in the action;

D. Except as prohibited by other law, all of the rights, privileges, immunities, powers and purposes of the converting organization remain vested in the converted organization;

E. Except as otherwise provided in the plan of conversion, the terms and conditions of the plan of conversion take effect;

F. Except as otherwise agreed, the converting organization is not required to wind up its affairs or pay its liabilities and distribute its assets, and the conversion may not be deemed to constitute a dissolution of that converting organization. When a converting organization has been converted to a limited liability company pursuant to this section, the limited liability company is deemed to be the same organization as the converting organization, and the conversion constitutes a continuation of the existence of the converting organization in the form of a limited liability company;

G. The rights, privileges, powers and interests in property of the converting organization, as well as the debts, liabilities and duties of the converting organization, are not deemed, as a consequence of the conversion, to have been transferred to the converted organization; and

H. If the converted organization is a limited liability company, the existence of the limited liability company is deemed to have commenced on the date the converting organization commenced its existence in the jurisdiction in which the converting organization was first created, formed, organized, incorporated or otherwise came into being.

**3. Jurisdiction.** A converted organization that is a foreign organization consents to the jurisdiction of the courts of this State to enforce any debt, obligation or other liability for which the converting limited liability company is liable if, before the conversion, the

converting limited liability company was subject to suit in this State on the debt, obligation or other liability. Service of process on a converted organization that is a foreign organization and not authorized to conduct business in this State for purposes of enforcing a debt, obligation or other liability under this subsection may be made in the same manner and has the same consequences as provided in Title 5, chapter 6-A as if the converted organization were a foreign limited liability company.

**§1649. Restrictions on approval of mergers and conversions**

**1. Written consent.** If a member of a converting or constituent limited liability company will have personal liability with respect to a converted or surviving organization, approval and amendment of a plan of conversion or plan of merger are ineffective without that member's written consent to that plan.

**2. Consent to agreement.** A member does not give the consent required by subsection 1 merely by consenting to a provision of the limited liability company agreement that permits the limited liability company agreement to be amended with the consent of fewer than all the members.

**§1650. Subchapter not exclusive**

This subchapter does not preclude an entity from being merged or converted under law other than this chapter.

## SUBCHAPTER 13

## ADMINISTRATIVE PROVISIONS

**§1661. Registered agent for domestic limited liability company**

A domestic limited liability company must have and continuously maintain a registered agent in this State as defined by Title 5, section 102, subsection 27.

**§1662. Service of process**

Service of process, notice or demand required or permitted by law on a domestic limited liability company is governed by Title 5, section 113.

**§1663. Principal office**

The principal office of a limited liability company or foreign limited liability company need not be located in this State.

**§1664. Certificate of existence; certificate of qualification; certificate of fact**

**1. Certificate of existence; certificate of qualification.** The Secretary of State, upon request and payment of the requisite fee, shall furnish to any person a certificate of existence for a domestic limited liability company or certificate of qualification for a foreign limited liability company if the records filed in the office of the Secretary of State show that the limited liability company has been formed under the laws of this State or authorized to transact business in this State. A certificate of existence or certificate of qualification must state:

A. The limited liability company's name;

B. That, if a domestic limited liability company, the limited liability company is duly formed under the laws of this State and the date of formation;

C. That, if a foreign limited liability company, the foreign limited liability company is authorized to transact business in this State, the date on which the limited liability company was authorized to transact business in this State and its jurisdiction of organization;

D. That all fees and penalties owed to the State have been paid in full, if:

(1) Payment is reflected in the records of the office of the Secretary of State; and

(2) Nonpayment affects the existence or authorization of the domestic or foreign limited liability company;

E. That the limited liability company's most recent annual report required by section 1519 has been filed by the Secretary of State;

F. Whether the limited liability company has delivered to the office of the Secretary of State for filing a certificate of cancellation by a domestic limited liability company or a statement of cancellation of foreign qualification; and

G. Other facts of record in the office of the Secretary of State that are specified by the person requesting the certificate.

**2. Conclusive evidence.** Subject to any condition stated in the certificate, a certificate of existence or certificate of qualification issued by the Secretary of State is conclusive evidence that the limited liability company is in existence or the foreign limited liability company is authorized to transact business or conduct activities in this State.

**3. Certificate of fact.** In addition to the certificate authorized under subsection 1, the Secretary of State may issue a certificate of fact attesting to any fact of record in the office of the Secretary of State that may be requested.

**§1665. Annual report for Secretary of State**

**1. Annual report.** Each year, each domestic limited liability company or each foreign limited liability company authorized to conduct business in this State shall deliver to the office of the Secretary of State for filing an annual report setting forth:

A. The name of the limited liability company or the foreign limited liability company;

B. The information required by Title 5, section 105, subsection 1;

C. The address of the limited liability company's or foreign limited liability company's principal office;

D. A brief statement of the character of the business in which the limited liability company is actually engaged in this State; and

E. The name and address of one or more individuals designated as a contact person for the limited liability company.

**2. Current information.** Information in an annual report under this section must be current as of the date the report is delivered to the office of the Secretary of State for filing.

**3. First annual report; subsequent reports.** The first annual report under this section must be delivered to the office of the Secretary of State between January 1st and June 1st of the year following the calendar year in which a limited liability company was formed or a foreign limited liability company delivered its statement of foreign qualification to the office of the Secretary of State for filing. For subsequent years, annual reports must be delivered to the office of the Secretary of State between January 1st and June 1st of the following calendar year.

**4. Filing.** The report, together with the filing fee required by this chapter, must be delivered for filing to the office of the Secretary of State, who shall file the report if the Secretary of State finds that it conforms to the requirements of subsection 1. If the Secretary of State finds that the report does not conform to the requirements of subsection 1, the Secretary of State shall promptly mail or otherwise return the report to the reporting limited liability company for any necessary correction. If the report is corrected to contain the information required in subsection 1 and delivered to the office of the Secretary of State within 30 days after the effective date of the notice, it is timely delivered. Proof to the satisfaction of the Secretary of State that, prior to the date that penalties become effective for late delivery of an annual report as established by the Secretary of State by rule, the report was deposited in the United States mail in a sealed envelope, properly addressed, with postage prepaid or was delivered in a medium authorized by the Secretary of State is deemed in compliance with this requirement. The penalties prescribed by this chapter for failure to file the report by the date required by rule by the Secretary of State do not apply if the report is corrected to conform to the requirements of this chapter and returned to the Secretary of State within 30 days from the date on which the report was mailed or otherwise returned to the limited liability company by the Secretary of State.

**5. Certificate of excuse.** The Secretary of State, upon application by a domestic limited liability company and satisfactory proof that it has ceased to transact business and that it is not indebted to this State for failure to file an annual report and to pay any fees or penalties accrued, shall file a certificate of the fact and shall give a duplicate certificate to the limited liability company, after which the limited liability company is excused from filing annual reports with the office of the Secretary of State, as long as the limited liability company in fact transacts no business. The name of a limited liability company remains in the office of the Secretary of State's records of entity names and is protected for a period of 5 years following excuse.

**6. Resumption of business.** A domestic limited liability company that has been excused from filing annual reports pursuant to subsection 5 may elect to resume transacting business. A certificate executed and filed as provided in section 1673 setting forth that an election was made to resume the transaction of business authorizes the domestic limited liability company to resume transaction of business. After that certificate is filed, the domestic limited liability company is required to file annual reports beginning with the next reporting deadline following resumption.

### §1666. Amended annual report of domestic or foreign limited liability company

**1. Amended annual report.** If the information contained in an annual report filed under section 1519 has changed, a limited liability company may, if it determines it to be necessary, deliver to the office of the Secretary of State for filing an amended annual report to change the information on file.

**2. Contents.** The amended annual report under subsection 1 must set forth:

A. The name of the domestic or foreign limited liability company and the jurisdiction of its organization;

B. The date on which the original annual report was filed; and

C. The information that has changed and the date on which it changed.

**3. Filing date.** An amended annual report under subsection 1 may be filed by the limited liability company after the date of the original filing and until December 31st of that filing year.

### §1667. Failure to file annual report; incorrect report; penalties

**1. Failure to file; penalty.** A domestic or foreign limited liability company that is required to deliver an annual report for filing as provided by section 1665 that fails to deliver its properly completed annual report to the Secretary of State shall pay, in addition to the regular annual report fee, the late filing penalty set

forth in section 1680, subsection 10 as long as the report is received by the Secretary of State prior to revocation or administrative dissolution. Upon a limited liability company's failure to file the annual report and to pay the annual report fee or the penalty, the Secretary of State, notwithstanding Title 4, chapter 5 and Title 5, chapter 375, shall revoke a foreign limited liability company's authority to do business in this State and administratively dissolve a domestic limited liability company. The Secretary of State shall use the procedures set forth in section 1592 to administratively dissolve a domestic limited liability company and the procedures set forth in section 1626 to revoke a foreign limited liability company's authority to transact business in this State. A domestic limited liability company that has been administratively dissolved under section 1592 must follow the requirements set forth in section 1603 to reinstate.

**2. Return for correction.** If the Secretary of State finds that an annual report delivered for filing does not conform with the requirements of section 1665, the report must be returned for correction.

**3. Excused from liability.** If the annual report of a domestic or foreign limited liability company is not delivered for filing within the time specified in section 1665, the limited liability company is excused from the liability provided in this section and from any other penalty for failure to file timely the report if it establishes to the satisfaction of the Secretary of State that failure to file was the result of excusable neglect and it furnishes the Secretary of State a copy of the report within 30 days after it learns that the Secretary of State failed to receive the original report.

**§1668. Powers of the Secretary of State; rules**

The Secretary of State has the power reasonably necessary to perform the duties required of the Secretary of State by this chapter, including the power to adopt rules not inconsistent with this chapter. Rules adopted pursuant to this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**§1669. Expedited service**

The Secretary of State may provide an expedited service for the processing of documents in accordance with this chapter. If the service is provided, the Secretary of State shall establish by rule a fee schedule and governing procedures in accordance with the Maine Administrative Procedure Act. Fees collected for expedited service must be deposited into a fund for use by the Secretary of State in providing an improved filing service.

**§1670. Access to database**

The Secretary of State may provide public access to the database through a medium approved by the Secretary of State, through public terminals and through electronic duplicates of the database. If access to the database is provided to the public, the Secretary of State may adopt rules in accordance with the Maine Administrative Procedure Act to establish a fee schedule and governing procedures.

**§1671. Publications**

**1. Fee for publications.** The Secretary of State may establish by rule in accordance with the Maine Administrative Procedure Act a fee schedule to cover the cost of printing and distribution of publications and to set forth the procedures for the sale of these publications.

**2. Use of fees.** Fees collected pursuant to this section must be deposited in a fund for use by the Secretary of State to replace and update publications offered in accordance with this chapter and to fund new publications.

**§1672. Filing duty of Secretary of State**

**1. Duty to file.** If a document delivered to the office of the Secretary of State for filing pursuant to this chapter satisfies the requirements of this chapter, the Secretary of State shall file the document.

**2. Recording as filed; acknowledgment.** The Secretary of State files a document pursuant to subsection 1 by recording it as filed on the date of receipt. After filing a document, the Secretary of State shall deliver to the domestic or foreign limited liability company or its representative a copy of the document with an acknowledgement of the date of filing. If the person delivering the document for filing so requests, the acknowledgment must further include the hour and minute of filing.

**3. Refusal to file; written explanation.** If the Secretary of State refuses to file a document, the Secretary of State shall return it to the domestic or foreign limited liability company or its representative within 5 days after the document was delivered, together with a brief written explanation of the reason for the refusal.

**4. Ministerial.** The Secretary of State's duty to file a document under this chapter is ministerial, and the filing or refusal to file a document does not:

A. Affect the validity or invalidity of the document in whole or in part;

B. Relate to the correctness or incorrectness of information contained in the document; or

C. Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

**§1673. Requirements for documents filed with the Secretary of State**

Each document authorized or required to be delivered to the Secretary of State for filing under this

chapter must satisfy the following requirements and the requirements of any other section of this chapter.

**1. Information.** The document must contain all information required by the laws of this State to be contained in the document but, unless otherwise provided by law, may not contain other information.

**2. Form; format.** The document must be legibly typewritten or printed in ink or, if electronically transmitted, it must be in a format that can be retrieved or reproduced in typewritten or printed form.

**3. Prescribed form.** The Secretary of State may prescribe and furnish on request forms for any documents required or permitted to be filed by this chapter. If the Secretary of State so requires, use of these forms is mandatory.

**4. English language.** A person's name set forth in the document need not be in English if expressed in English letters or Arabic or Roman numerals. Documents of a foreign person need not be in English if accompanied by a reasonably authenticated English translation.

**5. Delivery.** The document must be delivered to office of the Secretary of State for filing. Delivery may be made by electronic transmission if and to the extent permitted by the Secretary of State.

**6. Fee.** At the time of delivery of the document, the correct filing fee and any reinstatement fee or penalty must be paid or provision for payment made in a manner permitted by the Secretary of State.

**§1674. Effective time, delayed effective date**

Except as otherwise provided in section 1675 and Title 5, section 111, a record delivered to the office of the Secretary of State for filing under this chapter may specify an effective time and a delayed effective date. Subject to section 1675 and Title 5, section 111, a record filed by the Secretary of State is effective:

**1. No specified time or delayed effective date.** If the record does not specify an effective time and does not specify a delayed effective date, on the date and at the time the record is filed as evidenced by the Secretary of State's endorsement of the date and time on the record;

**2. Effective time but not delayed date.** If the record specifies an effective time but not a delayed effective date, on the date the record is filed at the time specified in the record;

**3. Delayed effective date but no time.** If the record specifies a delayed effective date but not an effective time, at 12:01 a.m. on the earlier of:

A. The specified date; or

B. The 90th day after the record is filed; or

**4. Specified time and delayed effective date.** If the record specifies an effective time and a delayed effective date, at the specified time on the earlier of:

A. The specified date; or

B. The 90th day after the record is filed.

**§1675. Correcting filed record; effective time and date**

**1. Statement of correction.** A domestic limited liability company or foreign limited liability company may deliver to the office of the Secretary of State for filing a statement of correction to correct a record previously delivered by the domestic limited liability company or foreign limited liability company to the office of the Secretary of State and filed by the Secretary of State if at the time of filing the record contained incorrect information or was defectively signed or if the information subsequently becomes inaccurate.

**2. Contents.** A statement of correction under subsection 1 may not state a delayed effective date and must:

A. Describe the record to be corrected, including its filing date, or attach a copy of the record as filed;

B. Specify the incorrect or inaccurate information and the reason it is incorrect or inaccurate or the manner in which the signing was defective; and

C. Correct the incorrect or inaccurate information or the manner in which the signing was defective.

**3. Effective retroactively; effective when filed.** When filed by the Secretary of State, a statement of correction is effective retroactively as of the effective date of the record the statement corrects, but the statement is effective when filed as to persons that previously relied on the uncorrected record and would be adversely affected by the retroactive effect.

**4. Erroneously filed record.** A statement of correction may be used to render ineffective an erroneously filed record.

**§1676. Signing of records to be delivered for filing to office of the Secretary of State**

**1. Record signed.** A record delivered to the office of the Secretary of State for filing pursuant to this chapter must be signed as follows.

A. A limited liability company's initial certificate of formation must be signed by at least one authorized person.

B. A record signed on behalf of a limited liability company must be signed by a person authorized by the limited liability company.

C. A record filed on behalf of a dissolved limited liability company that has no members must be signed by the person winding up the limited liabil-

ity company's activities under section 1597, subsection 1 or a person appointed under section 1598, subsection 2 to wind up those activities.

D. A statement of denial by a person under section 1543 must be signed by that person.

E. Any other record must be signed by the person on whose behalf the record is delivered to the office of the Secretary of State.

**2. Agent; attorney-in-fact.** Any record to be filed under this chapter may be signed by an agent, including an attorney-in-fact. Powers of attorney relating to the signing of the record need not be provided to or filed with the office of the Secretary of State.

**§1677. Signing and filing pursuant to judicial order**

**1. Petition.** If a person required by this chapter to sign a record or deliver a record to the office of the Secretary of State for filing under this chapter does not do so, any other person that is aggrieved by such failure to sign may petition the Kennebec County Superior Court to order:

A. The person to sign the record;

B. The person to deliver the record to the office of the Secretary of State for filing; or

C. The Secretary of State to file the record unsigned.

**2. Party to action.** If a petitioner under subsection 1 is not the domestic 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.

**3. Reasonable expenses.** A court may award reasonable expenses, including reasonable attorney's fees, to the party or parties who prevail, in whole or in part, with respect to any claim made under subsection 1.

**§1678. Liability for incorrect or inaccurate information in filed record**

**1. Incorrect or inaccurate information.** If a record delivered to the office of the Secretary of State for filing under this chapter and filed by the Secretary of State contains incorrect or inaccurate information, a person that suffers a loss by reasonable reliance on the information may recover damages for the loss from a person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be incorrect or inaccurate at the time the record was signed.

**2. Affirmation that facts are true.** A person who signs a record authorized or required to be filed under this chapter thereby affirms under the penalties of perjury that the facts stated in the record are true to the best of the signer's knowledge in all material respects at the time of the signing.

**§1679. Address**

Whenever a provision of this subchapter requires that a document for filing state an address, the document must state:

**1. Street or rural route.** An actual street address or rural route box number in this State; and

**2. Mailing address.** A mailing address in this State, if different from the address under subsection 1.

**§1680. Filing and copying fees; penalties**

A document filed under this chapter is not effective until the applicable fee required in this section is paid. The following fees or penalties must be paid to the office of the Secretary of State:

**1. Reservation.** For filing of an application for reservation of name or a notice of transfer of reservation pursuant to section 1509, a fee of $20 for each limited liability company affected;

**2. Assumed or fictitious name.** For filing of a statement for use of an assumed name under section 1510, a fee of $125, and for filing a statement for use of a fictitious name under section 1510, a fee of $40;

**3. Termination of assumed or fictitious name.** For filing of a termination of an assumed or fictitious name under section 1510, a fee of $20;

**4. Registered name.** For filing of an application for a registered name of a foreign limited liability company under section 1511, a fee of $20 per month for the number of months or fraction of a month remaining in the calendar year when first filing. For filing an application to renew the registration of a registered name, a fee of $200;

**5. Issuing certificate.** For issuing a certificate of existence, certificate of authority or certificate of fact as provided by section 1664, a fee in the amount of $30;

**6. Annual report.** For filing of an annual report under section 1665, a fee of $85 for a domestic limited liability company or a fee of $150 for a foreign limited liability company;

**7. Application for excuse.** For filing a statement for excuse under section 1665, subsection 5, a fee of $40;

**8. Certificate of resumption.** For filing a statement of resumption under section 1665, subsection 6, a fee of $100;

**9. Amended annual report.** For filing of an amended annual report under section 1666, a fee of $85 for a domestic limited liability company or a fee of $150 for a foreign limited liability company;

**10. Late filing penalty.** For failing to deliver an annual report by its due date, in addition to the annual report filing fee, a fee of $50;

**11. Statement of correction.** For filing of a statement of correction under section 1675, a fee of $50;

**12. Certificate of cancellation.** For filing a certificate of cancellation under section 1533, a fee of $75;

**13. Certificate of formation.** For filing of a certificate of formation under section 1531, a fee of $175;

**14. Amendment or restatement of certificate of formation.** For filing an amended certificate of formation under section 1532, a fee of $50; and for filing a restatement of certificate of formation under section 1532, subsection 4, a fee of $80;

**15. Statement of authority; amendment or cancellation.** For filing a statement of authority under section 1542, a fee of $50; for filing an amended statement of authority under section 1542, subsection 2, a fee of $50; and for filing a cancellation of a statement of authority under section 1542, subsection 2, a fee of $50;

**16. Statement of denial.** For filing a statement of denial under section 1543, a fee of $50;

**17. Reinstatement fee after administrative dissolution.** For failure to file an annual report, a fee of $150, to a maximum fee of $600, regardless of the number of delinquent reports or the period of delinquency; for failure to pay the annual report late filing penalty, a fee of $150; for failure to appoint or maintain a registered agent, a fee of $150; for failure to notify the Secretary of State that the registered agent or the address of the registered agent has been changed or that the registered agent has resigned, a fee of $150; and for filing false information, a fee of $150;

**18. Certificate of revival after dissolution.** Certificate of revival after dissolution for a domestic limited liability company under section 1604, a fee of $150;

**19. Statement of foreign qualification.** For filing of a statement of foreign qualification under section 1622, a fee of $250;

**20. Statement of change of foreign qualification.** For filing a statement of change under section 1622, subsection 3, except to change the address of the principal office, a fee of $90. For filing a statement of change to change the address of the principal office, a fee of $35;

**21. Statement of cancellation of foreign qualification.** For filing a statement of cancellation of foreign qualification under section 1628, a fee of $90;

**22. Statement of merger.** For filing a statement of merger under section 1643, a fee of $150;

**23. Statement of conversion.** For filing a statement of conversion under section 1647 to convert to a business corporation governed by Title 13-C, a fee of $145; for filing a statement of conversion under section 1647 to convert to a nonprofit corporation governed by Title 13-B, a fee of $40; for filing a statement of conversion under section 1647 to convert to a limited partnership governed by chapter 19, a fee of $175; for filing a statement of conversion under section 1647 to convert to a limited liability partnership governed by chapter 15, a fee of $175; and for filing a statement of conversion under section 1647 to convert to a partnership governed by chapter 17, a fee of $175;

**24. All other filings.** For filing of a certificate, statement, affidavit, agreement or any other paper provided for by this chapter, for which a fee is not specifically prescribed, a fee of $35;

**25. Copies of filed documents.** For all copies, whether certified or not, a fee of $2 per page. For purposes of this chapter, a filed document is any filing provided for by this chapter and filed by the Secretary of State;

**26. Certified copies.** For certification of copies of filed documents under this chapter, a fee of $5 for each certification in addition to any fee due under subsection 25;

**27. Preclearance of document.** For the preclearance of a document for filing, a fee of $100; and

**28. Service of process on Secretary of State as agent.** For accepting service of process under section 1626, subsection 4, a fee of $20.

All fees collected as provided by this chapter must be remitted to the Treasurer of State for the use of the State with the exception of those fees established by rule and collected for expedited service. Fees for expedited service are deposited into a fund for use by the Secretary of State in providing an improved filing service.

## SUBCHAPTER 14

## MISCELLANEOUS PROVISIONS

### §1691. Relation to electronic signatures in Global and National Commerce Act

This chapter 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 Section 101(c) of that Act, 15 United States Code, Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that Act, 15 United States Code, Section 7003(b).

**§1692. Savings clause**

**1. Repeal does not affect.** Except as provided in subsection 2, the repeal of former chapter 13 does not affect:

A. The operation of former chapter 13 or any action taken under it before its repeal;

B. Any ratification, right, remedy, privilege, obligation or liability acquired, accrued or incurred under former chapter 13 before its repeal;

C. Any violation of former chapter 13, or any penalty, forfeiture or punishment incurred because of the violation, before its repeal; and

D. Any proceeding, reorganization or dissolution commenced under former chapter 13 before its repeal, and the proceeding, reorganization or dissolution may be completed in accordance with former chapter 13 as if it had not been repealed.

**2. Penalty or punishment.** If a penalty or punishment imposed for violation of former chapter 13 is reduced by this chapter, the penalty or punishment if not already imposed must be imposed in accordance with this chapter.

**§1693. Application to existing relationships**

**1. Existing on effective date.** This chapter applies to all limited liability companies in existence on July 1, 2011, except as provided in subsections 2 and 3.

**2. Formed before effective date.** For purposes of applying this chapter to a limited liability company formed before July 1, 2011:

A. The limited liability company's articles of organization are deemed to be the limited liability company's certificate of formation; and

B. Solely for purposes of applying section 1541, language in the limited liability company's articles of organization designating the limited liability company's management structure operates as if that language were in the limited liability company agreement.

**3. Foreign limited liability company.** This chapter applies to each foreign limited liability company that does not have a certificate of authority in effect on July 1, 2011. Former chapter 13 applies to each foreign limited liability company with a valid application of authority to do business in this State in effect on July 1, 2011 until the due date of the first annual report required to be filed by that foreign limited liability company on or after July 1, 2011, after which due date this chapter applies to that foreign limited liability company, and such application for authority to do business in this State, for purposes of this chapter, constitutes a statement of foreign qualification.

**4. Certain assignments.** The provisions of section 1507, subsection 5 do not apply to a security interest with an effective date before July 1, 2011.

**5. Administrative dissolution prior to effective date.** A domestic limited liability company administratively dissolved under former chapter 13 is deemed to have been administratively dissolved under section 1592 for purposes of reinstatement following administrative dissolution under section 1593.

**Sec. A-3. Effective date.** This Act takes effect July 1, 2011.

## PART B

**Sec. B-1. 9-B MRSA §311,** as amended by PL 2005, c. 543, Pt. D, §1 and affected by §18, is further amended to read:

**§311. Applicability of chapter**

The provisions of this chapter govern the organization and management of financial institutions operating as corporations, limited liability companies, limited partnerships and limited liability partnerships. Unless otherwise indicated in this Title, the provisions of Title 13-C apply to financial institutions operating as corporations; Title 31, chapter 19 applies to financial institutions operating as limited partnerships; Title 31, chapter ~~13~~ 21 applies to financial institutions operating as limited liability companies; and Title 31, chapter 15 applies to financial institutions operating as limited liability partnerships.

**Sec. B-2. 9-B MRSA §316-A, first ¶,** as amended by PL 2005, c. 543, Pt. D, §2 and affected by §18, is further amended to read:

Except as provided in this section, the management and operations of a financial institution organized under this chapter are governed by Title 13-C; Title 31, chapter 19; Title 31, chapter ~~13~~ 21; or Title 31, chapter 15, as appropriate, depending upon the organizational form of the financial institution operating under this chapter. The institution's organizational documents must address the powers and duties of the governing body.

**Sec. B-3. 9-B MRSA §317-A, first ¶,** as amended by PL 2005, c. 543, Pt. D, §3 and affected by §18, is further amended to read:

Except as provided in this section, the powers and duties of officers of a financial institution organized under this chapter are governed by Title 13-C; Title 31, chapter 19; Title 31, chapter ~~13~~ 21; or Title 31, chapter 15, as appropriate, depending upon the organizational form of the financial institution operating

under this chapter. The institution's organizational documents must address the powers and duties of officers.

**Sec. B-4. 9-B MRSA §352, sub-§5,** as amended by PL 2005, c. 543, Pt. D, §4 and affected by §18, is further amended to read:

**5. Rights of dissenting investors.** The rights of investors dissenting to the merger or consolidation are those specified in Title 13-C or Title 31, chapter ~~13,~~ 15 ~~or,~~ 19 or 21, depending upon the organizational form of the institution. To the extent that dissenters' rights are not addressed in Title 31 or these rights are less beneficial to the dissenting investors than those rights listed in the institution's organizational documents, the organizational documents govern.

**Sec. B-5. 9-B MRSA §1222, sub-§1,** as amended by PL 2005, c. 543, Pt. D, §5 and affected by §18, is further amended to read:

**1. Organization.** A merchant bank must be organized pursuant to chapter 31 and must be managed and governed pursuant to this Title and the applicable provisions of Title 13-C and Title 31, chapters ~~13,~~ 15 ~~and,~~ 19 and 21, depending upon the organizational form selected.

**Sec. B-6. 10 MRSA §1521, sub-§2-B,** as amended by PL 2003, c. 344, Pt. A, §4, is further amended to read:

**2-B. Limited liability company name.** "Limited liability company name" includes a limited liability company name, reserved name, assumed name or registered name as those terms are used in Title 31, sections ~~603-A~~ 1508 to ~~606-A~~ 1511.

**Sec. B-7. 31 MRSA §7,** as amended by PL 2007, c. 535, Pt. A, §3 and affected by §7, is further amended to read:

**§7. Inapplicable to corporations, limited partnerships or limited liability companies**

Sections 1 and 2 do not apply to corporations, limited partnerships or limited liability companies. A corporation desiring to do business under an assumed name shall file a statement as provided in Title 13-C, section 404. A limited partnership desiring to do business under an assumed name shall file a statement as provided in section 1308, subsection 2. A limited liability company desiring to do business under an assumed name shall file a statement as provided in section ~~605-A~~ 1510.

**Sec. B-8. 31 MRSA §876,** as amended by PL 2005, c. 543, Pt. D, §17 and affected by §18, is further amended to read:

**§876. Application to existing foreign limited liability partnerships; definition**

All foreign limited liability partnerships qualified as foreign corporations or limited partnerships or limited liability companies before September 1, 1996 are governed by this Act on and after September 1, 1996. By December 1, 1996 a partner of each foreign limited liability partnership shall file with the Secretary of State an application for authority to do business in this State under this Act and shall cancel the partnership's authority to do business in this State under chapter 19, former chapter 13 or former Title 13-A. If the foreign limited liability partnership fails to file the new application for authority to do business in this State by December 1, 1996, it must be treated as a general partnership without the status of a limited liability partnership with respect to any business conducted in this State between December 1, 1996 and the date on which it files that application.

**Sec. B-9. 36 MRSA §5180, sub-§1,** as enacted by PL 1999, c. 414, §41, is amended to read:

**1. Classified as partnership.** For purposes of taxation pursuant to this Part, a limited liability company formed under Title 31, former chapter 13 or chapter 21 or qualified to do business in this State as a foreign limited liability company is classified as a partnership, unless classified otherwise for federal income tax purposes, in which case the limited liability company is classified in the same manner as it is classified for federal income tax purposes.

**Sec. B-10. 36 MRSA §5180, sub-§2,** as enacted by PL 1999, c. 414, §41, is repealed.

Effective July 1, 2011.

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## CHAPTER 630

## S.P. 683 - L.D. 1776

### An Act To Protect Retirement Income

**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 members of the retirement system who are subject to furloughs and who may be planning to retire for fiscal years ending June 30, 2010 and June 30, 2011; 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 §17001, sub-§4, ¶A,** as amended by PL 2009, c. 571, Pt. RRR, §1, is further amended to read:

A. The average annual rate of earnable compensation of a member during the 3 years of creditable service as an employee in Maine, not necessarily consecutive, in which the member's annual rate of earnable compensation is highest. However, if a member is subject to a temporary layoff or other time off without pay as a result of a Governor's Executive Order, time off without pay or loss of pay pursuant to the agreements of February 15, 1991, October 23, 1991 and June 11, 1993 between the Executive Department and the American Federation of State, County and Municipal Employees, Council 93, time off without pay pursuant to the agreement of June 11, 1993 between the Executive Department and the Maine State Employees Association, days off without pay as authorized by legislative action or days off without pay resulting from any executive order declaring or continuing a state of emergency relating to the lack of an enacted budget document for fiscal years ending June 30, 1992 and June 30, 1993, or, if a member elects to make the payments as set forth in section 17704-B, as a result of days off without pay or for days worked for which the level of pay is reduced as the result of the freezing of merit pay and longevity pay as authorized by legislative action, by the State Court Administrator or from executive order for the fiscal year beginning July 1, 2002, July 1, 2009 or July 1, 2010, or a combination thereof, or, if a member is subject to days off without pay, not to exceed 10 days in each fiscal year ending June 30, 1992 and June 30, 1993, as a result of actions taken by local school administrative units to offset school subsidy reductions, or, if a member is subject to days off without pay during the fiscal year beginning July 1, 2009 or July 1, 2010, as a result of actions taken by a local school administrative unit and the member elects to make the payments as set forth in section 17704-B or, notwithstanding section 18202, as a result of actions of a participating local district to offset reductions in municipal revenue sharing or a combination thereof, for the fiscal years ending June 30, 1992 and June 30, 1993, or, if a member is subject to days off without pay during the fiscal year beginning July 1, 2009 or July 1, 2010, as a result of actions of a participating local district and the member elects to make the payments as set forth in section 18305-C, the 3-year average final compensation must be determined as if the member had not been temporarily laid off, reduced in pay or provided days off without pay; or

**Sec. 2. 5 MRSA §18305-C** is enacted to read:

**§18305-C. Back contributions for certain days off without pay**

**1. Election.** If the retirement system determines at the time a member retires that the member's benefit would be increased as a result of the inclusion of compensation that would have been paid for days off without pay in fiscal year 2009-10 or 2010-11, or a combination thereof, as provided in section 17001, subsection 4, paragraph A, the retirement system shall advise the member of that result and shall allow the member to elect to have that compensation included in the calculation of the member's benefit and to make payments as set forth in subsection 2.

**2. Payment.** The amount that a member who makes the election permitted in subsection 1 must pay is the amount equal to the employee contribution that member would have made on compensation that would have been paid to that member on the days off without pay during fiscal year 2009-10 or 2010-11, or a combination thereof, as provided in section 17001, subsection 4, paragraph A, plus interest at the same rate as that required for repayment of withdrawn contributions pursuant to section 18304. If the member elects to make the payment, the retirement system shall withhold the required amount from the member's first retirement benefit check.

**3. Benefit calculation.** If a member fails to make the election within 31 days of the notification provided under subsection 1, the retirement system shall calculate the member's retirement benefit without inclusion of compensation that would have been paid for days off without pay during fiscal year 2009-10 or 2010-11, or a combination thereof, as provided in section 17001, subsection 4, paragraph A.

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

Effective April 9, 2010.

## CHAPTER 631

## S.P. 719 - L.D. 1811

### An Act To Amend the Maine Medical Marijuana 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,** Initiated Bill 2009, chapter 1 was passed by the voters of the State in November 2009, establishing a new law to provide protections under state law for registered qualifying patients who use

marijuana for medical purposes effective in March 2010; and

**Whereas,** immediate action is required by the Department of Health and Human Services to adopt rules to implement the new law, including rules to set the procedures for a registration system for patients, primary caregivers and nonprofit dispensaries; 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 §483, first ¶,** as amended by PL 2005, c. 512, §18, is further amended to read:

For the purpose of this chapter and chapter 103, unless the term is more specifically defined, "adulterated" means made impure or inferior by adding extraneous ingredients. Goods that are prepared in food establishments that are licensed facilities under Title 22, section 2167 and that contain marijuana for medical use by a registered patient, pursuant to Title 22, chapter 558-C, are not considered to be adulterated under this subchapter.

**Sec. 2. 17-A MRSA §1117, sub-§1,** as repealed and replaced by PL 2001, c. 383, §148 and affected by §156, is amended to read:

**1.** ~~A.~~ Except as provided in subsection 4, a person is guilty of cultivating marijuana if:

A. The person intentionally or knowingly grows or cultivates marijuana. Violation of this paragraph is a Class E crime; or

B. The person violates paragraph A and the number of marijuana plants is:

(1) Five hundred or more. Violation of this subparagraph is a Class B crime;

(2) One hundred or more but fewer than 500. Violation of this subparagraph is a Class C crime;

(3) More than 5 but fewer than 100. Violation of this subparagraph is a Class D crime; or

(4) Five or fewer. Violation of this subparagraph is a Class E crime.

**Sec. 3. 17-A MRSA §1117, sub-§4** is enacted to read:

**4.** A person is not guilty of cultivating marijuana if the conduct is expressly authorized by Title 22, chapter 558-C.

**Sec. 4. 22 MRSA §2152, sub-§4-A,** as amended by PL 2005, c. 434, §13, is further amended to read:

**4-A. Food establishment.** "Food establishment" means a factory, plant, warehouse or store in which food and food products are manufactured, processed, packed, held for introduction into commerce or sold. "Food establishment" includes a registered primary caregiver, as defined in section 2422, subsection 11, and a registered dispensary, as defined in section 2422, subsection 6, that prepare food containing marijuana for medical use by a registered patient pursuant to chapter 558-C. The following establishments are not considered food establishments required to be licensed under section 2167:

A. Eating establishments, as defined in section 2491, subsection 7;

B. Fish and shellfish processing establishments inspected under Title 12, section 6101, 6102 or 6856;

C. Storage facilities for native produce;

D. Establishments such as farm stands and farmers' markets primarily selling fresh produce not including dairy and meat products;

E. Establishments engaged in the washing, cleaning or sorting of whole produce, provided the produce remains in essentially the same condition as when harvested. The whole produce may be packaged for sale, provided that packaging is not by a vacuum packaging process or a modified atmosphere packaging process; and

F. Establishments that are engaged in the drying of single herbs that are generally recognized as safe under 21 Code of Federal Regulations, Sections 182 to 189. The single herbs may be packaged for sale, provided that packaging is not by a vacuum packaging process or a modified atmosphere packaging process.

**Sec. 5. 22 MRSA §2158,** as amended by PL 1979, c. 731, §19, is further amended to read:

**§2158. Addition of certain substances limited**

Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, ~~shall~~ must be deemed to be unsafe for purposes of the application of section 2156, subsection 1, paragraph B; but when such substance is so required or cannot be avoided, the Commissioner of Agriculture, Food and Rural Resources shall ~~promulgate regulations~~ adopt rules limiting the quantity therein or thereon to such extent as the commissioner finds necessary for the protection of public health, and any quantity exceeding the limits so fixed ~~shall~~ must be deemed to be unsafe for purposes of the application

of section 2156, subsection 1, paragraph B. While such a ~~regulation~~ rule is in effect limiting the quantity of any such substance in the case of any food, such food ~~shall~~ may not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of section 2156, subsection 1, paragraph A. In determining the quantity of such added substance to be tolerated in or on different articles of food, the commissioner shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances. Goods that are prepared in a food establishment that is a licensed facility under section 2167 and that contain marijuana for medical use by a registered patient, pursuant to chapter 558-C, are not considered to be adulterated under this subchapter.

**Sec. 6. 22 MRSA §2383-B, sub-§3, ¶E,** as amended by PL 2001, c. 580, §2, is further amended to read:

E. "Usable amount of marijuana for medical use" means 2 1/2 ounces or less of ~~harvested~~ prepared marijuana, as defined in section 2422, subsection 14, and a total of 6 plants~~, of which no more than 3 may be mature, flowering plants~~ as defined by the department pursuant to section 2424, subsection 1.

**Sec. 7. 22 MRSA §2421,** as enacted by IB 2009, c. 1, §5, is amended to read:

**§2421. Short title**

This chapter may be known and cited as "the Maine Medical Use of Marijuana Act."

**Sec. 8. 22 MRSA §2422, sub-§1,** as enacted by IB 2009, c. 1, §5, is amended to read:

**1. Cardholder.** "Cardholder" means a ~~qualifying~~ registered patient, a registered primary caregiver or a principal officer, board member~~,~~ or employee ~~or agent~~ of a ~~nonprofit~~ registered dispensary who has been issued and possesses a valid registry identification card.

**Sec. 9. 22 MRSA §2422, sub-§2, ¶D,** as enacted by IB 2009, c. 1, §5, is amended to read:

D. Any other medical condition or its treatment approved by the ~~department~~ commissioner as provided for in section 2424, subsection 2.

**Sec. 10. 22 MRSA §2422, sub-§4,** as enacted by IB 2009, c. 1, §5, is amended to read:

**4. Disqualifying drug offense.** "~~Felony~~ Disqualifying drug offense" means a conviction for a violation of a state or federal controlled substance law that ~~was classified as a felony in the jurisdiction where the person was convicted~~ is a crime punishable by imprisonment for one year or more. It does not include:

A. An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years earlier; or

B. An offense that consisted of conduct that would have been permitted under this chapter.

**Sec. 11. 22 MRSA §2422, sub-§5,** as enacted by IB 2009, c. 1, §5, is amended to read:

**5. Medical use.** "Medical use" means the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered ~~qualifying~~ patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

**Sec. 12. 22 MRSA §2422, sub-§6,** as enacted by IB 2009, c. 1, §5, is amended to read:

**6. Registered dispensary.** "~~Nonprofit~~ Registered dispensary" or "dispensary" means a not-for-profit entity registered under section 2428 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to ~~cardholders~~ registered patients who have designated the dispensary to cultivate marijuana for their medical use and the registered primary caregivers of those patients. ~~A nonprofit dispensary is a primary caregiver.~~

**Sec. 13. 22 MRSA §2422, sub-§6-A** is enacted to read:

**6-A. Onsite assessment.** "Onsite assessment" means a visit by an employee of the department for the purpose of ensuring compliance with the requirements of this chapter to any site where marijuana is grown by a registered primary caregiver who has been designated pursuant to section 2425, subsection 1, paragraph F to cultivate marijuana for 3, 4 or 5 registered patients at one time.

**Sec. 14. 22 MRSA §2422, sub-§7,** as enacted by IB 2009, c. 1, §5, is amended to read:

**7. Physician.** "Physician" means a person licensed as an osteopathic physician by the Board of Osteopathic Licensure pursuant to Title 32, chapter 36 or a person licensed as a physician or surgeon by the Board of Licensure in Medicine pursuant to Title 32, chapter 48 who is in good standing and who holds a valid federal Drug Enforcement Administration license to prescribe drugs.

**Sec. 15. 22 MRSA §2422, sub-§8,** as enacted by IB 2009, c. 1, §5, is repealed.

**Sec. 16. 22 MRSA §2422, sub-§11,** as enacted by IB 2009, c. 1, §5, is repealed and the following enacted in its place:

**11. Registered primary caregiver.** "Registered primary caregiver" or "primary caregiver" means a person, a hospice provider licensed under chapter 1681 or a nursing facility licensed under chapter 405 that provides care for a registered patient and that has been named by the patient as a primary caregiver to assist with a registered patient's medical use of marijuana. A person who is a primary caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense.

**Sec. 17. 22 MRSA §2422, sub-§12,** as enacted by IB 2009, c. 1, §5, is amended to read:

**12. Registered patient.** "Registered ~~qualifying~~ patient" or "patient" means a qualifying patient who is registered by the department pursuant to section 2425, subsection 1.

**Sec. 18. 22 MRSA §2422, sub-§13,** as enacted by IB 2009, c. 1, §5, is amended to read:

**13. Registry identification card.** "Registry identification card" means a document issued by the department that identifies a person as a registered ~~qualifying~~ patient, registered primary caregiver or ~~a~~ principal officer, board member~~,~~ or employee ~~or agent~~ of a ~~nonprofit~~ dispensary.

**Sec. 19. 22 MRSA §2422, sub-§14,** as enacted by IB 2009, c. 1, §5, is repealed and the following enacted in its place:

**14. Prepared marijuana.** "Prepared marijuana" means the dried leaves and flowers of the marijuana plant and any mixture or preparation of those dried leaves and flowers, including but not limited to tinctures, ointments and other preparations, but does not include the seeds, stalks and roots of the plant and does not include the ingredients, other than marijuana, in tinctures, ointments or other preparations that include marijuana as an ingredient or food or drink prepared with marijuana as an ingredient for human consumption.

**Sec. 20. 22 MRSA §2423,** as enacted by IB 2009, c. 1, §5, is repealed.

**Sec. 21. 22 MRSA §2423-A** is enacted to read:

**§2423-A. Authorized conduct for the medical use of marijuana**

**1. Registered patient.** Except as provided in section 2426, a registered patient may:

A. Possess up to 2 1/2 ounces of prepared marijuana and an incidental amount of marijuana as provided in subsection 5;

B. Cultivate up to 6 marijuana plants if the patient elects to cultivate and the patient has not designated a registered primary caregiver or registered dispensary to cultivate marijuana on the patient's behalf;

C. Possess marijuana paraphernalia;

D. Furnish or offer to furnish to another registered patient for that person's medical use of marijuana up to 2 1/2 ounces of prepared marijuana if nothing of value is offered or transferred in return;

E. Name one person, hospice provider or nursing facility as a primary caregiver. A 2nd person or hospice provider or nursing facility may be named as a 2nd primary caregiver if the patient is under 18 years of age. The primary caregivers for a patient are determined solely by the patient's preference as named on the application under section 2425, subsection 1 except that a parent, guardian or person having legal custody shall serve as a primary caregiver for a minor child pursuant to section 2425, subsection 2, paragraph B, subparagraph (2);

F. Designate one primary caregiver or a registered dispensary to cultivate marijuana for the medical use of the patient, except that a hospice provider or a nursing facility that is named as a primary caregiver by a registered patient and the staff of the provider or facility may not be designated to cultivate marijuana for the patient. The primary caregiver or dispensary that may cultivate marijuana for a patient is determined solely by the patient's designation on the application under section 2425, subsection 1; and

G. Be in the presence or vicinity of the medical use of marijuana and assist any registered patient with using or administering marijuana.

**2. Registered primary caregiver.** Except as provided in section 2426, a registered primary caregiver, for the purpose of assisting a registered patient who has named the primary caregiver as provided in section 2425, subsection 1, may:

A. Possess up to 2 1/2 ounces of prepared marijuana and an incidental amount of marijuana as provided in subsection 5 for each patient who has named the person as a primary caregiver;

B. Cultivate up to 6 marijuana plants for each patient who has designated the primary caregiver to cultivate marijuana on the patient's behalf. A primary caregiver may not cultivate marijuana for a patient unless the patient has designated the primary caregiver for that purpose and the patient has not designated a registered dispensary to cultivate marijuana for the patient's medical use;

C. Assist no more than 5 patients at any one time with their medical use of marijuana;

D. Receive reasonable monetary compensation for costs associated with assisting a patient who named the primary caregiver through the department's registration process;

E. Receive reasonable monetary compensation for costs associated with cultivating marijuana for a patient who designated the primary caregiver to cultivate marijuana through the department's registration process;

F. Be in the presence or vicinity of the medical use of marijuana and assist any patient with the medical use or administration of marijuana; and

G. Prepare food as defined in section 2152, subsection 4 containing marijuana for medical use by a registered patient if the primary caregiver preparing the food has obtained a license pursuant to section 2167.

**3. Cultivation of marijuana.** The following provisions apply to the cultivation of marijuana by a registered patient under subsection 1 or a registered primary caregiver under subsection 2.

A. A patient who elects to cultivate marijuana plants must keep the plants in an enclosed, locked facility unless the plants are being transported because the patient is moving or taking the plants to the patient's own property in order to cultivate them.

B. A primary caregiver who has been designated by a patient to cultivate marijuana for the patient's medical use must keep all plants in an enclosed, locked facility unless the plants are being transported because the primary caregiver is moving or taking the plants to the primary caregiver's own property in order to cultivate them.

**4. Hospice provider or nursing facility.** A registered patient may name a hospice provider licensed under chapter 1681 or a nursing facility licensed under chapter 405 to serve as a registered primary caregiver. If a hospice provider or nursing facility is named as a primary caregiver, the provider or facility shall complete the registration process with the department and obtain a primary caregiver registration card and the staff of the provider or facility shall obtain registry identification cards. To be issued a registry identification card, a staff person of a hospice provider or nursing facility that has been named as a primary caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense. The hospice provider or nursing facility and the staff of the provider or facility may not cultivate marijuana for the patient.

**5. Incidental amount of marijuana.** For purposes of this section, any incidental amount of marijuana plants, seeds, stalks and roots, as defined by rule adopted by the department, is lawful for a registered patient or a registered primary caregiver to possess and is not included in the amounts of prepared marijuana specified in this section.

**6. Onsite assessments by the department.** Prior to making an onsite assessment of a registered primary caregiver who is designated to cultivate marijuana by 3 or more patients at any one time, the department shall provide 24 hours' notice to the registered primary caregiver.

**Sec. 22. 22 MRSA §2423-B** is enacted to read:

**§2423-B. Authorized conduct by a physician**

A physician may provide a written certification for the medical use of marijuana under this chapter and, after having done so, may otherwise state that in the physician's professional opinion a qualifying patient is likely to receive therapeutic benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition. Nothing in this chapter prevents a professional licensing board from sanctioning a physician for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

**Sec. 23. 22 MRSA §2423-C** is enacted to read:

**§2423-C. Authorized conduct by anyone for the medical use of marijuana**

A person may provide a registered patient or a registered primary caregiver with marijuana paraphernalia for purposes of the registered patient's medical use of marijuana in accordance with this chapter and be in the presence or vicinity of the medical use of marijuana as allowed under this chapter.

**Sec. 24. 22 MRSA §2423-D** is enacted to read:

**§2423-D. Authorized conduct by a visiting qualifying patient**

A visiting qualifying patient from another jurisdiction who possesses a valid registry identification card or its equivalent from that jurisdiction may for 30 days after entering the State engage in conduct authorized for a registered patient without having to obtain a registry identification card issued by the department except that the visiting qualifying patient may not obtain in Maine marijuana for medical use based on a registry identification card from another jurisdiction.

**Sec. 25. 22 MRSA §2423-E** is enacted to read:

**§2423-E. Prohibited acts against persons or entities engaged in authorized conduct for the medical use of marijuana**

**1. Rights of persons or entities acting pursuant to this chapter.** A person whose conduct is authorized under this chapter may not be denied any right or privilege or be subjected to any penalty or disciplinary action, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for lawfully engaging in conduct involving the medical use of marijuana authorized under this chapter.

**2. School, employer or landlord may not discriminate.** A school, employer or landlord may not refuse to enroll or employ or lease to or otherwise penalize a person solely for that person's status as a registered patient or a registered primary caregiver unless failing to do so would put the school, employer or landlord in violation of federal law or cause it to lose a federal contract or funding. This subsection does not prohibit a restriction on the administration or cultivation of marijuana on premises when that administration or cultivation would be inconsistent with the general use of the premises. A landlord may prohibit the smoking of marijuana for medical purposes on the premises of the landlord if the landlord prohibits all smoking on the premises and posts notice to that effect on the premises.

**3. Person may not be denied parental rights and responsibilities or contact with a minor child.** A person may not be denied parental rights and responsibilities with respect to or contact with a minor child as a result of acting in accordance with this chapter, unless the person's conduct is contrary to the best interests of the minor child as set out in Title 19-A, section 1653, subsection 3.

**Sec. 26. 22 MRSA §2424, sub-§2,** as enacted by IB 2009, c. 1, §5, is repealed and the following enacted in its place:

**2. Adding debilitating medical conditions.** The commissioner shall establish, chair and staff an advisory board consisting of at least 11 health care practitioners representing various fields of practice, including but not limited to neurology, gastroenterology, pain management, medical oncology, psychiatry, infectious disease, hospice medicine, family medicine, pediatrics, treatment of addiction and gynecology. The practitioners must be certified by a national board in their areas of specialty and knowledgeable about the medical use of marijuana. The advisory board must also include at least 2 members of the public, at least one of whom is a registered patient. The members must be chosen for appointment by the commissioner from a list proposed by the Maine Medical Association and the Maine Osteopathic Association or their successor organizations and from a list of individuals who have volunteered to serve on the advisory board. The advisory board shall:

A. Accept, review and evaluate petitions to add medical conditions, medical treatments or diseases to the list of debilitating medical conditions that qualify for the medical use of marijuana. If a petition contains information that is confidential under section 2425, subsection 8, paragraph F, the board shall protect the confidentiality of that information;

B. Convene at least once per year to conduct public hearings regarding adding medical conditions, medical treatments or diseases to the list of debilitating medical conditions that qualify for the medical use of marijuana;

C. Review and recommend to the commissioner for approval additional debilitating medical conditions that would benefit from the medical use of marijuana; and

D. Recommend quantities of marijuana that are necessary to constitute an adequate supply for registered patients, registered primary caregivers and registered dispensaries.

**Sec. 27. 22 MRSA §2424, sub-§3,** as enacted by IB 2009, c. 1, §5, is amended to read:

**3. Registry identification cards.** Not later than ~~120 days after the effective date of this chapter~~ July 1, 2010, the department shall adopt rules governing the manner in which it considers applications for and renewals of registry identification cards for registered patients, registered caregivers, principal officers, board members and employees of dispensaries and staff of hospice providers and nursing facilities named as primary caregivers. The department's rules must establish application and renewal fees that generate revenues sufficient to offset all expenses of implementing and administering this chapter. The department may establish a sliding scale of application and renewal fees based upon a ~~qualifying~~ registered patient's family income. The department may accept donations from private sources in order to reduce the application and renewal fees.

**Sec. 28. 22 MRSA §2425, sub-§1,** as enacted by IB 2009, c. 1, §5, is amended to read:

**1. Application for patient registry identification card; qualifications.** The department shall register and issue registry identification cards to qualifying patients who submit the documents and information described in this subsection, in accordance with the department's rules:

A. Written certification;

B. Application or renewal fee;

C. Name, address and date of birth of the qualifying patient, except that if the applicant is homeless~~,~~ no address is required;

D. Name, address and telephone number of the qualifying patient's physician;

E. Name, address and date of birth of each primary caregiver, if any, ~~of~~ named by the qualifying patient~~. A qualifying patient may designate only one primary caregiver unless the qualifying patient is under 18 years of age and requires a parent to serve as a primary caregiver or the qualifying patient designates a nonprofit dispensary to cultivate marijuana for the qualifying patient's medical use and the qualifying patient requests the assistance of a second caregiver to assist with the qualifying patient's medical use~~; ~~and~~

F. If the qualifying patient ~~designates~~ names one or 2 primary caregivers, ~~a designation as to who will be allowed under state law~~ an indication of which person, if any, is designated to cultivate marijuana ~~plants~~ for the qualifying patient's medical use. Only one person may be allowed to cultivate marijuana ~~plants~~ for a ~~qualifying~~ registered patient~~.~~; and

G. If the qualifying patient elects to cultivate marijuana for the qualifying patient's own medical use, the qualifying patient shall indicate that choice on the application.

**Sec. 29. 22 MRSA §2425, sub-§2,** as enacted by IB 2009, c. 1, §5, is amended to read:

**2. Issuing patient registry identification card to minor child.** The department may not register and issue a registry identification card to a qualifying patient who is under 18 years of age unless:

A. The qualifying patient's physician has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient and to a parent, guardian or person having legal custody of the qualifying patient; ~~and~~

B. The parent, guardian or person having legal custody consents in writing to:

(1) Allow the qualifying patient's medical use of marijuana;

(2) Serve as one of the qualifying patient's registered primary caregivers; and

(3) Control the acquisition of the marijuana, the dosage and the frequency of the medical use of marijuana by the qualifying patient~~.~~; and

C. Except with regard to a qualifying patient who is eligible for hospice care, the commissioner or the commissioner's designee has approved an application for the medical use of marijuana by the qualifying patient. Prior to approving an application under this paragraph, the commissioner or the commissioner's designee must have received confirmation from a pediatrician and a psychiatrist chosen from a list maintained by the advisory board established under section 2424, subsection 2 that the pediatrician and psychiatrist have reviewed the medical file of or examined the qualifying patient and that in their professional opinions the qualifying patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition. If the commissioner or commissioner's designee fails to approve or disapprove a recommendation under this paragraph within 10 days of receipt of the statements of the pediatrician and psychiatrist under this paragraph, the application is deemed approved.

**Sec. 30. 22 MRSA §2425, sub-§3-A** is enacted to read:

**3-A. Department revocation.** The department may revoke a registry identification card for violation of this chapter and the rules adopted under this chapter. Revocation is considered a final agency action, subject to judicial review under Title 5, chapter 375, subchapter 7.

**Sec. 31. 22 MRSA §2425, sub-§4,** as enacted by IB 2009, c. 1, §5, is amended to read:

**4. Primary caregiver registry identification card.** The department shall issue a registry identification card to each registered primary caregiver, if any, who is named in a ~~qualifying~~ registered patient's approved application pursuant to subsection 1, paragraph E. ~~Only one person may cultivate marijuana for the qualifying patient's medical use, who is determined based solely on the qualifying patient's preference. That person may either be the qualifying patient or one of the 2 primary caregivers.~~

**Sec. 32. 22 MRSA §2425, sub-§5,** as enacted by IB 2009, c. 1, §5, is amended to read:

**5. Registry identification card issuance.** The department shall issue registry identification cards to ~~qualifying~~ registered patients ~~and~~, to registered primary caregivers and to staff of hospice providers and nursing facilities named 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. Registry identification cards must contain:

A. The name, address and date of birth of the ~~qualifying~~ patient;

B. The name, address and date of birth of each registered primary caregiver, if any, of the ~~qualifying~~ patient;

C. The date of issuance and expiration date of the registry identification card;

D. A random identification number that is unique to the cardholder;

E. A photograph, if required by the department ~~decides to require one~~; and

F. ~~A~~ For a registered primary caregiver, a clear designation showing whether the cardholder ~~will be~~ is allowed under ~~state law~~ this chapter to cultivate marijuana plants for the ~~qualifying~~ patient's medical use~~, which must be determined based solely on the qualifying patient's preference~~.

**Sec. 33. 22 MRSA §2425, sub-§7,** as enacted by IB 2009, c. 1, §5, is repealed and the following enacted in its place:

**7. Possession of or application for registry identification card is not evidence of unlawful conduct or a basis for a search.** Possession of a registry identification card by a cardholder, or the act of applying for such a card, is not evidence of unlawful conduct and may not be used to support the search of that person or that person's property. The possession of or application for a registry identification card does not prevent the issuance of a warrant if probable cause exists on other grounds.

**Sec. 34. 22 MRSA §2425, sub-§8,** as enacted by IB 2009, c. 1, §5, is amended to read:

**8. Confidentiality.** This subsection governs confidentiality.

A. Applications and supporting information submitted by qualifying and registered patients under this chapter, including information regarding their primary caregivers and physicians, are confidential.

B. Applications and supporting information submitted by primary caregivers and physicians operating in compliance with this chapter~~, including the physical address of a nonprofit dispensary,~~ are confidential.

C. The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list are confidential, exempt from the freedom of access laws, Title 1, chapter 13, and not subject to disclosure except as provided in this subsection and to authorized employees of the department as necessary to perform official duties of the department.

D. The department shall verify to law enforcement personnel whether a registry identification card is valid without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card.

~~E. A person, including an employee or official of the department or another state agency or local government, who breaches the confidentiality of information obtained pursuant to this chapter commits a Class E crime. Notwithstanding this subsection, department employees may notify law enforcement about falsified or fraudulent information submitted to the department as long as the employee who suspects that falsified or fraudulent information has been submitted confers with the employee's supervisor and both agree that circumstances exist that warrant reporting.~~

F. Applications, supporting information and other information regarding a registered dispensary are not confidential except that information that is contained within dispensary information that identifies a registered patient, the patient's physician and the patient's registered primary caregivers is confidential.

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;

(3) With written permission of the 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 law enforcement purposes. The records may not be disclosed further than necessary to achieve the limited goals of a specific investigation; and

(6) To a patient's treating physician and to a patient's primary caregiver for the purpose of carrying out this chapter.

H. This subsection does not prohibit a physician from notifying the department if the physician acquires information indicating that a registered or qualifying patient is no longer eligible to use marijuana for medical purposes or that a regis-

tered or qualifying patient falsified information that was the basis of the physician's certification of eligibility for use.

I. The department may disclose to an agency of State Government designated by the commissioner and employees of that agency any information necessary to produce registry identification cards or manage the identification card program and may disclose data for statistical or research purposes in such a manner that individuals cannot be identified.

J. A hearing concerning the revocation of a registry identification card under subsection 3-A is confidential. If a registry identification card is revoked, the findings of the hearing and the revocation are public information.

K. Except as otherwise provided in this subsection, a person who knowingly violates the confidentiality of information protected under this chapter commits a civil violation for which a fine of up to $1,000 may be imposed. This paragraph does not apply to a physician or staff of a hospice provider or nursing facility named as a primary caregiver or any other person directly associated with a physician or a hospice provider or nursing facility that provides services to a registered patient.

**Sec. 35. 22 MRSA §2425, sub-§9,** as enacted by IB 2009, c. 1, §5, is amended to read:

**9. Revocation of registry identification card.** ~~Any~~ The department shall revoke the registry identification card of a cardholder who sells, furnishes or gives marijuana to a person who is not allowed to possess marijuana for medical purposes under this chapter ~~must have that cardholder's registry identification card revoked and~~. A cardholder who sells, furnishes or gives marijuana to a person who is not allowed to possess marijuana for medical purposes under this chapter is liable for any other penalties for ~~the sale of~~ selling, furnishing or giving marijuana to a person. The department may revoke the registry identification card of any cardholder who violates this chapter, and the cardholder is liable for any other penalties for the violation.

**Sec. 36. 22 MRSA §2425, sub-§10,** as enacted by IB 2009, c. 1, §5, is amended to read:

**10. Annual report.** The department shall submit to the Legislature an annual report by April 1st each year that does not disclose any identifying information about cardholders or physicians, but does contain, at a minimum:

A. The number of applications and renewals filed for registry identification cards;

B. The number of qualifying patients and primary caregivers approved in each county;

C. The nature of the debilitating medical conditions of the qualifying patients;

D. The number of registry identification cards revoked;

E. The number of physicians providing written certifications for qualifying patients;

F. The number of registered ~~nonprofit~~ dispensaries; and

G. The number of principal officers, board members~~,~~ and employees ~~and agents~~ of ~~nonprofit~~ dispensaries.

**Sec. 37. 22 MRSA §2426, sub-§1, ¶A,** as enacted by IB 2009, c. 1, §5, is amended to read:

A. Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice or would otherwise violate any professional standard;

**Sec. 38. 22 MRSA §2426, sub-§1, ¶D,** as enacted by IB 2009, c. 1, §5, is amended to read:

D. Operate, navigate or be in actual physical control of any motor vehicle, aircraft ~~or~~, motorboat, snowmobile or all-terrain vehicle while under the influence of marijuana; or

**Sec. 39. 22 MRSA §2426, sub-§3,** as enacted by IB 2009, c. 1, §5, is repealed.

**Sec. 40. 22 MRSA §2427, sub-§1,** as enacted by IB 2009, c. 1, §5, is amended to read:

**1. Affirmative defense.** Except as provided in section 2426, a qualifying patient and a qualifying patient's primary caregiver~~, other than a nonprofit dispensary,~~ may assert the medical purpose for using marijuana as a defense to any prosecution involving marijuana, and this defense must be presumed valid where the evidence shows that:

A. A physician has stated that, in the physician's professional opinion, after having completed a full assessment of the qualifying patient's medical history and current medical condition made in the course of a bona fide physician-patient relationship, the qualifying patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition;

B. The qualifying patient and the qualifying patient's primary caregiver, if any, were collectively in possession of a quantity of prepared marijuana and marijuana plants that was not more than ~~was reasonably necessary to ensure the uninterrupted availability of marijuana for the purpose of treating or alleviating the qualifying patient's debilitating medical condition or symptoms associated~~

~~with the qualifying patient's debilitating medical condition~~ the amount they would be authorized to possess if they were registered as provided in section 2423-A, subsections 1 and 2; and

C. The qualifying patient and the qualifying patient's primary caregiver, if any, were engaged in the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana solely to treat or alleviate the qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition.

**Sec. 41. 22 MRSA §2427, sub-§4** is enacted to read:

**4. Repeal.** This section is repealed January 1, 2011.

**Sec. 42. 22 MRSA §2428,** as enacted by IB 2009, c. 1, §5, is amended to read:

**§2428. Registered dispensaries**

~~**1. Provisions pertaining to primary caregiver apply to nonprofit dispensary.** All provisions of this chapter pertaining to a primary caregiver apply to a nonprofit dispensary unless they conflict with a provision contained in this section.~~

**1-A. Provisions pertaining to registered dispensary.** For the purpose of assisting a registered patient who has designated a registered dispensary to cultivate marijuana for the patient's medical use, a registered dispensary may in accordance with rules adopted by the department:

A. Possess up to 2 1/2 ounces of prepared marijuana and an incidental amount of marijuana for each patient who has designated the dispensary. For the purposes of this chapter, any incidental amount of marijuana plants, seeds, stalks and roots, as defined by rule adopted by the department, is lawful for a dispensary to possess and is not included in the amounts of prepared marijuana specified in this paragraph;

B. Cultivate up to 6 marijuana plants for each patient who has designated the dispensary to cultivate the plants on the patient's behalf;

C. Receive reasonable monetary compensation for costs associated with assisting or for cultivating marijuana for a patient who designated the dispensary through the department's registration process; and

D. Assist any patient who designated the dispensary through the department's registration process to cultivate marijuana with the medical use or administration of marijuana.

**2. Registration requirements.** ~~This~~ Subject to limitations on the number and location of dispensaries in subsection 11 and rules adopted pursuant to this section, this subsection governs the registration of a ~~nonprofit~~ dispensary.

A. The department shall register a ~~nonprofit~~ dispensary and issue a registration certificate within 30 days to any person or entity that provides:

(1) ~~A~~ An annual fee paid to the department ~~in the amount of $5,000~~ as set by rule, in an amount not less than $5,000 and not more than $15,000;

(2) The legal name of the ~~nonprofit~~ dispensary, evidence of incorporation under Title 13-B and evidence that the corporation is in good standing with the Secretary of State;

(3) The physical address of the ~~nonprofit~~ dispensary and the physical address of a maximum of one additional location, if any, where marijuana will be cultivated for patients who have designated the dispensary to cultivate for them;

(4) The name, address and date of birth of each principal officer and board member of the ~~nonprofit~~ dispensary; and

(5) The name, address and date of birth of any person who is ~~an agent of or~~ employed by the ~~nonprofit~~ dispensary.

B. The department shall track the number of registered ~~qualifying~~ patients who designate a ~~nonprofit~~ dispensary ~~as a primary caregiver~~ to cultivate marijuana for them and issue to each ~~nonprofit~~ dispensary a written statement of the number of ~~qualifying~~ patients who have designated the ~~nonprofit~~ dispensary to cultivate marijuana for them. This statement must be updated each time a new registered ~~qualifying~~ patient designates the ~~nonprofit~~ dispensary or ceases to designate the ~~nonprofit~~ dispensary ~~and~~. The statement may be transmitted electronically if the department's rules so provide. The department may provide by rule that the updated written statements may not be issued more frequently than once each week.

C. The department shall issue each principal officer, board member~~, agent~~ and employee of a ~~nonprofit~~ dispensary a registry identification card within 10 days of receipt of the person's name, address and date of birth under paragraph A and a fee in an amount established by the department. Each card must specify that the cardholder is a principal officer, board member~~, agent~~ or employee of a ~~nonprofit~~ dispensary and must contain:

(1) The name, address and date of birth of the principal officer, board member~~, agent~~ or employee;

(2) The legal name of the ~~nonprofit~~ dispensary with which the principal officer, board member~~, agent~~ or employee is affiliated;

(3) A random identification number that is unique to the cardholder;

(4) The date of issuance and expiration date of the registry identification card; and

(5) A photograph~~, if the department decides to require one~~ if required by the department.

D. The department may not issue a registry identification card to any principal officer, board member~~, agent~~ or employee of a ~~nonprofit~~ dispensary who has been convicted of a ~~felony~~ disqualifying drug offense. The department may conduct a background check of each principal officer, board member~~, agent~~ or employee in order to carry out this provision. The department shall notify the ~~nonprofit~~ dispensary in writing of the ~~purpose~~ reason for denying the registry identification card.

**3. Rules.** ~~Not later than 120 days after the effective date of this chapter~~ By July 1, 2010, the department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A governing the manner in which it considers applications for and renewals of registration certificates for ~~nonprofit~~ dispensaries, including rules governing:

A. The form and content of registration and renewal applications;

B. Minimum oversight requirements for ~~nonprofit~~ dispensaries and the one permitted additional location at which the dispensary cultivates marijuana for medical use by registered patients who have designated the dispensary to cultivate for them;

C. Minimum record-keeping requirements for ~~nonprofit~~ dispensaries, including recording the disposal of marijuana that is not distributed by the dispensary to registered patients who have designated the dispensary to cultivate for them;

D. Minimum security requirements for ~~nonprofit~~ dispensaries and any additional location at which the dispensary cultivates marijuana for medical use by registered patients who have designated the dispensary to cultivate for them; and

E. Procedures for suspending or terminating the registration of ~~nonprofit~~ dispensaries that violate the provisions of this section or the rules adopted pursuant to this subsection.

**4. Expiration.** A ~~nonprofit~~ dispensary registration certificate and the registry identification card for each principal officer, board member~~, agent~~ or employee expire one year after the date of issuance. The department shall issue a renewal ~~nonprofit~~ dispensary registration certificate and renewal registry identification cards within 10 days to any person who complies with the requirements contained in subsection 2. A registry identification card of a principal officer, board member~~, agent~~ or employee expires 10 days after notification by a ~~nonprofit~~ dispensary that such person ceases to work at the ~~nonprofit~~ dispensary.

**5. Inspection.** A ~~nonprofit~~ dispensary and any additional location at which the dispensary cultivates marijuana for medical use by registered patients who have designated the dispensary to cultivate for them is subject to reasonable inspection by the department. The department ~~shall give reasonable notice of~~ may enter the dispensary and the one permitted additional location at which the dispensary cultivates marijuana at any time, without notice, to carry out an inspection under this subsection.

**6. Registered dispensary requirements.** This subsection governs the operations of ~~nonprofit~~ registered dispensaries.

A. A ~~nonprofit~~ dispensary must be operated on a not-for-profit basis for the mutual benefit of ~~its members and patrons~~ registered patients who have designated the dispensary to cultivate marijuana. The bylaws of a ~~nonprofit~~ dispensary and its contracts with ~~patrons~~ registered patients must contain such provisions relative to the disposition of revenues and receipts as may be necessary and appropriate to establish and maintain its ~~nonprofit character~~ not-for-profit status. A ~~nonprofit~~ dispensary need not be recognized as a tax-exempt organization under 26 United States Code, Section 501(c)(3) ~~and~~ but is ~~not~~ required to incorporate pursuant to Title 13-B and to maintain the corporation in good standing with the Secretary of State.

B. A ~~nonprofit~~ dispensary may not be located within 500 feet of the property line of a preexisting public or private school.

C. A ~~nonprofit~~ dispensary shall notify the department within 10 days of when a principal officer, board member~~, agent~~ or employee ceases to work at the ~~nonprofit~~ dispensary.

D. A ~~nonprofit~~ dispensary shall notify the department in writing of the name, address and date of birth of any new principal officer, board member~~, agent~~ or employee and shall submit a fee in an amount established by the department for a new registry identification card before the new principal officer, board member~~, agent~~ or em-

ployee begins working at the ~~nonprofit~~ dispensary.

E. A ~~nonprofit~~ dispensary shall implement appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana at the dispensary and the one permitted additional location at which the dispensary cultivates marijuana for medical use by registered patients who have designated the dispensary to cultivate for them.

F. The operating documents of a ~~nonprofit~~ dispensary must include procedures for the oversight of the ~~nonprofit~~ dispensary and procedures to ensure accurate record keeping.

G. A ~~nonprofit~~ dispensary is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying or dispensing marijuana for any purpose except to assist registered ~~qualifying~~ patients who have designated the dispensary to cultivate marijuana for them with the medical use of marijuana directly or through the registered ~~qualifying~~ patients' other primary caregivers.

H. All principal officers and board members of a ~~nonprofit~~ dispensary must be residents of this State.

I. All cultivation of marijuana must take place in an enclosed, locked facility unless the plants are being transported between the dispensary and a location at which the dispensary cultivates them, as disclosed to the department in subsection 2, paragraph A, subparagraph (3).

J. A dispensary that is required to obtain a license for the preparation of food pursuant to section 2167 shall obtain the license prior to preparing goods containing marijuana for medical use by a registered patient.

**7. Maximum amount of marijuana to be dispensed.** A ~~nonprofit~~ dispensary or a principal officer, board member, ~~agent~~ or employee of a ~~nonprofit~~ dispensary may not dispense more than 2 1/2 ounces of ~~usable~~ prepared marijuana to a ~~qualifying~~ registered patient or to a primary caregiver on behalf of a ~~qualifying~~ registered patient during a 15-day period.

~~**8. Immunity.** This subsection governs immunity for a nonprofit dispensary.~~

~~A. A nonprofit dispensary may not be subject to prosecution, search, seizure or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or entity, solely for acting in accordance with this section to provide usable marijuana to or to otherwise assist registered qualifying patients to whom it is connected through the department's registration process with the medical use of marijuana.~~

~~B. Principal officers, board members, agents and employees of a registered nonprofit dispensary may not be subject to arrest, prosecution, search, seizure or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or entity, solely for working for or with a nonprofit dispensary to provide usable marijuana to or to otherwise assist registered qualifying patients to whom the nonprofit dispensary is connected through the department's registration process with the medical use of marijuana in accordance with this chapter.~~

**9. Prohibitions.** The prohibitions in this subsection apply to a ~~nonprofit~~ registered dispensary.

A. A ~~nonprofit~~ dispensary may not possess more than 6 live marijuana plants, as defined in rules adopted by the department, for each registered ~~qualifying~~ patient who has designated the ~~nonprofit~~ dispensary ~~as a primary caregiver and designated that the dispensary will be permitted~~ to cultivate marijuana for the registered ~~qualifying~~ patient's medical use.

B. A ~~nonprofit~~ dispensary may not dispense, deliver or otherwise transfer marijuana to a person other than a ~~qualifying~~ registered patient who has designated the ~~nonprofit~~ dispensary ~~as a primary caregiver~~ to cultivate marijuana for the patient or to the patient's other registered primary caregiver.

C. The department shall immediately revoke the registry identification card of a principal officer, board member~~,~~ or employee ~~or agent~~ of a ~~nonprofit~~ dispensary who is found to have violated paragraph B, and such a person is disqualified from serving as a principal officer, board member~~,~~ or employee ~~or agent~~ of a ~~nonprofit~~ dispensary.

D. A person who has been convicted of a ~~felony~~ disqualifying drug offense may not be a principal officer, board member~~, agent~~ or employee of a ~~nonprofit~~ dispensary.

(1) A person who is employed by or is ~~an agent,~~ a principal officer or board member of a ~~nonprofit~~ dispensary in violation of this paragraph commits a civil violation for which a fine of not more than $1,000 may be adjudged.

(2) A person who is employed by or is ~~an agent,~~ a principal officer or board member of a ~~nonprofit~~ dispensary in violation of this paragraph and who at the time of the violation has been previously found to have violated this paragraph commits a Class D crime.

E. A ~~nonprofit~~ dispensary may not acquire ~~usable~~ prepared marijuana or ~~mature~~ marijuana plants except through the cultivation of marijuana by that ~~nonprofit~~ dispensary either at the location of the dispensary or at the one permitted additional location at which the dispensary cultivates marijuana for medical use by registered patients who have designated the dispensary to cultivate for them.

F. A dispensary may not contract for the cultivation of seeds, seedlings or small plants or the cultivation, production or preparation of marijuana or food containing marijuana for medical use.

**10. Local regulation.** This chapter does not prohibit a political subdivision of this State from limiting the number of ~~nonprofit~~ dispensaries that may operate in the political subdivision or from enacting reasonable ~~zoning~~ regulations applicable to ~~nonprofit~~ dispensaries.

**11. Limitation on number of dispensaries.** The department shall adopt rules limiting the number and location of registered dispensaries. During the first year of operation of dispensaries the department may not issue more than one registration certificate for a dispensary in each of the 8 public health districts of the department, as defined in section 411. After review of the first full year of operation of dispensaries and periodically thereafter, the department may amend the rules on the number and location of dispensaries.

**Sec. 43. 22 MRSA §2429, sub-§1,** as enacted by IB 2009, c. 1, §5, is amended to read:

**1. Department fails to adopt rules.** If the department fails to adopt rules to implement this chapter ~~within 120 days of the effective date of this chapter~~ by July 1, 2010, a qualifying patient may commence an action in Superior Court to compel the department to perform the actions mandated pursuant to the provisions of this chapter.

**Sec. 44. 22 MRSA §2429, sub-§3,** as enacted by IB 2009, c. 1, §5, is amended to read:

**3. Department fails to accept applications.** If at any time after ~~the 140 days following the effective date of this chapter~~ July 1, 2010 the department is not accepting applications, including if it has not adopted rules allowing qualifying patients to submit applications, a notarized statement by a qualifying patient containing the information required in an application, pursuant to section 2425, subsection 1, is deemed a valid registry identification card.

**Sec. 45. 22 MRSA §2430** is enacted to read:

**§2430. Medical Use of Marijuana Fund established**

**1. Fund established.** The Medical Use of Marijuana Fund, referred to in this section as "the fund," is established as an Other Special Revenue Funds account in the Department of Health and Human Services for the purposes specified in this section.

**2. Sources of fund.** The State Controller shall credit to the fund:

A. All money received as a result of applications and reapplications for registration as a qualifying patient, primary caregiver and dispensary;

B. All money received as a result of applications and reapplications for registry identification cards for registered patients, primary caregivers and dispensaries and board members, officers and employees of dispensaries;

C. All penalties and fines assessed for violations of this chapter;

D. All money from any other source, whether public or private, designated for deposit into or credited to the fund; and

E. Interest earned or other investment income on balances in the fund.

**3. Uses of the fund.** The fund may be used for expenses of the department to administer this chapter, as allocated by the Legislature.

**Sec. 46. 22 MRSA §2430-A** is enacted to read:

**§2430-A. Compliance**

The department may take action necessary to ensure compliance with this chapter, including but not limited to obtaining, possessing and performing laboratory testing on marijuana from registered patients, registered primary caregivers and registered dispensaries in accordance with this chapter.

**Sec. 47. 26 MRSA §772, sub-§2,** as enacted by PL 2003, c. 59, §1, is amended to read:

**2. Rules; list of occupations.** The director shall adopt rules to develop and maintain a list of occupations not suitable for employment of a minor. The rules must conform as far as practicable to the child labor provisions of the federal Fair Labor Standards Act of 1938, 29 United States Code, Section 212 and any associated regulations. The rules must also contain ~~a provision~~ provisions prohibiting the employment of minors in places having nude entertainment and in registered dispensaries of marijuana for medical use authorized under Title 22, chapter 558-C.

**Sec. 48. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 22, chapter 558-C, in the chapter headnote, the words "Maine medical marijuana act" are amended to read "Maine medical use of marijuana act" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. 49. Working capital advance.** For fiscal year 2010-11, the State Controller is authorized to advance up to $250,000 from the General Fund to the Medical Use of Marijuana Fund, established under the Maine Revised Statutes, Title 22, section 2430 in the Department of Health and Human Services, to provide start-up funds for the implementation of this Act.

Funds advanced to the Medical Use of Marijuana Fund under this section for fiscal year 2010-11 must be returned to the General Fund on or before June 30, 2011. Repayment of the working capital advance is considered an expense of the Department of Health and Human Services in administering this Act, and funds in the Medical Use of Marijuana Fund may be used to repay the working capital advance provided during fiscal year 2010-11.

On April 1, 2011, the State Controller and the Department of Health and Human Services shall report to the joint standing committees of the Legislature having jurisdiction over health and human services matters and appropriations and financial affairs on the status of funds advanced and repaid under this section.

**Sec. 50. Appropriations and allocations.** The following appropriations and allocations are made.

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

**Medical Use of Marijuana Fund N107**

Initiative: Allocates funds for the costs of one Social Services Program Specialist II position and one Office Associate II position and other related costs for the administration of the Maine Medical Use of Marijuana Act.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 2.000 |
| Personal Services | $0 | $177,486 |
| All Other | $0 | $73,659 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $251,145 |

**Sec. 51. Retroactivity.** This Act applies retroactively to December 23, 2009.

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

Effective April 9, 2010.

## CHAPTER 632

## H.P. 1304 - L.D. 1821

### An Act Pertaining to Sales Tax Exemptions for Products Purchased for Agricultural Use

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

**Sec. 1. 36 MRSA §1760, sub-§7-C,** as enacted by PL 2005, c. 12, Pt. GGG, §2, is amended to read:

**7-C. Products used in animal agriculture.** Sales of breeding stock, semen, embryos, feed, hormones, antibiotics, medicine, pesticides and litter for use in animal agricultural production and sales of antiseptics and cleaning agents used in commercial animal agricultural production. Animal agricultural production includes the raising and keeping of equines.

**Sec. 2. 36 MRSA §1760-D** is enacted to read:

**§1760-D. Determination of exemptions for products used in commercial agricultural or silvicultural production or animal agriculture; information posted on publicly accessible website**

**1. List of products.** The assessor shall post a list of products used in commercial agricultural or silvicultural production or in animal agriculture for which a written definitive determination on the applicability of a sales tax exemption under section 1760, subsection 7-B or 7-C has been made on the bureau's publicly accessible website. The list must include the name of the product, other information necessary to identify the product at the point of sale and the determination of whether or not that product is exempt from sales tax under section 1760, subsection 7-B or 7-C.

When the assessor receives a request in writing for an interpretation on whether or not a product used in commercial agricultural or silvicultural production or in animal agriculture is exempt from sales tax under section 1760, subsection 7-B or 7-C, the assessor shall respond in writing. When the information in the request is sufficient to make a definitive determination on the applicability of the sales tax exemption, the assessor shall within 3 weeks of making the determination add the appropriate information to the list maintained under this section.

**2. Information on processes for appeals and refunds.** The assessor shall provide information on the bureau's publicly accessible website on the process to appeal a determination on the applicability of an exemption to a product under section 1760, subsection 7-B or 7-C and to request a refund for sales tax paid on an exempt product.

**Sec. 3. 36 MRSA §2013, sub-§4** is enacted to read:

**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 decision by the assessor under section 2011.

See title page for effective date.

## CHAPTER 633

## S.P. 10 - L.D. 1

### An Act To Stimulate Capital Investment for Innovative Businesses in Maine

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

**Sec. 1. 5 MRSA §17057, sub-§4** is enacted to read:

**4. Investment activity information.** Disclosure of investment activity of the retirement system, pursuant to the innovation finance program, is governed by this subsection.

A. Documentary material, data or information in the possession of the retirement system that consists of trade secrets or commercial or financial information that relates to the investments or potential investments of the retirement system pursuant to the innovation finance program under Title 10, section 1026-T is confidential and not open to public inspection and does not constitute "public records" as defined in Title 1, section 402, subsection 3 if, in the sole discretion of the retirement system, the disclosure of the material, data or information may:

(1) Impair the retirement system's ability to obtain such material, data or information in the future; or

(2) May cause substantial harm to the competitive position of the retirement system or of the person or entity from whom the information was obtained.

B. The following information concerning any venture capital fund in which the retirement system is invested pursuant to the innovation finance program under Title 10, section 1026-T is not exempt from disclosure:

(1) The retirement system's total commitment to the venture capital fund;

(2) The date of the commitment to the venture capital fund;

(3) Contributions and distributions made to or received from an innovation finance program fund;

(4) The market value of the investment;

(5) The name of the venture capital fund; and

(6) The interim internal rate of return of the venture capital fund.

**Sec. 2. 10 MRSA §963-A, sub-§47-D** is enacted to read:

**47-D. Retirement system.** "Retirement system" means the Maine Public Employees Retirement System, established pursuant to Title 5, chapter 421.

**Sec. 3. 10 MRSA §963-A, sub-§49-J** is enacted to read:

**49-J. Targeted technologies.** "Targeted technologies" means biotechnology, aquaculture and marine technology, composite materials technology, environmental technology, advanced technologies for forestry and agriculture, information technology and precision manufacturing technology.

**Sec. 4. 10 MRSA §1026-T** is enacted to read:

**§1026-T. Innovation finance program**

**1. Established.** The authority may create and oversee a state innovation finance program, referred to in this section as "the program," to increase the supply of venture capital to the economy of the State by improving access by innovative businesses in this State to venture capital funds. Investment performance of the program may be partially guaranteed by refundable tax credits issued by the authority to the retirement system. This section does not mandate or require any investment by the retirement system or give the retirement system any economic development responsibilities, its sole responsibility being to safeguard, invest and increase retirement system assets consistent with its fiduciary duty to its members.

**2. Investment goal; guidelines.** The goal of the program is to attract more venture capital to innovative businesses in this State by providing the retirement system with an incentive to invest in high-quality venture capital funds that evidence both a commitment to seeking investments in the State and the ability to produce favorable returns to minimize the risk of tax credit redemption. Consistent with this investment goal, the retirement system may, in the exercise of its discretion and consistent with its fiduciary duties to the beneficiaries of the retirement system, apply to the authority for approval under the program for proposed investments in venture capital funds. The authority may approve such a proposed venture capital fund investment under the program if it determines that the venture capital fund will give strong consideration to investing in businesses in this State that fall within the targeted technologies. In making this decision, the

authority shall consider whether the venture capital fund:

A. Will maintain at least a periodic presence in the State;

B. Will build linkages to, and accept referrals from, at least some of the organizations promoting the State's innovation economy, including the authority, the Maine Technology Institute under Title 5, section 15302, the Small Enterprise Growth Fund under section 383, the Department of Economic and Community Development, the Maine Patent Program under section 1921, the University of Maine System and other venture capital investors within the State;

C. Will actively prospect for investments in the State;

D. Expresses a commitment to seek investments in businesses in this State that meet its investment criteria; and

E. Demonstrates the ability to make successful venture capital investments.

**3. Investment restrictions.** Investments under the program are governed by this subsection.

A. The retirement system may not invest directly in individual businesses under this program but may invest only in venture capital funds that are managed to best achieve the purpose set out under subsection 2.

B. No more than $4,000,000 of tax credits may be placed at risk with respect to any single commitment to a venture capital fund.

C. The retirement system may cooperate with the authority and other organizations promoting the State's innovation economy by encouraging participating venture capital funds to consider investments in this State consistent with their investment strategies. The retirement system may at any time be relieved of this obligation by releasing the State from its obligations under all outstanding tax credit certificates issued under the program.

**4. Refundable tax credits.** The authority may issue to the retirement system certificates of up to $20,000,000 in refundable tax credits as provided by Title 36, section 5219-EE to serve as partial security against a loss of capital under the program. Certificates must be issued to expire no later than July 1, 2028.

A. Refundable tax credits as authorized by this subsection may be redeemed only as necessary to offset 80% of any realized loss of capital in the program.

B. A certificate of tax credits issued by the authority under this section is binding on the State and constitutes a solemn contractual commitment of the State protected under the contract clauses of the Constitution of Maine, Article I, Section 11 and the United States Constitution, Article I, Section 10. Once issued, as long as the retirement system is not in default under its agreement with the authority with respect to any certificate of tax credits, the certificate may not be modified, terminated or rescinded until the certificate expires, is redeemed or is released by the retirement system.

C. The authority shall register each refundable tax credit under this section with the Department of Administrative and Financial Services, Bureau of Revenue Services. The retirement system shall report annually to the authority on the status and valuation of investments secured by the certificate of tax credits and such other information as may be required pursuant to an agreement between the retirement system and the authority. The report must include details of capital calls and distributions.

D. A refundable tax credit allowed pursuant to this section is not a security under Title 32, chapter 135.

E. On the final liquidation of a venture capital fund for which a certificate of tax credits has been issued, the retirement system shall notify the authority of termination of the investment and certify the amount of any loss. The authority may request such information or documentation from the retirement system as it determines reasonably necessary to confirm the amount of any loss and shall promptly certify any capital loss to the Department of Administrative and Financial Services, Bureau of Revenue Services. Upon submission by the authority, the bureau shall redeem registered credits as necessary to pay 80% of the loss certified by the authority up to a maximum payment of $4,000,000 with respect to any single venture capital fund investment or an aggregate loss under the program of $20,000,000. For purposes of this subsection, "loss" means the total amount of investment by the retirement system into the venture capital fund less the total value of all distributions received by the retirement system from such venture capital fund, as determined by the authority.

F. Nothing in this section may be construed to place the assets of the authority at risk. Except for those rights that relate to refundable tax credits, nothing in this section may be construed to create an obligation of the State or of any political subdivision of the State, and this section may not be construed to require or mandate the retirement

system to make any investments under the program.

G. The authority may charge the retirement system reasonable fees for the cost of implementing and administering the program and any tax credits authorized by this section, not to exceed the authority's out-of-pocket costs plus an annualized fee not to exceed 1% of the outstanding balance of tax credits. In addition, the authority may assess a reasonable program fee from gains received by the retirement system from investments under the program. Any such fees are subject to the approval of the retirement system and the authority.

**Sec. 5. 36 MRSA §5219-EE** is enacted to read:

**§5219-EE. Maine Public Employees Retirement System innovation finance credit**

**1. Credit allowed.** The Finance Authority of Maine is authorized to issue to the Maine Public Employees Retirement System, referred to in this section as "the retirement system," a refundable credit against the taxes imposed by this Part in an amount certified by the Finance Authority of Maine as equal either to $4,000,000 or 80% of any loss of capital sustained in the innovation finance program established under Title 10, section 1026-T, whichever is less. Upon receipt of a certification as provided in Title 10, section 1026-T, subsection 4, paragraph E, the Department of Administrative and Financial Services, Bureau of Revenue Services shall pay the amount certified to the retirement system as provided in that subsection.

**2. Reimbursement by the retirement system.** In the event that the retirement system incurs a loss and redeems a credit under this section and the retirement system subsequently achieves an aggregate return on all of its investments under the innovation finance program under Title 10, section 1026-T that exceeds an annualized return of 8%, the retirement system shall reimburse the State in an amount equal to the total amount of credits paid to the retirement system under this section.

**3. Limitations.** A credit under this section may not be redeemed for any loss occurring after July 1, 2028. Pursuant to Title 10, section 1026-T, total credits redeemed may not exceed $20,000,000.

**4. Audit.** The State Tax Assessor may audit any transactions necessary to verify the amount of credits claimed or redeemed under this section. If the assessor determines that a credit larger than that authorized by this section has been received, the assessor may enforce repayment of the overpayment by assessment pursuant to the provisions of chapter 7 or may apply the overpayment against subsequent redemptions made pursuant to this section.

**5. Repeal.** This section is repealed April 16, 2029.

See title page for effective date.

## CHAPTER 634

## H.P. 313 - L.D. 425

### An Act To Require Private Insurance Coverage for Certain Services for Children with Disabilities

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

**Sec. 1. 24 MRSA §2317-B, sub-§12-F** is enacted to read:

**12-F. Title 24-A, section 2766, 2847-R and 4258.** Coverage for children's early intervention services, Title 24-A, sections 2766, 2847-R and 4258;

**Sec. 2. 24-A MRSA §2766** is enacted to read:

**§2766. Coverage for children's early intervention services**

**1. Definition.** For purposes of this section, "children's early intervention services" means services provided by licensed occupational therapists, physical therapists, speech-language pathologists or clinical social workers working with children from birth to 36 months of age with an identified developmental disability or delay as described in the federal Individuals with Disabilities Education Act, Part C, 20 United States Code, Section 1411, et seq.

**2. Required coverage.** All individual health insurance policies, contracts and certificates must provide coverage for children's early intervention services in accordance with this subsection.

A. A referral from the child's primary care provider is required.

B. The policy, contract or certificate may limit coverage to $3,200 per year for each child not to exceed $9,600 by the child's 3rd birthday.

C. The policy, contract or certificate may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

**Sec. 3. 24-A MRSA §2847-R** is enacted to read:

**§2847-R. Coverage for children's early intervention services**

**1. Definition.** For purposes of this section, "children's early intervention services" means services pro-

vided by licensed occupational therapists, physical therapists, speech-language pathologists or clinical social workers working with children from birth to 36 months of age with an identified developmental disability or delay as described in the federal Individuals with Disabilities Education Act, Part C, 20 United States Code, Section 1411, et seq.

**2. Required coverage.** All group health insurance policies, contracts and certificates must provide coverage for children's early intervention services in accordance with this subsection.

A. A referral from the child's primary care provider is required.

B. The policy, contract or certificate may limit coverage to $3,200 per year for each child not to exceed $9,600 by the child's 3rd birthday.

C. The policy, contract or certificate may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

**Sec. 4. 24-A MRSA §4258** is enacted to read:

**§4258. Coverage for children's early intervention services**

**1. Definition.** For purposes of this section, "children's early intervention services" means services provided by licensed occupational therapists, physical therapists, speech-language pathologists or clinical social workers working with children from birth to 36 months of age with an identified developmental disability or delay as described in the federal Individuals with Disabilities Education Act, Part C, 20 United States Code, Section 1411, et seq.

**2. Required coverage.** All individual and group health maintenance organization policies, contracts and certificates must provide coverage for children's early intervention services in accordance with this subsection.

A. A referral from the child's primary care provider is required.

B. The policy, contract or certificate may limit coverage to $3,200 per year for each child not to exceed $9,600 by the child's 3rd birthday.

C. The policy, contract or certificate may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

**Sec. 5. Application.** This Act applies to health insurance policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2011. 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 635

## S.P. 446 - L.D. 1198

### An Act To Reform Insurance Coverage To Include Diagnosis and Treatment for Autism Spectrum Disorders

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

**Sec. 1. 24 MRSA §2317-B, sub-§12-F** is enacted to read:

**12-F. Title 24-A, sections 2766, 2847-R and 4258.** Coverage for diagnosis and treatment of autism spectrum disorders, Title 24-A, sections 2766, 2847-R and 4258;

**Sec. 2. 24-A MRSA §2766** is enacted to read:

**§2766. Coverage for the diagnosis and treatment of autism spectrum disorders**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

B. "Autism spectrum disorders" means any of the pervasive developmental disorders as defined by the Diagnostic and Statistical Manual of Mental Disorders, 4th edition, published by the American Psychiatric Association, including autistic disorder, Asperger's disorder and pervasive developmental disorder not otherwise specified.

C. "Treatment of autism spectrum disorders" includes the following types of care prescribed, provided or ordered for an individual diagnosed with an autism spectrum disorder:

(1) Habilitative or rehabilitative services, including applied behavior analysis or other professional or counseling services necessary to develop, maintain and restore the functioning of an individual to the extent possible. To be eligible for coverage, applied behavior analysis must be provided by a person professionally certified by a national board of be-

havior analysts or performed under the supervision of a person professionally certified by a national board of behavior analysts;

(2) Counseling services provided by a licensed psychiatrist, psychologist, clinical professional counselor or clinical social worker; and

(3) Therapy services provided by a licensed or certified speech therapist, occupational therapist or physical therapist.

**2. Required coverage.** All individual health insurance policies and contracts must provide coverage for autism spectrum disorders for an individual covered under a policy or contract who is 5 years of age or under in accordance with the following.

A. The policy or contract must provide coverage for any assessments, evaluations or tests by a licensed physician or licensed psychologist to diagnose whether an individual has an autism spectrum disorder.

B. The policy or contract must provide coverage for the treatment of autism spectrum disorders when it is determined by a licensed physician or licensed psychologist that the treatment is medically necessary health care as defined in section 4301-A, subsection 10-A. A licensed physician or licensed psychologist may be required to demonstrate ongoing medical necessity for coverage provided under this section at least annually.

C. The policy or contract may not include any limits on the number of visits.

D. The policy or contract may limit coverage for applied behavior analysis to $36,000 per year. An insurer may not apply payments for coverage unrelated to autism spectrum disorders to any maximum benefit established under this paragraph.

E. This subsection may not be construed to require coverage for prescription drugs if prescription drug coverage is not provided by the policy or contract. Coverage for prescription drugs for the treatment of autism spectrum disorders must be determined in the same manner as coverage for prescription drugs for the treatment of any other illness or condition is determined under the policy or contract.

**3. Limits; coinsurance; deductibles.** Except as otherwise provided in this section, any policy or contract that provides coverage for services under this section may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

**4. Individualized education plan.** This section may not be construed to affect any obligation to provide services to an individual with an autism spectrum disorder under an individualized education plan or an individualized family service plan.

**Sec. 3. 24-A MRSA §2847-R** is enacted to read:

**§2847-R. Coverage for the diagnosis and treatment of autism spectrum disorders**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

B. "Autism spectrum disorders" means any of the pervasive developmental disorders as defined by the Diagnostic and Statistical Manual of Mental Disorders, 4th edition, published by the American Psychiatric Association, including autistic disorder, Asperger's disorder and pervasive developmental disorder not otherwise specified.

C. "Treatment of autism spectrum disorders" includes the following types of care prescribed, provided or ordered for an individual diagnosed with an autism spectrum disorder:

(1) Habilitative or rehabilitative services, including applied behavior analysis or other professional or counseling services necessary to develop, maintain and restore the functioning of an individual to the extent possible. To be eligible for coverage, applied behavior analysis must be provided by a person professionally certified by a national board of behavior analysts or performed under the supervision of a person professionally certified by a national board of behavior analysts;

(2) Counseling services provided by a licensed psychiatrist, psychologist, clinical professional counselor or clinical social worker; and

(3) Therapy services provided by a licensed or certified speech therapist, occupational therapist or physical therapist.

**2. Required coverage.** All group health insurance policies, contracts and certificates must provide coverage for autism spectrum disorders for an individual covered under a policy, contract or certificate who

is 5 years of age or under in accordance with the following.

A. The policy, contract or certificate must provide coverage for any assessments, evaluations or tests by a licensed physician or licensed psychologist to diagnose whether an individual has an autism spectrum disorder.

B. The policy, contract or certificate must provide coverage for the treatment of autism spectrum disorders when it is determined by a licensed physician or licensed psychologist that the treatment is medically necessary health care as defined in section 4301-A, subsection 10-A. A licensed physician or licensed psychologist may be required to demonstrate ongoing medical necessity for coverage provided under this section at least annually.

C. The policy, contract or certificate may not include any limits on the number of visits.

D. Notwithstanding section 2843 and to the extent allowed by federal law, the policy, contract or certificate may limit coverage for applied behavior analysis to $36,000 per year. An insurer may not apply payments for coverage unrelated to autism spectrum disorders to any maximum benefit established under this paragraph.

E. This subsection may not be construed to require coverage for prescription drugs if prescription drug coverage is not provided by the policy, contract or certificate. Coverage for prescription drugs for the treatment of autism spectrum disorders must be determined in the same manner as coverage for prescription drugs for the treatment of any other illness or condition is determined under the policy, contract or certificate.

**3. Limits; coinsurance; deductibles.** Except as otherwise provided in this section, any policy, contract or certificate that provides coverage for services under this section may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

**4. Individualized education plan.** This section may not be construed to affect any obligation to provide services to an individual with an autism spectrum disorder under an individualized education plan or an individualized family service plan.

**Sec. 4. 24-A MRSA §4258** is enacted to read:

**§4258. Coverage for the diagnosis and treatment of autism spectrum disorders**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

B. "Autism spectrum disorders" means any of the pervasive developmental disorders as defined by the Diagnostic and Statistical Manual of Mental Disorders, 4th edition, published by the American Psychiatric Association, including autistic disorder, Asperger's disorder and pervasive developmental disorder not otherwise specified.

C. "Treatment of autism spectrum disorders" includes the following types of care prescribed, provided or ordered for an individual diagnosed with an autism spectrum disorder:

(1) Habilitative or rehabilitative services, including applied behavior analysis or other professional or counseling services necessary to develop, maintain and restore the functioning of an individual to the extent possible. To be eligible for coverage, applied behavior analysis must be provided by a person professionally certified by a national board of behavior analysts or performed under the supervision of a person professionally certified by a national board of behavior analysts;

(2) Counseling services provided by a licensed psychiatrist, psychologist, clinical professional counselor or clinical social worker; and

(3) Therapy services provided by a licensed or certified speech therapist, occupational therapist or physical therapist.

**2. Required coverage.** All individual and group health maintenance organization contracts must provide coverage for autism spectrum disorders for an individual covered under a contract who is 5 years of age or under in accordance with the following.

A. The contract must provide coverage for any assessments, evaluations or tests by a licensed physician or licensed psychologist to diagnose whether an individual has an autism spectrum disorder.

B. The contract must provide coverage for the treatment of autism spectrum disorders when it is determined by a licensed physician or licensed psychologist that the treatment is medically necessary health care as defined in section 4301-A, subsection 10-A. A licensed physician or licensed psychologist may be required to demonstrate on-

going medical necessity for coverage provided under this section at least annually.

C. The contract may not include any limits on the number of visits.

D. Notwithstanding section 4234-A and to the extent allowed by federal law for group contracts, the contract may limit coverage for applied behavior analysis to $36,000 per year. A health maintenance organization may not apply payments for coverage unrelated to autism spectrum disorders to any maximum benefit established under this paragraph.

E. This subsection may not be construed to require coverage for prescription drugs if prescription drug coverage is not provided by the contract. Coverage for prescription drugs for the treatment of autism spectrum disorders must be determined in the same manner as coverage for prescription drugs for the treatment of any other illness or condition is determined under the contract.

**3. Limits; coinsurance; deductibles.** Except as otherwise provided in this section, any contract that provides coverage for services under this section may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

**4. Individualized education plan.** This section may not be construed to affect any obligation to provide services to an individual with an autism spectrum disorder under an individualized education plan or an individualized family service plan.

**Sec. 5. Bureau of Insurance report.** The Department of Professional and Financial Regulation, Bureau of Insurance shall review and evaluate the financial impact, social impact and medical efficacy of the mandated health insurance benefit required in this Act after its enactment in the same manner as required for proposed mandated health benefits legislation in the Maine Revised Statutes, Title 24-A, section 2752. The bureau shall also compare the projected cost impact of this mandated benefit prior to enactment and the actual cost impact of the mandated benefit based on premium information after enactment. As part of its assessment of the financial impact of the mandate, the bureau shall analyze the number of children receiving coverage under the mandated benefit, the costs of treatment services for autism spectrum disorders, including applied behavior analysis, and the extent to which the requirement for coverage of applied behavior analysis has affected the actual cost impact of the mandated benefit on health insurance premiums. The bureau shall contract within the bureau's existing budgeted resources for any necessary consulting and actuarial expertise to complete the report required by this section. The bureau shall submit a report, including any recommendations for legislation, to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters no later than February 1, 2015. The joint standing committee of the Legislature having jurisdiction over insurance and financial services matters may report out a bill based on the report to the First Regular Session of the 127th Legislature.

**Sec. 6. Application.** The requirements of this Act apply to all policies, contracts and certificates subject to this Act that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2011. 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.

## CHAPTER 636

## H.P. 333 - L.D. 445

### An Act To Improve Tribal-State Relations

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

### PART A

**Sec. A-1. 3 MRSA §1, 2nd ¶,** as enacted by PL 1983, c. 481, is amended to read:

The Tribal Clerk of the Penobscot Indian Nation shall, on or before the day preceding the meeting of the Legislature, furnish to the Clerk of the preceding House of Representatives a certification, under the seal of the Nation, of the name and residence of the Representative-elect of the Penobscot Indian Nation to the Legislature. The Tribal Clerk of the Passamaquoddy Tribe of the reservation from which the Representative-elect of that tribe has been chosen shall, on or before the day preceding the meeting of the Legislature, furnish the Clerk of the preceding House of Representatives a certification of the name and residence of the Representative-elect of the Passamaquoddy Tribe to the Legislature. Beginning with the 126th Legislature, the Tribal Clerk of the Houlton Band of Maliseet Indians shall, on or before the day preceding the meeting of the Legislature, furnish to the Clerk of the preceding House of Representatives a certification of the name and residence of the Representative-elect of the Houlton Band of Maliseet Indians to the Legislature.

**Sec. A-2. 3 MRSA §2, 8th ¶,** as amended by PL 2009, c. 431, §1, is further amended to read:

The member of the Penobscot Indian Nation ~~and~~, the member of the Passamaquoddy Indian Tribe and, beginning with the Second Regular Session of the

125th Legislature, the member of the Houlton Band of Maliseet Indians elected to represent their tribes at the Legislature are entitled to receive a salary equal to the salary of members of the Senate and the House of Representatives, including a cost-of-living adjustment, for each regular session and allowance for meals, constituent service, housing and travel expenses to the same extent as members of the House of Representatives for attendance at each legislative session or authorized committee meeting. For the duration of any special session of the Legislature, they are entitled to receive the same per diem payment and allowances, including housing, meal and travel expenses, as any member of the Senate and House of Representatives.

**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 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 of the Houlton Band of Maliseet Indians to the Legislature.

## PART B

**Sec. B-1. 30 MRSA §6203, sub-§8,** as amended by PL 1987, c. 712, §§1 and 2, is further amended to read:

**8. Penobscot Indian Reservation.** "Penobscot Indian Reservation" means the islands in the Penobscot River reserved to the Penobscot Nation by agreement with the States of Massachusetts and Maine consisting solely of Indian Island, also known as Old Town Island, and all islands in that river northward thereof that existed on June 29, 1818, excepting any island transferred to a person or entity other than a member of the Penobscot Nation subsequent to June 29, 1818, and prior to the effective date of this Act. If any land within Nicatow Island is hereafter acquired by the Penobscot Nation, or the secretary on its behalf, that land ~~shall~~ must be included within the Penobscot Indian Reservation.

The "Penobscot Indian Reservation" includes the following parcels of land ~~which~~ that have been or may be acquired by the Penobscot Nation from Bangor Pacific Hydro Associates as compensation for flowage of reservation lands by the West Enfield dam: A parcel located on the Mattagamon Gate Road and on the East Branch of the Penobscot River in T.6 R.8 WELS, which is a portion of the "Mattagamon Lake Dam Lot" and has an area of approximately 24.3 acres, and Smith Island in the Penobscot River, which has an area of approximately one acre.

The "Penobscot Indian Reservation" also includes a certain parcel of land located in Argyle, Penobscot County consisting of approximately 714 acres known as the Argyle East Parcel and more particularly described as Parcel One in a deed from the Penobscot Indian Nation to the United States of America dated November 22, 2005 and recorded at the Penobscot County Registry of Deeds in Book 10267, Page 265.

**Sec. B-2. Effective date.** That section of this Part that amends the Maine Revised Statutes, Title 30, section 6203, subsection 8 does not take effect unless, within 90 days of the adjournment of the Second Regular Session of the 124th Legislature, the Secretary of State receives written certification by the Tribal Chief and the Council of the Penobscot Nation that the nation has agreed to the provisions of this Part, pursuant to 25 United States Code, Section 1725(e), copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes; except that in no event may that section of this Part that amends the Maine Revised Statutes, Title 30, section 6203, subsection 8 become effective until 100 days after the adjournment of the Second Regular Session of the 124th Legislature.

## PART C

**Sec. C-1. 5 MRSA §1664, sub-§3-B** is enacted to read:

**3-B. Maine Indian Tribal-State Commission appropriations or allocations.** If the Governor submits legislation setting forth appropriations or allocations for the Maine Indian Tribal-State Commission that differ from the full budget proposal developed under Title 30, section 6212, subsection 6, the Governor shall simultaneously 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 judiciary matters explaining why the Governor's budget legislation differs from that proposal.

**Sec. C-2. 5 MRSA §1665, sub-§1,** as amended by PL 2005, c. 601, §2, is further amended to read:

**1. Expenditure and appropriation requirements.** On or before September 1st of the even-numbered years, all departments and other agencies of the State Government and corporations and associations receiving or desiring to receive state funds under the provisions of law shall prepare, in the manner prescribed by the State Budget Officer, and submit to the officer estimates of their expenditure and appropriation requirements for each fiscal year of the ensuing biennium. The expenditure estimates must be classified to set forth the data by funds, organization units, character and objects of expenditure. The organization units may be subclassified by functions and activities, or in any other manner, at the discretion of the State Budget Officer.

All departments and other agencies receiving or desiring to receive state funds from the Highway Fund shall submit to the officer estimates of their expenditure and appropriation requirements for each fiscal year of the ensuing biennium that do not exceed the Highway Fund appropriation of the previous fiscal year multiplied by one plus the average real personal income growth rate or 2.75%, whichever is less. The Highway Fund highway and bridge improvement accounts are exempt from this spending limitation.

The State Budget Officer shall request that the Governor provide the budget proposal for the Maine Indian Tribal-State Commission developed pursuant to Title 30, section 6212, subsection 6.

**Sec. C-3. 30 MRSA §6212, sub-§6,** as enacted by PL 1993, c. 600, Pt. A, §24 and affected by §25, is amended to read:

**6. Funding.** The commission 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 chapter, 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. Notwithstanding Title 5, chapter 149, upon receipt of a written request from the commission, the State Controller shall pay the commission's full state allotment for each fiscal year to meet the estimated annual disbursement requirements of the commission.

The Governor or the Governor's designee and the chief executive elected leader or the chief executive elected leader's designee of the following tribes shall communicate to produce a proposed biennial budget for the commission and to discuss any adjustments to funding:

A. The Houlton Band of Maliseet Indians;

B. The Passamaquoddy Tribe; and

C. The Penobscot Nation.

**Sec. C-4. Effective date.** That section of this Part that amends the Maine Revised Statutes, Title 30, section 6212, subsection 6 does not take effect unless, within 90 days of the adjournment of the Second Regular Session of the 124th Legislature, the Secretary of State receives the following:

1. Written certification by the Houlton Band Council of the Houlton Band of Maliseet Indians that the band has agreed to the provisions of that section of this Part that amends Title 30, section 6212, subsection 6, pursuant to 25 United States Code, Section 1725(e), copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes;

2. Written certification by the Joint Tribal Council of the Passamaquoddy Tribe that the tribe has agreed to the provisions of that section of this Part that amends Title 30, section 6212, subsection 6, pursuant to 25 United States Code, Section 1725(e), copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes; and

3. Written certification by the Tribal Chief and the Council of the Penobscot Nation that the nation has agreed to the provisions of that section of this Part that amends Title 30, section 6212, subsection 6, pursuant to 25 United States Code, Section 1725(e), copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes.

In no event may that section of this Part that amends Title 30, section 6212, subsection 6 become effective until 100 days after the adjournment of the Second Regular Session of the 124th Legislature.

## PART D

**Sec. D-1. 30-A MRSA §2201,** as amended by PL 2003, c. 696, §13, is further amended to read:

**§2201. Purpose**

It is the purpose of this chapter to permit public agencies~~, as defined in section 2202~~ of the State or any adjoining state, including~~,~~ but not limited to~~,~~ municipalities, counties~~,~~ and school administrative units, and ~~state~~ federal agencies~~,~~ and Indian tribes and their political subdivisions to make the most efficient use of their powers by enabling them to cooperate on a basis of mutual advantage and thereby to provide services and facilities within the State in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of communities.

**Sec. D-2. 30-A MRSA §2202, sub-§2** is enacted to read:

**2. Party.** "Party" means a public agency or the following federally recognized Indian tribes or their political subdivisions:

A. The Passamaquoddy Tribe; and

B. The Penobscot Nation.

**Sec. D-3. 30-A MRSA §2203,** 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:

**§2203. Joint exercise of powers**

Any power or powers, privileges or authority exercised or capable of exercise by a ~~public agency of the State~~ party to an agreement under this chapter may be exercised and enjoyed jointly or cooperatively with

any other ~~public agency of this State, or of the Federal Government~~ party to the extent that federal laws, when applicable, permit the joint or cooperative exercise. When acting jointly or cooperatively with any ~~public agency~~ party, any agency of State Government may exercise all of the powers, privileges and authority conferred by this chapter upon a public agency.

**1. Agreement.** Any 2 or more ~~public agencies~~ parties may enter into agreements with one another for joint or cooperative action under this chapter. The governing bodies of the participating ~~public agencies~~ parties must take appropriate action by ordinance, resolution or other action under law before any such agreement may become effective.

**2. Specifications.** Any agreement made under this chapter must specify the following:

A. Its duration;

B. The precise organization, composition and nature of any separate legal or administrative entity created by the agreement together with the powers delegated to that entity, provided the entity may be legally created;

C. Its purpose;

D. The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget for the undertaking;

E. The method to be used to partially or completely terminate the agreement and to dispose of property upon termination; and

F. Any other necessary and proper matters.

**3. Additional items.** If the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement, in addition to the items listed in subsection 2, must contain the following.

A. It must provide for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, all ~~public agencies party~~ parties to the agreement must be represented.

B. It must provide the manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking.

**4. Responsibility.** No agreement made under this chapter may relieve any ~~public agency~~ party of any obligation or responsibility imposed upon it by law except to the extent of actual and timely performance by a joint board or other legal or administrative entity created by an agreement made under this chapter. This performance may be offered in satisfaction of the obligation or responsibility.

**5. Liability.** An action is maintainable against any ~~public agency~~ party whose default, failure of performance or other conduct caused or contributed to the incurring of damage or liability by the other ~~public agencies~~ parties jointly.

**6. Notice to regional councils.** Any agreement made under this chapter is subject to the reporting requirements of section 2342, subsection 6, if applicable.

**7. Liberal construction.** It being the intent of the Legislature to avoid the proliferation of special purpose districts and inflexible enabling laws, this chapter ~~shall~~ must be liberally construed toward that end.

**8. Limitation.** Notwithstanding any other provision of this chapter:

A. No powers, privileges or authority may be jointly or cooperatively exercised unless each type of power, privilege or authority exercised is capable of being exercised by at least one of the parties within the entire jurisdictional area of the ~~contract~~ agreement, or by each of the several parties within each of their several jurisdictions if all of the several jurisdictions make up the total jurisdictional area of the ~~contract~~ agreement; or

B. No essential legislative powers, taxing authority or eminent domain power may be delegated by ~~contract~~ agreement to a joint authority or administrative entity.

**Sec. D-4. 30-A MRSA §2206,** 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:

**§2206. Funds, personnel and services**

Any ~~public agency~~ party entering into an agreement under this chapter may appropriate funds and may sell, lease, give or otherwise supply the administrative joint board or other legal or administrative entity created to operate the joint or cooperative undertaking by providing any personnel or services for that purpose that it may legally furnish.

**Sec. D-5. 30-A MRSA §2208** is enacted to read:

**§2208. Agreements involving federally recognized Indian tribes**

This chapter does not apply to and has no effect on any agreement to which any federally recognized Indian tribe is a party if the agreement has not been entered into under the authority of this chapter.

See title page for effective date, unless otherwise indicated.

# CHAPTER 637

## S.P. 593 - L.D. 1545

## An Act To Protect Maine Workers

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

**Sec. 1. 26 MRSA §871, sub-§1-A** is enacted to read:

**1-A. Violation.** Upon conviction of a violation of subsection 1, an employer may not employ aliens granted permission to work temporarily under 8 United States Code, Section 1101(a)(15)(H)(ii)(a) in this State for 2 years.

**Sec. 2. 26 MRSA §871, sub-§2,** as enacted by PL 1977, c. 116, is amended to read:

**2. Penalty.** Violation of subsection 1 ~~shall be~~ or 1-A is a Class E crime. It is an affirmative defense to prosecution under subsection 1 that the employer, before employing or referring a person for employment, made a good faith inquiry as to whether that person was a United States citizen or an alien, and if the inquiry reasonably indicated that the person was an alien, the employer made a further good faith inquiry ~~which~~ that reasonably indicated that the alien was lawfully admitted to the United States for permanent residence or that the United States Immigration and Naturalization Service had authorized the alien to accept employment in the United States.

A. A good faith inquiry under this subsection ~~shall~~ must be in writing. An employment application form ~~which~~ that requests citizenship data, or an alien registration number if the applicant is an alien, meets the requirement of a good faith inquiry in writing.

B. A social security account number card ~~shall not be deemed~~ is not considered evidence of the United States Immigration and Naturalization Service's authorization for an alien to accept employment in the United States.

**Sec. 3. 26 MRSA §872, sub-§1,** as amended by PL 2009, c. 201, §11, 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. "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.

**Sec. 4. 26 MRSA §872, sub-§2,** as amended by PL 2009, c. 381, §1, is further amended to read:

**2. Proof of ownership required.** An employer in this State who ~~employs~~ 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, the operator of equipment subject to this section shall provide proof of ownership. 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.

**Sec. 5. 26 MRSA §872, sub-§2-A** is enacted to read:

**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 days of the date on which a bond worker begins work in the State and shall specify the name of the bond worker and where the bond worker will be conducting work.

**Sec. 6. 26 MRSA §872, sub-§2-B** is enacted to read:

**2-B. Violation.** Upon conviction of a violation of subsection 2, an employer may not employ bond workers in this State for 2 years.

**Sec. 7. 26 MRSA §872, sub-§4,** as enacted by PL 2005, c. 461, §1, is repealed and the following enacted in its place:

**4. Enforcement; rules.** The Commissioner of Labor shall 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.

**Sec. 8. 26 MRSA §872, sub-§5,** as amended by PL 2009, c. 381, §2, is repealed and the following enacted in its place:

**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.

**Sec. 9. 26 MRSA §872, sub-§6,** as enacted by PL 2009, c. 381, §3, is amended to read:

**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. 10. 26 MRSA §873** is enacted to read:

**§873. Recruitment 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 subsection 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 under 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.

**5. Job offer; skills test.** Upon referral of an applicant under subsection 3, a logging employer shall offer employment to that applicant.

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 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 procedure 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, section 873 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 approved 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, section 873 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. 11. 26 MRSA §874** is enacted to read:

**§874. Fund established**

The Foreign Labor Certification Process Fund, referred to in this subchapter as "the fund," is established. The fund consists of any funds received as grants or other contributions from private and public sources. The fund, to be accounted within the Department of Labor, must be held separate and apart from all other money, funds and accounts. Eligible investment earnings credited to the assets of the fund become part of the assets of the fund. Any balance remaining in the fund at the end of any fiscal year must be carried forward to the next fiscal year. The fund may be used to pay expenses incurred by the Department of Labor in carrying out its functions under this subchapter.

**Sec. 12. 26 MRSA §1043, sub-§11, ¶F,** as amended by PL 2009, c. 211, Pt. B, §24, is further amended to read:

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 section 3304 of the Federal Internal Revenue Code, 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;

(4-1) ~~Agricultural labor, if~~ Services performed by an individual who is an alien~~, other than a citizen of a contiguous country with which the United States has an agreement with respect to unemployment compensation,~~ 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);

(5) Domestic service in a private home, except as provided in paragraph A-3;

(6) Service performed by an individual in the employ of that individual's son, daughter or spouse and service performed by a child under the age of 18 in the employ of that child's father or mother, except for periods of such

service for which unemployment insurance contributions are paid;

(6-1) Services 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 Railroad Unemployment Insurance Act (52 Stat. 1094);

(10) Services 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 section 501(a) of the Federal Internal Revenue Code other than an organization described in section 401(a) or under section 521 of the Code, if the remuneration for such service is less than $150;

(16) Service performed in the employ of a foreign government, including service as a consular or other officer or employee or a nondiplomatic representative;

(17) 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;

(18) 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 years' course in a medical school chartered or approved pursuant to state law;

(19) 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;

(20) Service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news except delivery or distribution to any point for subsequent delivery or distribution;

(21) 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 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 deficiency or injury or providing remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competi-

tive 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) Services are 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 policymaking or advisory position or a policymaking 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;

(29) Services performed by a hairdresser who holds a booth license and operates within another hairdressing establishment if operated under a booth rental agreement or other rental agreement;

(30) Services performed by a barber who holds a booth license and operates within another barbering establishment if operated under a booth rental agreement or other rental agreement;

(31) Services 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;

(32) After December 31, 1981, services 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 Act, United States Code, Title 26, Section 3306(c), as it may be amended. Also included in this exemption are services performed in harvesting shellfish for depuration from designated areas as authorized by Title 12, section 6856;

(33) Services 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, provided the leader or agent is not an employer by reason of subsection 9 or of section 1222, subsection 3;

(34) Services 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;

(35) Services performed by a homeworker in the knitted outerwear industry as those terms are defined, on the effective date of this subparagraph, in 29 Code of Federal Regulations, Part 530, Section 530.1;

(36) 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;

(37) Services performed by an individual as a home stitcher as long as that employment is not subject to federal unemployment tax;

(38) Services 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;

(39) Services performed by a direct seller as defined in 26 United States Code, Section 3508, Subsection (b), Paragraph (2). This subparagraph does not include a person selling major improvements or renovations to the structure of a home, business or property;

(40) Services 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;

(41) Services 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;

(42) Services 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.;

(43) Services 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; and

(44) Services 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, 390.5 (2000), as long as that employment is not subject to federal unemployment tax.

**Sec. 13. 36 MRSA §191, sub-§2, ¶V,** as amended by PL 2007, c. 352, Pt. A, §4, is further amended to read:

V. The disclosure by employees of the Bureau of Revenue Services, to designated representatives of the Department of Labor, of all information required by the State Tax Assessor and the Commissioner of Labor for the administration of the taxes imposed by Part 8 and by Title 26, chapter 13 and the Competitive Skills Scholarship Fund contribution imposed by Title 26, section 1166 and of all information required by the Director of the Bureau of Labor Standards within the Department of Labor for the enforcement of Title 26, section 872;

**Sec. 14. Appropriations and allocations.** The following appropriations and allocations are made.

**LABOR, DEPARTMENT OF**

**Foreign Labor Certification Process Fund N111**

Initiative: Provides a base allocation in the event that grants or other contributions from private and public sources are received.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $500 |

| | | |
|---|---|---|
| OTHER SPECIAL REVENUE FUNDS | $0 | $500 |

See title page for effective date.

## CHAPTER 638

## H.P. 1154 - L.D. 1626

### An Act To Amend the Unemployment Compensation Laws Regarding Vacation Pay

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

**Sec. 1. 26 MRSA §1193, sub-§5, ¶A,** as repealed and replaced by PL 1985, c. 506, Pt. A, §51, is amended to read:

A. Dismissal wages, wages in lieu of notice, terminal pay~~, vacation pay~~ or holiday pay; or

**Sec. 2. Requests for transfers for costs incurred.** Notwithstanding any other provision of law to the contrary, executive branch departments and agencies may request transfers from the Salary Plan program for the additional General Fund and Highway Fund costs incurred as a result of the additional unemployment benefits authorized by this Act.

See title page for effective date.

## CHAPTER 639

## H.P. 1170 - L.D. 1642

### An Act Relating to Road Noise

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

**Sec. 1. 29-A MRSA §1912, sub-§1,** as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

**1. Muffler required.** A person may not operate a motor vehicle unless that vehicle is equipped with an adequate muffler properly maintained to prevent excessive or unusual noise. For purposes of this subsection, "excessive or unusual noise" includes motor noise emitted by a motor vehicle that is noticeably louder than similar vehicles in the environment.

**Sec. 2. 29-A MRSA §1912, sub-§3,** as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

**3. Amplification prohibited.** A person may not operate a motor vehicle with an exhaust system that has been modified ~~to amplify~~ when the result of that modification is the amplification or increase ~~the~~ of noise emitted by the motor above that emitted by the muffler originally installed on the vehicle.

**Sec. 3. Working group; excessive highway traffic noise.** The Department of Public Safety, Bureau of State Police shall convene a working group to study issues relating to highway traffic noise, including, but not limited to, unwarranted noise created when an exhaust system is not properly installed or maintained or is altered. The working group must include representatives from municipal and county law enforcement, a commercial motor carrier association, the Department of Transportation, the Maine Turnpike Authority and a neighborhood or neighborhood association affected by highway noise. The working group shall submit a report, including findings and recommendations, to the joint standing committee of the Legislature having jurisdiction over transportation matters no later than January 15, 2011.

See title page for effective date.

## CHAPTER 640

## H.P. 1103 - L.D. 1566

### An Act Relating to the Membership of the Workers' Compensation Board

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

**Sec. 1. 39-A MRSA §151, sub-§1,** as amended by PL 2003, c. 608, §5, is further amended to read:

**1. Board established.** Pursuant to Title 5, section 12004-G, subsection 35, the Workers' Compensation Board is established as an independent board composed of 7 members. The members of the board, including the executive director, must be appointed by the Governor within 30 days after a new board member is authorized or a vacancy occurs, subject to review by the joint standing committee of the Legislature having jurisdiction over labor matters and confirmation by the Legislature. Notwithstanding the provisions of Title 3, section 157, the designated committee shall complete its review of the appointments of the Governor within 15 days of the Governor's written notice of appointment and the vote of the Legislature must be taken no later than 7 days after the vote of the designated committee.

The board consists of 3 representatives of management, 3 representatives of labor and the executive director appointed pursuant to subsection 1-A. All management representatives must be appointed from a list provided by the Maine Chamber of Commerce and Industry or other bona fide organization or association

of employers. All labor representatives must be from a list provided by the Executive Board of the Maine AFL-CIO or other bona fide labor organization or association of employees representing at least 10% of the Maine work force. Any list submitted to the Governor must have at least 4 times the number of names as there are vacancies for the group represented by the vacancies.

A member of the board is not liable in a civil action for any act performed in good faith in the execution of duties as a board member.

A member of the board may not be a lobbyist required to be registered with the Commission on Governmental Ethics and Election Practices, a service provider to the workers' compensation system or a representative of a service provider to the workers' compensation system. In addition to the conflict of interest provisions in section 152, subsection 8, a member of the board may not take part in reaching a decision or recommendation in any matter that directly affects an insurer, self-insurer, group self-insurer or labor organization that the member represents.

Members of the board representing management and labor hold office for staggered terms of 4 years, commencing and expiring on February 1st, except for initial appointees and members appointed to fill unexpired terms. ~~A member representing management or labor may not serve for more than 2 full terms.~~

See title page for effective date.

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## CHAPTER 641

## S.P. 629 - L.D. 1664

### An Act To Enhance the Redevelopment of the Brunswick Naval Air Station

**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 imminent closure of the Brunswick Naval Air Station will result in the reduction of state, regional and local tax base; and

**Whereas,** the closure is estimated to negatively affect the State by $140,000,000; 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 §13083-G,** as enacted by PL 2005, c. 599, §1, is amended to read:

**§13083-G. Midcoast Regional Redevelopment Authority established; goals**

The Midcoast Regional Redevelopment Authority is established as a body corporate and politic and a public instrumentality of the State to carry out the purposes of this article. The authority is entrusted with acquiring and managing the properties within the geographic boundaries of Brunswick Naval Air Station.

The authority is established to facilitate the rapid development of the properties within the geographic boundaries of Brunswick Naval Air Station. In order to achieve this objective, the authority shall make every effort to:

**1. Short-term goal.** Recover civilian job losses in the primary impact community resulting from the base closure;

**2. Intermediate goal.** Recover economic losses and total job losses in the primary impact community resulting from the base closure; and

**3. Long-term goal.** Facilitate the maximum redevelopment of base properties.

**Sec. 2. 5 MRSA §13083-I, sub-§4,** as enacted by PL 2005, c. 599, §1, is amended to read:

**4. Liability.** The liability of the authority is governed by the Maine Tort Claims Act. A member of the board of trustees or an employee of the authority is not subject to any personal liability for having acted in the service of the member's or employee's duty as a member of the board or an employee of the authority within the course and scope of membership or employment to carry out a power or duty under this article. The authority shall indemnify a member of the board or an employee of the authority against expenses actually and necessarily incurred in connection with the defense of an action or proceeding in which a member of the board or an employee is made a party by reason of past or present association with the authority.

**Sec. 3. 5 MRSA §13083-L, sub-§5** is enacted to read:

**5. Airport; Brunswick Naval Air Station Fund established.** The authority has all the powers of a municipality to operate as an airport authority under Title 30-A, chapter 213 for use in connection with a public airport, heliport or other location for the landing or taking off of aircraft. To support this operation, there is established a nonlapsing fund to be known as the Brunswick Naval Air Station Airport Fund, referred to in this section as "the fund," for the purpose of receiving funds from the State and gifts, grants, devises, bequests, trusts or security documents. The State shall credit to the fund any appropriation made to the authority in each fiscal year.

A. The fund must be used to:

(1) Purchase, lease, acquire, own, improve, use, sell, convey, transfer or otherwise deal in and with airport property, an airport project or any interest in the airport property or airport project, whether tangible or intangible, as otherwise authorized under this article;

(2) Pay the costs of operating, maintaining, improving and repairing all airport property and airport projects of the authority;

(3) Pay the costs of administering and operating the authority, including, but not limited to, all wages, salaries, benefits and other expenses authorized by the board of trustees or the executive director;

(4) Pay the principal and premium, if any, and the interest on the outstanding bonds of the authority related to airport property or airport projects as the same become due and payable;

(5) Create and maintain reserves required or provided for in any resolution authorizing or any security document securing such bonds of the authority related to airport property or airport projects;

(6) Create and maintain a capital improvement fund for airport property and airport projects to be established by the board;

(7) Pay all taxes owed by the authority related to airport property or airport projects; and

(8) Pay all expenses incident to the management and operation of the authority operating as an airport authority as are consistent with its statutory purpose and as the board may from time to time determine.

B. The fund constitutes a continuing appropriation for the benefit of the authority. Any amount remaining in the fund at the close of any fiscal year is carried over and credited to the fund for the succeeding year.

C. Money in the fund must be paid to the authority on manifests approved by the Governor and Legislature in the same manner as other state claims are paid.

D. The revenues received and due to the authority from all other sources, except by way of state appropriation, from whatever source derived, must be retained by the authority and must be used in such a manner as the board of trustees may determine consistent with the provisions of this section or as is otherwise provided by law or by the terms and conditions incident to any gift, grant, devise, bequest, trust or security document.

**Sec. 4. 5 MRSA §13083-N, sub-§4,** as enacted by PL 2005, c. 599, §1, is amended to read:

**4. Price sold.** The bonds may be:

~~A. Sold at not less than par at public sales held after notice has been published in a newspaper of general circulation in the area of operation and in any other medium of publication that the authority designates;~~

B. Exchanged for other bonds on the basis of par; ~~or~~

C. Sold to the Federal Government at private sale at not less than par. If less than all of the authorized principal amount of the bonds is sold to the Federal Government, the balance may be sold at private sale at not less than par at an interest cost to the municipality that does not exceed the interest cost to the municipality of the portion of the bonds sold to the Federal Government~~.~~; or

D. Sold to a person on such terms as the authority may negotiate.

**Sec. 5. 5 MRSA §13083-P, sub-§2, ¶B,** as enacted by PL 2005, c. 599, §1, is amended to read:

B. Apply to or limit the right of an obligee to foreclose or otherwise enforce a mortgage of the authority or to pursue remedies for the enforcement of a pledge or lien given by the authority on its rents, fees, grants ~~or~~, revenues or other sources pledged by the authority to the payment of its bonds.

**Sec. 6. 5 MRSA §13083-S, sub-§1, ¶G,** as enacted by PL 2005, c. 599, §1, is amended to read:

G. A statement of the authority's proposed and projected activities for the ensuing year; ~~and~~

**Sec. 7. 5 MRSA §13083-S, sub-§1, ¶H,** as enacted by PL 2005, c. 599, §1, is amended to read:

H. Recommendations regarding further actions that may be suitable for achieving the purposes of this article~~.~~; and

**Sec. 8. 5 MRSA §13083-S, sub-§1, ¶I** is enacted to read:

I. A description of the authority's progress toward achieving the goals set forth in section 13083-G.

**Sec. 9. 5 MRSA §13083-S-1** is enacted to read:

**§13083-S-1. Brunswick Naval Air Station Job Increment Financing Fund**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Affiliated business" means one of 2 businesses exhibiting either of the following relationships:

(1) One business owns 50% or more of the stock of the other business or owns a controlling interest in the other; or

(2) Fifty percent of the stock of each business or a controlling interest in each business is directly or indirectly owned by a common owner or owners.

B. "Assessor" means the State Tax Assessor.

C. "Base level of employment" means either the total employment of an employer as of the March 31st, June 30th, September 30th and December 31st of the calendar year immediately preceding the date the employer begins operations at the base area divided by 4 or its average employment during the base period, whichever is greater.

D. "Base period" means the 3 calendar years prior to the year in which an employer begins operations at the base area.

E. "College" means Southern Maine Community College in the Maine Community College System.

F. "Commissioner" means the Commissioner of Economic and Community Development.

G. "Fund" means the Brunswick Naval Air Station Job Increment Financing Fund established pursuant to subsection 2.

H. "Job tax increment" means that level of state income tax withholding attributed to any employees employed within the base area above the base level of employment for an employer in the base area or its average employment during the base period. "Job tax increment" does not include withholding from employees or positions shifted by an employer as calculated generally pursuant to Title 36, chapter 917. The shifting restriction must apply to all employers in the base area.

**2. Fund established.** The Brunswick Naval Air Station Job Increment Financing Fund is established to receive job tax increment transfers from job creation in the base area. The fund must receive annually from the State the amount calculated under subsection 5.

**3. Limitations.** The fund is subject to the following limitations.

A. Subject to the provisions of paragraph E, payments from the fund allocated to the authority must be used solely to fund the costs of municipal services, including, but not limited to, water, sewer, electricity, telecommunications, fire protection, police protection, sanitation services and the maintenance of buildings, facilities, grounds and roads in the base area.

B. Subject to the provisions of paragraph E, payments allocated to the college must be used solely to fund the costs of higher education services, including, but not limited to, faculty and staff salaries and instruction, operations, equipment, maintenance and financing costs, including, but not limited to, closing costs, issuance costs and interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity.

C. To the extent that revenues received by the fund are not expended for current costs under paragraphs A and B, the fund must retain the revenues to defray future costs under those paragraphs.

D. State income tax withholding eligible for reimbursement to a qualified business pursuant to Title 36, chapter 917 or to a qualified pine tree development zone business under Title 30-A, chapter 206 is not eligible for use in the calculation of a payment to the fund under subsections 4 and 5. State income tax withholding under Title 36, chapter 919, or any other tax credit or reimbursement program based on state income tax withholding, is not eligible for use in calculation of a payment to the fund under subsections 4 and 5.

E. Payments made to the fund must be allocated as follows:

(1) For payments transferred to the fund in 2011 and 2012, 100% must be allocated to the college;

(2) For payments made to the fund in 2013, 75% must be allocated to the college and 25% must be allocated to the authority; and

(3) For payments made to the fund in 2014 and after, 50% must be allocated to the college and 50% must be allocated to the authority.

F. Payments to the fund are not allowed for calendar years beginning on or after January 1, 2031. If at least 5,000 net new jobs are created in the base area prior to 2031, the services funded under paragraphs A and B must be reviewed by the joint standing committee of the Legislature having jurisdiction over economic development matters in order to determine whether continuance of the fund is necessary.

**4. Certification by authority.** By February 15th of each year, beginning in 2011, the authority shall provide a report identifying each employer located at the base area to the commissioner. The commissioner shall certify annually to the assessor on or before June

30th of each year, beginning in 2011, the following information:

A. Employment, payroll and state withholding data necessary to calculate the base level of employment;

B. The total number of employees added during the previous year within the base area above the base level of employment, including additional associated payroll and withholding data necessary to calculate the job tax increment and establish the appropriate payment to the fund;

C. A listing of all employers within the base area that pay withholding taxes, the locations of those employers and the number of employees at each location;

D. A listing of all affiliated businesses, data regarding current employment, payroll and Maine income tax withholding for each affiliated business within the base area; and

E. Any information required by the assessor to determine the employment tax increment revenues pursuant to Title 36, chapter 917.

**5. Procedure for payment of revenue to the fund.** On or before July 15th of each year, the assessor shall review the information required by subsection 4 and calculate the job tax increment for the preceding calendar year. The assessor shall also calculate the employment tax increment in the base area for reimbursement to qualified businesses and qualified Pine Tree Development Zone businesses pursuant to Title 36, chapter 917. On or before July 15th of each year, the assessor shall certify to the State Controller the total remaining job tax increment after reimbursements have been made to qualified businesses and qualified Pine Tree Development Zone businesses pursuant to Title 36, chapter 917. On or before July 31st of each year, the State Controller shall transfer 50% of the remaining job tax increment to the state job tax increment contingent account established, maintained and administered by the State Controller from General Fund undedicated revenue within the withholding tax category. On or before July 31st of each year, the State Controller shall deposit this revenue into the fund and distribute the payments pursuant to subsection 3.

**6. Administration.** The Commissioner of Administrative and Financial Services shall administer the fund and may adopt rules pursuant to the Maine Administrative Procedure Act for implementation of the fund. Rules adopted pursuant to this subsection are routine technical rules pursuant to chapter 375, subchapter 2-A.

**Sec. 10. Establishment of campus.** The Maine Community College System shall establish the Midcoast Campus as a campus of Southern Maine Community College at Brunswick Naval Air Station. The Maine Community College System shall establish the Midcoast Campus to:

1. Collaborate with other higher education entities and enter into partnerships with businesses and industry on workforce development, innovation, product development and marketing;

2. Support an incubator center in manufacturing, composites and advanced energy systems; and

3. Offer seamless transfer programs among associate degree programs, bachelor's degree programs and master's degree programs.

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

Effective April 12, 2010.

## CHAPTER 642

## S.P. 582 - L.D. 1504

### An Act To Provide Predictable Benefits to Maine Communities That Host Wind Energy Developments

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

### PART A

**Sec. A-1. 12 MRSA §685-F, sub-§3,** as enacted by PL 2005, c. 107, §2 and affected by §4, is amended to read:

**3. Accounting system.** The director shall require that all staff involved in any aspect of an application review for a project designated as an extraordinary project keep accurate and regular daily time records. These records must describe the matters worked on, services performed and amount of time devoted to those matters and services as well as amounts of money expended in performing those functions. The director shall keep records of all expenses incurred in reviewing a project, including staff time records ~~and~~, billing statements for contracted services and billing statements from other state agencies for the actual cost of review.

**Sec. A-2. 35-A MRSA §3451, sub-§1-B** is enacted to read:

**1-B. Community benefit agreement.** "Community benefit agreement" means an agreement between the developer of an expedited wind energy development and a host community that involves payments by the developer to the host community to be utilized for public purposes, including, but not limited to, for property tax reductions, economic development proj-

ects, land and natural resource conservation, tourism promotion or reduction of energy costs, and that specifies in writing:

A. The value of any lump sum payments made by the developer to the host community; and

B. Any payment schedule and associated terms and conditions for payments to be made over time by the developer to the host community.

**Sec. A-3. 35-A MRSA §3451, sub-§1-C** is enacted to read:

**1-C. Community benefits package.** "Community benefits package" means the aggregate collection of tangible benefits resulting from any of the following:

A. Payments, not including property tax payments, to the host community or communities, including, but not limited to, payments under community benefit agreements;

B. Payments that reduce energy costs in the host community or communities; and

C. Any donations for land or natural resource conservation.

**Sec. A-4. 35-A MRSA §3451, sub-§7,** as enacted by PL 2007, c. 661, Pt. A, §7, is amended to read:

**7. Host community.** "Host community" means ~~a municipality, township or plantation in which the generating facilities of an expedited wind energy development are located.~~:

A. The following entities:

(1) A municipality or plantation in which the generating facilities of an expedited wind energy development are located;

(2) If the generating facilities of an expedited wind energy development are located in a township, the county in which those facilities are located;

(3) If the generating facilities of an expedited wind energy development are located on Passamaquoddy Indian territory, as defined in Title 30, section 6203, subsection 6, the Passamaquoddy Tribe, if the Passamaquoddy Tribe notifies the primary siting authority that it chooses to be considered a host community for purposes of this chapter with respect to the expedited wind energy development;

(4) If the generating facilities of an expedited wind energy development are located on Penobscot Indian territory, as defined in Title 30, section 6203, subsection 9, the Penobscot Nation if the Penobscot Nation notifies the primary siting authority that it chooses to be considered a host community for purposes of this chapter with respect to the expedited wind energy development; or

(5) If the generating facilities of an expedited wind energy development are located on Qualifying Band Trust Land, the Aroostook Band of Micmacs, if the Aroostook Band of Micmacs notifies the primary siting authority that it chooses to be considered a host community for purposes of this chapter with respect to the expedited wind energy development; and

B. When the generating facilities of an expedited wind energy development are located within the State's unorganized or deorganized areas and the developer selects a municipality; plantation; township; Passamaquoddy Indian territory, as defined in Title 30, section 6203, subsection 6; Penobscot Indian territory, as defined in Title 30, section 6203, subsection 9; or Qualifying Band Trust Land proximate to the location of the generating facilities for the purpose of providing specific tangible benefits:

(1) In the case of a municipality or plantation that is selected, the municipality or plantation;

(2) In the case of a township that is selected, the county in which that township is located;

(3) In the case of Passamaquoddy Indian territory that is selected, the Passamaquoddy Tribe if the Passamaquoddy Tribe notifies the primary siting authority that it chooses to be considered a host community for purposes of this chapter with respect to the expedited wind energy development;

(4) In the case of Penobscot Indian territory that is selected, the Penobscot Nation if the Penobscot Nation notifies the primary siting authority that it chooses to be considered a host community for purposes of this chapter with respect to the expedited wind energy development; and

(5) In the case of Qualifying Band Trust Land that is selected, the Aroostook Band of Micmacs, if the Aroostook Band of Micmacs notifies the primary siting authority that it chooses to be considered a host community for purposes of this chapter with respect to the expedited wind energy development.

An expedited wind energy development may have multiple host communities.

**Sec. A-5. 35-A MRSA §3451, sub-§8-A** is enacted to read:

**8-A. Qualifying Band Trust Land.** "Qualifying Band Trust Land" means Band Trust Land, as defined in the federal Aroostook Band of Micmacs Settlement Act, Public Law 102-171, 105 Stat. 1143 (1991), over which the Aroostook Band of Micmacs possesses municipal authority with respect to expedited wind energy development. For purposes of this subsection, "municipal authority" means the rights, privileges, powers and immunities of a municipality that are specified in legislation specifically authorizing the exercise of those government powers and that are equivalent to the rights, privileges, powers and immunities possessed by the Penobscot Nation and the Passamaquoddy Tribe with respect to expedited wind energy development within their respective Indian territories pursuant to Title 30, section 6206.

**Sec. A-6. 35-A MRSA §3451, sub-§10,** as enacted by PL 2007, c. 661, Pt. A, §7, is amended to read:

**10. Tangible benefits.** "Tangible benefits" means environmental or economic improvements or benefits to residents of this State attributable to the construction, operation and maintenance of an expedited wind energy development, including but not limited to: property tax payments resulting from the development; other payments to a host community, including, but not limited to, payments under a community benefit agreement; construction-related employment; local purchase of materials; employment in operations and maintenance; reduced property taxes; reduced electrical rates; land or natural resource conservation; performance of construction, operations and maintenance activities by trained, qualified and licensed workers in accordance with Title 32, chapter 17 and other applicable laws; or other comparable benefits, with particular attention to assurance of such benefits to the host community or communities to the extent practicable and affected neighboring communities.

**Sec. A-7. 35-A MRSA §3454,** as enacted by PL 2007, c. 661, Pt. A, §7, is amended to read:

**§3454. Determination of tangible benefits; requirements**

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.

**1. Documentation.** As part of any permit application for an expedited wind energy development, the applicant shall include the following information regarding tangible benefits, except that the applicant may submit the information required under paragraph D as an addendum to the permit application during the period in which the application is pending:

A. Estimated jobs to be created statewide and in the host community or communities, as a result of construction, maintenance and operations of the project;

B. Estimated annual generation of wind energy;

C. Projected property tax payments;

D. A description of the community benefits package, including but not limited to community benefit agreement payments, to be provided in accordance with the requirements of subsection 2; and

E. Any other tangible benefits to be provided by the project.

**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.

**3. Community benefits package requirement; exceptions.** The community benefits package requirement under subsection 2:

A. Is waived for any expedited wind energy development that:

(1) Has an installed capacity of less than 20 megawatts; or

(2) Is owned by a nonprofit entity, a public entity or a quasi-public entity; and

B. Does not apply to those turbines included in the development that are located:

(1) In a host community in which the legislative body has voted to waive or reduce the community benefits package requirement;

(2) On Passamaquoddy Indian territory, as defined in Title 30, section 6203, subsection 6, unless the Passamaquoddy Tribe notifies the primary siting authority that it chooses to be considered a host community for the purposes of this chapter with respect to the expedited wind energy development;

(3) On Penobscot Indian territory, as defined in Title 30, section 6203, subsection 9, unless the Penobscot Nation notifies the primary siting authority that it chooses to be considered a host community for the purposes of this chapter with respect to the expedited wind energy development; or

(4) On Qualifying Band Trust Land unless the Aroostook Band of Micmacs notifies the primary siting authority that it chooses to be considered a host community for the purposes of this chapter with respect to the expedited wind energy development.

The community benefits package requirement applies to any turbines of the development that are not exempted under subparagraph (1), (2), (3) or (4).

Nothing in this subsection limits a host community's authority to require an expedited wind energy development to enter into a community benefit agreement and to fulfill its property tax obligations.

**4. Community benefit agreement payments to counties.** When generating facilities of an expedited wind energy development are located within an unorganized or deorganized area other than within a plantation, community benefit agreement payments provided to the county as the host community in accordance with this section may be used for projects and programs of public benefit located anywhere within that county.

**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 and the Executive Department, State Planning Office, 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 shall support host communities in identifying additional funding and developing regional economic and natural resource conservation strategies.

**Sec. A-8. 38 MRSA §352, sub-§3,** as amended by PL 2009, c. 160, §1, 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. All ~~department~~ 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. 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. A-9. PL 2007, c. 661, Pt. A, §8** is amended to read:

**Sec. A-8. Tracking progress toward achievement of state wind energy goals; assessment of tangible benefits.** The Executive Department, Governor's Office of Energy Independence and Security, referred to in this section as "the office," shall, on an annual basis, monitor and make an assessment of tangible benefits provided by expedited wind energy developments in accordance with the Maine Revised Statutes, Title 35-A, section 3454 and the State's progress toward meeting the wind energy development goals established in ~~the Maine Revised Statutes,~~ Title 35-A, section 3404, subsection 2 and, by December 2013, in consultation with other state agencies as appropriate, conduct a full review of the status of meeting the goals for 2015 and the likelihood of achieving the goals for 2020. The office shall provide its assessment and recommendations under this section to the joint standing committee of the Legisla-

ture having jurisdiction over utilities and energy matters by January 15th of each year.

**1. Assessment.** The assessment under this section must include:

A. Examination of experiences from the permitting process;

B. Identified successes, including tangible benefits realized from wind energy development, in implementing the recommendations contained in the February 2008 final report of the Governor's Task Force on Wind Power Development in Maine pursuant to Executive Order issued May 8, 2007;

B-1. A summary of tangible benefits provided by expedited wind energy developments including, but not limited to, documentation of community benefits packages and community benefit agreement payments provided. The assessment must also include a review of the community benefits package requirement under Title 35-A, section 3454, subsection 2 and the actual amount of negotiated community benefits packages relative to the statutorily required minimum amount;

C. Projections of wind energy developers' plans, as well as technology trends and their state policy implications;

D. The status of Maine and each of the other New England states in making progress toward reducing greenhouse gas emissions; and

E. Recommendations, including, but not limited to, any changes regarding:

(1) The wind energy development goals established in Title 35-A, section 3404, subsection 2;

(2) Permitting processes for wind energy development;

(3) Identification of places within the State's unorganized and deorganized areas for inclusion in the expedited permitting area established pursuant to Title 35-A, chapter 34-A; ~~and~~

(4) Creation of an independent siting authority to consider wind energy development applications.~~;~~ and

(5) The community benefits package requirement under Title 35-A, section 3454, subsection 2.

**2. Assessment of tangible benefits; first annual report.** In the report due January 15, 2009, the office shall include an assessment of whether there is a need for additional funding to conduct the analysis of tangible benefits realized from wind energy development as required under this section and, if funding is needed, recommendations for a funding mechanism that is connected to the fees assessed to wind energy developers by the Department of Environmental Protection and the Maine Land Use Regulation Commission. Following receipt and review of the report, the joint standing committee of the Legislature having jurisdiction over utilities and energy matters may submit legislation to the First Regular Session of the 124th Legislature regarding the subject matter of this subsection.

**Sec. A-10. Application.** This Part does not affect the determination of tangible benefits for any expedited wind energy development pursuant to the Maine Revised Statutes, Title 35-A, section 3454 for which a permit application has been submitted to the primary siting authority prior to the effective date of this Act.

## PART B

**Sec. B-1. 12 MRSA §689,** as amended by PL 1979, c. 127, §70, 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 ~~VII~~ 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 in lieu of the rights provided under Title 5, section 8058, subsection 1.

**Sec. B-2. 35-A MRSA §3458** is enacted to read:

**§3458. Judicial appeal; municipal permitting decision**

Any judicial appeal of a municipal decision regarding permitting of an expedited wind energy development that is taken in the manner provided in the Maine Rules of Civil Procedure, Rule 80B must be heard and determined by the Superior Court as expeditiously as possible.

**Sec. B-3. 38 MRSA §346, sub-§1,** as amended by PL 2007, c. 661, Pt. B, §7, is further amended to read:

**1. Appeal to Superior Court.** Except as provided in subsection 4 and section 347-A, subsection 3

or 4, any person aggrieved by any order or decision of the board or commissioner may appeal to the Superior Court. These appeals to the Superior Court must be taken in accordance with Title 5, chapter 375, subchapter 7.

**Sec. B-4. 38 MRSA §346, sub-§4,** as enacted by PL 2007, c. 661, Pt. B, §8, is amended to read:

**4. Appeal of decision regarding an expedited wind energy development.** A ~~person aggrieved by an order or decision of~~ judicial appeal of final action by the board or commissioner regarding an application for an expedited wind energy development, as defined in Title 35-A, section 3451, subsection 4, ~~may appeal~~ must be taken to the Supreme Judicial Court sitting as the ~~law court~~ Law Court. The Law Court has exclusive jurisdiction over request for judicial review of final action by the commissioner or the board regarding expedited wind energy developments. These appeals to the ~~law court~~ Law Court must be taken in the manner provided in Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C.

See title page for effective date.

## CHAPTER 643

## S.P. 707 - L.D. 1804

### An Act Concerning Certain MaineCare Rules Regarding Services Provided through the Child Development Services System and School Administrative Units

**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 Act is intended to provide legislative oversight of rules adopted by the Department of Health and Human Services that relate to implementation of special education and related services provided through the Child Development Services System and school administrative units; and

**Whereas,** it is critical that this oversight begin as soon as possible to ensure protection of children in this State in need of services; and

**Whereas,** this legislation must take effect prior to July 1, 2010 in order for the Department of Health and Human Services and the Department of Education to provide information and training to Child Development Services System regional sites and school administrative units regarding the implementation of revised rules governing Medicaid payment for services 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 enacted by the People of the State of Maine as follows:**

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

**§3174-PP. Medicaid reimbursement for eligible services provided through the Child Development Services System and school administrative units**

**1. Consultation.** Prior to adopting or amending any rule that pertains to the administration of a program of Medicaid coverage established by the department pursuant to this chapter for services that qualify for reimbursement and are provided through the auspices of the Child Development Services System and school administrative units in accordance with the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., the Office of MaineCare Services shall consult with the following interested parties on the proposed adoption or amendment of rules:

A. The Commissioner of Education or the commissioner's designee;

B. The Executive Director of the Maine School Management Association or the executive director's designee;

C. The executive director of a statewide organization of administrators of services for children with disabilities or the executive director's designee;

D. The executive director of a statewide organization for disability rights or the executive director's designee; and

E. The Executive Director of the Maine Developmental Disabilities Council or the executive director's designee.

**2. Monthly report.** The Office of MaineCare Services shall prepare and submit at the beginning of each month a report that includes a detailed statement of the status of any proposed adoption or amendment of rules that pertain to the Medicaid programs specified in subsection 1 to the joint standing committee of the Legislature having jurisdiction over education matters and the joint standing committee of the Legislature having jurisdiction over health and human services matters.

**Sec. 2. Rules.** The Department of Health and Human Services shall amend or adopt routine technical rules pursuant to the Maine Revised Statutes, Title

5, chapter 375, subchapter 2-A, including rules that address the following:

1. Inclusion of the interested parties identified in Title 22, section 3174-PP, subsection 1 in the MaineCare Advisory Committee. The rules must also provide that:

A. The department and the interested parties agree upon a process that is appropriate for reviewing the scope of the policy considerations that pertain to the Medicaid programs specified in Title 22, section 3174-PP, subsection 1; and

B. The interested parties may serve as members of the MaineCare Advisory Committee or as members of a subcommittee of the MaineCare Advisory Committee, as agreed to by the department after consultation with the interested parties; and

2. Obtaining the maximum available federal revenue from the Medicaid program for services that qualify for reimbursement and minimizing the administrative burden for the Child Development Services System regional sites and school administrative units.

**Sec. 3. Rules review.** The Department of Education and the Department of Health and Human Services shall review the Department of Health and Human Services Chapter 101 rules including, but not limited to, the MaineCare Benefits Manual, Chapters II and III, Sections 28, 41, 65, 68, 85, 96 and 109, in order to ensure that the rules satisfy federal Medicaid requirements applicable to services provided through the auspices of the Child Development Services System and school administrative units and to also ensure continued access by Child Development Services System regional sites and schools to Medicaid payment for services that qualify for reimbursement. The Department of Education and the Department of Health and Human Services shall invite the participation of the following entities in conducting the review:

1. The Attorney General or the Attorney General's designee;

2. The Executive Director of the Maine School Management Association or the executive director's designee;

3. The Executive Director of the Maine Administrators of Services for Children with Disabilities or the executive director's designee;

4. The Executive Director of the Disability Rights Center or the executive director's designee; and

5. The Executive Director of the Maine Developmental Disabilities Council or the executive director's designee.

**Sec. 4. Interim and final reports.** No later than May 15, 2010, the Commissioner of Education and the Commissioner of Health and Human Services shall submit an interim report on the status of the rules reviewed under section 3 to the Joint Standing Committee on Education and Cultural Affairs. No later than July 1, 2010, the commissioners shall submit a 2nd interim report on the status of the rules reviewed under section 3, including preliminary recommendations on any proposed changes to the rules, to the Joint Standing Committee on Education and Cultural Affairs. The commissioners shall present a final report, including any recommendations and the status of the rules reviewed under section 3 by January 3, 2011 to the joint standing committee of the Legislature having jurisdiction over education matters.

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

Effective April 12, 2010.

## CHAPTER 644

## H.P. 1310 - L.D. 1824

### An Act To Decriminalize Violations of Rules or Permit Conditions of the Baxter State Park 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,** changes in the rules of the Baxter State Park Authority are needed before the summer 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 §903, sub-§2,** as enacted by PL 2003, c. 452, Pt. F, §2 and affected by Pt. X, §2, is amended to read:

**2. Violation of rules and permits.** A person who violates any of the rules of the Baxter State Park Authority or a condition of a permit issued under those rules commits a ~~Class E crime. Except as otherwise specifically provided, these crimes are strict liability crimes as defined in Title 17-A, section 34, subsection 4-A~~ civil violation for which a fine of not more than $1,000 may be adjudged.

**Sec. 2. Appropriations and allocations.** The following appropriations and allocations are made.

**CORRECTIONS, STATE BOARD OF**

**State Board of Corrections Investment Fund Z087**

Initiative: Deappropriates funds based on an anticipated reduction in sentences for Class E crimes.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | ($19,266) |
| GENERAL FUND TOTAL | $0 | ($19,266) |

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

Effective April 12, 2010.

## CHAPTER 645

## H.P. 1313 - L.D. 1826

### An Act To Authorize Bond Issues for Ratification by the Voters for the June 2010 Election and November 2010 Election

**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,

**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 directs the transfer of funds prior to June 30, 2010; 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. 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 $47,800,000 for the purposes described in section 6 of this Part. 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. At the discretion of the Treasurer of State, with the approval of the Governor, any issuance of bonds may contain a call feature.

**Sec. A-2. Records of bonds issued kept by Treasurer of State.** The Treasurer of State shall keep an account of each bond 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. A-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 Part. Any unencumbered balances remaining at the completion of the project in this Part lapse to the debt service account established for the retirement of these bonds.

**Sec. A-4. Interest and debt retirement.** The Treasurer of State shall pay interest due or accruing on any bonds issued under this Part and all sums coming due for payment of bonds at maturity.

**Sec. A-5. Disbursement of bond proceeds.** The proceeds of the bonds must be expended as set out in this Part under the direction and supervision of the Department of Transportation.

**Sec. A-6. Allocations from General Fund bond issue.** The proceeds of the sale of the bonds authorized under this Part must be expended as designated in the following schedule.

**DEPARTMENT OF TRANSPORTATION**

**General Fund**

| | |
|---|---|
| Provides funds for state highway reconstruction and paving. | $24,800,000 |
| Provides funds for railroads, including $7,000,000 to purchase and preserve approximately 240 miles of railroad track in Aroostook County currently owned and operated by the Montreal, Maine and Atlantic Railway, which track upon acquisition by the State must be operated by a rail operator chosen through a competitive process, in consultation with shippers and other stakeholders of the track; $5,000,000 to purchase a portion of | $16,000,000 |

| | |
|---|---|
| rail line and to make other improvements related to improved freight rail service and preparation for future passenger rail service to Lewiston and Auburn; and $4,000,000 for repairs and improvements of the portions of the Mountain Division Railroad owned by the State. | |
| Provides funds for marine-related improvements, including $6,500,000 for the Ocean Gateway deep water pier and $500,000 for challenge grants from the Small Harbor Improvement Program. | $7,000,000 |

**Sec. A-7. Allocation from approved bond issue.** The $4,000,000 of the General Fund bond issue authorized by Public Law 2009, chapter 414, Part A, section 6 allocated for railroad purposes and approved by the voters of the State at referendum in November 2009 is specifically allocated to capital rail purposes including the purchase and preservation of railroad tracks in Aroostook County and Penobscot County.

**Sec. A-8. Contingent upon ratification of bond issue.** Sections 1 to 7 do not become effective unless the people of the State ratify the issuance of the bonds as set forth in this Part.

**Sec. A-9. 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 General Fund debt service.

**Sec. A-10. Bonds authorized but not issued.** Any bonds authorized but not issued, or for which bond anticipation notes are not issued within 5 years of ratification of this Part, 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 or bond anticipation notes for an additional amount of time not to exceed 5 years.

**Sec. A-11. Referendum for ratification; submission at election; form of question; effective date.** This Part must be submitted to the legal voters of the State at a statewide election held in the month of June 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 Part by voting on the following question:

> "Do you favor a $47,800,000 bond issue to create jobs in Maine through improvements to highways, railroads and marine facilities, including port and harbor structures, and specifying the allocation of $4,000,000 of the transportation bond approved by voters in November 2009 to be used for capital rail purposes?"

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 Part, the Governor shall proclaim the result without delay and this Part 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 Part necessary to carry out the purposes of this referendum.

## PART B

**Sec. B-1. Aroostook County rail task force.** The Governor shall establish a task force to work with the Department of Transportation and other interested parties to ensure transparency in the abandonment and acquisition processes and to work on operating arrangements regarding the railroad track located in Aroostook County. The task force must include representatives of the public, private and nonprofit sectors, and include members of the Legislature.

## PART C

**Sec. C-1. PL 2009, c. 414, Pt. D, §1** is amended to read:

**Sec. D-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 ~~$33,500,000~~ $26,500,000 for the purposes described in section 6 of this Part. 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. At the discretion of the Treasurer of State, with the approval of the Governor, any issuance of bonds may contain a call feature.

**Sec. C-2. PL 2009, c. 414, Pt. D, §5,** as amended by PL 2009, c. 571, Pt. PP, §1, is further amended to read:

**Sec. D-5. Disbursement of bond proceeds.** The proceeds of the bonds must be expended as set out in this Part under the direction and supervision of ~~the Public Utilities Commission,~~ the University of Maine System, the Maine Maritime Academy and the Maine Community College System.

**Sec. C-3. PL 2009, c. 414, Pt. D, §6,** as amended by PL 2009, c. 571, Pt. PP, §2, is further amended to read:

**Sec. D-6. Allocations from General Fund bond issue.** The proceeds of the sale of the bonds authorized under this Part must be expended as designated in the following schedule.

~~**PUBLIC UTILITIES COMMISSION**~~

~~**Public Utilities Commission**~~

| | |
|---|---|
| ~~Provides funds for weatherization and energy efficiency programs for low and middle income households and small businesses. If the energy efficiency programs of the commission are transferred to another entity established by the Legislature, the commission shall transfer all unexpended funds to that entity.~~ | ~~$12,000,000~~ |

**UNIVERSITY OF MAINE SYSTEM**

**University of Maine System**

| | |
|---|---|
| Provides funds for energy and infrastructure upgrades at all campuses of the University of Maine System. | $9,500,000 |

**MAINE COMMUNITY COLLEGE SYSTEM**

**Maine Community College System**

| | |
|---|---|
| Provides funds for energy and infrastructure upgrades at all campuses of the Maine Community College System. | $5,000,000 |

**MAINE MARITIME ACADEMY**

**Maine Maritime Academy**

| | |
|---|---|
| Provides funds for energy and infrastructure upgrades at the Maine Maritime Academy. | $1,000,000 |

~~**DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES**~~

**UNIVERSITY OF MAINE SYSTEM**

**Maine Marine Wind Energy Demonstration Site Fund**

| | |
|---|---|
| Provides funds for research, development and product innovation associated with developing one or more ocean wind energy demonstration sites. It also provides funding for robotics equipment to accelerate wind energy components manufacturing in the State. The funds will leverage $24,500,000 in other funds. | ~~$6,000,000~~ $11,000,000 |

**Sec. C-4. PL 2009, c. 414, Pt. D, §10** is amended to read:

**Sec. D-10. Referendum for ratification; submission at election; form of question; effective date.** This Part must be submitted to the legal voters of the State at a statewide election held in June 2010 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 Part by voting on the following question:

~~"Do you favor a $33,500,000 bond issue to provide for investments in weatherization and energy efficiency projects; for infrastructure and energy efficiency upgrades at campuses of the University of Maine System, the Maine Community College System and the Maine Maritime Academy; and for the creation of a fund to develop one or more ocean wind energy demonstration sites?"~~ "Do you favor a $26,500,000 bond issue that will create jobs through investment in an off-shore wind energy demonstration site and related manufacturing to advance Maine's energy independence from imported foreign oil, that will leverage $24,500,000 in federal and other funds and for energy improvements at campuses of the University of Maine System, Maine Community College System and Maine Maritime Academy in order to make facilities more efficient and less costly to operate?"

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 Part, the Governor shall proclaim the result without delay and this Part 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 Part necessary to carry out the purposes of this referendum.

## PART D

**Sec. D-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 6 of this Part. 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. At the discretion of the Treasurer of State, with the approval of the Governor, any issuance of bonds may contain a call feature. The bonds may not be issued before July 1, 2011.

**Sec. D-2. Records of bonds issued kept by Treasurer of State.** The Treasurer of State shall keep an account of each bond 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. D-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 Part. Any unencumbered balances remaining at the completion of the project in this Part lapse to the debt service account established for the retirement of these bonds.

**Sec. D-4. Interest and debt retirement.** The Treasurer of State shall pay interest due or accruing on any bonds issued under this Part and all sums coming due for payment of bonds at maturity.

**Sec. D-5. Disbursement of bond proceeds.** The proceeds of the bonds must be expended as set out in this Part under the direction and supervision of the Department of Health and Human Services.

**Sec. D-6. Allocations from General Fund bond issue.** The proceeds of the sale of the bonds authorized under this Part must be expended as designated in the following schedule.

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

| | |
|---|---|
| Provides funds to be awarded on a competitive basis, $3,500,000 to be used for a community-based teaching clinic affiliated with or operated by a college of dental medicine to be matched by $3,500,000 in other funds, and $1,500,000 to be used to upgrade community-based health and dental care clinics across the State to increase their capacity as teaching clinics. | $5,000,000 |

**Sec. D-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 Part.

**Sec. D-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 General Fund debt service.

**Sec. D-9. Bonds authorized but not issued.** Any bonds authorized but not issued, or for which bond anticipation notes are not issued within 5 years of ratification of this Part, 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 or bond anticipation notes for an additional amount of time not to exceed 5 years.

**Sec. D-10. Referendum for ratification; submission at election; form of question; effective date.** This Part 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 Part by voting on the following question:

> "Do you favor a $5,000,000 bond issue to be awarded on a competitive basis to increase access to dental care in Maine, $3,500,000 to be used for a community-based teaching dental clinic affiliated with or operated by a college of dental medicine to be matched by $3,500,000 in other funds, and $1,500,000 to be used to create or upgrade community-based health and dental care clinics across the State to increase their capacity as teaching and dental clinics?"

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 Part, the Governor shall proclaim the result without delay and this Part 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 Part necessary to carry out the purposes of this referendum.

## PART E

**Sec. E-1. 22 MRSA §2127, sub-§6-A** is enacted to read:

**6-A. Monitoring of grants.** The program director or chief executive officer under subsection 2, paragraph C, subparagraph (3) shall monitor contracts resulting from grant awards established by the department concerning community-based dental clinics affiliated with or operated by a school of dentistry.

## PART F

**Sec. F-1. Oral Health Advisory Committee.** The Department of Health and Human Services shall establish the Oral Health Advisory Committee, referred to in this Part as "the committee," to award a $3,500,000 grant to create a teaching dental clinic pursuant to subsections 3 and 4 and to award $1,500,000 in grants pursuant to subsection 5, subject to the passage of the referendum set out in Part D.

**1. Membership.** The program director or chief executive officer of the oral health program within the Department of Health and Human Services, Maine Center for Disease Control and Prevention under the Maine Revised Statutes, Title 22, section 2127 is designated the chair of the committee and shall appoint the following 6 members:

A. A representative of a group representing individuals licensed to practice dentistry in this State;

B. A representative of a statewide organization representing low-income individuals;

C. A representative of an organization representing community-based health care clinics;

D. An individual representing community-based dental clinics;

E. A representative of a foundation based in this State committed to improving the health of citizens in this State who has experience funding direct service for dental care; and

F. An individual representing Maine veterans of the United States Armed Forces or the Maine National Guard who has experience with dental care.

**2. Appointments.** The committee must be appointed and convene within 30 days of the passage of the referendum set out in Part D.

**3. Duties.** The committee shall create an application for the grant for a teaching dental clinic for interested parties within 60 days of the passage of the referendum in Part D. The committee shall hold a bidders conference within 7 days following issuance of the applications, after which an applicant has 18 days to complete and submit the application. The committee shall award the grant before March 1, 2011.

**4. Grant criteria.** The committee shall use the following criteria in awarding the grant.

A. The recipient must:

(1) Be a postsecondary institution with its primary campus located in the State;

(2) Be accredited by a regional accrediting agency approved by the United States Department of Education;

(3) Have a board of trustees that has previously approved a degree program that grants a doctorate of dental medicine or a doctorate of dental surgery;

(4) Have educational programs for health professions that are academically and clinically based; and

(5) Offer a degree in public health.

B. The recipient must demonstrate financial capacity to start and sustain an accredited program in dental medicine that supports long-term access to dental care in the State.

C. The recipient must demonstrate an ability to match state funding on a one-to-one basis.

**5. Distribution of balance of bond.** Following the award of the grant under subsections 3 and 4, the recipient shall identify 2 members of its organization to join the committee to establish an application process for the $1,500,000 in clinic grants under Part D. A recipient of a grant under this subsection must:

A. Be from an underserved community that has a demonstrated need for dental care;

B. Be a qualified health care provider, including, but not limited to, federally qualified health care centers, veterans' health care facilities, health care facilities established by the United States Department of Defense serving active duty military per-

sonnel, Maine-based nonprofit health care centers and municipally supported health care clinics; and

C. Demonstrate a capacity to accommodate dental students.

**6. Completion date.** The grants under subsection 5 must be awarded by December 1, 2011, and following disbursement of these grants the committee terminates.

## PART G

**Sec. G-1. Contingent effective date.** That Part of this Act that enacts the Maine Revised Statutes, Title 22, section 2127, subsection 6-A and that Part of this Act that directs the Department of Health and Human Services to establish the Oral Health Advisory Committee take effect only if the General Fund bond issue proposed in Part D is approved by the voters of the State.

## PART H

**Sec. H-1. PL 2009, c. 213, Pt. DD, §§2 to 5** are repealed.

**Sec. H-2. PL 2009, c. 213, Pt. MMM, §2,** as amended by PL 2009, c. 571, Pt. UUU, §1, is further amended to read:

**Sec. MMM-2. Transfer; Maine Budget Stabilization Fund.** Notwithstanding the Maine Revised Statutes, Title 5, section 1536 or any other provision of law, ~~$8,279,283~~ $5,597,244 of the balance in General Fund unappropriated surplus on June 30, 2010 and $2,488,702 of the balance in General Fund unappropriated surplus on June 30, 2011 must be transferred to the Maine Budget Stabilization Fund no later than June 30, 2011 after all budgeted financial commitments and adjustments considered necessary by the State Controller have been made.

**Sec. H-3. PL 2009, c. 571, Pt. CCC, §1** is amended to read:

**Sec. CCC-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 ~~$68,200,000~~ $63,000,000 on June 30, 2010 from Other Special Revenue Funds to the unappropriated surplus of the General Fund. On July 1, 2010, the State Controller shall transfer ~~$68,200,000~~ $63,000,000 from the General Fund unappropriated surplus to Other Special Revenue Funds as repayment. This transfer is considered an interfund advance.

**Sec. H-4. Transfer from short-term emergency contingency account.** The State Controller shall transfer $5,427,961 from the short-term emergency contingency account established pursuant to Public Law 2009, chapter 571, Part KK to the General Fund unappropriated surplus no later than June 30, 2010.

**Sec. H-5. Transfer from unappropriated surplus at close of fiscal year 2009-10 to the Department of Transportation, Railroad Assistance Program, General Fund account.** Notwithstanding any other provision of law, at the close of fiscal year 2009-10, the State Controller shall transfer up to $7,000,000 from the unappropriated surplus of the General Fund to the Department of Transportation, Railroad Assistance Program, General Fund account 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 and 1511 and before the transfer required pursuant to Title 5, section 1536.

**Sec. H-6. Transfers considered adjustment 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 2010-11. These funds may be allotted by financial order upon recommendation of the State Budget Officer and approval of the Governor.

**Sec. H-7. Appropriations and allocations.** The following appropriations and allocations are made.

**TRANSPORTATION, DEPARTMENT OF**

**Railroad Assistance Program 0350**

Initiative: Appropriates funds for the acquisition of track in Aroostook County currently owned and operated by the Montreal, Maine and Atlantic Railway. These funds may not lapse, but must be carried forward to carry out the intent of this appropriation.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| Capital Expenditures | $0 | $7,000,000 |
| GENERAL FUND TOTAL | $0 | $7,000,000 |

| TRANSPORTATION, DEPARTMENT OF<br>DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | $0 | $7,000,000 |
| DEPARTMENT TOTAL - ALL FUNDS | $0 | $7,000,000 |

**TREASURER OF STATE, OFFICE OF**

**Debt Service - Treasury 0021**

Initiative: Provides funding for debt service in fiscal year 2010-11 to accommodate an additional $44,300,000 bond authorization.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $1,110,000 |
| GENERAL FUND TOTAL | $0 | $1,110,000 |

| TREASURER OF STATE, OFFICE OF DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | $0 | $1,110,000 |
| DEPARTMENT TOTAL - ALL FUNDS | $0 | $1,110,000 |

| SECTION TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | $0 | $8,110,000 |
| SECTION TOTAL - ALL FUNDS | $0 | $8,110,000 |

## PART I

**Sec. I-1. PL 2009, c. 414, Pt. B, §1** is amended to read:

**Sec. B-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 ~~$25,000,000~~ $23,750,000 for the purposes described in section 6 of this Part. 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. At the discretion of the Treasurer of State, with the approval of the Governor, any issuance of bonds may contain a call feature.

**Sec. I-2. PL 2009, c. 414, Pt. B, §6** is amended to read:

**Sec. B-6. Allocations from General Fund bond issue.** The proceeds of the sale of the bonds authorized under this Part must be expended as designated in the following schedule.

**MAINE HISTORIC PRESERVATION COMMISSION**

Establishes a revolving fund for the purpose of acquiring significant historic properties. ~~$1,500,000~~ $1,250,000

**DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT**

Provides funds to make investments under the Communities for Maine's Future Program in competitive community and economic revitalization projects, which must be matched with at least $3,500,000. $3,500,000

**Maine Technology Institute**

Provides funds for research and development and commercialization as prioritized by the Office of Innovation's current Science and Technology Action Plan for Maine. The funds must be allocated to environmental and renewable energy technology, biomedical ~~an~~ and biotechnology, aquaculture and marine technology, composite materials technology, advanced technologies for forestry and agriculture, information technology and precision manufacturing technology through a competitive process and must be awarded to Maine-based public and private institutions and must be awarded to leverage matching funds of at least $3,000,000. $3,000,000

**Brunswick Naval Air Station Redevelopment**

Provides for redevelopment projects at the Brunswick Naval Air Station, including the rehabilitation of buildings, federal Americans with Disabilities Act and fire code compliance and other site improvements, including up to $4,750,000 for the development of a higher education engineering and economic development center. These funds will leverage $32,500,000 in federal funds. $8,000,000

**FINANCE AUTHORITY OF MAINE**

Provides grants for food processing for fishing, agricultural, dairy and lumbering industries within the State. $1,000,000

**Economic Recovery Loan Program** $3,000,000

**Small Enterprise Growth Fund**

Provides funds for disbursements to qualifying small businesses in the State seeking to pursue eligible projects. ~~$5,000,000~~ $4,000,000

**Sec. I-3. PL 2009, c. 414, Pt. B, §10** is amended to read:

**Sec. B-10. Referendum for ratification; submission at election; form of question; effective date.** This Part must be submitted to the legal voters of the State at a statewide election held in June 2010 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 Part by voting on the following question:

> "Do you favor a ~~$25,000,000~~ $23,750,000 bond issue to provide capital investment to stimulate economic development and job creation by making investments under the Communities for Maine's Future Program and in historic properties; providing funding for research and development investments awarded through a competitive process; providing funds for disbursements to qualifying small businesses; and providing grants for food processing for fishing, agricultural, dairy and lumbering businesses within the State and redevelopment projects at the Brunswick Naval Air Station that will make the State eligible for over $39,000,000 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 Part, the Governor shall proclaim the result without delay and this Part 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 Part necessary to carry out the purposes of this referendum.

## PART J

**Sec. J-1. PL 2009, c. 414, Pt. E, §1** is amended to read:

**Sec. E-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 ~~$10,000,000~~ $9,750,000 for the purposes described in section 6 of this Part. 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. At the discretion of the Treasurer of State, with the approval of the Governor, any issuance of bonds may contain a call feature.

**Sec. J-2. PL 2009, c. 414, Pt. E, §5, sub-§5** is amended to read:

5. Of the bond proceeds allocated to the Land for Maine's Future Board, ~~$2,000,000~~ $1,750,000 must be made available to protect working waterfront properties in accordance with Public Law 2005, chapter 462, Part B, section 6.

**Sec. J-3. PL 2009, c. 414, Pt. E, §6** is amended to read:

**Sec. E-6. Allocations from General Fund bond issue.** The proceeds of the sale of the bonds authorized under this Part must be expended as designated in the following schedule.

**EXECUTIVE DEPARTMENT**

**State Planning Office**

**Land for Maine's Future Board**

| | |
|---|---|
| Provides funds in order to leverage $6,500,000 in other funds to be used for the acquisition of land and interest in land for conservation; water access, wildlife and fish habitat; outdoor recreation, including hunting and fishing; and farmland preservation. | $6,500,000 |
| Provides funds to be used for working farmland preservation in order to leverage $1,000,000 in other funds. | $1,000,000 |
| Provides funds to be used for working waterfront preservation in order to leverage ~~$2,000,000~~ $1,750,000 in other funds. | ~~$2,000,000~~ $1,750,000 |

**DEPARTMENT OF CONSERVATION**

**Bureau of Parks and Lands**

| | |
|---|---|
| Provides funds to preserve state parks and properties managed by the Department of Conservation. | $500,000 |

**Sec. J-4. PL 2009, c. 414, Pt. E, §10** is amended to read:

**Sec. E-10. Referendum for ratification; submission at election; form of question; effective date.** This Part must be submitted to the legal voters of the State at a statewide election held in November 2010 following passage of this Act. The mu-

nicipal 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 Part by voting on the following question:

> "Do you favor a ~~$10,000,000~~ $9,750,000 bond issue to invest in land conservation and working waterfront preservation and to preserve state parks to be matched by ~~$9,500,000~~ $9,250,000 in federal and other 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 Part, the Governor shall proclaim the result without delay and this Part 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 Part necessary to carry out the purposes of this referendum.

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

Effective April 12, 2010, unless otherwise indicated.

## CHAPTER 646

## S.P. 704 - L.D. 1799

### An Act To Encourage the Use of Models in the Collection and Use of Student Achievement Data

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

**Sec. 1. 20-A MRSA §6204, sub-§3,** as enacted by PL 1983, c. 859, Pt. D, §§3 and 4, is repealed.

**Sec. 2. 20-A MRSA §13802,** as enacted by PL 1985, c. 173, is amended to read:

**§13802. Teacher and principal evaluation models**

**1. Department to establish models.** The department shall establish models for evaluation of the professional performance of teachers and principals employed in ~~any~~ a school administrative unit within the State. The models must include multiple measures.

**2. Use of models.** Each school administrative unit within the State ~~shall have the option to~~ may select and incorporate one or more of the models developed pursuant to subsection 1 for the evaluation of the professional performance of ~~any~~ a teacher or principal employed by that school administrative unit. If a school administrative unit wants to include student assessments as part of teacher evaluations, that school administrative unit must use one of the models developed pursuant to subsection 1.

**Sec. 3. Review of models.** The Commissioner of Education shall convene a stakeholder group to review the models developed pursuant to the Maine Revised Statutes, Title 20-A, section 13802 for the evaluation of the professional performance of teachers and principals who are employed by a school administrative unit within the State. The Commissioner of Education, or the commissioner's designee, shall serve as a member of the stakeholder group. The commissioner shall invite representatives of the following educational associations that are appointed by their respective associations to serve as members of the stakeholder group:

1. The Maine Education Association;

2. The Maine Principals' Association;

3. The Maine School Boards Association;

4. The Maine School Superintendents Association; and

5. The Maine Administrators of Services for Children with Disabilities.

The stakeholder group shall review the models developed by the Department of Education for the evaluation of the professional performance of teachers and principals and shall approve models no later than July 1, 2011. The Department of Education may not finally adopt a model that is not approved by the stakeholder group pursuant to this section.

See title page for effective date.

## CHAPTER 647

## S.P. 705 - L.D. 1800

### An Act To Adopt the Common Core State Standards Initiative

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

**Whereas,** national education reform includes the so-called "Common Core State Standards Initiative"

standards for kindergarten to grade 12, which are internationally benchmarked and build toward college and career readiness by the time of high school graduation; and

**Whereas,** Maine's current system of learning results established under the Maine Revised Statutes, Title 20-A, section 6209, and its system of assessment, do not include the Common Core State Standards Initiative standards; and

**Whereas,** immediate enactment of this legislation is necessary to ensure the State's eligibility to apply for a significant amount of federal funding for continued education reform, which is jeopardized by significant and continuing reductions in state funding for education; 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 §6209, first ¶,** as corrected by RR 2007, c. 1, §8, is amended to read:

The department in consultation with the state board shall establish and implement a comprehensive, statewide system of learning results, which may include a core of standards in English language arts and mathematics for kindergarten to grade 12 established in common with the other states, as set forth in this section and in department rules implementing this section and other curricular requirements. The department must establish accountability standards at all grade levels in the areas of mathematics; reading; and science and technology. The department shall establish parameters for essential instruction and graduation requirements in English language arts; mathematics; science and technology; social studies; career and education development; visual and performing arts; health, physical education and wellness; and world languages. Only students in a public school or a private school approved for tuition that enrolls at least 60% publicly funded students, as determined by the previous school year's October and April average enrollment, are required to participate in the system of learning results set forth in this section and in department rules implementing this section and other curricular requirements. The commissioner shall develop accommodation provisions for instances where course content conflicts with sincerely held religious beliefs and practices of a student's parent or guardian. The system must be adapted to accommodate children with disabilities as defined in section 7001, subsection 1-A.

**Sec. 2. Emergency rulemaking.** In accordance with the Maine Revised Statutes, Title 5, section 8054, the Commissioner of Education may adopt emergency rules to include in the statewide system of learning results and assessment a core of standards in English language arts and mathematics for kindergarten to grade 12 established in common with the other states.

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

Effective April 12, 2010.

## CHAPTER 648

## H.P. 1167 - L.D. 1639

### An Act To Stimulate the Maine Economy and Promote the Development of Maine's Priority Transportation Infrastructure Needs

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

### PART A

**Sec. A-1. 23 MRSA c. 410, sub-c. 5** is enacted to read:

### SUBCHAPTER 5

### PUBLIC-PRIVATE PARTNERSHIPS

**§4251. Public-private partnerships; transportation projects**

**1. Definitions.** As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Agreement" means a contract between the department and a private entity to create a public-private partnership that allows for private sector participation in the financing, development, operation, management, ownership, leasing or maintenance of a transportation facility and that sets forth rights and obligations of the department and the private entity in that partnership.

B. "Project" means the initial capital development of a transportation facility.

C. "Proposal" means a conditional offer of a private entity that, after review, negotiation, documentation and legislative approval, may lead to an agreement as provided in this subchapter.

D. "Transportation facility" means a facility that is or if developed would be within the jurisdiction of the department including a highway, bridge, railroad line, pier, airport, trail, ferry vessel, building or other improvement.

**2. Applicability.** This subchapter applies to a proposal or agreement for a private entity to form a public-private partnership when the department estimates that the initial capital cost of a project is $25,000,000 or more or when the proposal includes placing tolls on existing transportation facilities that were not previously subject to tolls. Nothing in this section is intended to prohibit or otherwise affect programs that do not meet the criteria of this subsection.

**3. Authorization.** Notwithstanding any other provision of law, the department is authorized to receive or solicit proposals to form a public-private partnership with respect to a transportation facility. Proposals must be reviewed in accordance with this subchapter. Upon approval of the Legislature as provided in this subchapter, the department may enter into an agreement.

**4. Standards for review.** Before submitting a proposal to the Legislature for approval the department must find that the proposal meets the following standards.

A. The purpose of and need for the transportation facility must be consistent with the long-term planning of the department.

B. The private entity must have the financial, technical and operational capacity to discharge the responsibilities set forth in the proposal cost-effectively and responsibly as determined by the department. This capacity must include, but is not limited to, meeting department prequalification standards for professional engineering services and general contracting.

C. The proposed transportation facility must be owned, controlled, operated and maintained in a manner satisfactory to the department.

D. The proposal must be cost-effective in the long term.

E. The proposal must limit the use of state capital funding to less than 50% of the initial capital cost of the transportation facility and to the extent practicable minimize the use of transportation funding sources such as the Highway Fund, general obligation bonds supported by the Highway Fund, the TransCap Trust Fund under Title 30-A, section 6006-G and program funding provided by the Federal Highway Administration.

F. If the proposed transportation facility is to be supported by tolls or other user fees, the private entity must provide a traffic and revenue study prepared by an expert acceptable to the department and national bond rating agencies. The private entity must also provide a finance plan consistent with the traffic and revenue study that identifies the proposal costs, revenues by source, financing, major assumptions, internal rate of return on private investments and whether any government funds are assumed to deliver a cost-feasible project and that provides a total cash flow analysis beginning with implementation of the project and extending for the term of the agreement.

G. The proposal must demonstrate safeguards adequate to ensure that no significant additional costs or service disruptions would be borne by the traveling public and residents of the State if the private entity defaults or cancels the agreement.

H. The proposal must include a provision that any contractor performing construction work required by the agreement must furnish performance and payment bonds or irrevocable letters of credit in an amount equal to the cost of the construction work. Any action on such a payment bond or irrevocable letter of credit is subject to the requirements of Title 14, section 871, subsection 4.

I. The proposal and the transportation facility must comply with all requirements of applicable federal, state and local laws and department rules, policies and procedures.

J. The proposal must identify the law enforcement jurisdictions and responsibilities relative to the transportation facility.

K. The proposal must provide that all reasonable costs of substantially affected local governments and utilities related to the transportation facility are borne by the private entity or are otherwise provided for to the satisfaction of the department.

L. The proposal and transportation facility are in the best interest of the public.

**5. Proposal and selection processes; solicited and unsolicited.** The department may request proposals from private entities for a public-private partnership for a transportation facility or may accept unsolicited proposals pursuant to this subsection.

A. If the department receives an unsolicited proposal and determines that it meets the standards in this subchapter, the department shall publish a notice of the receipt of the proposal on the department's publicly accessible website or through advertisements in newspapers. If a notice is published exclusively in newspapers, the notice must appear in 2 or more public newspapers circulated wholly or in part in the State and in one public newspaper circulated wholly or in part in the county where the proposed transportation facility is to be located if any such newspaper is circulated in that county. The notice must provide that the department will accept, for 120 days after the initial date of publication, proposals meeting the standards in subsection 4 from other private enti-

ties for transportation facilities that satisfy the same basic purpose and need. A copy of the notice must be mailed to each local government in the area affected by the proposal.

B. After the proposal or proposals have been received, and any public notification period has expired, the department shall rank the proposals in order of preference. In ranking the proposals, the department may consider factors that include, but are not limited to, professional qualifications, general business terms, innovative engineering or cost-reduction terms, finance plans and the need for state funds to deliver the project and discharge the agreement. The department shall undertake negotiations with the private entity submitting the 1st-ranked proposal. If the department is not satisfied with the results of the negotiations, the department may, at its sole discretion, terminate negotiations with that entity and the department may negotiate with the other entities in order of the ranking of their proposals. If only one proposal is received, the department shall negotiate in good faith and, if the department is not satisfied with the results of the negotiations, the department may, at its sole discretion, terminate negotiations.

C. The department may require that the private entity assume responsibility for all costs incurred by the State or local governments before execution of the agreement, including costs of retaining independent experts to review, analyze and advise the department with respect to the proposal.

**6. Tolls; fares.** An agreement may authorize the private entity to impose tolls or fares for the use of the transportation facility. The following provisions apply to such an agreement.

A. The agreement must be consistent with the traffic and revenue study required under subsection 4, paragraph F.

B. The agreement must ensure that the transportation facility and any related toll facility are properly operated and maintained in accordance with department standards or standards generally accepted in the transportation industry.

C. The agreement must include provisions governing changes in tolls or fares.

D. The department may require provisions in the agreement that ensure that a negotiated portion of revenues from a toll-generating or a fare-generating transportation facility is returned to the department over the life of the agreement.

**7. Exercise of powers.** If the department exercises its power of eminent domain for the development and construction of a transportation facility pursuant to this subchapter, the department must retain ownership rights and interests taken. The State may provide maintenance, law enforcement and other services with respect to a transportation facility owned by a private entity when the agreement provides for reasonable reimbursement for such services.

**8. Term of agreement.** An agreement may not exceed a term of 50 years unless the Legislature, upon the recommendation of the Commissioner of Transportation, approves a longer term.

**9. Legislative approval.** If the department determines that a public-private partnership proposal and draft agreement meets the standards of this subchapter, the department shall submit to the Legislature a bill that authorizes the agreement. The bill must include a statement that the proposal meets the standards in subsection 4, a summary of the substance of the draft agreement and a description of the nature and amount of state investment, if any, including effects on programmed capital work.

**10. Confidentiality of proposals and negotiations.** All records, notes, summaries, working papers, plans, interoffice and intraoffice memoranda or other materials prepared, used or submitted in connection with any proposal considered under this subchapter are confidential and not subject to public review until the department determines that the proposal meets the standards of this subchapter or until the proposal is finally rejected by the department.

**11. Report of proposals.** By February 1st, annually, the department shall provide to the joint standing committee of the Legislature having jurisdiction over transportation matters a report summarizing all proposals that the department has determined meet the standards of this subchapter or that have been finally rejected during the previous calendar year.

**12. Rules.** The department may adopt rules to implement this subchapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

## PART B

**Sec. B-1. 23 MRSA §753-A,** as amended by PL 2007, c. 306, §3, is repealed.

**Sec. B-2. 23 MRSA §4244** is enacted to read:

**§4244. Design-build contracting**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Best value" means the highest overall value to the State, considering quality and cost.

B. "Design-build contracting" means a method of project delivery whereby a single firm is contractually responsible for performing design, construction and related services.

C. "Major participant" means a firm that would have a major role in the design or construction of a project as specified by the department in its procurement documents.

D. "Project" means the highway, bridge, railroad, pier, airport, trail, ferry vessel, building or other improvement being constructed or rehabilitated, including all professional services, labor, equipment, materials, tools, supplies, warranties and incidentals needed for a complete and functioning product.

E. "Proposal" means an offer by the proposer to design and construct the project in accordance with all request-for-proposals provisions.

F. "Proposer" means an individual, firm, corporation, limited liability company, partnership, joint venture, sole proprietorship or other entity that submits a proposal.

G. "Public notice" means notice given electronically through the department's publicly accessible website or through advertisements in newspapers. If notice is to be given exclusively in newspapers, the notice must appear in 2 or more public newspapers circulated wholly or in part in the State and in one public newspaper circulated wholly or in part in the county where the proposed project is located if any such newspaper is circulated in that county.

H. "Quality" means those features that the department determines are most important to the project. Quality criteria include design, constructability, long-term maintenance costs, aesthetics, local impacts, traveler and other user costs, service life, time to construct and other factors that the department considers to be in the best interest of the State.

**2. Authorization.** Notwithstanding section 4243 or any other provision of law, the department may use design-build contracting to deliver projects. The department may evaluate and select proposals on either a best-value or low-bid basis. If the scope of work requires substantial engineering judgment, the quality of which may vary significantly, as determined by the department, then the basis of award must be the best value.

The department retains the authority to terminate the contracting process at any time, to reject any proposal, to waive technicalities or to solicit new proposals if the department determines that doing so is in the best interest of the State.

**3. Prequalification.** A proposer must be prequalified to be eligible to submit a proposal. A proposer must be prequalified by a project-specific request-for-qualifications process described in this subsection, or a proposer may be a team formed of contractors and designers that are each prequalified separately for design-build contracting in accordance with ongoing prequalification procedures established by the department. The department shall specify the method of prequalification in its discretion, except that if the basis of award is the best value, then prequalification must be through a project-specific request-for-qualifications process.

The department shall give public notice of a project-specific request-for-qualifications process. The department shall issue a request-for-qualifications package to all firms requesting one in accordance with the notice. Interested firms shall supply, for themselves and all major participants, all information required by the department. The department may investigate and verify all information received. All financial information, trade secrets or other information customarily regarded as confidential business information submitted to the department is confidential. The department shall evaluate and rate all firms submitting a conforming statement of qualifications and select the most qualified firms to receive a request for proposals. The department may select any number of firms, except that, if the department fails to prequalify at least 2 firms, the department shall repeat the request-for-qualifications process or select a different project delivery method.

**4. Request for proposals.** If prequalification is through project-specific prequalification, the department shall issue a request for proposals to those firms prequalified. If prequalification is through ongoing prequalification procedures established by the department, the department shall give public notice of the request for proposals. The request for proposals must set forth the scope of work, design parameters, construction requirements, time constraints and all other requirements that have a substantial impact on the cost or quality of the project and the project development process, as determined by the department. The request for proposals must include the criteria for acceptable proposals and must include a request-for-information process that allows for clarification of such criteria. For projects to be awarded on a best-value basis, the scoring process and quality criteria must also be contained in the request for proposals. The request for proposals may also provide for a process for the department to meet with each proposer individually to review conceptual technical elements of each proposal before full proposal submittal for the purposes of identifying design or other technical elements that are unacceptable to the department or that obviously would cause rejection of the proposal as nonresponsive. All such conceptual technical meetings, including submittals and responses, are confidential until award of the contract, but the department may issue addenda to all proposers to clarify design or other technical elements that will or will not be allowed. Upon award of the contract and after resolution of any procurement dis-

putes, the department shall return documents submitted by unsuccessful proposers upon request. The request for proposals may also provide for a stipend upon specified terms to unsuccessful proposers that submit proposals conforming to all material request-for-proposals requirements as determined by the department.

**5. Low-bid award.** If the basis of the award is lowest cost, then each proposal must be submitted by the proposer to the department in 2 separate components, a sealed technical proposal and a sealed price proposal. These 2 components must be submitted simultaneously. The department shall first review technical proposals for responsiveness. The department shall award the contract to the proposer that submits a responsive proposal with the lowest price, if the proposal meets all material request-for-proposals requirements as determined by the department.

**6. Best-value award.** If the basis of the award is best value, then each proposal must be submitted by the proposer to the department in 2 separate components, a sealed technical proposal and a sealed price proposal. These 2 components must be submitted simultaneously.

The department shall open first each technical proposal and evaluate and score it based on the quality criteria contained in the request for proposals. The request for proposals may provide that the range between the highest and lowest quality score of responsive technical proposals must be limited to an amount certain. During this evaluation process, the price proposals must remain sealed and all technical proposals are confidential.

After completion of the review for responsiveness, the department shall publicly open and read each price proposal associated with each responsive technical proposal. The department shall calculate the overall value rating for each proposal, which is the total price divided by the quality score. The department shall award the contract to the proposer with the lowest price per quality score point, if the proposal meets all material request-for-proposals requirements as determined by the department.

**7. Procurement disputes.** The request for proposals must provide for resolution of disputes that may arise before award of the contract by including a dispute review board procedure in accordance with the department's standard specifications. Except in extraordinary circumstances as determined by the department, including emergency work or situations in which delay could result in the loss of funding, the request for proposals must include a provision that requires that the procurement process be suspended pending final resolution of such disputes. In cases involving such extraordinary circumstances when suspension of the procurement process does not occur, proposers that are not selected may seek monetary damages directly related to such nonselection.

See title page for effective date.

## CHAPTER 649
## H.P. 1102 - L.D. 1565

### An Act To Amend the Laws Governing the Misclassification of Construction Workers

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

**Sec. 1. 39-A MRSA §105-A, sub-§5** is enacted to read:

**5. Stop-work orders.** In addition to any penalty imposed under section 324, subsection 3, if after a hearing the executive director determines that a hiring agent or construction subcontractor has knowingly failed to secure the payment to that hiring agent's or construction subcontractor's employees of the compensation provided for by this Act, the executive director or the executive director's designee shall issue a stop-work order pursuant to this subsection. The issuance of a stop-work order by the executive director or the executive director's designee constitutes final agency action.

A. A hiring agent or construction subcontractor must receive at least 3 business days' notice of a hearing regarding a stop-work order. The executive director or the executive director's designee shall stay the issuance of a stop-work order if the hiring agent or subcontractor provides evidence acceptable to the executive director or the executive director's designee that the hiring agent or subcontractor has provided and will continue to provide workers' compensation coverage for the employees of that hiring agent or subcontractor or for the individuals whose status as employees or independent contractors is in question. Providing such coverage may not be evidence at the hearing that the hiring agent or subcontractor was required to do so under this Act.

B. If the executive director or the executive director's designee finds at the hearing that the hiring agent or construction subcontractor knowingly failed to provide a workers' compensation insurance policy, the executive director or the executive director's designee shall issue a stop-work order effective immediately on the conclusion of the hearing to that hiring agent or construction subcontractor at the construction site at which the executive director or executive director's designee has determined a violation occurred, unless the hiring agent or subcontractor has provided cover-

age and will continue to do so pursuant to paragraph A.

C. A stop-work order issued pursuant to this subsection remains in effect until the executive director or the executive director's designee issues an order releasing the stop-work order upon finding that the hiring agent or construction subcontractor has come into compliance with the requirements of this subsection and has paid any penalty assessed under section 324, subsection 3 or has entered into a penalty payment agreement with the board.

D. A stop-work order issued pursuant to this subsection against a hiring agent or construction subcontractor applies to any successor firm, corporation or partnership of the hiring agent or construction subcontractor in the same manner as it applies to the hiring agent or construction subcontractor.

E. Any payment or performance bond issued on or in relation to a construction project subject to a stop-work order may not cover any exposure arising out of or during the shutdown of that project.

For purposes of this subsection, a violation is considered knowing if the hiring agent or construction subcontractor has previously obtained workers' compensation insurance and the insurance has been cancelled or the insurance has not been continued or renewed; has been notified in writing by the board of the need for workers' compensation insurance; or has had one or more previous violations of the requirement to secure the payment to that hiring agent's or construction subcontractor's employees of the compensation provided for by this Act.

**Sec. 2. Appropriations and allocations.** The following appropriations and allocations are made.

**WORKERS' COMPENSATION BOARD**

**Administration - Workers' Compensation Board 0183**

Initiative: Allocates funds to enhance enforcement of laws prohibiting the misclassification of workers by establishing one Management Analyst II position at range 24 and one Auditor III position at range 25. Notwithstanding any other provision of law, the Management Analyst II position and the Auditor III position must be funded from the Workers' Compensation Board's reserve account pursuant to the Maine Revised Statutes, Title 39-A, section 154, subsection 6, paragraph B.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 2.000 |
| Personal Services | $0 | $161,773 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $161,773 |

See title page for effective date.

## CHAPTER 650
## S.P. 747 - L.D. 1832

### An Act To Amend the Laws Governing the Election of Androscoggin County Commissioner District Budget Committee Members

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

**Whereas,** new Androscoggin County budget committee members will be chosen in June and changes are necessary to reflect the current commissioner districts; 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 §723, sub-§1, ¶D,** 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 repealed and the following enacted in its place:

D. The votes of each municipality shall be multiplied by the figure next to the municipality's name as follows:

(1) For Commissioner District Number One:

(a) Durham, 975;

(b) Greene, 1176;

(c) Leeds, 577;

(d) Lisbon, 2619;

(e) Livermore, 607;

(f) Livermore Falls, 931;

(g) Sabattus, 1294;

(h) Turner, 1435; and

(i) Wales, 381;

(2) For Commissioner District Number 2:

(a) Auburn, 6935;

(b) Mechanic Falls, 937;

(c) Minot, 671; and

(d) Poland, 1454; and

(3) For Commissioner District Number 3:

(a) Lewiston, 1.

These adjustment figures must be revised after each decennial census.

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

Effective April 13, 2010.

## CHAPTER 651

## S.P. 495 - L.D. 1360

### An Act Regarding Mental Health Treatment

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

**Whereas,** provisions of law related to progressive treatment programs for certain persons with mental illness will be repealed on July 1, 2010; and

**Whereas,** it is necessary to extend the progressive treatment programs law and make related amendments to the laws; and

**Whereas,** that extension and the related changes might not take effect on July 1, 2010 unless enacted as emergency measures; 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 §393, sub-§1, ¶E,** as enacted by PL 2007, c. 670, §6, is amended to read:

E. Has been:

(1) Committed involuntarily to a hospital pursuant to an order of the District Court under Title 34-B, section 3864 because the person was found to present a likelihood of serious harm, as defined under Title 34-B, section 3801, subsection ~~4~~ 4-A, paragraphs A to C;

(2) Found not criminally responsible by reason of insanity with respect to a criminal charge; or

(3) Found not competent to stand trial with respect to a criminal charge.

**Sec. 2. 25 MRSA §1541, sub-§3, ¶C,** as enacted by PL 2007, c. 670, §16, is amended to read:

C. The commanding officer shall report to the Federal Bureau of Investigation, National Instant Criminal Background Check System a court's finding, upon the commanding officer's receipt of an abstract from a court that a person has been:

(1) Committed involuntarily to a hospital pursuant to an order of the District Court under Title 34-B, section 3864 because the person was found to present a likelihood of serious harm, as defined under Title 34-B, section 3801, subsection ~~4~~ 4-A, paragraphs A to D;

(2) Found not criminally responsible by reason of insanity with respect to a criminal charge; or

(3) Found not competent to stand trial with respect to a criminal charge.

The commanding officer may adopt rules to implement the requirements of this paragraph. Rules adopted pursuant to this paragraph are routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 3. 34-B MRSA §3801, sub-§4,** as amended by PL 2005, c. 519, Pt. BBBB, §§1 and 2 and affected by §20, is repealed.

**Sec. 4. 34-B MRSA §3801, sub-§4-A** is enacted to read:

**4-A. Likelihood of serious harm.** "Likelihood of serious harm" means:

A. A substantial risk of physical harm to the person as manifested by recent threats of, or attempts at, suicide or serious self-inflicted harm;

B. A substantial risk of physical harm to other persons as manifested by recent homicidal or violent behavior or by recent conduct placing others in reasonable fear of serious physical harm;

C. A reasonable certainty that the person will suffer severe physical or mental harm as manifested by recent behavior demonstrating an inability to avoid risk or to protect the person adequately from impairment or injury; or

D. For the purposes of section 3873-A, in view of the person's treatment history, current behavior and inability to make an informed decision, a reasonable likelihood that the person's mental health will deteriorate and that the person will in the foreseeable future pose a likelihood of serious harm as defined in paragraphs A, B or C.

**Sec. 5. 34-B MRSA §3801, sub-§4-B** is enacted to read:

**4-B. Medical practitioner.** "Medical practitioner" or "practitioner" means a licensed physician, registered physician assistant, certified psychiatric clinical nurse specialist, certified nurse practitioner or licensed clinical psychologist.

**Sec. 6. 34-B MRSA §3801, sub-§5,** as enacted by PL 1983, c. 459, §7, is amended to read:

**5. Mentally ill person.** "Mentally ill person" means a person having a psychiatric or other disease ~~which~~ that substantially impairs ~~his~~ that person's mental health~~, including~~ or creates a substantial risk of suicide. "Mentally ill person" includes persons suffering ~~from the~~ effects ~~of~~ from the use of drugs, narcotics, hallucinogens or intoxicants, including alcohol~~, but not including mentally retarded or sociopathic persons~~. A person with developmental disabilities or a person diagnosed as a sociopath is not for those reasons alone a mentally ill person.

**Sec. 7. 34-B MRSA §3801, sub-§7,** as amended by PL 2007, c. 319, §2, is further amended to read:

**7. Patient.** "Patient" means a person under observation, care or treatment in a psychiatric hospital or residential care facility pursuant to this subchapter, a person receiving services from an assertive community treatment team, a person receiving intensive mental health management services from the department or a person being evaluated for emergency admission under section 3863 in a hospital emergency department.

**Sec. 8. 34-B MRSA §3801, sub-§7-A,** as enacted by PL 2005, c. 519, Pt. BBBB, §3 and affected by §20, is amended to read:

**7-A. Progressive treatment program.** "Progressive treatment program" or "program" means a program of court-ordered services provided to participants under section ~~3873~~ 3873-A.

**Sec. 9. 34-B MRSA §3801, sub-§7-B,** as enacted by PL 2007, c. 319, §3, is amended to read:

**7-B. Psychiatric hospital.** "Psychiatric hospital" means:

A. A state mental health institute; ~~or~~

B. A nonstate mental health institution.~~;~~ or

C. A designated nonstate mental health institution.

**Sec. 10. 34-B MRSA §3831, sub-§6,** as amended by PL 2007, c. 319, §6, is further amended to read:

**6. Adults with advance health care directives.** An adult with an advance health care directive authorizing psychiatric hospital treatment may be admitted on an informal voluntary basis if the conditions specified in the advance health care directive for the directive to be effective are met in accordance with the method stated in the advance health care directive or, if no such method is stated, as determined by a physician or a psychologist. If no conditions are specified in the advance health care directive as to how the directive becomes effective, the person may be admitted on an informal voluntary basis if the person has been determined to be incapacitated pursuant to Title 18-A, Article 5, Part 8. A person may be admitted only if the person does not at the time object to the admission or, if the person does object, if the person has directed in the advance health care directive that admission to the psychiatric hospital may occur despite that person's objections. The duration of the stay in the psychiatric hospital of a person under this subsection may not exceed 5 working days. If at the end of that time the chief administrative officer of the psychiatric hospital recommends further hospitalization of the person, the chief administrative officer shall proceed in accordance with section 3863, subsection ~~5~~ 5-A.

This subsection does not create an affirmative obligation of a psychiatric hospital to admit a person consistent with the person's advance health care directive. This subsection does not create an affirmative obligation on the part of the psychiatric hospital or treatment provider to provide the treatment consented to in the person's advance health care directive if the physician or psychologist evaluating or treating the person or the chief administrative officer of the psychiatric hospital determines that the treatment is not in the best interest of the person.

**Sec. 11. 34-B MRSA §3862, sub-§1,** as amended by PL 2007, c. 178, §1, is further amended to read:

**1. Law enforcement officer's power.** If a law enforcement officer has ~~reasonable grounds~~ probable cause to believe~~, based upon probable cause,~~ that a person may be mentally ill and that due to that condition the person presents a threat of imminent and substantial physical harm to that person or to other persons, or if a law enforcement officer knows that a person has an advance health care directive authorizing mental health treatment and the officer has ~~reasonable grounds~~ probable cause to believe~~, based upon probable cause,~~ that the person lacks capacity, the law enforcement officer:

A. May take the person into protective custody; and

B. If the law enforcement officer does take the person into protective custody, shall deliver the person immediately for examination by a medical practitioner as provided in section 3863 or, for a person taken into protective custody who has an advance health care directive authorizing mental health treatment, for examination as provided in Title 18-A, section 5-802, subsection (d) to determine the individual's capacity and the existence of conditions specified in the advance health care directive for the directive to be effective. ~~The examination may be performed by a licensed physician, a licensed clinical psychologist, a physician's assistant, a nurse practitioner or a certified psychiatric clinical nurse specialist.~~

When~~, in~~ formulating probable cause, the law enforcement officer ~~relies~~ may rely upon information provided by a 3rd-party informant~~,~~ if the officer ~~shall confirm~~ confirms that the informant has reason to believe, based upon the informant's recent personal observations of or conversations with a person, that the person may be mentally ill and that due to that condition the person presents a threat of imminent and substantial physical harm to that person or to other persons.

**Sec. 12. 34-B MRSA §3862, sub-§3,** as enacted by PL 1983, c. 459, §7, is amended to read:

**3. Certificate executed.** If the certificate is executed by the examiner under section 3863, the officer shall undertake forthwith to secure the endorsement of a judicial officer under section 3863 and may detain the person for a ~~reasonable~~ period of time~~,~~ not to exceed 18 hours~~, pending~~ as may be necessary to obtain that endorsement.

**Sec. 13. 34-B MRSA §3863, sub-§1,** as amended by PL 2007, c. 319, §9, is further amended to read:

**1. Application.** Any health officer, law enforcement officer or other person may ~~make a written application~~ apply to admit a person to a psychiatric hospital, subject to the prohibitions and penalties of section 3805, stating:

A. The ~~person's~~ applicant's belief that the person is mentally ill and, because of the person's illness, poses a likelihood of serious harm; and

B. The grounds for this belief.

**Sec. 14. 34-B MRSA §3863, sub-§2,** as amended by PL 2007, c. 319, §9, is further amended to read:

**2. Certifying examination.** The written application must be accompanied by a dated certificate, signed by a ~~licensed physician, physician's assistant, certified psychiatric clinical nurse specialist, nurse~~ medical practitioner ~~or licensed clinical psychologist,~~ stating:

A. ~~The physician, physician's assistant, certified psychiatric clinical nurse specialist, nurse~~ That the practitioner ~~or psychologist~~ has examined the person on the date of the certificate; ~~and~~

B. ~~The physician, physician's assistant, certified psychiatric clinical nurse specialist, nurse~~ That the medical practitioner ~~or psychologist~~ is of the opinion that the person is mentally ill and, because of that illness, poses a likelihood of serious harm. The written certificate must include a description of the grounds for that opinion.~~.~~;

C. That adequate community resources are unavailable for care and treatment of the person's mental illness; and

D. The grounds for the practitioner's opinion, which may be based on personal observation or on history and information from other sources considered reliable by the examiner.

**Sec. 15. 34-B MRSA §3863, sub-§5,** as amended by PL 2007, c. 319, §9, is repealed.

**Sec. 16. 34-B MRSA §3863, sub-§5-A** is enacted to read:

**5-A. Continuation of hospitalization.** If there is need for further hospitalization of the person as determined by the chief administrative officer of the hospital, the chief administrative officer shall first determine if the person may be informally admitted under section 3831. If informal admission is not suitable or is refused by the person, the chief administrative officer may seek involuntary commitment in accordance with this subsection.

A. If the person is at a state mental health institute, the chief administrative officer may seek involuntary commitment by applying for an order under section 3864.

B. If the person is at a designated nonstate mental health institution, the chief administrative officer may seek involuntary commitment only by requesting the commissioner to apply for an order under section 3864.

C. An application under this subsection must be made to the District Court having territorial jurisdiction over the psychiatric hospital to which the person is admitted on an emergency basis and must be filed within 3 days from the date of admission of the patient under this section, except that, if the 3rd day falls on a weekend or holiday, the application must be filed on the next business day following that weekend or holiday. If no application to the District Court is timely filed, the person must be promptly discharged.

**Sec. 17. 34-B MRSA §3863, sub-§6, ¶E,** as enacted by PL 1983, c. 459, §7, is amended to read:

E. ~~One of~~ Either the next of kin or a friend, if ~~none of the listed persons exists~~ no guardian or immediate family member is known or can be quickly located.

**Sec. 18. 34-B MRSA §3863, sub-§7,** as amended by PL 2007, c. 319, §9, is further amended to read:

**7. Post-admission examination.** Every patient admitted to a psychiatric hospital under this section must be examined as soon as practicable after the patient's admission. If findings required for admission under subsection 2 are not certified in a 2nd opinion by a staff physician or licensed clinical psychologist within 24 hours after admission, the person must be immediately discharged.

~~A. The chief administrative officer of the psychiatric hospital shall arrange for examination by a staff physician or licensed clinical psychologist of every patient hospitalized under this section.~~

~~B. The examiner may not be the certifying examiner under this section or under section 3864.~~

~~C. If the post-admission examination is not held within 24 hours after the time of admission, or if a staff physician or licensed clinical psychologist fails or refuses after the examination to certify that, in the staff physician's or licensed clinical psychologist's opinion, the person is mentally ill and due to the person's mental illness poses a likelihood of serious harm, the person must be immediately discharged.~~

**Sec. 19. 34-B MRSA §3863, sub-§8,** as amended by PL 2009, c. 276, §1, is further amended to read:

**8. Rehospitalization from progressive treatment program.** ~~The assertive community treatment~~ An ACT team ~~physician, psychologist, certified psychiatric clinical nurse specialist or nurse~~ practitioner or the commissioner may ~~make a written application~~ apply under this section to admit to a state mental health institute a ~~person~~ patient who fails to fully participate in the progressive treatment program in accordance with section ~~3873, subsection 5~~ 3873-A. ~~The provisions of this section apply to that application, except that the standard for admission is governed by section 3873, subsection 5, paragraph B.~~

**Sec. 20. 34-B MRSA §3864, sub-§1,** as amended by PL 2007, c. 319, §10, is further amended to read:

**1. Application.** An application to the District Court to admit a person to a psychiatric hospital, filed under section 3863, subsection ~~5~~ 5-A, ~~paragraph B,~~ must be accompanied by:

A. The emergency application under section 3863, subsection 1;

B. The accompanying certificate of the ~~physician or psychologist~~ medical practitioner under section 3863, subsection 2;

C. The certificate of the physician or psychologist under section 3863, subsection 7 ~~that:~~;

~~(1) The physician or psychologist has examined the patient; and~~

~~(2) It is the opinion of the physician or psychologist that the patient is a mentally ill person and, because of that patient's illness, poses a likelihood of serious harm;~~

D. A written statement, signed by the chief administrative officer of the psychiatric hospital, 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 ~~the patient's right to retain an attorney or to have an attorney appointed, of the patient's right to select or to have the patient's attorney select an independent examiner and regarding instructions on how to contact the District Court; and~~:

(1) The patient's right to retain an attorney or to have an attorney appointed;

(2) The patient's right to select or to have the patient's attorney select an independent examiner; and

(3) How to contact the District Court; and

E. A copy of the notice and instructions given to the patient.

**Sec. 21. 34-B MRSA §3864, sub-§4,** as amended by PL 2007, c. 472, §1, is further amended to read:

**4. 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 subsection 1 and at least 3 days after the person who is the subject of the examination was notified by the psychiatric hospital of the proceedings and of that person's right to retain counsel or to select an examiner, the court shall cause the person to be examined by ~~2 examiners~~ a medical practitioner. If the application includes a request for an order for involuntary treatment under subsection 7-A, the practitioner must be a medical practitioner who is qualified to prescribe medication relevant to the patient's care. If the person under examination or the counsel for that person selects a qualified examiner who is reasonably available, the court shall give preference to choosing that examiner.

~~(1) Except as provided in subparagraph (1-A), each examiner must be either a licensed physician or a licensed clinical psychologist.~~

~~(1-A) If the application requests an order for involuntary treatment pursuant to subsection 1-A, one examiner must be a licensed physician or a licensed clinical psychologist and one examiner must be a person who is qualified to prescribe medication relevant to the patient's care as a licensed physician, certified nurse practitioner or registered physician assistant.~~

~~(2-A) If the person under examination or the counsel for that person selects a qualified examiner who is reasonably available, then the court shall choose that examiner as one of the 2 designated by the court.~~

~~(3) Neither examiner appointed by the court may be the certifying examiner under section 3863, subsection 2 or 7.~~

B. The examination must be held at ~~the~~ a psychiatric hospital or at any other suitable place not likely to have a harmful effect on the mental health of the person.

E. The ~~examiners~~ examiner shall report to the court on:

(1) Whether the person is a mentally ill person within the meaning of section 3801, subsection 5;

(2) When the establishment of a progressive treatment plan under section ~~3873~~ 3873-A is at issue, whether a person is suffering from a severe and persistent mental illness within the meaning of section 3801, subsection 8-A;

(3) Whether the person poses a likelihood of serious harm within the meaning of section 3801, subsection ~~4~~ 4-A; ~~and~~

(4) When involuntary treatment is at issue, whether the need for such treatment meets the criteria of subsection 7-A, paragraphs A and B~~.~~;

(5) Whether adequate community resources are available for care and treatment of the person's mental illness; and

(6) Whether the person's clinical needs may be met by an order under section 3873-A to participate in a progressive treatment program.

G. Opinions of the examiner may be based on personal observation or on history and information from other sources considered reliable by the examiner.

**Sec. 22. 34-B MRSA §3864, sub-§5, ¶A,** as amended by PL 2009, c. 281, §3, is further amended to read:

A. The District Court shall hold a hearing on the application not later than 14 days from the date of the application. The District Court may separate the hearing on commitment from the hearing on involuntary treatment.

(1) ~~On~~ For good cause shown, on a motion by any party or by the court on its own motion, the hearing on commitment or on involuntary treatment may be continued ~~for cause~~ for a period not to exceed ~~10~~ 21 additional days.

~~(1-A) On a motion by any party or by the court on its own motion, the hearing on involuntary treatment may be continued for cause for a period not to exceed 21 days from the date of entry of the order on the application for commitment.~~

(2) If the hearing on commitment is not held within the time specified, or within the specified continuance period, the court shall dismiss the application and order the person discharged forthwith.

(2-A) If the hearing on involuntary treatment is not held within the time specified, or within the specified continuance period, the court shall dismiss the application for involuntary treatment.

(3) In computing the time periods set forth in this paragraph, the Maine Rules of Civil Procedure apply.

**Sec. 23. 34-B MRSA §3864, sub-§6,** as amended by PL 2007, c. 319, §10, is further amended to read:

**6. 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 person is mentally ill and that the person's recent actions and behavior demonstrate that the person's illness poses a likelihood of serious harm;

(1-A) That adequate community resources for care and treatment of the person's mental illness are unavailable;

(2) That inpatient hospitalization is the best available means for treatment of the patient; and

(3) That it is satisfied with the individual treatment plan offered by the psychiatric hospital to which the applicant seeks the patient's involuntary commitment.

B. If the District Court makes the findings ~~described~~ in paragraph A, subparagraphs ~~1~~ (1), (1-A) and ~~2~~ (2), but is not satisfied with the individual treatment plan as offered, it may continue the case for not longer than 10 days, pending reconsideration and resubmission of an individual treatment plan by the psychiatric hospital.

C. If the District Court makes the findings in section 3873-A, subsection 1, the court may issue an order under section 3873-A requiring the person to participate in a progressive treatment program.

**Sec. 24. 34-B MRSA §3864, sub-§7,** as amended by PL 2007, c. 319, §10, is further amended to read:

**7. Commitment.** Upon making the findings described in subsection 6, paragraph A, the court may order commitment to a psychiatric hospital 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 order the patient discharged immediately.

**Sec. 25. 34-B MRSA §3864, sub-§7-A, ¶C,** as enacted by PL 2007, c. 446, §4 and affected by §7, is amended to read:

C. The ~~hospital and person~~ parties may agree to ~~changes in~~ change, terminate or extend the treatment plan during the time period of an order for involuntary treatment.

**Sec. 26. 34-B MRSA §3864, sub-§7-A, ¶D,** as enacted by PL 2007, c. 446, §4 and affected by §7, is amended to read:

D. ~~If a change in the treatment plan is needed and the hospital and patient do not agree on the change, the hospital shall~~ For good cause shown, any party may apply to the court ~~for a~~ to change ~~in~~ or terminate the treatment plan.

**Sec. 27. 34-B MRSA §3871, sub-§6,** as enacted by PL 2005, c. 519, Pt. BBBB, §13 and affected by §20, is amended to read:

**6. Discharge to progressive treatment program.** If a person participates in the progressive treatment program under section ~~3873~~ 3873-A, the time period of a commitment under this section terminates on entry into the progressive treatment program.

**Sec. 28. 34-B MRSA §3873,** as amended by PL 2009, c. 276, §2 and c. 321, §§1 to 4, is repealed.

**Sec. 29. 34-B MRSA §3873-A** is enacted to read:

**§3873-A. Progressive treatment program**

**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, 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 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 history and information from other sources considered reliable by the examiner.

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.

**4. Examinations.** Examinations under this section are governed as follows.

A. Upon receipt by the District Court of the application and the accompanying documents specified in subsection 1 and at least 3 days after the person who is the subject of the examination is notified by the applicant of the proceedings and of that person's right to retain counsel or to select an examiner, the court shall cause the person to be examined by a medical practitioner. If the person under examination or the counsel for that person selects a qualified examiner who is reasonably available, the court shall give preference to choosing that examiner.

B. The examination must be held at a psychiatric hospital, a crisis center, an ACT team facility or at another suitable place not likely to have a harmful effect on the mental health of the patient.

C. The examiner shall report to the court on:

(1) Whether the patient is a mentally ill person within the meaning of section 3801, subsection 5;

(2) Whether the patient is suffering from a severe and persistent mental illness within the meaning of section 3801, subsection 8-A; and

(3) Whether the patient poses a likelihood of serious harm within the meaning of section 3801, subsection 4-A.

**5. Hearings.** Hearings under this section are governed as follows.

A. The District Court shall hold a hearing on the application or any subsequent motion not later than 14 days from the date when the application or motion is filed. For good cause shown, on a motion by any party or by the court on its own motion, the hearing may be continued for a period not to exceed 21 additional days. If the hearing is not held within the time specified, or within the specified continuance period, the court shall dismiss the application or motion. In computing the time periods set forth in this paragraph, the Maine Rules of Civil Procedure apply.

B. The hearing must be conducted in as informal a manner as may be consistent with orderly procedure and in a physical setting not likely to harm the mental health of the patient. The applicant shall transport the patient to and from the place of hearing. If the patient is released following the hearing, the patient must be transported to the patient's place of residence if the patient so requests.

C. The court shall conduct the hearing in accordance with accepted rules of evidence. The patient, the applicant and all other persons to whom notice is required to be sent must be afforded an opportunity to appear at the hearing to testify and to present and cross-examine witnesses. The court may, in its discretion, receive the testimony of any other person and may subpoena any witness.

D. The patient must be afforded an opportunity to be represented by counsel, and, if neither the patient nor others provide counsel, the court shall appoint counsel for the patient.

E. At the time of hearing, the applicant shall submit to the court expert testimony to support the application and to describe the proposed individual treatment plan. The applicant shall bear the expense of providing witnesses for this purpose.

F. The court may consider, but is not bound by, an advance directive or durable power of attorney executed by the patient and may receive testimony from the patient's guardian or attorney in fact.

G. A stenographic or electronic record must be made of the proceedings. The record and all notes, exhibits and other evidence are confidential and 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 is confidential and a report of the proceedings may not be released to the public or press, except by permission of the patient or the patient'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 patient or patient's counsel.

I. Except as provided in this subsection, the provisions of section 3864, subsections 10 and 11 apply to expenses and the right of appeal.

**6. Order.** After notice, examination and hearing, the court may issue an order effective for a period of up to 12 months directing the patient to follow an individualized treatment plan and identifying incentives for compliance and potential consequences for noncompliance.

**7. Compliance.** To ensure compliance with the treatment plan, the court may:

A. Order that the patient be committed to the care and supervision of an ACT team or other outpatient facility with such restrictions or conditions as may be reasonable and necessary to ensure plan compliance;

B. Issue an order of emergency commitment 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

C. Order that any present or conditional restrictions on the patient's liberty or control over the patient's assets or affairs be suspended or ended upon achievement of the designated goals under the treatment plan.

**8. Consequences.** In addition to any conditional remedies contained in the court's order, if the patient fails to comply with the treatment plan, the applicant may file with the court a motion for enforcement supported by a certificate from a medical practitioner identifying the circumstances of noncompliance. If after notice and hearing the court finds that the patient has been noncompliant and that the patient presents a likelihood of serious harm, the court may authorize emergency hospitalization under section 3863 if the practitioner's certificate supporting the motion complies with section 3863, subsection 2. Nothing in this section precludes the use of protective custody by law enforcement officers under section 3862.

**9. Motion to dissolve, modify or extend.** For good cause shown, any party to the application may move to dissolve or modify an order or to extend the term of the treatment plan for an additional term of up to one year.

**10. Limitation.** The director of an ACT team or the chief administrative officer of a nonstate mental health institution may apply to the District Court to obtain an order under subsection 1 to admit a patient to a progressive treatment program administered by an ACT team only if the ACT team:

A. Was in existence on the effective date of this section;

B. Complies with nationally recognized essential standards and basic principles for the provision of mental health services at the ACT team level as identified in rules adopted by the department; and

C. Meets the criteria for ACT teams set forth in section 3801, subsection 11 and applicable state rules and federal laws and regulations.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 30. Application.** All progressive treatment plans in effect July 1, 2010 must be continued under the provisions of the Maine Revised Statutes, Title 34-B, section 3873-A.

**Sec. 31. Report.** The Department of Health and Human Services shall conduct a review and analysis of the progressive treatment program established under the Maine Revised Statutes, Title 34-B, section 3873-A and shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters by January 1, 2012. The review process must include the collection and analysis of data regarding participants in the progressive treatment program over periods of time prior to, during and after participation in the program. The review process must include work with a broad group of stakeholders to compile a list of resources that would be needed if the State were to implement assisted outpatient mental health treatment for persons who have been ordered by a court to receive mental health treatment outside of a psychiatric hospital.

**Sec. 32. Emergency rule-making authority.** The Department of Health and Human Services shall adopt emergency rules on or before October 1, 2010 under the Maine Revised Statutes, Title 5, sections 8054 and 8073 in order to implement rulemaking under Title 34-B, section 3873-A, subsection 10 relating to ACT team compliance with nationally recognized essential standards and basic principles for the provision of mental health services at the ACT team level. The department may adopt the rules without having to demonstrate that immediate adoption is necessary to avoid a threat to public health, safety or general welfare. The rules must identify nationally recognized essential standards and basic principles for ACT teams providing mental health services under the progressive treatment program pursuant to Title 34-B, section 3873-A.

**Sec. 33. Delayed implementation.** Notwithstanding the Maine Revised Statutes, Title 34-B, section 3873-A, subsection 1, the director of an ACT team may not apply to the District Court to obtain an order to admit a patient to a progressive treatment program until the Department of Health and Human Services adopts rules pursuant to Title 34-B, section 3873-B, subsection 10 identifying nationally recognized essential standards and basic principles for the provision of mental health services by ACT teams and until the transition of claims processing under the Department of Health and Human Services MaineCare program to the department's new system in fiscal year 2010-11.

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

Effective April 14, 2010.

# CHAPTER 652

## H.P. 1292 - L.D. 1805

## 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. 5 MRSA §3331, sub-§6,** as enacted by PL 1997, c. 519, Pt. A, §3, is amended to read:

**6. Lakes Heritage Trust Fund.** The Lakes Heritage Trust Fund is established in the Executive Department for the purpose of protecting, preserving and enhancing the quality and value of the State's lakes and great ponds. By majority vote of all members, the council may accept monetary contributions to the fund from any public or private source and may spend or disburse those funds in a manner consistent with law for the purposes stated in this subsection. The council shall include an accounting of all donations to and expenditures from the Lakes Heritage Trust Fund in its ~~annual~~ biennial report to the Legislature under subsection 4.

**Sec. A-2. 5 MRSA §12004-G, sub-§26-E,** as enacted by PL 2001, c. 439, Pt. T, §4, is repealed.

**Sec. A-3. 5 MRSA §12004-I, sub-§24,** as amended by PL 2009, c. 211, Pt. B, §1 and repealed by c. 369, Pt. A, §7, is repealed.

**Sec. A-4. 5 MRSA §12004-J, sub-§17,** as enacted by PL 2009, c. 174, §3, is amended to read:

**17.**

| | | | |
|---|---|---|---|
| Labor: Rehabilitation Services | Commission ~~for the Division~~ for the Deaf, Hard of Hearing and Late Deafened | Expenses Only | 26 MRSA §1413-C |

**Sec. A-5. 7 MRSA §353, sub-§6,** as enacted by PL 2005, c. 559, §2, is amended to read:

**6. Biennial report.** The board shall submit a report on the sustainable agricultural water source program to the joint standing committee of the Legislature having jurisdiction over agricultural matters and the joint standing committee of the Legislature having jurisdiction over natural resources matters by January 30th of odd-numbered years beginning January 30, 2007. ~~The committees of jurisdiction shall review this report together with the annual report on all aspects of water use for that year required under Title 38, section 470-G.~~

**Sec. A-6. 7 MRSA §3909, sub-§2,** as amended by PL 2009, c. 213, Pt. M, §2 and c. 343, §5, is repealed and the following enacted in its place:

**2. Designated employees of the department.** For purposes of prosecution under this section, the commissioner may authorize humane agents and a state veterinarian who have been certified in accordance with subsection 3-A to issue and serve civil violation processes against offenders pursuant to the Maine Rules of Civil Procedure, Rule 80H and any other applicable rules of court for violations of this Part. The commissioner may authorize certified humane agents or a certified state veterinarian to represent the department in District Court in the prosecution of civil violations of these laws. A certified humane agent or a certified state veterinarian may seek civil penalties as provided by law as well as a permanent or temporary injunction, restraining order or other equitable relief as the court finds appropriate.

**Sec. A-7. 10 MRSA §9416, sub-§4,** as amended by PL 2009, c. 324, Pt. B, §2 and affected by §48 and amended by c. 325, Pt. B, §3 and affected by §27, is repealed and the following enacted in its place:

**4. Holders.** Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in Title 11, section 1-1201, subsection (21), of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under the Uniform Commercial Code, including, if the applicable statutory requirements under Title 11, section 3-1302, subsection (1); Title 11, section 7-1501; or Title 11, section 9-308 are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated or a purchaser, respectively. Delivery, possession and

indorsement are not required to obtain or exercise any of the rights under this subsection.

**Sec. A-8. Retroactivity.** That section of this Act that repeals and replaces the Maine Revised Statutes, Title 10, section 9416, subsection 4 applies retroactively to February 15, 2010.

**Sec. A-9. 11 MRSA §4-104, sub-§(3),** as amended by PL 2009, c. 324, Pt. B, §23 and affected by §48 and amended by PL 2009, c. 325, Pt. B, §16 and affected by §27, is repealed and the following enacted in its place:

(3). "Control" as provided in section 7-1106 and the following definitions in other Articles apply to this Article:

| | |
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| "Acceptance." | Section 3-1409. |
| "Alteration." | Section 3-1407. |
| "Cashier's check." | Section 3-1104. |
| "Certificate of deposit." | Section 3-1104. |
| "Certified Check." | Section 3-1409. |
| "Check." | Section 3-1104. |
| "Demand draft." | Section 3-1104. |
| "Draft." | Section 3-1104. |
| "Holder in due course." | Section 3-1102. |
| "Instrument." | Section 3-1104. |
| "Notice of dishonor." | Section 3-1503. |
| "Order." | Section 3-1103. |
| "Ordinary care." | Section 3-1103. |
| "Person entitled to enforce." | Section 3-1301. |
| "Presentment." | Section 3-1501. |
| "Promise." | Section 3-1103. |
| "Prove." | Section 3-1103. |
| "Teller's check." | Section 3-1104. |
| "Unauthorized signature." | Section 3-1403. |

**Sec. A-10. Retroactivity.** That section of this Act that repeals and replaces the Maine Revised Statutes, Title 11, section 4-104, subsection (3) applies retroactively to February 15, 2010.

**Sec. A-11. 11 MRSA §7-102,** as repealed by PL 2009, c. 324, Pt. A, §1 and affected by §4 and amended by c. 325, Pt. B, §23 and affected by §27, is repealed.

**Sec. A-12. Retroactivity.** That section of this Act that repeals the Maine Revised Statutes, Title 11, section 7-102 applies retroactively to February 15, 2010.

**Sec. A-13. 12 MRSA §10051, 2nd ¶,** as amended by PL 2009, c. 340, §1 and c. 369, Pt. A, §26, is repealed and the following enacted in its place:

The department consists of the Commissioner of Inland Fisheries and Wildlife, a deputy commissioner, the Division of Licensing, Registration and Engineering, the Bureau of Resource Management and the Bureau of Warden Service. The department also includes the Advisory Board for the Licensing of Guides and whatever state agencies that are designated. The department is under the control and supervision of the commissioner.

**Sec. A-14. 12 MRSA §10154,** as amended by PL 2009, c. 211, Pt. B, §5 and repealed by c. 369, Pt. A, §27, is repealed.

**Sec. A-15. 12 MRSA §10206, sub-§3, ¶C,** as amended by PL 2009, c. 213, Pt. OO, §1 and c. 340, §8, is repealed and the following enacted in its place:

C. All revenues collected under the provisions of this Part relating to watercraft, including chapter 935, including fines, fees and other available money deposited with the Treasurer of State, must be distributed as undedicated revenue to the General Fund and the Department of Marine Resources according to an allocation rate that directly relates to the administrative costs of the Division of Licensing, Registration and Engineering. Eight dollars of each motorized watercraft registration is dedicated to the Department of Inland Fisheries and Wildlife and is not subject to the split with another agency as required under this paragraph. The Legislature shall appropriate to the department in each fiscal year an amount equal to the administrative costs incurred by the department in collecting revenue under this subsection. Those costs must be verified by the Department of Marine Resources and the Department of Administrative and Financial Services. The allocation rate must also allow for any necessary year-end reconciliation and accounting distribution. The allocation rate must be jointly agreed to by the department and the Department of Marine Resources and approved by the Department of Administrative and Financial Services, Bureau of the Budget.

The fees outlined in section 13056, subsection 8, paragraphs A and B for watercraft operating on inland waters of the State each include a $10 fee for invasive species prevention and control. This fee is disposed of as follows:

(1) Sixty percent of the fee must be credited to the Invasive Aquatic Plant and Nuisance Species Fund established within the Department of Environmental Protection under Title 38, section 1863; and

(2) Forty percent of the fee must be credited to the Lake and River Protection Fund established within the department under section 10257.

**Sec. A-16. 12 MRSA §12860, sub-§5,** as amended by PL 2009, c. 211, Pt. B, §12 and c. 369, Pt. A, §28, is repealed and the following enacted in its place:

**5. Curriculum.** The commissioner shall review and adopt a youth camp trip leader safety course curriculum that includes, but is not limited to:

A. Training in first aid;

B. Training in water safety, including lifesaving techniques as appropriate; and

C. Youth camp trip leader qualifications and required experience for the special waiver procedure in subsection 4.

The commissioner shall publish the curriculum and a current list of courses, with the approved curriculum, by name and address.

**Sec. A-17. 17-A MRSA §1175, first ¶,** as amended by PL 2009, c. 268, §8 and c. 391, §1, is repealed and the following enacted in its place:

Upon complying with subsection 1, a victim of a crime of murder or of a Class A, Class B or Class C crime or of a Class D crime under chapters 9, 11 and 12 for which the defendant is committed to the Department of Corrections or to a county jail or is committed to the custody of the Commissioner of Health and Human Services either under Title 15, section 103 after having been found not criminally responsible by reason of insanity or under Title 15, section 101-D after having been found incompetent to stand trial must receive notice of the defendant's unconditional release and discharge from institutional confinement upon the expiration of the sentence or upon release from commitment under Title 15, section 101-D or upon discharge under Title 15, section 104-A and must receive notice of any conditional release of the defendant from institutional confinement, including probation, supervised release for sex offenders, parole, furlough, work release, intensive supervision, supervised community confinement, home release monitoring or similar program, administrative release or release under Title 15, section 104-A.

**Sec. A-18. 18-A MRSA §5-944, sub-§(b), ¶(6),** as enacted by PL 2009, c. 292, §2 and affected by §6, is amended to read:

(6). Receive the financial proceeds of a claim described in ~~subsection~~ paragraph (4) and conserve, invest, disburse or use for a lawful purpose anything so received.

**Sec. A-19. 21-A MRSA §1011, 2nd ¶,** as amended by PL 2009, c. 190, Pt. A, §1 and repealed by c. 366, §1 and affected by §12, is repealed.

**Sec. A-20. 21-A MRSA §1014, sub-§1,** as amended by PL 2009, c. 183, §1 and c. 190, Pt. A, §2, is repealed and the following enacted in its place:

**1. Authorized by candidate.** Whenever a person makes an expenditure to finance a communication expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, newspapers, magazines, campaign signs or other outdoor advertising facilities, publicly accessible sites on the Internet, direct mails or other similar types of general public political advertising or through flyers, handbills, bumper stickers and other nonperiodical publications, the communication, if authorized by a candidate, a candidate's authorized political committee or their agents, must clearly and conspicuously state that the communication has been so authorized and must clearly state the name and address of the person who made or financed the expenditure for the communication. The following forms of political communication do not require the name and address of the person who made or authorized the expenditure for the communication because the name or address would be so small as to be illegible or infeasible: ashtrays, badges and badge holders, balloons, campaign buttons, clothing, coasters, combs, emery boards, envelopes, erasers, glasses, key rings, letter openers, matchbooks, nail files, noisemakers, paper and plastic cups, pencils, pens, plastic tableware, 12-inch or shorter rulers, swizzle sticks, tickets to fund-raisers and similar items determined by the commission to be too small and unnecessary for the disclosures required by this section. A communication financed by a candidate or the candidate's committee is not required to state the address of the candidate or committee that financed the communication. A communication in the form of a sign that clearly identifies the name of the candidate and is lettered or printed individually by hand is not required to include the name and address of the person who made or financed the communication.

**Sec. A-21. 21-A MRSA §1058,** as amended by PL 2009, c. 190, Pt. A, §22 and c. 366, §8 and affected by §12, is repealed and the following enacted in its place:

**§1058. Reports; qualifications for filing**

A political action committee that is required to register under section 1053 or 1053-B shall file reports with the commission on forms prescribed by the commission according to the schedule in section 1059.

**Sec. A-22. 21-A MRSA §1059, first ¶,** as amended by PL 2009, c. 190, Pt. A, §23 and c. 366, §9 and affected by §12, is repealed and the following enacted in its place:

Committees required to register under section 1053, 1053-B or 1056-B shall file an initial campaign finance report at the time of registration and thereafter shall file reports in compliance with this section. All reports must be filed by 11:59 p.m. on the filing deadline, except that reports submitted to a municipal clerk in a town or city that has chosen to be governed by this

subchapter must be filed by the close of business on the filing deadline.

**Sec. A-23. 21-A MRSA §1125, sub-§8,** as amended by PL 2009, c. 286, §8 and repealed by c. 302, §16 and affected by §24 and amended by c. 363, §§8 and 9, is repealed.

**Sec. A-24. Effective date.** That section of this Act that repeals the Maine Revised Statutes, Title 21-A, section 1125, subsection 8 takes effect September 1, 2011.

**Sec. A-25. 21-A MRSA §1125, sub-§9,** as amended by PL 2009, c. 302, §18 and affected by §24 and amended by c. 363, §10, is repealed and the following enacted in its place:

**9. Matching funds.** When any report required under this chapter or chapter 13 shows that the sum of a candidate's expenditures or obligations, contributions and loans, or fund revenues received, whichever is greater, in conjunction with independent expenditures reported under section 1019-B, exceeds the sum of an opposing certified candidate's fund revenues, in conjunction with independent expenditures, the commission shall issue immediately to the opposing certified candidate an additional amount equivalent to the difference. Matching funds for certified candidates for the Legislature are limited to 2 times the amount originally distributed under subsection 8-A. Matching funds for certified gubernatorial candidates in a primary election are limited to half the amount originally distributed under subsection 8-A. Matching funds for certified gubernatorial candidates in a general election are limited to the amount originally distributed under subsection 8-A.

**Sec. A-26. Effective date.** That section of this Act that repeals and replaces the Maine Revised Statutes, Title 21-A, section 1125, subsection 9 takes effect September 1, 2011.

**Sec. A-27. 21-A MRSA §1125, sub-§10,** as amended by PL 2009, c. 302, §19 and affected by §24 and amended by c. 363, §11, is repealed and the following enacted in its place:

**10. Candidate not enrolled in a party.** An unenrolled candidate for the Legislature who submits the required number of qualifying contributions and other required documents under subsection 4 by 5:00 p.m. on April 15th preceding the primary election and who is certified is eligible for revenues from the fund in the same amounts and at the same time as an uncontested primary election candidate and a general election candidate as specified in subsections 7 and 8-A. Otherwise, an unenrolled candidate for the Legislature must submit the required number of qualifying contributions and the other required documents under subsection 4 by 5:00 p.m. on June 2nd preceding the general election. If certified, the candidate is eligible for revenues from the fund in the same amounts as a general election candidate, as specified in subsection 8-A. Revenues for the general election must be distributed to the candidate no later than 3 days after certification. An unenrolled candidate for Governor who submits the required number of qualifying contributions and other required documents under subsections 2-B and 4 by 5:00 p.m. on April 1st preceding the primary election and who is certified is eligible for revenues from the fund in the same amounts and at the same time as an uncontested primary election gubernatorial candidate and a general election gubernatorial candidate as specified in subsections 7 and 8-A. Revenues for the general election must be distributed to the candidate for Governor no later than 3 days after the primary election results are certified.

**Sec. A-28. Effective date.** That section of this Act that repeals and replaces the Maine Revised Statutes, Title 21-A, section 1125, subsection 10 takes effect September 1, 2011.

**Sec. A-29. 22 MRSA §329, sub-§6,** as repealed and replaced by PL 2009, c. 429, §1 and c. 430, §1, is repealed and the following enacted in its place:

**6. Nursing facilities.** The obligation by a nursing facility, when related to nursing services provided by the nursing facility, of any capital expenditures of $510,000 or more and, beginning January 1, 2010, the obligation by a nursing facility, when related to nursing services provided by the nursing facility, of any capital expenditures of $1,000,000 or more.

A certificate of need is not required for the following:

A. A nursing facility converting beds used for the provision of nursing services to beds to be used for the provision of residential care services. If such a conversion occurs, MaineCare and other public funds may not be obligated for payment of services provided in the converted beds unless approved by the department pursuant to the provisions of sections 333-A and 334-A;

B. Capital expenditures in the case of a natural disaster, major accident or equipment failure;

C. Replacement equipment, other than major medical equipment as defined in section 328, subsection 16;

D. Information systems, communication systems, parking lots and garages; and

E. Certain energy-efficient improvements, as described in section 334-A, subsection 4.

**Sec. A-30. 22 MRSA §1555-C, sub-§2, ¶E,** as enacted by PL 2003, c. 444, §2, is amended to read:

E. A person who violates this subsection after having been previously adjudicated as violating this subsection or subsection 1~~, 3~~ or 4 commits a civil violation for which a fine of not less than

$1,000 and not more than $5,000 may be adjudged.

**Sec. A-31. 22 MRSA §5107-J,** as amended by PL 2009, c. 299, Pt. A, §4 and repealed by c. 369, Pt. A, §32, is repealed.

**Sec. A-32. 22 MRSA §7302, sub-§5,** as amended by PL 2009, c. 279, §3 and c. 420, §2, is repealed and the following enacted in its place:

**5. In-home and community support services.** "In-home and community support services" means health and social services and other assistance required to enable adults with long-term care needs to remain in their places of residence. These services include, but are not limited to, self-directed care services; medical and diagnostic services; professional nursing; physical, occupational and speech therapy; dietary and nutrition services; home health aide services; personal care assistance services; companion and attendant services; handyman, chore and homemaker services; respite care; hospice care; counseling services; transportation; small rent subsidies; various devices that lessen the effects of disabilities; and other appropriate and necessary social services.

**Sec. A-33. 24-A MRSA §4303, sub-§1,** as amended by PL 2009, c. 357, §1, is further amended to read:

**1. Demonstration of adequate access to providers.** Except as provided in paragraphs ~~A,~~ B and C, a carrier offering or renewing a managed care plan shall provide to its members reasonable access to health care services in accordance with standards developed by rule by the superintendent. These standards must consider the geographical and transportational problems in rural areas. All managed care plans covering residents of this State must provide reasonable access to providers consistent with the access-to-services requirements of any applicable bureau rule.

B. Upon approval of the superintendent, a carrier may offer a health plan that includes financial provisions designed to encourage members to use designated providers in a network if:

(1) The entire network meets overall access standards pursuant to Bureau of Insurance Rule Chapter 850;

(2) The health plan is consistent with product design guidelines for Bureau of Insurance Rule Chapter 750, but only if the health plan is offered by a health maintenance organization;

(3) The health plan does not include financial provisions designed to encourage members to use designated providers of primary, preventive, maternity, obstetrical, ancillary or emergency care services, as defined in Bureau of Insurance Rule Chapter 850;

(4) The financial provisions may apply to all of the enrollees covered under the carrier's health plan;

(5) The carrier establishes to the satisfaction of the superintendent that the financial provisions permit the provision of better quality services and the quality improvements either significantly outweigh any detrimental impact to covered persons forced to travel longer distances to access services, or the carrier has taken steps to effectively mitigate any detrimental impact associated with requiring covered persons to travel longer distances to access services. The superintendent may consult with other state entities, including the Department of Health and Human Services, Bureau of Health and the Maine Quality Forum established in section 6951, to determine whether the carrier has met the requirements of this subparagraph. The superintendent shall adopt rules regarding the criteria used by the superintendent to determine whether the carrier meets the quality requirements of this subparagraph; and

(6) The financial provisions may not permit travel at a distance that exceeds the standards established in Bureau of Insurance Rule Chapter 850 for mileage and travel time by 100%.

C. A carrier may develop and file with the superintendent for approval a pilot program that allows carriers to reward providers for quality and efficiency through tiered benefit networks and providing incentives to members. The upper tier, or the upper tiers if there are 3 or more tiers, under a pilot program approved pursuant to this paragraph is exempt from geographic access requirements set forth in this subsection or in rules adopted by the superintendent. Any carrier offering a health plan under the pilot program must collect data on the impact of the pilot program on premiums paid by enrollees, payments made to providers, quality of care received and access to health care services by individuals enrolled in health plans under the pilot program and must submit that data annually to the superintendent. The superintendent shall report annually beginning January 15, 2010 to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters on any approval of a pilot program pursuant to this paragraph.

The basis for tiering benefits under a pilot program must be to provide incentives for higher-quality care, improved patient safety or improved efficiency or a combination of those factors. The

superintendent shall consult with the Maine Quality Forum under section 6951 in assessing quality. The superintendent shall disapprove or withdraw approval of a pilot program if the superintendent finds that approval or continued operation would cause undue hardship to enrollees in the pilot program or reduce their quality of care.

The superintendent shall consider the experience of approved pilot programs, including consumer complaints and examinations, provider behavior and efficiency, in determining whether or not to reapprove subsequent pilot program applications.

**Sec. A-34. 24-A MRSA §4603, sub-§3, ¶B,** as amended by PL 2009, c. 77, §1 and c. 118, §2 and affected by §5, is repealed and the following enacted in its place:

B. With respect to one life, regardless of the number of policies or contracts:

(1) Three hundred thousand dollars in life insurance death benefits, but not more than $100,000 in net cash surrender and net cash withdrawal values for life insurance;

(2) The following limits for health insurance benefits:

(a) Three hundred thousand dollars for coverages not defined as disability insurance or basic hospital, medical and surgical insurance or major medical insurance, including any net cash surrender and net cash withdrawal values;

(b) Three hundred thousand dollars for disability and long-term care insurance; or

(c) Five hundred thousand dollars for basic hospital, medical and surgical insurance or major medical insurance; or

(3) Two hundred fifty thousand dollars in the present value of annuity benefits, including net cash surrender and net cash withdrawal values;

**Sec. A-35. 24-A MRSA §4603, sub-§3, ¶C,** as amended by PL 2009, c. 77, §2 and c. 118, §3 and affected by §5, is repealed and the following enacted in its place:

C. With respect to each payee of a structured settlement annuity, or beneficiary or beneficiaries of the payee if deceased, $250,000 in present value annuity benefits, in the aggregate, including net cash surrender and net cash withdrawal values; and

**Sec. A-36. 25 MRSA §2354,** as amended by PL 2009, c. 261, Pt. B, §5 and c. 344, Pt. D, §1 and affected by Pt. E, §2, is repealed and the following enacted in its place:

**§2354. Inspection of buildings being repaired**

Subject to Title 32, chapter 139, the building official shall inspect all buildings while they are in process of being repaired and see that all reasonable safeguards are used against the catching and spreading of fire and that the chimneys and flues are made safe. The building official may give directions in writing to the owner as necessary concerning such repairs to render the building safe from the catching and spreading of fire.

**Sec. A-37. 25 MRSA §2803-B, sub-§2,** as amended by PL 2009, c. 336, §18 and c. 451, §4, is repealed and the following enacted in its place:

**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 (3) must be established no later than January 1, 2003; 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. A-38. 25 MRSA §2803-B, sub-§3,** as amended by PL 2009, c. 336, §18 and c. 451, §5, is repealed and the following enacted in its place:

**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 (3) must be made to the board no later than June 1, 2003; 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 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. A-39. 26 MRSA §1413-A, sub-§1-A,** as enacted by PL 2009, c. 174, §6, is amended to read:

**1-A. Commission.** "Commission" means the Commission ~~for the Division~~ for the Deaf, Hard of Hearing and Late Deafened.

**Sec. A-40. 26 MRSA §1413-C, first ¶,** as amended by PL 2009, c. 174, §17, is further amended to read:

Within the Department of Labor, Bureau of Rehabilitation Services, Division for the Deaf, Hard of Hearing and Late Deafened, the Commission ~~for the Division~~ for the Deaf, Hard of Hearing and Late Deafened as established under Title 5, section 12004-J, subsection 17, consists of 24 members and 3 members-at-large appointed by the Governor and representing equally consumers, professionals and the public. Members are entitled to compensation in accordance with Title 5, chapter 379.

**Sec. A-41. 28-A MRSA §2, sub-§12-A,** as enacted by PL 1997, c. 767, §1, is amended to read:

**12-A. Hard cider.** "Hard cider" means liquor produced by fermentation of the juice of apples, including, but not limited to, flavored, sparkling or carbonated cider, that contains not less than 1/2 of 1% alcohol by volume and not more than 7% alcohol by volume.

**Sec. A-42. 28-A MRSA §1206,** as amended by PL 2009, c. 438, §4 and c. 459, §3, is repealed and the following enacted in its place:

**§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.

**Sec. A-43. 30-A MRSA §6006-G, sub-§2, ¶A,** as enacted by PL 2007, c. 470, Pt. D, §1, is amended to read:

A. Sums that are transferred to the fund from time to time by the Treasurer of State pursuant to Title 36, section 2903, subsection ~~5~~ 6 and Title 36, section 3203, subsection 4;

**Sec. A-44. 32 MRSA §2402-A,** as amended by PL 2009, c. 250, §2 and repealed by c. 344, Pt. C, §1 and affected by Pt. E, §2, is repealed.

**Sec. A-45. 32 MRSA §4700-J,** as amended by PL 2009, c. 153, §21, is further amended to read:

**§4700-J. Licensure; well drillers and pump installers**

Effective January 1, 1994, a person may not engage in the business of constructing water wells within the State or engage in the installation, replacement or repair of a pump in a water well unless licensed with the commission. After final adoption of initial rules pursuant to section 4700-I, subsection 2-A, a person may not engage in the business of constructing geothermal heat exchange wells or engage in the installation, replacement or repair of a pump in a geothermal heat exchange well unless licensed with the commission. An applicant for licensure must complete an application form supplied by the commission, successfully complete any examination required by this chapter and pay an annual license fee established by the commission. The person so licensed shall display on each side of the drilling rig or the pump installer vehicle a seal issued by the commission indicating that person's license number and the current year of licensure. A person licensed under chapter 49 as a master plumber is not required to be licensed with the commission to perform the work of a pump installer.

**Sec. A-46. 32 MRSA §18107,** as enacted by PL 2009, c. 344, Pt. C, §3 and affected by Pt. E, §2, is amended to read:

**§18107. Installations to conform to standards**

Installation of oil, solid fuel, propane and natural gas burning equipment and chimneys may not be made in this State unless the installation complies with all the standards and rules adopted by the board. These standards and rules may not prohibit the continued use of an existing connection of a solid fuel burning appliance to a chimney flue to which another appliance burning oil or solid fuel is connected for any chimney existing and in use prior to February 2, 1998 as long as sufficient draft is available for each appliance, the chimney is lined and structurally intact and a carbon monoxide detector is installed in the building near a bedroom. Whenever oil, solid fuel, propane and natural gas burning equipment, accessory equipment or its installation are separately contracted, the master oil and solid fuel burning technician or the propane and natural gas technician in charge of the installation is responsible for ascertaining total conformance to the standards and rules adopted by the board. Whenever a state fuel inspector authorized under section 18110 finds a person installing or assisting in an oil, solid fuel, propane or natural gas installation, that person shall, on request of the state fuel inspector, provide evidence of being properly licensed when required by this chapter and, if unable to provide the evidence, shall furnish the state fuel inspector with that person's full name and address and, if applicable, the full name and address of the master oil and solid fuel burning technician or the propane and natural gas technician in charge.

**Sec. A-47. 32 MRSA §18123, sub-§2,** as enacted by PL 2009, c. 344, Pt. C, §3 and affected by Pt. E, §2, is amended to read:

**2. Rules.** The board may, in accordance with the Maine Administrative Procedure Act, adopt rules commensurate with the authority vested in it by this chapter, including, but not limited to, rules adopting technical standards for the proper installation and servicing of oil, solid fuel, propane and natural gas burning equipment. Rules adopted pursuant to this subsection may not prohibit the continued use of an existing connection of a solid fuel burning appliance to a chimney flue to which another appliance burning oil or solid fuel is connected for any chimney existing and in use prior to February 2, 1998 as long as sufficient draft is available for each appliance, the chimney is lined and structurally intact and a carbon monoxide detector is installed in the building near a bedroom. The board may adopt by rule national or other technical standards, in whole or in part, that it considers necessary to carry out the provisions of this chapter. Rules adopted pursuant to this chapter are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. A-48. 35-A MRSA §8704, sub-§1, ¶B,** as amended by PL 2009, c. 174, §27, is further amended to read:

B. The chair of the Commission ~~for the Division~~ for the Deaf, Hard of Hearing and Late Deafened established by Title 5, section 12004-J, subsection 17, or a designee;

**Sec. A-49. 35-A MRSA §10119, sub-§1, ¶B,** as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

B. Federal funds and awards that may be used for the purposes of this section;

**Sec. A-50. 36 MRSA §191, sub-§2, ¶LL,** as reallocated by PL 2009, c. 361, §14, is amended to read:

LL. The disclosure to any state agency of information relating to the administration and collection of any debt transferred to the bureau for collection pursuant to section 112-A~~.~~;

**Sec. A-51. 36 MRSA §191, sub-§2, ¶MM,** as amended by PL 2009, c. 470, §4, is further amended to read:

MM. The disclosure to an authorized representative of the Department of Economic and Community Development of information required for the administration of the visual media production credit under section 5219-Y, the employment tax increment financing program under chapter 917, the visual media production reimbursement program under chapter 919-A or the Pine Tree Development Zone program under Title 30-A, chapter 206, subchapter 4~~.~~;

**Sec. A-52. 36 MRSA §191, sub-§2, ¶NN,** as reallocated by PL 2009, c. 361, §16, is amended to read:

NN. The disclosure to an authorized representative of the Wild Blueberry Commission of Maine of any information required for or submitted to the assessor in connection with the administration of the tax imposed under chapter 701~~.~~; and

**Sec. A-53. 36 MRSA §5200-A, sub-§1, ¶T,** as amended by PL 2009, c. 213, Pt. ZZZ, §6 and Pt. BBBB, §10, is repealed and the following enacted in its place:

T. For taxable years beginning on or after January 1, 2008, an amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) arising from amendments to the Code applicable to taxable years beginning on or after January 1, 2008;

**Sec. A-54. 36 MRSA §5200-A, sub-§1, ¶V,** as enacted by PL 2009, c. 213, Pt. ZZZ, §8, is amended to read:

V. For any taxable year beginning in 2009, 2010 or 2011, an amount equal to the absolute value of any net operating loss carry-forward claimed for purposes of the federal income tax~~.~~; and

**Sec. A-55. 36 MRSA §5200-A, sub-§1, ¶V,** as enacted by PL 2009, c. 213, Pt. BBBB, §12, is reallocated to 36 MRSA §5200-A, sub-§1, ¶W.

**Sec. A-56. 36 MRSA §5200-A, sub-§2, ¶T,** as enacted by PL 2009, c. 213, Pt. ZZZ, §13 and Pt. BBBB, §15 and affected by §17, is repealed and the following enacted in its place:

T. An amount equal to the value of any prior year addition modification under subsection 1, paragraph V, but only to the extent that:

(1) Maine taxable income is not reduced below zero;

(2) The taxable year is within the allowable federal period for carry-over plus the number of years that the net operating loss carry-over adjustment was not deducted as a result of the restriction with respect to tax years beginning in 2009, 2010 and 2011;

(3) The amount has not been previously used as a modification pursuant to this subsection; and

(4) The modification under this paragraph is not claimed for any tax year beginning in 2009, 2010 or 2011; and

**Sec. A-57. 36 MRSA §5200-A, sub-§2, ¶U** is enacted 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.

**Sec. A-58. Application.** That section of this Act that enacts the Maine Revised Statutes, Title 36, section 5200-A, subsection 2, paragraph U applies to tax years beginning on or after January 1, 2010.

**Sec. A-59. 37-B MRSA §601,** as amended by PL 2009, c. 299, Pt. A, §9 and c. 406, §13, is repealed and the following enacted in its place:

**§601. Home established; purpose**

There must be public homes for veterans in Maine known as "Maine Veterans' Homes." In addition to the existing 120-bed home located in Augusta, a 120-bed home located in Scarborough, a home not to exceed 40 beds located in Caribou, a home located in Bangor not to exceed 120 beds, of which 40 beds are dedicated to patients with dementia, and a home located in South Paris not to exceed 90 beds, of which 30 beds are dedicated to patients with dementia, may be constructed if federal Veterans' Administration funds are available to meet part of the costs of each facility for construction or operation. In addition, a home located in Machias not to exceed 60 beds may be constructed if federal Veterans' Administration funds or funds from any other state, federal or private source are available to meet part of the costs of the facility for construction or operation, except that the Machias home may not begin operation prior to July 1, 1995 and the construction and funding of the Machias home may not in any way jeopardize the construction, funding or financial viability of any other home. The Maine Veterans' Homes also are authorized to provide nonnursing facility care and services to Maine veterans if approved by appropriate state and federal authorities. The Board of Trustees of the Maine Veterans' Homes shall plan and develop the Machias home and any nonnursing facility care and services using any funds available for that purpose, except for the Augusta facility's funded depreciation account. The Maine Veterans' Homes are authorized to construct community-based outpatient clinics for Maine veterans in cooperation with the United States Department of Veterans Affairs and may construct and operate veterans hospice facilities, veterans housing facilities and other facilities authorized by the Board of Trustees of the Maine Veterans' Homes, using available funds. Any funds loaned to the Maine Veterans' Homes for operating purposes from the funded depreciation accounts of the Maine Veterans' Homes must be reimbursed from any funds received by the Maine Veterans' Homes and available for that purpose. The primary purpose of the Maine Veterans' Homes is to provide support and care for honorably discharged veterans who served on active duty in the United States Armed Forces or who served in the Reserves of the United States Armed Forces on active duty for other than training purposes.

**Sec. A-60. 38 MRSA §580-B, sub-§7,** as amended by PL 2009, c. 200, §7 and c. 372, Pt. B, §4, is repealed and the following enacted in its place:

**7. Allocation of carbon dioxide emissions allowances.** The department shall allocate 100% of the annual carbon dioxide emissions allowances for public benefit to produce funds for carbon reduction and energy conservation, as specified in Title 35-A, section 10109. Except as provided in subsections 7-A and 8, the department shall sell the carbon dioxide emissions allowances at public auction, in accordance with rules adopted under subsection 4. Revenue resulting from the sale of allowances must be deposited in the Regional Greenhouse Gas Initiative Trust Fund established under Title 35-A, section 10109.

**Sec. A-61. 38 MRSA §580-B, sub-§10,** as amended by PL 2009, c. 200, §§8 to 10 and c. 372, Pt. B, §6, is repealed and the following enacted in its place:

**10. Annual report.** The department and the trustees of the Efficiency Maine Trust established pursuant to Title 35-A, section 10103 shall submit a joint report to the joint standing committees of the Legislature having jurisdiction over natural resources matters and utilities and energy matters by March 15, 2009 and each year thereafter. The report must assess and address:

A. The reductions of greenhouse gas emissions from carbon dioxide budget units, conservation programs funded by the Regional Greenhouse Gas Initiative Trust Fund pursuant to Title 35-A, section 10109 and carbon dioxide emissions offset projects;

B. The improvements in overall carbon dioxide emissions and energy efficiency from sources that emit greenhouse gases including electrical generation and fossil fuel fired units;

C. The maximization of savings through systemic energy improvements statewide;

D. Research and support of new carbon dioxide offset allowance categories for development in the State;

E. Management and cost-effectiveness of the State's energy conservation and carbon reduction programs and efforts funded by the Regional Greenhouse Gas Initiative Trust Fund, established pursuant to Title 35-A, section 10109;

F. The extent to which funds from the Regional Greenhouse Gas Initiative Trust Fund, established pursuant to Title 35-A, section 10109, serve customers from all classes of the State's transmission and distribution utilities; and

G. The revenues and expenditures of the Regional Greenhouse Gas Initiative Trust Fund, established pursuant to Title 35-A, section 10109.

The department and the trustees of the Efficiency Maine Trust may include in the report any proposed changes to the program established under this chapter.

The joint standing committee of the Legislature having jurisdiction over natural resources matters may submit legislation relating to areas within the committee's jurisdiction in connection with the program. The joint standing committee of the Legislature having jurisdiction over utilities and energy matters may submit legislation relating to areas within the committee's jurisdiction in connection with the program.

**Sec. A-62. PL 2009, c. 174, §28** is amended to read:

**Sec. 28. Transition provisions.**

1. The Commission ~~for the Division~~ for the Deaf, Hard of Hearing and Late Deafened, established pursuant to the Maine Revised Statutes, Title 5, section 12004-J, subsection 17, is the successor in every way to the functions and duties of the former Advisory Council to Division of Deafness, as established pursuant to Title 5, section 12004-I, subsection 54-B.

2. All records, property and equipment previously belonging to or for the use of the former Advisory Council to Division of Deafness become part of the property of the Commission ~~for the Division~~ for the Deaf, Hard of Hearing and Late Deafened.

3. All existing forms, licenses, letterheads and similar items bearing the name of or referring to the former Advisory Council to Division of Deafness may be utilized by the Commission ~~for the Division~~ for the Deaf, Hard of Hearing and Late Deafened until existing supplies of these items are exhausted.

**Sec. A-63. PL 2009, c. 213, Pt. YYY, §2** is amended to read:

**Sec. YYY-2. Application.** That section of this Part that amends the Maine Revised Statutes, Title 36, section 683, subsection 1 applies to property tax years beginning on or after April 1, 2010.

**Sec. A-64. PL 2009, c. 261, Pt. A, §20** is repealed.

**Sec. A-65. PL 2009, c. 361, §37** is amended to read:

**Sec. 37. Retroactivity.** That section of this Act that enacts the Maine Revised Statutes, Title 36, section 2557, subsection 3, paragraph ~~N~~ G-1 applies retroactively to October 1, 2007. That section of this Act that amends Title 36, section 4641-C, subsection 7 applies retroactively to July 1, 2003. Those sections of this Act that amend Title 27, section 511, subsection 2; Title 30-A, section 4722, subsection 1, paragraphs BB and CC; and Title 36, section 5219-BB; and that section that enacts Title 30-A, section 4722, subsection 1, paragraph DD apply retroactively to June 30, 2008. The portion of this Act that enacts Title 36, section 1760, subsection 41, paragraph B applies retroactively to January 1, 2008. The portion of this Act that enacts Title 36, section 1760, subsection 41, paragraph C applies retroactively to June 15, 2001.

## PART B

**Sec. B-1. 7 MRSA §2902-B, sub-§2,** as amended by PL 2005, c. 270, §3, is further amended to read:

**2. Sale of unpasteurized milk or milk product at eating establishment.** Except as provided in subsection ~~4~~ 5, a person may not sell unpasteurized milk or a product made from unpasteurized milk at an eat-

ing establishment as defined in Title 22, section 2491, subsection 7.

**Sec. B-2. 14 MRSA §6030-C, sub-§1,** as amended by PL 2009, c. 566, §18, is further amended to read:

**1. Energy efficiency disclosure.** 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 a residential energy efficiency disclosure statement in accordance with Title 35-A, section ~~10006~~ 10117, subsection 1 that includes, but is not limited to, information about the energy efficiency of the property.

**Sec. B-3. Effective date.** That section of this Part that amends the Maine Revised Statutes, Title 14, section 6030-C, subsection 1 takes effect 90 days after adjournment of the Second Regular Session of the 124th Legislature.

**Sec. B-4. 14 MRSA §8109, sub-§1,** as amended by PL 1991, c. 780, Pt. Y, §114, is further amended to read:

**1. Procedures for State.** The State has authority to settle claims filed against it pursuant to ~~section 8104~~ sections 8104-A, 8104-B, 8104-C and 8104-D in accordance with the following procedures.

A. Any agency may settle any claim for an amount of $1,500 or less when such settlement is approved by the appropriate department or agency head in accordance with rules adopted by the Commissioner of Administrative and Financial Services.

B. Any other claim may be settled when such settlement is approved by the head of the department or agency against which the claim is filed, the Commissioner of Administrative and Financial Services and the Attorney General.

**Sec. B-5. 14 MRSA §8109, sub-§2,** as amended by PL 1977, c. 78, §116, is further amended to read:

**2. Procedures for political subdivisions.** Any political subdivision may settle claims filed against it pursuant to ~~section 8104~~ sections 8104-A, 8104-B, 8104-C and 8104-D in accordance with procedures duly promulgated by its governing body.

**Sec. B-6. 22 MRSA §2383, sub-§1,** as amended by IB 2009, c. 1, §3 and PL 2009, c. 67, §3, is repealed and the following enacted in its place:

**1. Marijuana.** Except as provided in chapter 558-C, a person may not possess marijuana.

A. A person who possesses a usable amount of marijuana commits a civil violation for which a fine of not less than $350 and not more than $600 must be adjudged for possession of up to 1 1/4 ounces of marijuana and a fine of not less than $700 and not more than $1,000 must be adjudged for possession of over 1 1/4 ounces to 2 1/2 ounces of marijuana, none of which may be suspended.

**Sec. B-7. 24 MRSA §2961, sub-§3, ¶A,** as enacted by PL 1987, c. 646, §§6 and 14, is amended to read:

A. The court, considering the factors established in Maine ~~Bar Rule 3~~ Rules of Professional Conduct, Rule 1.5 as guides in determining the reasonableness of a fee, finds that the fees permitted by subsection 1 are inadequate to compensate the attorney reasonably for the attorney's services; and

**Sec. B-8. 36 MRSA §3203-C,** as amended by PL 2009, c. 496, §20, is further amended to read:

**§3203-C. Inventory tax**

On the date that any increase in the rate of tax imposed under this chapter takes effect, an inventory tax is imposed upon all distillates that are held in inventory by a supplier, wholesaler or retail dealer as of the end of the day prior to that date on which the tax imposed by section 3203, ~~section~~ subsection 1-B has been paid. The inventory tax is computed by multiplying the number of gallons of tax-paid fuel held in inventory by the difference between the tax rate already paid and the new tax rate. Suppliers, wholesalers and retail dealers that hold such tax-paid inventory shall make payment of the inventory tax on or before the 15th day of the next calendar month, accompanied by a form prescribed and furnished by the State Tax Assessor. In the event of a decrease in the tax rate, the supplier, wholesaler or retail dealer is entitled to a refund or credit, which must be claimed on a form designed and furnished by the assessor.

**Sec. B-9. Retroactivity.** That section of this Part that amends the Maine Revised Statutes, Title 36, section 3203-C applies retroactively to July 18, 2008.

**Sec. B-10. 36 MRSA §3321, sub-§1,** as amended by PL 2009, c. 413, Pt. W, §4 and affected by §6 and amended by c. 434, §59, is repealed and the following enacted in its place:

**1. Generally.** Beginning in 2003, and each calendar year thereafter, the excise tax imposed upon internal combustion engine fuel pursuant to section 2903, subsection 1 and the excise tax imposed upon distillates pursuant to section 3203, subsections 1 and 1-B are subject to an annual rate of adjustment pursuant to this section. On or about February 15th of each year, the State Tax Assessor shall calculate the adjusted rates by multiplying the rates in effect on the calculation date by an inflation index computed as provided in subsection 2. The adjusted rates must then

be rounded to the nearest 1/10 of a cent and become effective on the first day of July immediately following the calculation. The assessor shall publish the annually adjusted fuel tax rates and shall provide all necessary forms and reports.

**Sec. B-11. PL 2009, c. 571, Pt. PP, §2** is amended to read:

**Sec. PP-2. PL 2009, c. 414, Pt. D, §6** is amended to read:

**Sec. D-6. Allocations from General Fund bond issue.** The proceeds of the sale of the bonds authorized under this Part must be expended as designated in the following schedule.

**PUBLIC UTILITIES COMMISSION**

**Public Utilities Commission**

| | |
|---|---|
| Provides funds for weatherization and energy efficiency programs for low and middle income households and small businesses. If the energy efficiency programs of the commission are transferred to another entity established by the Legislature, the commission shall transfer all unexpended funds to that entity. | $12,000,000 |

**UNIVERSITY OF MAINE SYSTEM**

**University of Maine System**

| | |
|---|---|
| Provides funds for energy and infrastructure upgrades at all campuses of the University of Maine System. | $9,500,000 |

**MAINE COMMUNITY COLLEGE SYSTEM**

**Maine Community College System**

| | |
|---|---|
| Provides funds for energy and infrastructure upgrades at all campuses of the Maine Community College System. | $5,000,000 |

**MAINE MARITIME ACADEMY**

**Maine Maritime Academy**

| | |
|---|---|
| Provides funds for energy and infrastructure upgrades at the Maine Maritime Academy. | $1,000,000 |

~~**DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES**~~

**UNIVERSITY OF MAINE SYSTEM**

**Maine Marine Wind Energy Demonstration Site Fund**

| | |
|---|---|
| Provides funds for research, development and product innovation associated with developing one or more ocean wind energy demonstration sites. | $6,000,000 |

## PART C

**Sec. C-1. 12 MRSA §6536,** as amended by PL 2009, c. 213, Pt. G, §12 and repealed by c. 396, §4, is repealed.

**Sec. C-2. 17 MRSA §1834, sub-§3,** as enacted by PL 2009, c. 487, Pt. A, §2, is amended to read:

**3. Operation of electronic video machines.** The fee for a game of chance license to operate an electronic video machine in accordance with section 1832, subsection 8 is $15 for each week computed on a Monday to Sunday basis or for a portion of a week. The fee for a license issued for a calendar month is $60.

The Chief of the State Police may issue any combination of weekly or monthly licenses for the operation of electronic video machines. A license or combination of licenses to operate an authorized electronic video machine may ~~not exceed~~ be issued for a period of ~~6~~ up to 12 months.

**Sec. C-3. 17 MRSA §1835, sub-§1, ¶B,** as enacted by PL 2009, c. 487, Pt. A, §2, is amended to read:

B. Licensed card games that award part or all of the entry fees paid to participate in the game as prize money and in which no money or thing of value is wagered except for the entry fee are limited to a $5 daily entry fee and no more than ~~40~~ 50 players at any one time at any one location.

**Sec. C-4. Effective date.** Those sections of this Part that amend the Maine Revised Statutes, Title 17, section 1834, subsection 3 and section 1835, subsection 1, paragraph B take effect 90 days after the adjournment of the Second Regular Session of the 124th Legislature.

**Sec. C-5. 29-A MRSA §2083, sub-§2,** as amended by PL 2009, c. 50, §3 and c. 55, §4, is repealed and the following enacted in its place:

**2. Compliance.** An operator of a motorcycle or a parent or guardian may not allow a passenger under the age of 18 years to ride in violation of this section.

**Sec. C-6. PL 2009, c. 344, Pt. D, §15, sub-§3** is amended to read:

**3. Licenses.** ~~With the exception of temporary licenses for delivery and plant operators, licenses~~ Li-

censes issued by the Oil and Solid Fuel Board and the Propane and Natural Gas Board remain valid upon the effective date of this Act. ~~Applicants for temporary delivery and plant operator licenses who apply after the effective date of this Act will be required to obtain a technician license with the appropriate authority. Temporary licenses for delivery and plant operators issued prior to the effective date of this Act remain valid until the expiration date and may not be reissued.~~

**Sec. C-7. Retroactivity.** That section of this Part that amends Public Law 2009, chapter 344, Part D, section 15, subsection 3 applies retroactively to January 1, 2010.

**Sec. C-8. PL 2009, c. 496, §30** is amended to read:

**Sec. 30. Contingent retroactive effective date.** That section of this Act that amends the Maine Revised Statutes, Title 36, section 1752, subsection 14, paragraph B, as amended by Public Law 2007, chapter 627, section 43, ~~takes effect~~ applies retroactively to August 1, 2008 only if Public Law 2009, chapter 382 is not ratified by a majority of the electors voting on that measure pursuant to the Constitution of Maine, Article IV, Section 17.

**Sec. C-9. PL 2009, c. 496, §31** is amended to read:

**Sec. 31. Contingent retroactive effective date.** That section of this Act that amends the Maine Revised Statutes, Title 36, section 1752, subsection 14, paragraph B, as amended by Public Law 2009, chapter 382, Part B, section 17 and affected by section 52, ~~takes effect~~ applies retroactively to August 1, 2008 only if Public Law 2009, chapter 382 is ratified by a majority of the electors voting on that measure pursuant to the Constitution of Maine, Article IV, Section 17.

## PART D

**Sec. D-1. 30-A MRSA §5250-J, sub-§3-A,** as enacted by PL 2009, c. 461, §17, is further amended to read:

**3-A. Pine Tree Development Zone classification; tier 1 locations.** Beginning January 1, 2009, the department shall classify the following ~~units of local government~~ on an annual basis as tier 1 locations:

A. From January 1, 2009 to December 31, 2009, all units of local government; ~~and~~

B. Beginning January 1, 2010, a unit of local government that is contained in a county other than Cumberland County or York County, as well as a unit of local government that is contained in Cumberland County or York County with a municipal unemployment rate that is 15% higher than its labor market unemployment rate, based upon data published by the Department of Labor from the last completed calendar year.~~;~~

C. A unit of local government that has been designated by the department as a participating municipality in the Pine Tree Development Zone program as of December 31, 2008;

D. Property within a military redevelopment zone as long as the property is classified by the department no later than December 31, 2018; and

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

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

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

~~A unit of local government that has been designated by the department as a participating municipality in the Pine Tree Development Zone program as of December 31, 2008 will be classified as a tier 1 location.~~

~~Property within a military redevelopment zone as long as the property is classified by the department no later than December 31, 2018.~~

**Sec. D-2. Retroactivity.** That section of this Part that amends the Maine Revised Statutes, Title 30-A, section 5250-J, subsection 3-A applies retroactively to September 12, 2009.

## PART E

**Sec. E-1. 22 MRSA §1066, sub-§2, ¶B,** as enacted by PL 2009, c. 595, §2, is amended to read:

B. "Assessed entity" means a health insurance carrier ~~licensed under Title 24-A~~ or a 3rd-party administrator registered under Title 24-A.

**Sec. E-2. 22 MRSA §1066, sub-§2, ¶E,** as enacted by PL 2009, c. 595, §2, is amended to read:

E. "Covered life months" means the number of months during a calendar year that a person is covered under a health insurance plan provided or administered by ~~a health insurance carrier~~ an assessed entity.

**Sec. E-3. Effective date.** Those sections of this Part that amend the Maine Revised Statutes, Title 22, section 1066, subsection 2, paragraphs B and E take effect 90 days after the adjournment of the Second Regular Session of the 124th Legislature.

## PART F

**Sec. F-1. PL 2009, c. 571, Pt. EEE, §1** is amended to read:

**Sec. EEE-1. Emergency rulemaking regarding vital records fees.** The Department of Health and Human Services, Office of ~~Health Data and Program Management~~ Data, Research and Vital Statistics shall ~~by~~ adopt rules that apply retroactively to April 1, 2010 ~~adopt rules~~ on an emergency basis to ~~set~~ revise the fees for obtaining copies of vital records from the office ~~at~~ to the same levels as were in effect in September 2009 ~~and, following~~. Following adoption of the emergency rules, the office shall complete nonemergency rulemaking to set the fees at the September 2009 levels. Rules adopted pursuant to this section are routine technical rules as defined by the Maine Revised Statutes, 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 14, 2010, unless otherwise indicated.

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## CHAPTER 653

## H.P. 1113 - L.D. 1575

## An Act To Establish a Residential Wood Stove Replacement Fund

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

**Sec. 1. 38 MRSA §610-D** is enacted to read:

**§610-D. Residential Wood Stove Replacement Fund**

**1. Fund established.** The Residential Wood Stove Replacement Fund, referred to in this section as "the fund," is established as a nonlapsing fund administered by the department for the purpose of providing financial incentives for the replacement of wood stoves with cleaner alternatives.

**2. Sources of money.** The fund consists of any money received from the following sources:

A. Contributions from any source, both public and private; and

B. Civil penalties for violations of air quality laws or rules administered by the department if the penalties are imposed pursuant to an administrative consent agreement or court-ordered consent decree and the person against whom the penalty is imposed expressly assents in the agreement or decree that the penalty may be paid into the fund. This paragraph is repealed January 1, 2012.

Money deposited in the fund must be deposited with the Treasurer of State to the credit of the fund and may be invested as provided by law. Interest on that investment must be credited to the fund.

**3. Disbursements from the fund.** The department shall apply the money in the fund toward the award of financial incentives to residents of the State to replace residential wood stoves manufactured prior to 1988 and used as a primary source of heat in an owner's primary residence with residential heating appliances with lower emissions of pollution, such as wood stoves, pellet stoves or vented gas stoves, that have been certified by the United States Environmental Protection Agency. Costs incurred by the department to administer the residential wood stove replacement program under subsection 4 may be paid by the fund.

**4. Residential wood stove replacement program.** The department shall establish through rulemaking a residential wood stove replacement program. The program must include, but is not limited to:

A. Public outreach and education;

B. Establishment of eligibility criteria for participating in the program, benefits available under the program and the process for establishing eligibility for benefits; and

C. Approved methods for removal and disposal of the replaced residential wood stoves.

**5. Rulemaking.** Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 2. Report.** The Department of Environmental Protection shall submit a report to the joint standing committee of the Legislature having jurisdiction over natural resources matters on the status and account activity of the residential wood stove replacement program, as established by the Maine Revised Statutes, Title 38, section 610-D, by January 1, 2012.

**Sec. 3. Appropriations and allocations.** The following appropriations and allocations are made.

**ENVIRONMENTAL PROTECTION, DEPARTMENT OF**

**Air Quality 0250**

Initiative: Provides an allocation to establish the Residential Wood Stove Replacement Fund.

| FEDERAL EXPENDITURES FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $2,000,000 |
| FEDERAL EXPENDITURES FUND TOTAL | $0 | $2,000,000 |

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $250,000 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $250,000 |

See title page for effective date.

## CHAPTER 654

## H.P. 1111 - L.D. 1573

### An Act To Improve Water Quality through the Phaseout of Overboard Discharges and the Improvement of the Boat Pump-out Laws

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

**Sec. 1. 38 MRSA §411-A, sub-§1,** as enacted by PL 1989, c. 442, §1 and affected by c. 890, Pt. A, §40 and amended by Pt. B, §25, is repealed and the following enacted in its place:

**1. General authority.** Subject to the availability of funds under section 411, the commissioner shall pay a portion of an alternative to an overboard discharge system as provided in this section. In the event the overboard discharge owner is not eligible for complete funding through a grant, the commissioner may loan the balance of the eligible alternative system costs not funded through a grant as provided in this section.

A. Pursuant to the cost-share schedule in subsection 2-A, the commissioner shall pay a portion of the expense of a technologically proven alternative system construction project that results in the elimination of an overboard discharge to the waters of the State when that elimination is required under section 414-A, subsection 1-B. The department may not provide grant funds to an overboard discharge owner for the removal of an overboard discharge at a residence unless the residence is the owner's primary residence.

B. If the overboard discharge owner is not eligible for complete funding through a grant, the overboard discharge owner may be eligible for funding provided by the revolving loan fund established by Title 30-A, section 6006-A as administered through the Maine Municipal Bond Bank or its designee for the expense of a technologically proven alternative system construction project that results in the elimination of an overboard discharge to the waters of the State when that elimination is required under section 414-A, subsection 1-B.

C. The costs eligible for payment through a grant or loan under this section include the costs that the department requires for abandonment of the overboard discharge and the design, engineering and construction costs of the replacement system. Grants or loans made under this section may be made directly to the owners of the overboard discharges and may also be made to sanitary and sewer districts that have agreed to establish operation and maintenance programs for holding tanks within their boundaries.

**Sec. 2. 38 MRSA §411-A, sub-§2-A,** as enacted by PL 2003, c. 246, §4, is amended to read:

**2-A. Cost-share.** The commissioner shall determine the portion of project expenses eligible for grants under this section as follows:

A. For an owner of an overboard discharge with an annual income less than $25,000, 100%;

B. For an owner of an overboard discharge with an annual income ~~between~~ from $25,000 ~~and~~ to $50,000, 90%;

C. For an owner of an overboard discharge with an annual income ~~between~~ from $50,001 ~~and~~ to $75,000, 50%;

D. For an owner of an overboard discharge with an annual income ~~between~~ from $75,001 ~~and~~ to $100,000, 35%;

E. For an owner of an overboard discharge with an annual income ~~over $100,000~~ from $100,001 to $125,000, 25%; ~~and~~

E-1. For an owner of an overboard discharge with an annual income over $125,000, $0; and

F. For a publicly owned overboard discharge facility, 50% to a maximum of $150,000.

~~For purposes of this subsection, "annual income" means the sum of all the property owner's federal taxable income for the previous year for single family dwellings, gross profits for the previous year for commercial establishments and gross rents for the previous year for rental properties, as listed on the relevant federal income tax returns.~~

For purposes of this subsection, annual income is determined separately for residential property owners and commercial establishments. For a residential property owner, including a trust, "annual income" means the sum of the taxable incomes of each owner of the property if it is jointly owned or of each beneficiary and grantor if the property owner is a trust for the previous year as listed on the relevant federal income tax returns for the previous year. For a commercial establishment, "annual income" means taxable income or ordinary business income for the previous year as listed on the relevant federal income tax return plus any depreciation or other noncash expense that was deducted to compute taxable or ordinary business income on that return. A rental property must be considered a commercial establishment or as contributing to annual income depending on how it is reported on the overboard discharge owner's federal income tax return from the previous year.

**Sec. 3. 38 MRSA §413, sub-§3,** as amended by PL 2007, c. 292, §18, is further amended to read:

**3. Transfer of ownership.** Application for transfer of a license must be made no later than 2 weeks after the transfer of ownership or interest in the source of the discharge is completed. If a person possessing a license issued by the department transfers the ownership of the property, facility or structure that is the source of a licensed discharge, without transfer of the license being approved by the department, the license granted by the department continues to authorize a discharge within the limits and subject to the terms and conditions stated in the license, except that the parties to the transfer are jointly and severally liable for any violation until such time as the department approves transfer or issuance of a waste discharge license to the new owner. The department may in its discretion require the new owner to apply for a new license, or may approve transfer of the existing license upon a satisfactory showing that the new owner can abide by its terms and conditions.

Except when it has been demonstrated within 5 years prior to a transfer, or some other time period acceptable to the department, that there is no technologically proven alternative to an overboard discharge, prior to transfer of ownership of property containing an overboard discharge, the parties to the transfer shall determine the feasibility of technologically proven alternatives to the overboard discharge that are consistent with the plumbing standards adopted by the Department of Health and Human Services pursuant to Title 22, section 42 based on documentation from a licensed site evaluator provided by the applicant and approved by the Department of Environmental Protection. The licensed site evaluator shall demonstrate experience in designing replacement systems for overboard discharge. If an alternative to the overboard discharge is identified, the alternative system must be installed within 90 days of property transfer, except that, if soil conditions are poor due to seasonal weather, the alternative may be installed as soon as soil conditions permit. The installation of an alternative to the overboard discharge may be eligible for funding under section 411-A.

This subsection applies to licenses issued before September 1, 2010.

**Sec. 4. 38 MRSA §413, sub-§3-A** is enacted to read:

**3-A. Transfer of ownership, significant expansion, division and public sewer connection.** Beginning September 1, 2010, if property containing an overboard discharge is transferred or a significant action is proposed, the following procedures apply. For purposes of this subsection, "significant action" means a single construction project performed on a primary residence with an overboard discharge when the total material and labor cost of the construction project exceeds $50,000. "Significant action" does not include construction that makes the residence accessible to a person with a disability who resides in or regularly uses the residence or reconstruction performed in response to an event beyond the control of the owner, such as a hurricane, flood, fire or the unanticipated physical destruction of the residence.

A. If a person possessing a license issued by the department transfers the ownership of the property, facility or structure that is the source of a licensed discharge without transfer of the license being approved by the department, the license granted by the department continues to authorize a discharge within the limits and subject to the terms and conditions stated in the license as long as the parties to the transfer are jointly and severally liable for any violation thereof until such time as the department approves transfer or issuance of a waste discharge license to the new owner. The department may in its discretion require the new owner to apply for a new license or may approve transfer of the existing license upon a satisfactory showing that the new owner can abide by its terms and conditions.

B. If there is a transfer, or if a significant action is proposed, the owner of an overboard discharge must conduct an alternatives analysis and may be required to remove the overboard discharge system as provided in this paragraph.

(1) Except when it has been demonstrated within 5 years prior to a transfer, or some other time period acceptable to the department, that there is no technologically proven alternative to an overboard discharge, prior to transfer of ownership of property containing an overboard discharge, the parties to the transfer shall determine the feasibility of technologically proven alternatives to the

overboard discharge that are consistent with the plumbing standards adopted by the Department of Health and Human Services pursuant to Title 22, section 42.

(2) Except when it has been demonstrated within 5 years prior to the significant action, or some other time period acceptable to the department, that there is no technologically proven alternative to an overboard discharge, prior to the significant action the owner of the overboard discharge shall determine the feasibility of a technologically proven alternative to the overboard discharge that is consistent with the plumbing standards adopted by the Department of Health and Human Services pursuant to Title 22, section 42.

(3) The determination concerning whether there is a technologically proven alternative to an overboard discharge must be based on documentation from a licensed site evaluator provided by the applicant and approved by the Department of Environmental Protection that the system constitutes a best practicable treatment under section 414-A, subsection 1-B. If an alternative to the overboard discharge is identified, the alternative system must be installed within 90 days of property transfer or significant action, except that, if soil conditions are poor due to seasonal weather, the alternative may be installed as soon as soil conditions permit. The installation of an alternative to the overboard discharge may be eligible for funding under section 411-A. On a property transfer, a commercial establishment may request an extension of the 90-day period based on information that an extension is necessary due to technical, economic or environmental considerations. The department may authorize an extension for a commercial establishment for as short an additional period as the department considers reasonable but in no case may an extension be authorized to continue beyond the expiration of the current waste discharge license or 2 years from the property transfer, whichever is later. Within 10 business days of receipt of a complete extension request, the department shall issue a written decision approving or denying the extension.

Nothing in this paragraph requires a municipality to withhold a local permit or approval associated with a significant action until the provisions of this paragraph have been met.

C. An overboard discharge must be removed without regard to available funding from the department where connection to a public sewer is practicable.

**Sec. 5. 38 MRSA §414-A, sub-§1-B,** as amended by PL 2003, c. 246, §§10 to 13 and c. 689, Pt. B, §6, is further amended to read:

**1-B. Licensing of overboard discharges.** The following provisions ~~shall~~ govern the ~~relicensing~~ licensing of overboard discharges.

A. The department shall find that the discharge meets the requirements of best practicable treatment under this section for purposes of ~~relicensing~~ licensing when it finds that there are no technologically proven alternative methods of wastewater disposal consistent with the plumbing code adopted by the Department of Health and Human Services pursuant to Title 22, section 42 that will not result in an overboard discharge~~, based on documentation from a licensed site evaluator provided by the applicant and approved by the department. The licensed site evaluator shall demonstrate experience in designing replacement systems for overboard discharges. If a technologically proven alternative is identified, the alternative must be installed within 180 days of the application's being accepted by the department, subject to availability of funding under section 411-A. If the applicant is not eligible for funding under section 411-A, the alternative system must be installed within 180 days. If the applicant is eligible for funding but no funding is available, the installation of an alternative system may be postponed until funding is available~~.

(1) The department's finding must be based on documentation from a licensed site evaluator provided by the overboard discharge owner and approved by the department. The licensed site evaluator shall demonstrate experience in designing replacement systems for overboard discharges.

(2) If a technologically proven alternative system is identified and is eligible for grant funding according to the cost-share schedule under section 411-A and grant funding is available, the alternative system must be installed within 180 days of written notification from the department, unless soil conditions are poor due to seasonal weather, in which case the alternative may be installed as soon as soil conditions permit.

(3) If a technologically proven alternative system eligible for grant funding according to the cost-share schedule is identified and funding is not available, then the owner of the overboard discharge is not required to install the system until grant funds are available or as provided in section 413, subsection 3. The department may determine that grant funds are not available when there are insufficient funds available for all alternative systems and

the alternative system is not one of the systems identified as a priority for funding from available grant funds by the department.

(4) If a technologically proven alternative system for an overboard discharge from a residence is identified and is not eligible for grant funding according to the cost-share schedule under section 411-A, subsection 2-A and the overboard discharge is subject to a license that expires on or after July 2, 2010 and prior to July 2, 2012, the department may not require the alternative to be installed earlier than July 2, 2012.

(5) If a technologically proven alternative system for an overboard discharge from a commercial establishment is identified and is not eligible for grant funding according to the cost-share schedule under section 411-A, subsection 2-A and the overboard discharge is subject to a license that expires on or after July 2, 2010 and prior to July 2, 2012, the department may not require the alternative to be installed earlier than July 2, 2012.

B. For the purposes of this subsection, the department may not require the installation or use of wastewater holding tanks as a "technologically proven alternative method of wastewater disposal" except in the following cases:

(1) Seasonal residential overboard discharges that are located on the mainland or on any island connected to the mainland by vehicle bridge or by scheduled car ferry service, when the elimination of the discharge alone or in conjunction with the elimination of other discharges will result in the opening of a shellfish harvesting area or the removal of a public nuisance condition;

(2) All overboard discharges located within the boundaries of a sanitary or sewer district when the district has agreed to service and maintain the holding tank at an annual fee that does not exceed those fees charged to other similar users of the district's services who are physically connected to the sewers of the district; and

(3) All overboard discharges located within the municipality when the municipality has agreed to service and maintain the holding tank at an annual fee that does not exceed those fees charged to other similar users of the municipality's services who are physically connected to the sewers of the municipality.

E. At the time of each relicensing of an overboard discharge, the department shall impose all conditions necessary to meet the requirements of this section and all other relevant laws.

F. For the purposes of this subsection, the department may not require the installation or use of an identified technologically proven alternative system unless the department finds that the identified alternative constitutes best practicable treatment under subsection 1, paragraph D.

**Sec. 6. 38 MRSA §423-B, sub-§2,** as enacted by PL 1999, c. 655, Pt. B, §1, is amended to read:

**2. Pump-out facilities required.** A marina serving coastal or inland waters shall provide a pump-out facility or provide through a written contractual agreement approved by the commissioner a facility to remove sanitary waste from the holding tanks of watercraft. The pump-out facility must be easily accessible and functional during normal working hours and at all stages of the tide. If a marina serves vessels year-round, the provisions of this subsection apply to the marina year-round. The fee charged by the marina is limited to 200% of the fee limit set pursuant to the federal Clean Vessel Act of 1992, 50 Code of Federal Regulations, Section 85.11 (2008) regardless of the pump-out facility funding source.

**Sec. 7. 38 MRSA §465-B, sub-§1, ¶C,** as amended by PL 2007, c. 291, §6, is further amended to read:

C. There may be no direct discharge of pollutants to Class SA waters, except for the following:

(1) Storm water discharges that are in compliance with state and local requirements; ~~and~~

(2) Discharges of aquatic pesticides approved by the department for the control of mosquito-borne diseases in the interest of public health and safety using materials and methods that provide for protection of non-target species. When the department issues a license for the discharge of aquatic pesticides authorized under this subparagraph, the department shall notify the municipality in which the application is licensed to occur and post the notice on the department's publicly accessible website~~.~~; and

(3) An overboard discharge licensed prior to January 1, 1986 if no practicable alternative exists.

See title page for effective date.

## CHAPTER 655

## H.P. 1274 - L.D. 1786

### An Act Regarding Energy Infrastructure Development

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

## PART A

**Sec. A-1. 5 MRSA §12004-G, sub-§30-D** is enacted to read:

**30-D.**

| | | | |
|---|---|---|---|
| Public Utilities | Interagency Review Panel | Expenses Only | 35-A MRSA §122, sub-§1-B |

**Sec. A-2. 35-A MRSA §122,** as enacted by PL 2007, c. 656, Pt. A, §3, is amended to read:

**§122. Energy infrastructure corridors**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Department" means the Department of Environmental Protection.

B. "Energy infrastructure" includes electric transmission and distribution facilities, natural gas transmission lines, carbon dioxide pipelines and other energy transport pipelines or conduits. "Energy infrastructure" does not include ~~generation interconnection transmission facilities or energy generation facilities.~~:

(1) Generation interconnection transmission facilities;

(2) Energy generation facilities; or

(3) Electric transmission and distribution facilities or energy transport pipelines that cross an energy infrastructure corridor or are within an energy infrastructure corridor for a distance of less than 5 miles.

C. "Energy infrastructure corridor" ~~or "corridor"~~ means a geographic area within the State designated ~~by the commission~~ in accordance with this section for the purposes of siting energy infrastructure. "Energy infrastructure corridor" includes statutory corridors and petitioned corridors.

D. "Generation interconnection transmission facility" has the same meaning as in section 3132, subsection 1-B.

D-1. "Petitioned corridor" means an energy infrastructure corridor designated by the commission in accordance with subsection 2.

E. "~~Interested person~~ Potential developer" means a person that can demonstrate to the commission the financial and technical capability to engage in the development and construction of energy infrastructure.

F. "Project" means the development or construction of energy infrastructure within an energy infrastructure corridor.

F-1. "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 who submitted the information and would make available information not otherwise publicly available.

F-2. "Searsport-Loring corridor" means the real estate, real property rights and easements and infrastructure associated with the pipeline existing on the effective date of this paragraph and associated easement corridor extending from Searsport to the former Loring Air Force Base in Limestone, Maine, as granted and conveyed by the United States Air Force to the Loring Development Authority of Maine in 2005, together with such additional rights, property, easement scope and physical rights of way as may have been or may be acquired, as are necessary to effectuate the intent of the parties to the leases, easements and agreements existing on the effective date of this paragraph and as may be reasonably necessary or desirable to further develop the Searsport-Loring corridor as a statutory corridor for use pursuant to subsection 1-B.

F-3. "State-owned" means owned by the State or by a state agency or state authority.

F-4. "Statutory corridor" means an energy infrastructure corridor designated under subsection 1-A.

G. "Tribe" includes the Penobscot Nation, as defined in Title 30, section 6203, subsection 10; the Passamaquoddy Tribe, as defined in Title 30, section 6203, subsection 7; the Houlton Band of Maliseet Indians, as defined in Title 30, section 6203, subsection 2 and the Aroostook Band of Micmacs, as defined in Title 30, section 7202, subsection 1.

**1-A. Statutory corridors designated.** The following areas are designated as statutory corridors:

A. The Interstate 95 corridor, including that portion of Interstate 95 designated as the Maine Turnpike, in accordance with the provisions of subsection 1-C;

B. The Interstate 295 corridor; and

C. The Searsport-Loring corridor, subject to the following provisions.

(1) The Searsport-Loring corridor may be used, developed and expanded for energy infrastructure consistent with any leases, easements or other agreements in effect on the effective date of this subsection. It is not a statutory corridor until the expiration or termination of such leases, easements or other agreements.

(2) The executive director of the Loring Development Authority of Maine shall notify the Interagency Review Panel under subsection 1-B when any leases, easements or other agreements in effect on the effective date of this subsection affecting or otherwise pertaining to the Searsport-Loring corridor have expired or otherwise terminated.

**1-B. Use of statutory corridors; Interagency Review Panel.** The Interagency Review Panel, as established in Title 5, section 12004-G, subsection 30-D and referred to in this subsection as "the panel," shall oversee the use of statutory corridors in accordance with this section.

A. The panel includes the following members:

(1) The Director of the Governor's Office of Energy Independence and Security 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.

B. The panel shall identify an initial range of value for the use of state-owned land or assets within a statutory corridor. The initial range of value must be determined by a professional appraiser who meets the qualifications of paragraph F.

C. The panel shall establish and implement a regular process for soliciting, accepting and evaluating energy infrastructure proposals for use of a statutory corridor. As part of this process, the panel shall provide public notice of the availability of the statutory corridor for energy infrastructure development, a description of the type of development anticipated in the statutory corridor and the opportunity for potential developers to submit proposals for use of the statutory corridor.

D. The panel shall evaluate and render a decision on an energy infrastructure proposal for use of a statutory corridor in accordance with subsection 1-D.

E. If a proposal is accepted pursuant to subsection 1-D, the panel may enter into negotiations with the potential developer who submitted the proposal regarding a long-term occupancy agreement with the State for the use of the statutory corridor, in accordance with this paragraph.

(1) The panel shall negotiate the terms of the occupancy agreement, including but not limited to the length of the agreement and compensation to the State for use of the statutory corridor and any conditions of use. In negotiating the occupancy agreement, the panel shall take into account existing legal commitments, contractual obligations, reasonable investment-backed expectations and relevant prior state investments, when applicable.

(2) Compensation to the State may be in the form of payments made on an annual basis or the functional or financial equivalent, discounted prices for energy products or services, partial ownership by the State of the energy infrastructure on the basis of the value of the statutory corridor in proportion to the energy infrastructure as a whole, or other appropriate form. The terms of compensation may include provisions for periodic adjustment of the compensation to the State over time and reimbursement of costs to any state agency or authority that owns or controls land or assets within the statutory corridor.

(3) Negotiation of compensation to the State must be based on at least one independent

appraisal performed by a professional appraiser in accordance with paragraph F. An independent appraisal performed under this subparagraph must, at a minimum, consider the costs that will be avoided by the potential developer, including but not limited to the costs of acquisition, lease or rental of private land, the costs of property taxes on private land, the costs of surveying, appraisal, environmental, engineering and other work necessary for use of private land, the costs of time and potential conflict regarding the use of private land, the unique and limited nature of the state-owned land or asset, the revenues estimated to be generated by the use of the state-owned land or asset and other relevant factors.

(4) Any occupancy agreement entered into under this section for the use of any portion of the Interstate 95 corridor that is designated as the Maine Turnpike must comply with the memorandum of agreement between the Department of Transportation and the Maine Turnpike Authority pursuant to subsection 1-C.

F. The panel shall contract for the services of a professional appraiser or appraisers to assist the panel in its duties under this subsection. The professional appraiser contracted under this paragraph must:

(1) Have demonstrated experience in the valuation and evaluation of utility corridors or transportation corridors;

(2) Hold a professional designation from a nationally recognized organization of appraisers; and

(3) Be licensed by this State as a certified general real property appraiser in accordance with Title 32, section 14035 or hold a comparable license from another state.

The cost of the services of a professional appraiser who provides services in accordance with this paragraph must be paid by potential developers submitting proposals for use of the corridor under this subsection in proportion to the amount of time spent by the appraiser on each potential developer's proposal.

G. The following proprietary information, as it pertains to the sale, lease or use of state-owned land or assets under the provisions of this subsection or activities in preparation for such sale, lease or use, is confidential within the meaning of Title 1, section 402, subsection 3, paragraph A and may not be released by the panel or the state agency or authority involved:

(1) Proprietary information in the possession of the state agency or authority; and

(2) Proprietary information in the possession of the panel or a professional appraiser assisting the panel.

H. No later than February 1st of each year, the panel shall provide a written report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters that documents the activities of and actions taken by the panel under this subsection during the previous calendar year.

I. The panel may adopt rules to implement this subsection. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**1-C. Maine Turnpike Authority; memorandum of agreement; approval of occupancy agreements.** The Maine Turnpike Authority shall negotiate the terms of and enter into a memorandum of agreement with the Department of Transportation, consistent with paragraph A, to govern the conditions under which the Maine Turnpike Authority will grant an occupancy agreement for use of Maine Turnpike Authority property as part of the Interstate 95 statutory corridor. The Maine Turnpike Authority shall approve the terms of any occupancy agreement for use of Maine Turnpike Authority property within the Interstate 95 corridor that is consistent with the memorandum of agreement.

A. The terms of the memorandum of agreement must provide for:

(1) Application of reasonable engineering standards of the Maine Turnpike Authority to the location and design of energy infrastructure on Maine Turnpike Authority property within the Interstate 95 statutory corridor;

(2) The right of the Maine Turnpike Authority to review and approve all construction, reconstruction, expansion, improvement, maintenance or operation of energy infrastructure on Maine Turnpike Authority property as part of the Interstate 95 statutory corridor in accordance with reasonable engineering standards of the Maine Turnpike Authority. The Maine Turnpike Authority may not unreasonably withhold approval under this subparagraph;

(3) The right of the Maine Turnpike Authority to require relocation or reconfiguration of any portion of energy infrastructure and all related installations on Maine Turnpike Authority property within the Interstate 95 statutory corridor at the sole cost of the owner of the energy infrastructure so affected when

and to the extent that such relocation or reconfiguration is reasonably necessary for the construction, reconstruction, expansion, improvement, maintenance or operation of the Maine Turnpike;

(4) The right of the Maine Turnpike Authority to regulate access to Maine Turnpike Authority property within the Interstate 95 statutory corridor in a reasonable manner that is consistent with the safe and proper administration of the Maine Turnpike as a limited access highway; and

(5) Reimbursement to the Maine Turnpike Authority of any reasonable costs it may incur in relation to use of the Maine Turnpike as part of the Interstate 95 statutory corridor, including, but not limited to, reasonable costs of review and inspection of design, construction, maintenance or repair of energy infrastructure and related operational costs, including, but not limited to, those for traffic control and other measures that are required to accommodate construction, maintenance or repair of energy infrastructure.

B. The Maine Turnpike Authority shall take all reasonable precautions, without forgoing or redesigning projects that it considers necessary or convenient for operation of the Maine Turnpike, to avoid material interference with the development of energy infrastructure on Maine Turnpike Authority property as part of the Interstate 95 statutory corridor.

**1-D. Energy infrastructure proposal; decision criteria.** The deciding authority shall evaluate and render a decision on an energy infrastructure proposal in accordance with this subsection. For the purposes of this subsection, "deciding authority" means the Interagency Review Panel acting under subsection 1-B, paragraph D or the Public Utilities Commission acting under subsection 5-A or section 3132, subsection 6-A.

A. The deciding authority may approve an energy infrastructure proposal only if the deciding authority finds that the proposal:

(1) Materially enhances or does not harm transmission opportunities for energy generation within the State;

(2) Is reasonably likely to reduce electric rates or other relevant energy prices or costs for residents and businesses within the State relative to the value of those rates, prices or costs but for the proposed energy infrastructure development or, if the deciding authority is unable to determine to its satisfaction the impact of the proposal on rates, prices or costs, the owner or operator of the proposed energy infrastructure agrees to pay annually an amount of money, determined by the deciding authority, to reduce rates, prices or costs over the life of the proposed energy infrastructure; and

(3) Is in the long-term public interest of the State, based on a determination made in accordance with paragraph B.

B. The deciding authority shall determine whether an energy infrastructure proposal is in the long-term public interest of the State. In making that determination, the deciding authority shall, at a minimum, consider the extent to which the proposal:

(1) Materially enhances or does not harm transmission opportunities for energy generation within the State;

(2) Is reasonably likely to reduce electric rates or other relevant energy prices or costs for residents and businesses within the State relative to the expected value of those electric rates or other energy prices or costs but for the proposed energy infrastructure development;

(3) Increases long-term economic benefits for the State, including but not limited to direct financial benefits, employment opportunities and economic development;

(4) Ensures efficient use of the statutory corridor through collocation of energy infrastructure, collaboration between energy infrastructure developers and the preservation of options for future uses;

(5) Minimizes conflict with the public purposes for which the state-owned land or asset is owned and any management plans for the land or asset within the statutory corridor and, when necessary, mitigates unavoidable impacts;

(6) Limits and mitigates the effects of energy infrastructure on the landscape, including but not limited to using underground installation when economically and technically feasible;

(7) Increases the energy reliability, security and independence of the State; and

(8) Reduces the release of greenhouse gases.

**2. Designation of petitioned corridors.** The commission may, upon petition, designate ~~energy infrastructure~~ petitioned corridors in accordance with this subsection.

A. The commission may designate ~~an energy infrastructure~~ a petitioned corridor only by rule. Rules adopted pursuant to this subsection are ma-

jor substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

(1) The rulemaking to designate ~~an energy infrastructure~~ a petitioned corridor must include a public hearing in which any member of the public may submit oral or written testimony or comments, which must be incorporated into the rule-making record in accordance with Title 5, section 8052, subsection 1. The commission shall provide an opportunity for examination of the petitioner at a rule-making hearing. The commission shall allow for written comments by any member of the public up to 7 days prior to the hearing. The commission shall allow a second round of written comments to be filed within 10 days of the hearing or within such longer time as the commission may direct.

(2) In any rulemaking regarding the designation of ~~an energy infrastructure~~ a petitioned corridor, the commission shall address all written comments, including those submitted pursuant to subsection 3, and state its rationale for adopting or rejecting any proposals or recommendations contained in those written comments.

(3) A designation of ~~an energy infrastructure~~ a petitioned corridor must be based on substantial evidence in the record of the rule-making hearing.

B. The commission may commence a proceeding to designate ~~an energy infrastructure~~ 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 or ~~an interested person~~ a potential developer.

C. The commission shall dismiss a petition for the designation of ~~an energy infrastructure~~ a petitioned corridor filed under this subsection if, ~~after~~ on the basis of a preliminary review, the commission determines that the petition:

(1) Does not contain sufficient information to support the designation of ~~an energy infras cture~~ a petitioned corridor; or

(2) Was filed by a person other than ~~the Office of the Public Advocate, Executive Department, Governor's Office of Energy Independence and Security or an interested person as defined by subsection 1, paragraph E~~ a person listed in paragraph B.

D. The commission may designate ~~an energy infrastructure~~ a petitioned corridor only if the commission finds, after consultation with state agencies and other entities as required under subsection 3, that a statutory corridor, a previously designated petitioned corridor or an abandoned railroad corridor owned or controlled by the Department of Transportation cannot meet the needs of the proposed energy infrastructure and that the future development of energy infrastructure within the petitioned corridor is reasonably likely to be:

(1) In the public interest, including, but not limited to, consideration of:

(a) Encouraging ~~colocation~~ collocation of energy infrastructure;

(b) Enhancing the efficient utilization of existing energy infrastructure; and

(c) Limiting impacts on the landscape; and

(2) Consistent with environmental and land use laws and rules of the State. A finding that the future development of energy infrastructure within the petitioned corridor is reasonably likely to be consistent with environmental and land use laws and rules of the State under this paragraph has no evidentiary value in a subsequent consolidated environmental permit proceeding undertaken by the department pursuant to subsection 6.

E. In designating a ~~geographic area as an energy infrastructure~~ petitioned corridor, the commission shall limit the geographic area of the petitioned corridor to an area no greater in breadth and scope than is necessary to achieve the purposes of this section.

F. The commission may not designate ~~an energy infras cture~~ a petitioned corridor ~~that is located on~~ in any of the following lands:

(1) Houlton Band Trust Land, as defined in Title 30, section 6203, subsection 2-A;

(2) Passamaquoddy Indian territory, as defined in Title 30, section 6203, subsection 6;

(3) Penobscot Indian territory, as defined in Title 30, section 6203, subsection 9;

(4) Aroostook Band Trust Land, as defined in Title 30, section 7202, subsection 2;

(5) Lands that constitute a park as defined in Title 12, section 1801, subsection 7 and Baxter State Park; ~~and~~

(6) Federally owned land.; and

(7) The Maine Turnpike, as described in Title 23, section 1964, subsection 9.

**3. Petitioned corridors; notification and consultation prior to designation.** Prior to designating ~~an energy infrastructure~~ a petitioned corridor under

subsection 2, the commission shall, at a minimum, notify, consult with and accept comments from:

A. The department;

A-1. A state agency that owns or controls land or assets within the proposed corridor, within a statutory corridor or within a previously designated petitioned corridor;

A-2. The Department of Transportation regarding potential use of abandoned railroad corridors owned or controlled by the department;

B. Appropriate state and federal energy and natural resources protection agencies, as specified by rules adopted pursuant to subsection 9;

C. The municipalities in which the petitioned corridor would be located;

D. The Maine Land Use Regulation Commission and the counties in which the petitioned corridor would be located, if the ~~proposed energy infrastructure~~ petitioned corridor, or any portion of the petitioned corridor, ~~is~~ would be located within unorganized or deorganized territories of the State; and

E. A tribe, if the ~~proposed energy infrastructure~~ petitioned corridor, or any portion of the petitioned corridor, ~~is~~ would be located on land of a tribe other than those lands specified in subsection 2, paragraph F.

~~**4. Use of corridors; certificate and permit required.** Development or construction of energy infrastructure within an energy infrastructure corridor is governed by this subsection.~~

~~A. A transmission and distribution utility may not engage in development or construction of a transmission line covered by section 3132 within an energy infrastructure corridor, unless:~~

~~(1) The commission has issued a certificate of public convenience and necessity approving the transmission line in accordance with section 3132; and~~

~~(2) The department has issued a consolidated environmental permit approving the project in accordance with subsection 6.~~

~~B. A transmission and distribution utility may not engage in development or construction of energy infrastructure other than a transmission line covered by section 3132 within an energy infrastructure corridor, unless:~~

~~(1) The commission has issued a corridor use certificate approving the project in accordance with subsection 5; and~~

~~(2) The department has issued a consolidated environmental permit approving the project in accordance with subsection 6.~~

~~C. A person that is not a transmission and distribution utility may not engage in development or construction of energy infrastructure within an energy infrastructure corridor, unless:~~

~~(1) The commission has issued a corridor use certificate approving the project in accordance with subsection 5; and~~

~~(2) The department has issued a consolidated environmental permit approving the project in accordance with subsection 6.~~

**4-A. Use of energy infrastructure corridors; requirements.** Development or construction of energy infrastructure within an energy infrastructure corridor is governed by this subsection.

A. A person may not engage in development or construction of energy infrastructure within a statutory corridor, unless:

(1) The person has entered into an occupancy agreement with the Interagency Review Panel in accordance with subsection 1-B and, if applicable, with the Maine Turnpike Authority in accordance with subsection 1-C, and in compliance with applicable state and federal rules, regulations and laws;

(2) The department has issued a consolidated environmental permit for the project in accordance with subsection 6; and

(3) If the project is a transmission line that requires a certificate of public convenience and necessity under section 3132, the commission has issued a certificate of public convenience and necessity for the transmission line.

B. A person may not engage in development or construction of energy infrastructure within a petitioned corridor, unless:

(1) The department has issued a consolidated environmental permit for the project in accordance with subsection 6;

(2) The commission has issued a corridor use certificate for the project in accordance with subsection 5-A; and

(3) If the project is a transmission line that requires a certificate of public convenience and necessity under section 3132, the commission has issued a certificate of public convenience and necessity approving the transmission line.

~~**5. Corridor use certificate.** Whenever a person proposes to develop or construct energy infrastructure~~

~~within an energy infrastructure corridor, except for a transmission and distribution utility that proposes a transmission line subject to the requirements of section 3132, that person shall file with the commission a petition for a corridor use certificate. The petition for the corridor use certificate must contain such information as the commission by rule requires. The commission shall process a petition for a corridor use certificate in an adjudicatory proceeding. The commission shall issue a corridor use certificate upon a finding that the project is:~~

~~A. In the public interest; and~~

~~B. Reasonably likely to:~~

~~(1) Minimize utility rates or increase the reliability of utility service;~~

~~(2) Have the net effect of reducing the release of greenhouse gases; or~~

~~(3) Enhance economic development within the State.~~

**5-A. Corridor use certificate.** Whenever a person proposes to develop or construct energy infrastructure within a petitioned corridor, that person shall file with the commission a petition for a corridor use certificate. The petition for the corridor use certificate must contain such information as the commission by rule requires. The commission shall process a petition for a corridor use certificate in an adjudicatory proceeding. The commission shall evaluate and render a decision on any petition for a corridor use certificate in accordance with subsection 1-D. A certificate issued under this subsection must specify the terms and conditions of use of the petitioned corridor. The commission shall establish by rule procedures to minimize duplicative filing and review requirements for the corridor use certificate for any transmission line that requires a certificate of public convenience and necessity under section 3132. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**6. Environmental review; consolidated environmental permit.** Whenever a person proposes to develop or construct energy infrastructure within an energy infrastructure corridor, that person shall file with the department an application for a consolidated environmental permit. ~~The department shall adopt by rule pursuant to subsection 9 a process for the review of applications and the issuance of the consolidated environmental permit in accordance with this subsection. The department may request comments from and consult with other agencies and programs that are required by law to issue separate approvals for some or all projects.~~ The department may adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

A. A consolidated environmental permit issued by the department takes the place of any other permits or licenses that the department would otherwise require for the proposed project.

B. The application for a consolidated environmental permit must contain such information as the department requires, including, but not limited to, all studies and documentation necessary to determine whether the proposed project is in compliance with the environmental laws of the State administered by the department.

C. The applicant for a consolidated environmental permit shall pay a fee ~~specified by rule~~ no greater than the total amount of fees that would be required if individual permits were obtained by the applicant rather than the consolidated environmental permit and reimburse the department for any additional costs of regulatory review, including expenses for outside peer review or other consultants or experts assisting the department in its review. Outside review of applications under this subsection is governed by Title 38, section 344-A, except that the Commissioner of Environmental Protection is not required to obtain the consent of the applicant to enter into an agreement with an outside reviewer or require that the costs of the outside review be reimbursed by the applicant.

D. The department shall issue its decision on an application for a consolidated environmental permit within a timeframe specified by department ~~rule or~~ guideline. The decision may specify approval, denial or approval in part and denial in part. A proposed project may not be undertaken if it is denied in whole or in part by the department.

E. Upon issuance of a consolidated environmental permit, the department shall certify to the commission that the permit has been issued and whether the proposed project complies, in part or in whole, with the environmental laws of the State administered by the department and whether other agencies and programs that are required by law to issue separate approvals for some or all aspects of the project have taken final agency action on those matters requiring their separate approval.

F. The department shall enforce the terms of the consolidated environmental permit.

G. The terms of the consolidated environmental permit may require additional submissions by the permit holder, studies and approvals with conditions.

~~If the department receives an application for a permit to develop or construct energy infrastructure within an energy infrastructure corridor prior to adopting a rule to implement this subsection, the department shall~~

~~process the application in accordance with the department's existing review and permitting procedures.~~

**6-A. Revenues.** Except as otherwise provided by subsection 1-C or any other law, including the Constitution of Maine, revenues generated from the use of state-owned land and assets within energy infrastructure corridors must be deposited in the energy infrastructure benefits fund established in Title 5, section 282, subsection 9.

**7. Eminent domain.** This subsection grants and limits certain rights of eminent domain with respect to energy infrastructure corridors.

A. The eminent domain authority of a transmission and distribution utility within an energy infrastructure corridor is governed by section 3136.

B. Subject to approval by the commission, a person that is not a transmission and distribution utility that receives a certificate of public convenience and necessity under section 3132 or a corridor use certificate under subsection ~~5~~ 5-A to develop energy infrastructure within an energy infrastructure corridor may take and hold by right of eminent domain lands and easements within that corridor necessary for the proper location of the energy infrastructure covered by the certificate of public convenience and necessity or the corridor use certificate in the same manner and under the same conditions as set forth in chapter 65. The right of eminent domain granted in this paragraph does not apply to:

(1) Lands or easements located within 300 feet of an inhabited dwelling;

(2) Lands or easements on or adjacent to any developed or undeveloped water power;

(3) Lands or easements so closely paralleling existing wire lines of other utilities or existing energy transport pipelines that the proposed energy infrastructure would substantially interfere with service rendered over the existing lines or pipelines, except with the consent of the owners;

(4) Lands or easements owned or used by railroad corporations, except as authorized pursuant to section 2311;

(5) Lands or easements owned by the State or an agency or authority of the State; and

(6) Transmission and distribution plant that is owned, controlled, operated or managed by a transmission and distribution utility on the effective date of this section.

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 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, 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.

**8. Utility service territory.** Nothing in this section modifies existing restrictions on entities providing service within a public utility's service territory provided under chapter 21.

~~**9. Rules.** The commission shall adopt by rule standards and procedures to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that rules adopted by the commission for the designation of an energy infrastructure corridor, pursuant to subsection 2, paragraph A, are major substantive rules.~~

**10. Repeal.** This section is repealed July 30, ~~2011~~ 2015.

**Sec. A-3. 35-A MRSA §3131, sub-§4-A** is enacted to read:

**4-A. High-impact electric transmission line.** "High-impact electric transmission line" means a transmission line greater than 50 miles in length that is not located in a statutory corridor, as defined in section 122, subsection 1, paragraph F-4, or a petitioned corridor, as defined in section 122, subsection 1, paragraph D-1, and that is:

A. Constructed to transmit direct current electricity; or

B. Capable of operating at 345 kilovolts or more and:

(1) Is not a generator interconnection transmission facility as defined in section 3132, subsection 1-B; and

(2) Is not constructed primarily to provide electric reliability, as determined by the commission.

**Sec. A-4. 35-A MRSA §3132, sub-§6,** as amended by PL 2009, c. 309, §3, is further amended to read:

**6. Commission order; certificate of public convenience and necessity.** In its order, the commission shall make specific findings with regard to the public need for the proposed transmission line. ~~If~~ Except as provided in subsection 6-A for a high-impact electric transmission line, if the commission finds that a public need exists, it shall issue a certificate of public convenience and necessity for the transmission line. In determining public need, the commission shall, at a minimum, take into account economics, reliability, public health and safety, scenic, historic and recreational values, the proximity of the proposed transmission line to inhabited dwellings and alternatives to construction of the transmission line, including energy conservation, distributed generation or load management. If the commission orders or allows the erection of the transmission line, the order is subject to all other provisions of law and the right of any other agency to approve the transmission line. The commission shall, as necessary and in accordance with subsections 7 and 8, consider the findings of the Department of Environmental Protection under Title 38, chapter 3, subchapter 1, article 6, with respect to the proposed transmission line and any modifications ordered by the Department of Environmental Protection to lessen the impact of the proposed transmission line on the environment. A person may submit a petition for and obtain approval of a proposed transmission line under this section before applying for approval under municipal ordinances adopted pursuant to Title 30-A, Part 2, Subpart 6-A; and Title 38, section 438-A and, except as provided in subsection 4, before identifying a specific route or route options for the proposed transmission line. Except as provided in subsection 4, the commission may not consider the petition insufficient for failure to provide identification of a route or route options for the proposed transmission line. The issuance of a certificate of public convenience and necessity establishes that, as of the date of issuance of the certificate, the decision by the person to erect or construct was prudent. At the time of its issuance of a certificate of public convenience and necessity, the commission shall send to each municipality through which a proposed corridor or corridors for a transmission line extends a separate notice that the issuance of the certificate does not override, supersede or otherwise affect municipal authority to regulate the siting of the proposed transmission line. The commission may deny a certificate of public convenience and necessity for a transmission line upon a finding that the transmission line is reasonably likely to adversely affect any transmission and distribution utility or its customers.

**Sec. A-5. 35-A MRSA §3132, sub-§6-A** is enacted to read:

**6-A. High-impact electric transmission line; certificate of public convenience and necessity.** The commission shall evaluate and render a decision on any petition for a certificate of public convenience and necessity for a high-impact transmission line in accordance with section 122, subsection 1-D.

**Sec. A-6. PL 2009, c. 372, Pt. F, §5,** as amended by PL 2009, c. 415, Pt. E, §1, is repealed.

**Sec. A-7. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title 35-A, section 122, subsection 1-B, paragraph A, subparagraph (4), the Governor shall appoint the initial public members of the Interagency Review Panel to serve staggered terms. Of the initial appointees, one member serves an initial term of one year, one member serves an initial term of 2 years and 2 members serve initial terms of 3 years. An initial term of one or 2 years may not be considered a full term for purposes of limiting the number of terms for which a member may serve.

**Sec. A-8. Report.** Within existing resources, the Executive Department, Governor's Office of Energy Independence and Security, in consultation with agencies with relevant expertise, including but not limited to the Department of Environmental Protection, the Public Utilities Commission, the Department of Transportation and the Department of Defense, Veterans and Emergency Management, Maine Emergency Management Agency, and with interested parties, shall prepare a report on issues affecting the collocation of electric transmission and distribution facilities, natural gas transmission lines, carbon dioxide pipelines and other energy infrastructure. The report must include an analysis of the safety, health, engineering, environmental, geotechnical, land use and other factors that restrict or otherwise affect collocation of such facilities. The office shall review and include in the report its findings with respect to practices in other jurisdictions as well as any industry or governmental recommendations regarding collocation of such facilities. The office shall include in the report a description of how its analysis and findings apply to energy infrastructure corridors as defined in the Maine Revised Statutes, Title 35-A, section 122. By February 1, 2011, the office shall submit its report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters and the Interagency Review Panel established under Title 35-A, section 122 and to all state agencies with permitting authority over energy infrastructure, including but not limited to the Department of Environmental Protection, the Maine Land Use Regulation Commission, the Public Utilities Commission and the Department of Transportation.

## PART B

**Sec. B-1. 5 MRSA §282, sub-§9,** as enacted by PL 2009, c. 372, Pt. F, §3, is repealed and the following enacted in its place:

**9. Energy infrastructure benefits fund.** To establish an energy infrastructure benefits fund. Except as otherwise provided by Title 35-A, section 122, subsection 1-C 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. B-2. 23 MRSA §4210-E** is enacted to read:

**§4210-E. Transportation Efficiency Fund**

**1. Establishment; sources of funds.** The Transportation Efficiency Fund, referred to in this section as "the fund," is established as a nonlapsing fund administered by the Department of Transportation. The fund consists of revenues transferred from the energy infrastructure benefits fund pursuant to Title 5, section 282, subsection 9. Any interest on money in the fund must be credited to the fund. Money in the fund not spent in any fiscal year remains in the fund to be used for the purposes of this section.

**2. Uses.** The fund must be used by the department to increase the energy efficiency of or reduce reliance on fossil fuels within the transportation system within the State. Uses of the fund may include, but are not limited to, rail, public transit, car and van pooling, zero-emission vehicles, biofuel and other alternative fuel vehicles, congestion mitigation and air quality initiatives that increase the energy efficiency of or reduce reliance on fossil fuels within the transportation system. The department must consider the transfer of funds to the Maine Turnpike Authority for uses consistent with this subsection. Any transfer to the Maine Turnpike Authority under this subsection in any calendar year may not exceed 10% of debt service payable by the Maine Turnpike Authority on its bonds in that calendar year.

**Sec. B-3. 35-A MRSA §10103, sub-§4,** as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

**4. Program funding.** The board may apply for and receive grants from state, federal and private sources for deposit into appropriate program funds. The board may deposit in appropriate program funds the proceeds of any bonds issued for the purposes of programs administered by the trust. The board may receive and shall deposit in appropriate program funds revenue resulting from any forward capacity market or other capacity payments from the regional transmission organization that may be attributable to by those projects funded ~~those~~ by those funds. The board shall

deposit into appropriate program funds revenue transferred to the trust from the energy infrastructure benefits fund pursuant to Title 5, section 282, subsection 9 for use in accordance with subsection 4-A. The board may also deposit any grants or other funds received by or from any entity with which the trust has an agreement or contract pursuant to this chapter if the board determines that receipt of those funds is consistent with the purposes of this chapter.

**Sec. B-4. 35-A MRSA §10103, sub-§4-A** is enacted to read:

**4-A. Use of revenues from the energy infrastructure benefits fund.** The trust shall use revenues transferred to the trust from the energy infrastructure benefits fund pursuant to Title 5, section 282, subsection 9:

A. To ensure the steady transition to energy independence and security for the people, communities, economy and environment of the State in accordance with the triennial plan. In the expenditure of funds pursuant to this paragraph, the trust may provide grants, loans, programs and incentives on a competitive basis. The trust shall apportion the expenditures of funds pursuant to this paragraph in any fiscal year as follows:

(1) Seventy-five percent for energy efficiency initiatives; and

(2) Twenty-five percent for alternative energy resources initiatives; and

B. To compensate public members of the Interagency Review Panel pursuant to Title 5, section 12004-G, subsection 30-D.

As part of the annual report required under section 10104, subsection 5, the director shall report on the use of revenues from the energy infrastructure benefits fund. The report must document the revenues transferred from the energy infrastructure benefits fund to the trust during the most recently completed fiscal year and the current fiscal year and amounts and uses of money expended by the trust in accordance with this subsection during the most recently completed and the current fiscal year.

**Sec. B-5. Transition; funding for public members of the Interagency Review Panel.** Notwithstanding any other provision of law, until sufficient revenues from the energy infrastructure benefits fund are transferred to the Efficiency Maine Trust pursuant to the Maine Revised Statutes, Title 5, section 282, subsection 9 to compensate public members of the Interagency Review Panel pursuant to Title 5, section 12004-G, subsection 30-D, program funds of the Efficiency Maine Trust from other sources may be used for that purpose.

**Sec. B-6. Transportation efficiency and alternative energy resources initiatives; working groups.** The Executive Department, Governor's Office of Energy Independence and Security, referred to in this section as "the office," shall convene 2 working groups in accordance with this section to examine and make recommendations regarding transportation efficiency initiatives and alternative energy resources initiatives funded by the revenues collected in the energy infrastructure benefits fund established in the Maine Revised Statutes, Title 5, section 282, subsection 9.

1. The office shall convene a working group on transportation efficiency initiatives. The group must include, but is not limited to, a representative of the Department of Transportation, a representative of the Department of Environmental Protection and a representative of the Efficiency Maine Trust. The working group shall examine and make recommendations regarding the allocation of revenues from the energy infrastructure benefits fund for transportation-related purposes and the uses of the Transportation Efficiency Fund established in Title 23, section 4210-E. The working group shall submit its findings and recommendations no later than March 1, 2011 to the joint standing committees of the Legislature having jurisdiction over transportation matters and over utilities and energy matters.

2. The office shall convene a working group on alternative energy resources initiatives. The group must include, but is not limited to, a representative of the Efficiency Maine Trust, a representative of a statewide environmental advocacy organization and a representative of renewable energy consultants. The working group shall examine and make recommendations regarding the allocation of revenues from the energy infrastructure benefits fund pursuant to Title 5, section 282, subsection 9 to the Efficiency Maine Trust and the uses of those revenues according to Title 35-A, section 10103, subsection 4-A for alternative energy resources initiatives. The working group shall submit its findings and recommendations no later than March 1, 2011 to the joint standing committees of the Legislature having jurisdiction over transportation matters and over utilities and energy matters.

**Sec. B-7. Appropriations and allocations.** The following appropriations and allocations are made.

**TRANSPORTATION, DEPARTMENT OF**

**Transportation Efficiency Fund N106**

Initiative: Establishes the Transportation Efficiency Fund.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $500 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $500 |

## PART C

**Sec. C-1. 2 MRSA §9, sub-§3, ¶C,** as amended by PL 2009, c. 372, Pt. H, §2, is further amended to read:

C. In consultation with the Efficiency Maine Trust Board, established in Title 5, section 12004-G, subsection 10-C, prepare and submit a comprehensive state energy plan to the Governor and the Legislature by January 15, 2009 and submit an updated plan every 2 years thereafter. Within the comprehensive state energy plan, the director shall identify transmission capacity and infrastructure needs and recommend appropriate actions to facilitate the development and integration of new renewable energy generation within the State and support the State's renewable resource portfolio requirements specified in Title 35-A, section 3210 and wind energy development goals specified in Title 35-A, section 3404;

**Sec. C-2. 2 MRSA §9, sub-§4** is enacted to read:

**4. Advice to state agencies.** The director shall advise state agencies regarding energy-related principles for agencies to consider, along with the laws and policies governing those agencies, in conjunction with the sale, lease or other allowance for use of state-owned land or assets for the purpose of development of energy infrastructure. For the purposes of this subsection, "state-owned" and "energy infrastructure corridor" have the same meanings as in Title 35-A, section 122, subsection 1. At a minimum, the director shall consider the following principles in advising state agencies under this subsection:

A. The principles for the determination of the long-term public interest of the State as specified in Title 35-A, section 122, subsection 1-D, paragraph B;

B. Avoiding wherever possible the use of lands subject to the provisions of the Constitution of Maine, Article IX, Section 23;

C. Maximizing the benefit realized from the State's strategic location within New England and the northeastern region; and

D. Complying with the provisions of the memorandum of agreement between the Maine Turnpike Authority and the Department of Transportation under Title 35-A, section 122, subsection 1-C, when applicable.

Nothing in this subsection alters any of the responsibilities or limits any of the authority of the Department of Administrative and Financial Services, Bureau of General Services pursuant to Title 5. Nothing in this subsection alters or limits the ability of departments or agencies of the State, along with the Bureau of General Services pursuant to Title 5, to generate or cogenerate energy at state facilities for use on site and elsewhere.

**Sec. C-3. 35-A MRSA §3132, sub-§13,** as amended by PL 2009, c. 123, §6, is further amended to read:

**13. Public lands.** The State, any agency or authority of the State or any political subdivision of the State may not sell, lease or otherwise convey any interest in public land, other than a future interest or option to purchase an interest in land that is conditioned on satisfaction of the terms of this subsection, to any person for the purpose of constructing a transmission line subject to this section, unless the person has received a certificate of public convenience and necessity from the commission pursuant to this section.

A person who has bought, leased or otherwise been conveyed any interest in public land for the purpose of constructing a transmission line may not undertake construction of that line except under the terms of the certificate of public convenience and necessity as originally issued for that transmission line by the commission or as modified by order of the Department of Environmental Protection under subsection 7 or under the terms of an amended certificate of public convenience and necessity issued by the commission or deemed to have been issued by the commission under subsection 11-A.

As used in this subsection, "public land" means land that is owned or controlled by the State, by an instrumentality of the State or by a political subdivision of the State.

As used in this subsection, "future interest or option to purchase an interest in land" includes an option, purchase and sale agreement or other equivalent legal instrument that conveys the intent to pursue a future sale, lease or other conveyance of land.

**Sec. C-4. Legislative review; implementation.** The joint standing committee of the Legislature having jurisdiction over utilities and energy matters shall review the implementation of this Act during the First Regular Session of the 125th Legislature. Based on its review, the joint standing committee may submit a bill relating to this Act to the First Regular Session of the 125th Legislature.

**Sec. C-5. Department of Transportation report.** By January 15, 2011, the Department of Transportation shall report to the joint standing committees of the Legislature having jurisdiction over transportation matters and utilities and energy matters regarding current and potential uses of abandoned railroad corridors owned or controlled by the department for energy infrastructure development.

See title page for effective date.

## CHAPTER 27

## H.P. 1055 - L.D. 1506

### An Act To Authorize Maine Media College To Confer the Degree of Master of Fine Arts

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

**Whereas,** authorization by the Legislature is required for any institution of higher education to confer academic, educational, literary or professional degrees, upon the recommendation of the State Board of Education; and

**Whereas,** Private and Special Law 2009, chapter 9 granted approval of degree-granting authority until June 30, 2010 to Maine Media College; and

**Whereas,** this legislation confers degree-granting authority beyond June 30, 2010; 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. Degree.** Maine Media College may confer the degree of Master of Fine Arts upon all students who successfully complete the course of study prescribed by the school.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect June 30, 2010.

Effective June 30, 2010.

## CHAPTER 28

## H.P. 1099 - L.D. 1557

### An Act To Raise the Indebtedness Limit of the Eagle Lake Water and Sewer District

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

**Sec. 1. P&SL 1955, c. 162, §8, first sentence,** as amended by P&SL 1977, c. 51, §1, is further amended to read:

For accomplishing the purposes of this Act, ~~said~~ the district, through its trustees, is authorized to borrow money temporarily, and to issue ~~therefor~~ for the borrowing of money the interest-bearing negotiable notes of the district, and for the purpose of refunding the indebtedness ~~so~~ created, of paying any necessary expenses and liabilities incurred under the provisions of this Act, including the expenses incurred in the creation of the district, of securing sources of supply, taking water and land, paying damages, laying pipes, constructing, maintaining and operating a water plant and sewerage and drainage system and making extensions, additions and improvements to the same, the ~~said~~ district, through its trustees, may from time to time issue bonds of the district to an amount not exceeding ~~$2,500,000~~ $3,500,000.

See title page for effective date.

## CHAPTER 29

## H.P. 1064 - L.D. 1515

### An Act To Amend the Charter of the Caribou Utilities 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,** the Caribou Utilities District needs immediate authority to contract with persons inside and outside the district to provide for disposal of sewage and commercial and industrial wastewater; 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 1945, c. 83, §10-A** is enacted to read:

**Sec. 10-A. Contracts for disposal of sewage.** The district may contract with persons, corporations, districts and other municipalities, both inside and outside the boundaries of the district and with the State of Maine and the United States Government or any agency of either, 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 any such person, corporation, district or other municipality; and every other district and municipality of the State of Maine 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, and for said purposes any such municipality may raise money as for other municipal charges.

**Sec. 2. P&SL 1945, c. 83, §16-C** is enacted to read:

**Sec. 16-C. Authority to disconnect water for nonpayment of sewer service.** Notwithstanding any other provision of law, in the event a user of the district's sewer system fails within a reasonable time to pay the district's rates, fees or charges for service, the district may disconnect water service to the user, as long as the disconnection is accomplished in accordance with procedures established in applicable law or rules governing disconnection of utility services and terms and conditions approved by the Public Utilities Commission.

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

Effective March 1, 2010.

## CHAPTER 30

## H.P. 1171 - L.D. 1643

### An Act To Facilitate the Involvement of the Office of the Public Advocate in the FairPoint Communications Bankruptcy Case

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

**Whereas,** FairPoint Communications has filed for Chapter 11 bankruptcy protection in United States Bankruptcy Court, Southern District of New York in Manhattan; and

**Whereas,** the interests of Maine customers, other users of FairPoint's network in Maine and certain state agencies, including the Department of Public Safety, the Maine Emergency Management Agency and the Office of the Governor, are at risk of being ignored or not given proper consideration by the bankruptcy court if the Office of the Public Advocate, on behalf of Maine telecommunications providers' ratepayers and other Maine public interests, does not have sufficient financial resources to cover the costs necessary to be actively involved in the resolution of the FairPoint bankruptcy proceeding; and

**Whereas,** the FairPoint bankruptcy case is currently underway in New York City, and the immediate and active involvement of the Office of the Public Advocate and its bankruptcy attorney is necessary in order to engage in the proceedings and negotiations that will lead to a settlement in the case, either through a settlement agreement or a judgment by the bankruptcy judge; and

**Whereas,** without the timely availability of sufficient funds for the Office of the Public Advocate to carry on an active and aggressive effort to advance and protect Maine's public interest in this proceeding, there is a real risk that the resources needed to ensure that the necessary repairs to FairPoint's OSS/BSS back office systems may not be set aside by the bankruptcy court and reserved for these critically important repairs; 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. Office of the Public Advocate; special assessment on telecommunications entities.** Notwithstanding any other provision of law, in fiscal year 2009-10, every telecommunications entity subject to an assessment under the Maine Revised Statutes, Title 35-A, section 116, subsection 8 is subject to an additional assessment on its intrastate gross operating revenues sufficient to produce $100,000 total. The revenues produced from this assessment are transferred to the Public Advocate Regulatory Fund and may only be used for the costs associated with representing Maine telecommunications ratepayers and Maine's public interests in the FairPoint Communications bankruptcy proceedings in United States Bankruptcy Court, Southern District of New York.

**Sec. 2. Appropriations and allocations.** The following appropriations and allocations are made.

**PUBLIC ADVOCATE**

**Public Advocate 0410**

Initiative: Provides an allocation for expenditures anticipated in FairPoint Communications bankruptcy

proceedings for retention of outside counsel and related costs.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $100,000 | $0 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $100,000 | $0 |

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

Effective March 1, 2010.

## CHAPTER 31

## H.P. 858 - L.D. 1239

### An Act To Provide Funding To Educate Homeowners in Integrated Pest Management

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

**Sec. 1. Transfer from the Board of Pesticides Control to University of Maine Cooperative Extension.** Notwithstanding any other provision of law, the State Controller shall transfer $50,000 by August 1, 2010 from the Board of Pesticides Control program, Other Special Revenue Funds account within the Department of Agriculture, Food and Rural Resources to the UM Cooperative Extension - Pesticide Education program, Other Special Revenue Funds account within the University of Maine System.

**Sec. 2. Appropriations and allocations.** The following appropriations and allocations are made.

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

**UM Cooperative Extension - Pesticide Education Z059**

Initiative: Allocates one-time funds for the homeowner integrated pest management education program. The university may not assess facilities or administration charges on this grant.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $50,000 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $50,000 |

See title page for effective date.

## CHAPTER 32

## S.P. 607 - L.D. 1601

### An Act To Create the Lincolnville Sewer District

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

**Sec. 1. Territorial limits; corporate name; purpose.** The territory of the Town of Lincolnville described as follows: Beginning at a point on the shore of the Atlantic Ocean at the ferry terminal 44° 16' 49.4826" latitude and -69° 0' 21.4128" longitude; thence in a southwesterly direction 44° 16' 40.7856" latitude and -69° 0' 36.9390" longitude to Route 1 at Dickenson; thence in a northwesterly direction 44° 17' 9.1032" latitude and -69° 0' 58.3740" longitude to Route 173; thence in a northeasterly direction 44° 17' 18.1284" latitude and -69° 0' 30.3336" longitude to Route 1 at Windsor Chair; thence in a southeasterly direction 44° 17' 12.8904" latitude and -69° 0' 18.4328" longitude to the shore of the Atlantic Ocean; thence southerly along the shore to the point of beginning; and its inhabitants constitute a body politic and corporate under the name of Lincolnville Sewer District, referred to in this Act as "the district," for the purpose of supplying the town and its inhabitants and others within the territory of the district with sewer and water services.

**Sec. 2. Powers as sewer district.** Except as otherwise expressly provided in this Act, the district, for the purposes of supplying the Town of Lincolnville and its inhabitants and others within the territory of the district with sewer services, has all the powers, rights, privileges and authority and is subject to all the requirements and restrictions of a sanitary district formed under the Maine Revised Statutes, Title 38, chapter 11, except that sections 1062, 1101, 1102, 1103, 1104, 1105, 1106 and 1162 do not apply to the district and any notice of impending automatic foreclosure issued by the district pursuant to section 1208 must bear the name "Lincolnville Sewer District" in all appropriate locations.

**Sec. 3. Powers and authority as water utility.** Except as otherwise expressly provided in this Act, the district, for the purposes of performing the functions of a water utility, has all the powers, rights, privileges and authority and is subject to all the requirements and restrictions of a standard water district

under the Maine Revised Statutes, Title 35-A, chapter 64.

**Sec. 4. Additional powers.** The district has the authority to provide water and wastewater service to the customers of the district and to residents in the Town of Lincolnville outside the territory described in section 1.

**Sec. 5. Number of trustees.** The board of trustees of the district is composed of 3 trustees. Trustees must be residents and voters of the district.

**Sec. 6. First board.** The first board is appointed by the municipal officers of the Town of Lincolnville. The terms of the first board are governed by the Maine Revised Statutes, Title 35-A, section 6410, subsection 4.

**Sec. 7. Terms of trustees; vacancies.** After the appointment of the first board of trustees of the district, trustees are elected to 3-year terms in accordance with the Maine Revised Statutes, Title 35-A, section 6410. Vacancies are filled in accordance with Title 35-A, section 6410.

**Sec. 8. Eminent domain.** The district has no eminent domain authority outside the district.

**Sec. 9. Town responsibility.** Except for the initial appointment of the board of trustees and the initial referendum, the Town of Lincolnville is not responsible for any acts of the district.

**Sec. 10. 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 a town meeting called for that purpose and held by July 1, 2012. The meeting must be called by the municipal officers of the Town of Lincolnville and be held at the regular voting place. The meeting must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the clerk to post a new list of voters. For the purpose of registration of voters, the registrar of voters must be in session the secular day preceding the meeting. The subject matter of this Act is reduced to the following question:

"Do you favor creating the Lincolnville Sewer District?"

The results must be declared by the municipal officers of the Town of Lincolnville and due certificate of the results filed by the clerk with the Secretary of State.

This Act takes effect for all other purposes immediately upon its acceptance by a majority of the legal voters voting at the town meeting. Failure to achieve the necessary approval by a majority of voters at a town meeting does not prohibit subsequent referenda consistent with this section, as long as the town meetings are held prior to July 1, 2012.

Effective pending referendum.

## CHAPTER 33

## H.P. 1240 - L.D. 1743

### An Act To Provide for the 2010 and 2011 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 2009, chapter 14 make a partial allocation of the state ceiling on private activity bonds to some issuers for calendar year 2010, 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 not enacted on an emergency basis; and

**Whereas,** if these bond issues must be 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 even 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 in state ceiling for calendar year 2010 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 2010. Five million dollars of the state ceiling for calendar year 2011 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 state ceiling on private activity bonds allocated to the Finance Authority of Maine is as follows.

1. The $40,000,000 in state ceiling for calendar year 2010 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 2010. Forty million dollars of the state ceiling for calendar year 2011 is allocated to the Finance Authority of Maine to be used or reallocated in accordance with Title 10, section 363, subsection 6.

2. The $60,000,000 in state ceiling for calendar year 2010 previously allocated to the Finance Authority of Maine remains allocated to the Finance Authority of Maine, the entity designated pursuant to the Maine Revised Statutes, Title 20-A, section 11407, to be used or reallocated in accordance with Title 10, section 363, subsection 8-A. Ten million dollars of previously unallocated state ceiling for calendar year 2010 is allocated to the Finance Authority of Maine to be used or reallocated in accordance with Title 10, section 363, subsection 8-A for calendar year 2010. Forty million dollars of the state ceiling for calendar year 2011 is allocated to the Finance Authority of Maine, the entity designated pursuant to Title 20-A, section 11407, to be used in accordance with Title 10, section 363, subsection 8-A.

**Sec. 3. Allocation to the Maine Municipal Bond Bank.** The $10,000,000 of the state ceiling for calendar year 2010 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 2010. Ten million dollars of the state ceiling for calendar year 2011 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.** Twenty million dollars of the $40,000,000 of state ceiling for calendar year 2010 previously allocated to the Maine Educational Loan Authority remains 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 2010. Twenty million dollars of the state ceiling for calendar year 2011 is allocated to the Maine Educational Loan Authority to be used in accordance with Title 10, section 363, subsection 8.

**Sec. 5. Allocation to the Maine State Housing Authority.** The $50,000,000 of the state ceiling for calendar year 2010 previously allocated to the Maine State Housing Authority remains 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 in calendar year 2010. Forty million dollars of the state ceiling for calendar year 2011 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.** Of the state ceiling for calendar year 2010, $78,775,000 is unallocated and must be reserved for future allocation in accordance with applicable laws. Of the state ceiling for calendar year 2011, $118,775,000 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 5, 2010.

## CHAPTER 34

## S.P. 669 - L.D. 1746

### An Act To Make Allocations from Maine Turnpike Authority Funds for the Maine Turnpike Authority for the Calendar Year Ending December 31, 2011

**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, 2011 must be segregated, apportioned and disbursed as designated in the following schedule.

| MAINE TURNPIKE AUTHORITY | 2011 |
|---|---|
| **Administration** | |
| Personal Services | $1,224,286 |
| All Other | 1,836,660 |
| TOTAL | $3,060,946 |
| **Accounts and Controls** | |
| Personal Services | $2,864,505 |
| All Other | 1,301,395 |
| TOTAL | $4,165,900 |
| **Highway Maintenance** | |

| | |
|---|---|
| Personal Services | $4,531,967 |
| All Other | 3,373,926 |
| TOTAL | $7,905,893 |

**Equipment Maintenance**

| | |
|---|---|
| Personal Services | $1,119,432 |
| All Other | 1,904,318 |
| TOTAL | $3,023,750 |

**Fare Collection**

| | |
|---|---|
| Personal Services | $11,579,643 |
| All Other | 4,935,537 |
| TOTAL | $16,515,180 |

**Public Safety and Special Services**

| | |
|---|---|
| Personal Services | $486,450 |
| All Other | 5,441,594 |
| TOTAL | $5,928,044 |

**Building Maintenance**

| | |
|---|---|
| Personal Services | $620,605 |
| All Other | 659,881 |
| TOTAL | $1,280,486 |
| Subtotal of Line Items Budgeted | $41,880,199 |
| General Contingency - 5% of line items budgeted for 2011 (10% allowed) | 2,094,009 |
| **MAINE TURNPIKE AUTHORITY** | |
| **TOTAL REVENUE FUNDS** | $43,974,208 |

**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 2011 that are necessary for capital expenditures and reserves and to meet the requirements of any resolution authorizing bonds of the Maine Turnpike Authority during 2011, including debt service and the maintenance of reserves for debt service and reserve maintenance, is submitted.

| **Turnpike Revenue Bond Resolution Adopted April 18, 1991; Issuance of Bonds Authorized Pursuant to the Maine Revised Statutes, Title 23, section 1968, subsections 1 and 2** | **2011** |
|---|---|
| Debt Service Fund | $32,436,225 |
| Reserve Maintenance Fund | 30,000,000 |
| General Reserve Fund, to be applied as follows: | |
| Capital Improvements | 1,213,444 |

| | |
|---|---|
| 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 | 2,467,813 |
| TOTAL | $66,117,482 |

See title page for effective date.

## CHAPTER 35

## H.P. 1065 - L.D. 1516

### An Act To Amend the Charter of the Dexter Utility District

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

**Sec. 1. P&SL 1971, c. 29, §14-A** is enacted to read:

**Sec. 14-A. Authority to disconnect water for nonpayment of sewer service.** Notwithstanding any other provision of law, in the event a user of the district's sewer system fails within a reasonable time to pay the district's rates, fees or charges for sewer service, the district may disconnect water service to the user, as long as the disconnection is accomplished in accordance with procedures established in applicable law or rules governing disconnection of utility services and terms and conditions approved by the Public Utilities Commission.

See title page for effective date.

## CHAPTER 36

## H.P. 1075 - L.D. 1525

### An Act To Create the Buckfield Water District

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

**Sec. 1. Territory.** The inhabitants of and the territory within that part of the Town of Buckfield described as follows constitute a standard district under the name of the Buckfield Water District, referred to in this Act as "the district," for the purpose of supplying the district and the inhabitants of the district with pure water for domestic, commercial, sanitary, industrial, agricultural and municipal purposes: Buckfield Tax Map 6, Block 1, Parcel 14; Buckfield Tax Map 6, Block 2, Parcels 1 and 2; Buckfield Tax Map 6, Block 3, Parcels 1, 3, 5, 27, 27.1, 28, 29, 30, 31, 32, 34, 34.1, 35 and 35.1; Buckfield Tax Map 6, Block 4, Parcels 1.2 and 3; Buckfield Tax Map 7, Block 4, Parcels 10, 10A, 11, 12 and 21; Buckfield Tax Map 12, Block 1, Parcels 1, 2, 2.1, 3, 3.1, 4, 4.1, 4.2, 5, 6, 7, 8, 9, 9.1, 12, 14, 15 and 17; Buckfield Tax Map 12, Block 2, Parcels 2, 5, 6, 7, 7.1, 8, 9, 9.1 and 9.2; Buckfield Tax Map 12, Block 3, Parcels 2, 3, 4, 5, 6.1, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10, 6.11, 6.12, 6.13 and 6.14; Buckfield Tax Map 12, Block 4, Parcels 3, 3.2, 6, 7 and 8; Buckfield Tax Map 12, Block 8, Parcels 6, 7, 8, 8A, 9, 10, 12, 14, 15, 16, 17 and 20; Buckfield Tax Map 12, Block 9, Parcels 1, 1.1, 1.2, 2, 3, 4, 5, 6, 6A, 7, 8 and 11; Buckfield Tax Map 12, Block 10, Parcels 1 and 1B; Buckfield Tax Map 13, Block 1, Parcels 1, 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 17, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31 and 31.1; Buckfield Tax Map 13, Block 2, Parcels 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22; Buckfield Tax Map 13, Block 3, Parcels 1, 2, 3, 4, 5, 6, 6A, 7, 8.1, 9, 10, 11, 12, 12A, 13, 14, 17, 17A, 18, 19, 20 and 21; Buckfield Tax Map 14, Block 1, Parcels 1, 2, 3, 4, 5, 6 and 7; Buckfield Tax Map 14, Block 2, Parcels 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 11.1, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 and 31; Buckfield Tax Map 14, Block 3, Parcels 1, 2, 3, 4, 5, 6, 7, 8 and 9; as such tax maps existed on April 1, 2009.

**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. Additional powers.** The district is authorized to provide service to customers in the Town of Buckfield outside the territory described in section 1 of this Act.

**Sec. 4. Power to take water.** The district is authorized to take, to hold and to convey within the Town of Buckfield and from any part of the town water from any surface water or groundwater source within the town, including but not limited to North Pond.

**Sec. 5. Number of trustees.** All of the affairs of the district are managed by a board of trustees composed of 3 members who must reside within the territory of the district and are elected in accordance with the Maine Revised Statutes, Title 35-A, section 6410. The terms of the first board are determined in accordance with Title 35-A, section 6410. Vacancies are filled in accordance with Title 35-A, section 6410.

**Sec. 6. Acquisition of property of Buckfield Village Corporation.** This section and sections 7 and 8 of this Act are contingent on the following, referred to in this Act as "the precondition": the achievement by the Buckfield Village Corporation, a

corporation organized and existing pursuant to Private and Special Law 1887, chapter 58, as amended, and the district of a restructuring, refinancing or other rearrangement of the outstanding debt of the Buckfield Village Corporation in a manner acceptable to the holder of the debt, the district and the corporation that allows the district to assume that debt under the terms of this Act. If the precondition is met, the district acquires under the terms contained in this charter all of the plant, properties, assets, franchises, rights and privileges owned by the Buckfield Village Corporation, including, without limitation, lands, buildings, piping, plants and other appliances and property used or usable for supplying water for domestic, commercial, sanitary, industrial, agricultural and municipal purposes. The consideration paid for the plant, properties, assets, franchises, rights and privileges is the assumption by the district of all of the outstanding debts, obligations and liabilities of the Buckfield Village Corporation, including, without limitation, the assumption by the district of any outstanding notes or bonds of the Buckfield Village Corporation that are due on or after the date of transfer.

**Sec. 7. Buckfield Village Corporation required to sell property to district.** If the precondition is met, the Buckfield Village Corporation shall under the terms contained in this charter sell, transfer and convey to the district by appropriate instruments of conveyance all of its plants, properties, assets, franchises, rights and privileges, including, without limitation, lands, buildings, piping, plants and other appliances and property used or usable for supplying water for domestic, commercial, sanitary, industrial, agricultural and municipal purposes, in consideration of the assumption by the district of all of the outstanding debts, obligations and liabilities of the Buckfield Village Corporation, including, without limitation, the assumption of any outstanding notes or bonds of the Buckfield Village Corporation that are due on or after the date of the transfer.

**Sec. 8. Dissolution and termination of Buckfield Village Corporation; pledge of revenues.** If and when all debts, obligations and other liabilities of the Buckfield Village Corporation have been paid in full and discharged or the holders or owners of all debts, obligations and other liabilities that have not been paid in full and discharged have assented to the assumption of the debts, to the obligations and other liabilities that have not been paid by the district and to the novation and substitution of the district as obligor in place of the Buckfield Village Corporation and when the transfer of property pursuant to section 7 of this Act is complete, the clerk of the Buckfield Village Corporation shall file a certificate to that effect with the Secretary of State and the corporate existence of the Buckfield Village Corporation terminates. After filing the certificate with the Secretary of State, the clerk of the Buckfield Village Corporation shall submit legislation to repeal Private and Special Law 1887, chapter 58 and all amendatory laws. Until the corporate existence of the Buckfield Village Corporation is terminated pursuant to this section, the gross revenues derived by the Buckfield Village Corporation from the sale of water service within the area comprising the former limits of the Buckfield Village Corporation must be applied first to the payment of expenses and 2nd to payments of debts, obligations and other liabilities of the Buckfield Village Corporation assumed by the district pursuant to this charter.

**Sec. 9. Statutes not affected; rights conferred subject to provisions of law.** Nothing in this charter is intended to repeal or may be construed as repealing the whole or any part of any provision of the Maine Revised Statutes, Title 35-A, and all the rights and duties contained in this charter with respect to water utility functions must be exercised and performed by the district in accordance with all applicable provisions of Title 35-A.

**Sec. 10. Referendum; effective date.** This Act takes effect 90 days after the adjournment of the Second Regular Session of the 124th Legislature only for the purpose of permitting its submission to the legal voters within the territory described in section 1 of this Act voting at a regular or special election called and held within 2 years after passage of this Act. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the municipal officers are not required to prepare or the town clerk to post a new list of voters. For the purpose of registration of voters, the registrar is required to be in session the 3 secular days next preceding the election, of which the first 2 days must be devoted to registration of the voters and the last day to verification of the list and completion of the records of these sessions. The subject matter of this Act is reduced to the following question:

"Do you favor creating the Buckfield Water District and transferring assets and liabilities of the Buckfield Village Corporation to the Buckfield Water District?"

The results of the election must be declared by the municipal officers of the Town of Buckfield and due certificate of the results filed by the town clerk with the Secretary of State.

This Act takes effect for all purposes immediately upon its approval by a majority of the legal voters voting at the election.

Effective pending referendum.

## CHAPTER 37

## H.P. 1250 - L.D. 1756

### An Act To Amend the Charter of the Gardiner Water District

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

**Sec. 1. P&SL 1903, c. 82, §16** is enacted to read:

**Sec. 16. Purchase water.** Notwithstanding the Maine Revised Statutes, Title 22, chapter 601, subchapter 5, the Gardiner Water District is authorized to purchase nonfluoridated water from the Hallowell Water District. The Gardiner Water District shall provide all of its customers that may be affected by the change from fluoridated to nonfluoridated water with written notice of the change. The Gardiner Water District shall also inform the customers that may be affected by the change that if a customer wishes to continue to receive the benefits of fluoride, the customer should contact the customer's dentist or health care provider.

See title page for effective date.

## CHAPTER 38

## S.P. 690 - L.D. 1783

### An Act To Amend the Charter of the Kennebec Water District

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

**Sec. 1. P&SL 1899, c. 200, §1,** as repealed and replaced by P&SL 1965, c. 54, is amended to read:

**Sec. 1. Incorporation.** The territory and people within the City of Waterville, and the ~~Towns~~ Town of Winslow and the Town of Fairfield, ~~shall~~ constitute a body politic and corporate under the name of the Kennebec Water District for the purpose of supplying the inhabitants of ~~said~~ the district and of the ~~Towns~~ Town of Benton and the Town of Vassalboro and all ~~said~~ the municipalities with ~~pure~~ potable water for domestic and all other lawful purposes. ~~The records of the Kennebec Water District are public and meetings of the trustees shall be open.~~ The district is subject to the freedom of access laws under the Maine Revised Statutes, Title 1, chapter 13, subchapter 1.

**Sec. 2. P&SL 1899, c. 200, §2** is amended to read:

**Sec. 2. Take water.** ~~Said~~ The district is hereby authorized for the purposes ~~aforesaid,~~ of this Act to take and hold sufficient water of any source located within the territory of the district and of the Kennebec River, the Messalonskee ~~stream~~ Stream or its tributary lakes~~,~~ or the Sebasticook ~~river~~ River or its tributary lakes, including China Lake, and may take and hold by purchase or otherwise~~,~~ any land or real estate necessary for erecting dams, power~~,~~ or reservoirs or ~~for~~ preserving purity of the water and ~~water shed~~ watershed, and for laying and maintaining aqueducts for conducting, discharging, distributing and disposing of water.

The district is authorized and empowered to exercise the right of eminent domain and to acquire and hold either by purchase or exercise of its right of eminent domain any land, real estate, easements or interests in any land, real estate or easements or water rights or interest in water rights for all the purposes of the district's incorporation.

When the district takes land or easements on land for its use, the district may mark the lines and boundaries of the land or easements by suitable monuments.

Proceedings for condemnation by the district must be commenced by filing in the office of the county commissioners of the county where the property is situated a certificate of taking accompanied by plans and descriptions of the property together with the names of the party or parties who are owners of record of the property and then proceedings must be held for the appraisal of damages as in the case of laying out highways by the county commissioners.

Any appeal of the district's determination of damages must be filed with the county commissioners within 30 days of notice of the district's written decision provided by personal service in hand by an officer duly qualified to serve civil process in this State or by certified mail return receipt requested.

**Sec. 3. P&SL 1899, c. 200, §5,** as repealed and replaced by P&SL 1995, c. 40, §1 and affected by §4, is amended to read:

**Sec. 5. Trustees; how elected.** All of the affairs of the district are managed by a board of trustees composed of 10 members, 4 of whom are elected by a plurality of voters of the City of Waterville, 2 of whom are elected by a plurality of voters of the Town of Winslow, 2 of whom are elected by a plurality of voters of the Town of Fairfield, one of whom is elected by a plurality of voters of the Town of Benton and one of whom is elected by a plurality of voters of the Town of Vassalboro. Trustees must be residents of the towns in which they are elected. Nominations and elections must be conducted in accordance with the Maine Revised Statutes, Title 35-A, chapter ~~63~~ 64, except as specifically provided in subsection 3 of this section.

**1. Organization; conduct of business.** As soon as convenient after the election of trustees, the trustees shall hold a meeting ~~in the city rooms in the City of Waterville~~ at a location within Waterville, Winslow,

Fairfield, Benton or Vassalboro and organize by the election of a president and clerk, adopt a corporate seal and, when necessary, may choose a treasurer and all other necessary officers and agents for the proper conduct and management of the affairs of the district.

All decisions of the board of trustees must be by a majority of those present and voting. A quorum of the board of trustees is 7 trustees.

Trustees are entitled to compensation in accordance with Title 35-A, ~~chapter 63~~ section 6410, subsection 7.

**2. Bylaws.** The trustees may adopt and establish such bylaws as are necessary for the proper management of the affairs of the district.

**3. Election; vacancy.** Whenever the term of office of a trustee expires, the trustee's successor must be elected as provided in this section. For the purpose of election, ~~a special~~ an election must be called and held between October 1st and November 30th prior to the expiration of the trustee's term, the election to be called by the municipal officers of the appropriate city or town. The term of the trustee so elected begins on the first Wednesday of January following the election. 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 by appointment for the unexpired term by the municipal officers of the town from which the trustee was elected.

All special elections held pursuant to this section must be paid for by the district. When any trustee ceases to be a resident of the town or city from which the trustee was elected, the trustee shall vacate the office of trustee and the vacancy must be filled as provided in this section. All trustees are eligible for reelection, except that a person who is serving as a municipal officer in Waterville, Winslow, Fairfield, Benton or Vassalboro is not eligible for nomination or election as trustee ~~and no trustee may serve more than 2 consecutive terms~~.

**Sec. 4. P&SL 1899, c. 200, §6** is repealed.

**Sec. 5. P&SL 1899, c. 200, §7** is repealed.

**Sec. 6. P&SL 1899, c. 200, §8** is repealed.

**Sec. 7. P&SL 1899, c. 200, §9** is repealed.

**Sec. 8. P&SL 1899, c. 200, §10,** as amended by P&SL 1905, c. 152, §§3 and 9, is further amended to read:

**Sec. 10. Issue bonds.** The trustees of the district may, for the purpose of paying any necessary expenses and liabilities incurred under the provisions of this ~~act~~ Act including the expenses incurred ~~in acquiring the property of the Maine Water Company by purchase or otherwise,~~ in securing sources of supply, taking water and land, paying damages, laying pipes, constructing, maintaining and operating a water plant~~,~~ and making renewals, extensions, additions and improvements ~~to the same~~ to the district's facilities, issue from time to time bonds or notes of the district to an amount necessary in the judgment of the trustees ~~therefore~~. ~~Said~~ The bonds ~~shall be a~~ or notes are legal ~~obligation~~ obligations of ~~said~~ the water district, ~~which is hereby declared to be a quasi municipal corporation within the meaning of section ninety-six, chapter forty-seven of the revised statutes, and all the provisions of said section shall be applicable thereto~~.

The district is authorized to fund and refund indebtedness by the issuance of bonds or notes to mature serially, at such times and in such amounts as the trustees determine. The annual installments of each issue may not be less than 2 1/2% of the principal amount of the issue, and the first of such installments is payable not later than 3 years from the date of such bonds or notes and the last of which is payable not later than 40 years from that date.

The district is authorized to refund its indebtedness from time to time in whole or in part as the trustees determine to be in the best interest of the district and to borrow money temporarily for any of the legitimate purposes of the district.

**Sec. 9. P&SL 1899, c. 200, §11,** as amended by P&SL 1981, c. 41, §2, is further amended to read:

**Sec. 11. Rates.** All individuals, firms and corporations or other entities, whether private, public or municipal, shall pay to the treasurer of ~~said~~ the district the rates established by ~~said~~ the board of trustees for all water used by them, and ~~said~~ the rates ~~shall~~ must be uniform in their application within the district. ~~Said~~ The rates ~~shall be so~~ are established ~~as~~ to provide revenue for the following purposes:

~~I~~ 1. To pay the current ~~running~~ expenses for operating and maintaining the water system and provide for such extensions and renewals as may become necessary.

~~II~~ 2. To provide for payment of principal and interest on the indebtedness of the district.

~~III~~ 3. To provide each year a sum necessary to amortize over the life of the bonds or notes of the district the current portion of the ~~bonded~~ indebtedness of the district, but equal to not less than one ~~per cent~~ percent of the entire indebtedness of the district, which sum ~~shall~~ must be turned into a sinking fund to provide for final extinguishment of the funded debt or applied to the payment of ~~serial bonds~~ indebtedness coming due in that year. The money set aside for the sinking fund ~~shall~~ must be devoted to retirement of the district's obligations or invested in such securities as savings banks are allowed to hold, or deposited at interest in savings banks, commercial banks and savings and loan associations, ~~provided~~ as long as and to the

extent that such deposits are insured by any provisions of federal law.

~~IV~~ 4. If any surplus remains at the end of the year, ~~it~~ the surplus may be transferred to the sinking fund.

**Sec. 10. P&SL 1899, c. 200, §12,** as amended by P&SL 1911, c. 75, is repealed.

**Sec. 11. P&SL 1899, c. 200, §14,** as amended by P&SL 1981, c. 41, §3, is repealed.

**Sec. 12. P&SL 1899, c. 200, §15** is repealed.

**Sec. 13. P&SL 1899, c. 200, §16** is repealed.

**Sec. 14. P&SL 1905, c. 152, §4** is repealed.

**Sec. 15. P&SL 1905, c. 152, §5** is repealed.

**Sec. 16. P&SL 1905, c. 152, §6** is repealed.

**Sec. 17. P&SL 1905, c. 152, §7** is repealed.

**Sec. 18. P&SL 1905, c. 152, §8** is repealed.

**Sec. 19. P&SL 1927, c. 79, §2** is repealed.

**Sec. 20. P&SL 1927, c. 79, §3** is repealed.

**Sec. 21. P&SL 1981, c. 41, §4** is repealed.

See title page for effective date.

## CHAPTER 39

## H.P. 1259 - L.D. 1769

### An Act To Extend Access to Federal Health Insurance Premium Assistance

**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 American Recovery and Reinvestment Act of 2009 provided health insurance premium assistance for a period of 9 months to persons laid off from September 1, 2008 to December 31, 2009 and eligible for continuation of health insurance coverage under state law; and

**Whereas,** persons eligible for continuation of health insurance coverage under state law must be provided a 2nd election period to qualify for premium assistance through the American Recovery and Reinvestment Act of 2009; and

**Whereas,** Public Law 2009, chapter 244, Part J, section 1 provided a 2nd election period to conform to federal law; and

**Whereas,** the federal Department of Defense Appropriations Act, 2010 extends the eligibility period for the premium assistance for an additional 2 months through February 28, 2010 and extends premium assistance to 15 months; and

**Whereas,** the federal Temporary Extension Act of 2010 extends the eligibility period for premium assistance for an additional month through March 31, 2010; and

**Whereas,** immediate enactment of this Act is necessary to allow laid-off employees who receive premium assistance to qualify for the extended premium assistance; 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. Extension of current coverage.** Insurers and health maintenance organizations that issued health insurance coverage during a 2nd election period required by Public Law 2009, chapter 244, Part J, section 1 and that included a 9-month coverage limit as required by that section shall extend that coverage by eliminating the 9-month limit. Such coverage may not be terminated except as provided by the Maine Revised Statutes, Title 24-A, section 2809-A, subsection 11, paragraphs F and G.

**Sec. 2. Notice requirement.** Insurers and health maintenance organizations that provide group health insurance policies subject to the requirements of the Maine Revised Statutes, Title 24-A, section 2809-A, subsection 11 shall provide notice, as required by Sections 3001(a)(7)(A)(ii) and 300(a)(16)(D)(i) of the American Recovery and Reinvestment Act of 2009 as amended by the federal Department of Defense Appropriations Act, 2010, Section 1010 and the federal Temporary Extension Act of 2010, Section 3. The notice must be provided by first-class mail in a form acceptable to the Superintendent of Insurance to eligible employees whose employment terminated between September 1, 2008 and March 31, 2010 and who have elected to continue coverage pursuant to Title 24-A, section 2809-A, subsection 11 and to any eligible employees whose employment terminates after March 31, 2010 who are eligible for premium assistance as provided by that section of this Act relating to future extensions.

**Sec. 3. Future extensions.** If the Superintendent of Insurance determines that the American Recovery and Reinvestment Act of 2009 is amended to extend premium assistance to individuals whose coverage terminates after March 31, 2010, the requirements of section 2 apply to those individuals.

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

Effective March 26, 2010.

## CHAPTER 40

## H.P. 388 - L.D. 543

### An Act Concerning the Allocation of Power Generated by GNE, LLC

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

**Sec. 1. P&SL 2001, c. 45, §2-A** is enacted to read:

**Sec. 2-A. Sale of electricity; municipally owned electricity provider.** Electricity generated by the hydropower facilities that is not under contract to be sold to the paper production facilities in Millinocket and East Millinocket or to any other entity may be offered for sale by the owner of the hydropower facilities to any municipally owned electricity provider serving the Katahdin region, and, if that electricity is so offered, the parties shall negotiate in good faith to reach mutually agreeable terms of sale. The owner of the hydropower facilities may offer to a municipally owned electricity provider serving the Katahdin region a right of first refusal with respect to the purchase of electricity generated by the hydropower facilities. For the purposes of this section, "municipally owned electricity provider" means a municipally owned entity authorized under applicable law to buy and sell electricity.

See title page for effective date.

## CHAPTER 41

## H.P. 1321 - L.D. 1830

### An Act To Make Administrative Changes to Tax Laws To Maintain a Balanced Budget

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

**Sec. 1. Legislative findings.** The Legislature acknowledges that Public Law 2009, chapter 382, An Act To Implement Tax Relief and Tax Reform, is suspended due to the petition of the electors for a referendum to be held June 8, 2010 on the law pursuant to the Constitution of Maine, Article IV, Part Third, Section 17. The Legislature finds that certain dates specified in the suspended law for the implementation of changes in the State's tax laws have now passed and the application dates for the law, if ratified by the voters, would be inconsistent with the intent of the legislation. The Legislature also finds that, because of the suspension of the law, if the law is implemented without adjustments to its implementation dates, the law would result in an unintended budget shortfall of approximately $50,000,000. The Legislature finds that it is essential for the proper administration of the tax laws that the dates specified in the suspended law be updated.

**Sec. 2. Extension of dates.** In order to ensure the proper administration of the tax laws, this Act extends for one year the implementation dates specified in Public Law 2009, chapter 382 in order to allow for proper planning by taxpayers and to maintain a balanced state budget.

**Sec. 3. Contingent effective date.** This Act takes effect only if Public Law 2009, chapter 382 is not rejected by a majority of the electors voting on that measure pursuant to the Constitution of Maine, Article IV, Part Third, Section 17.

**Sec. 4. Maine Revised Statutes; revision clause.** Wherever in the Maine Revised Statutes a date appears that is amended or enacted by Public Law 2009, chapter 382, that date is amended to read or mean, as appropriate, one year following the specified year, and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date, unless otherwise indicated.

## CHAPTER 42

## H.P. 75 - L.D. 91

### An Act To Fund the Maine Downtown Center

**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.

**EXECUTIVE DEPARTMENT**

**Planning Office 0082**

Initiative: Provides a one-time appropriation to recapitalize the Maine Downtown Center.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $10,000 |
| GENERAL FUND TOTAL | $0 | $10,000 |

See title page for effective date.

## CHAPTER 143

## S.P. 621 - L.D. 1656

### Resolve, To Transfer the Ownership of the Bath Armory to the City of Bath

**Sec. 1. Bath Armory transfer by quitclaim deed. Resolved:** That, notwithstanding the requirement in the Maine Revised Statutes, Title 37-B, section 264 that property must be sold for no less than its appraised value, the Adjutant General shall transfer the land and buildings constituting the Bath Armory to the City of Bath for a sum of no less than $175,000 by means of a quitclaim deed, as long as the City of Bath agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise in connection with the land or the buildings constituting the armory; and be it further

**Sec. 2. Appropriations and allocations. Resolved:** That the following appropriations and allocations are made.

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

**Military Training and Operations 0108**

Initiative: Provides a one-time allocation of funds for money received from the sale of the Bath Armory.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $175,000 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $175,000 |

See title page for effective date.

## CHAPTER 144

## H.P. 1133 - L.D. 1606

### Resolve, To Name a Bridge in North Berwick the North Berwick Veterans Memorial Bridge

**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 resolve has a time-sensitive goal of naming a bridge in the Town of North Berwick the North Berwick Veterans Memorial Bridge in time for veterans ceremonies planned in North Berwick in May 2010; 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 named. Resolved:** That the Department of Transportation shall designate the bridge over the Great Works River on State Route 9 in the Town of North Berwick as the North Berwick Veterans Memorial Bridge and erect appropriate signs that identify that bridge as the North Berwick Veterans Memorial Bridge.

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

Effective February 10, 2010.

## CHAPTER 145

## S.P. 580 - L.D. 1502

### Resolve, To Name Route 16/27 in the Town of Stratton the Caleb Dalton Stevens Memorial Highway

**Sec. 1. Name the portion of State Route 16/27 in the Town of Stratton the Caleb Dalton Stevens Memorial Highway. Resolved:** That the Department of Transportation shall name the portion of State Route 16/27 in the Town of Stratton the Caleb Dalton Stevens Memorial Highway, in memory of an early pioneer who, with his family, journeyed from Kingfield to the intersection of Stratton Brook and the Dead River in 1818 and settled in the area; and be it further

**Sec. 2. Signs erected. Resolved:** That the Department of Transportation shall erect appropriate signs along the portion of State Route 16/27 in the

Town of Stratton to identify that portion the Caleb Dalton Stevens Memorial Highway.

See title page for effective date.

## CHAPTER 146

## H.P. 438 - L.D. 624

### Resolve, To Study Expenditures for Oral Health Care in the MaineCare Program

**Sec. 1. Study. Resolved:** That the Department of Health and Human Services shall convene a working group to perform a study of oral health care in the MaineCare program. The study must be chaired by the director of the division of health care management in the Office of MaineCare Services and must include representatives of the MaineCare Dental Advisory Committee, the Maine Dental Access Coalition, the Maine Center for Disease Control and Prevention and MaineCare members. The working group shall review MaineCare dental coverage, reimbursement and utilization and shall identify ways to reduce or redirect expenditures with the goal of providing more cost-effective, high-quality care for MaineCare members. The working group shall review alternative payment methodologies, the use of emergency rooms and urgent care settings for the treatment of dental disease, the use of preventive and specialty services, such as orthodontics and endodontics, and inpatient hospitalization. The working group shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters during the First Regular Session of the 125th Legislature. After reviewing the report, the joint standing committee of the Legislature having jurisdiction over health and human services matters may report out a bill related to the subject of the report to the First Regular Session of the 125th Legislature.

See title page for effective date.

## CHAPTER 147

## H.P. 1074 - L.D. 1524

### Resolve, Directing the Department of Labor To Research and Analyze the Methods Other States Utilize To Assess Benefit Charges When a Worker Becomes Unemployed and Receives Benefits

**Sec. 1. Examine methods used to assess benefit charges. Resolved:** That the Commissioner of Labor or the commissioner's designee shall examine the methods employed by other states to assess benefit charges when a worker who has multiple employers becomes unemployed and receives unemployment benefits. The Commissioner of Labor or the commissioner's designee shall also analyze the findings to determine how to best protect employers in the State from inequitable assessments and how to best use technology to implement the findings; and be it further

**Sec. 2. Reporting date established. Resolved:** That the Commissioner of Labor or the commissioner's designee shall report the findings under section 1 and recommendations to the joint standing committee of the Legislature having jurisdiction over labor matters by January 15, 2011, including suggested legislation necessary to implement the findings; and be it further

**Sec. 3. Authority to introduce legislation. Resolved:** That the joint standing committee of the Legislature having jurisdiction over labor matters may submit a bill to the First Regular Session of the 125th Legislature to implement findings relating to the report under section 2.

See title page for effective date.

## CHAPTER 148

## H.P. 1077 - L.D. 1527

### Resolve, Regarding Legislative Review of Portions of Chapter 692: Siting of Oil Storage Facilities, 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 692: Siting of Oil Storage Facilities, 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 February 18, 2010.

## CHAPTER 149

## H.P. 1076 - L.D. 1526

### Resolve, Regarding Legislative Review of Portions of Chapter 700: Wellhead Protection: Siting of Facilities That Pose a Significant Threat to Drinking Water, 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 700: Wellhead Protection: Siting of Facilities That Pose a Significant Threat to Drinking Water, 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 February 18, 2010.

## CHAPTER 150

## S.P. 591 - L.D. 1533

### 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, 2011.

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 2007 State Valuation. Parcel descriptions are as follows:

## 2007 MATURED TAX LIENS

TC R2 WELS, Aroostook County

Map AR002, Plan 1, Lot 1 038140022-2

McCluskey, G. William Building on leased lot

TAX LIABILITY

| | |
|---|---|
| 2007 | $80.69 |
| 2008 | 88.71 |
| 2009 | 114.18 |
| 2010 (estimated) | 114.18 |
| Estimated Total Taxes | $397.76 |
| Interest | 19.85 |
| Costs | 26.00 |
| Deed | 8.00 |
| Total | $451.61 |

Recommendation: Sell to McCluskey, G. William for $451.61. 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 $475.00.

T15 R6 WELS, Aroostook County

Map AR034, Plan 1, Lot 14.2 038800019-1

Ely, Wilma Trustee U/D/T 1.38 acres

TAX LIABILITY

| | |
|---|---|
| 2007 | $33.66 |
| 2008 | 33.40 |
| 2009 | 42.98 |
| 2010 (estimated) | 42.98 |
| Estimated Total Taxes | $153.02 |
| Interest | 8.06 |
| Costs | 26.00 |
| Deed | 8.00 |
| Total | $195.08 |

Recommendation: Sell to Ely, Wilma Trustee U/D/T for $195.08. 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 $200.00.

Connor TWP, Aroostook County

Map AR105, Plan 2, Lots 58 and 59 038020284-2

IMC Global 7.23 acres

TAX LIABILITY

| | |
|---|---|
| 2007 | $47.67 |
| 2008 | 47.31 |
| 2009 | 60.89 |
| 2010 (estimated) | 60.89 |
| Estimated Total Taxes | $216.76 |
| Interest | 11.42 |
| Costs | 26.00 |
| Deed | 8.00 |
| Total | $262.18 |

Recommendation: Sell to IMC Global for $262.18. If IMC Global does not pay this amount within 60 days after the effective date of this resolve, sell to the highest bidder for not less than $275.00.

Connor TWP, Aroostook County

Map AR105, Plan 2, Lot 74 038020128-1

Lancaster, Claude V. & Arlene 4.8 acres

TAX LIABILITY

| | |
|---|---|
| 2007 | $54.26 |
| 2008 | 53.84 |
| 2009 | 69.30 |
| 2010 (estimated) | 69.30 |

| | |
|---|---|
| Estimated Total Taxes | $246.70 |
| Interest | 13.00 |
| Costs | 26.00 |
| Deed | 8.00 |
| Total | $293.70 |

Recommendation: Sell to Lancaster, Claude V. & Arlene for $293.70. 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 $300.00.

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Adamstown TWP, Oxford County

Map OX008, Plan 4, Lot 9.1 178012005-2

Donatelli, John Clark 6.9 acres and building

TAX LIABILITY

| | |
|---|---|
| 2006 | $2,978.52 |
| 2007 | 7,363.78 |
| 2008 | 7,206.66 |
| 2009 | 9,053.56 |
| 2010 (estimated) | 9,053.56 |
| Estimated Total Taxes | $35,656.08 |
| Interest | 1,689.03 |
| Costs | 26.00 |
| Deed | 8.00 |
| Total | $37,379.11 |

Recommendation: Sell to Donatelli, John Clark for $37,379.11. 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 $37,400.00.

---

T3 Indian Purchase, Penobscot County

Map PE032, Plan 10, Lots 1, 1.1, 2 and 93 198060019-1

Willett, John R. Building on leased lot

TAX LIABILITY

| | |
|---|---|
| 2007 | $2,089.51 |
| 2008 | 2,114.32 |
| 2009 | 1,631.35 |
| 2010 (estimated) | 1,631.35 |
| Estimated Total Taxes | $7,466.53 |
| Interest | 502.97 |
| Costs | 26.00 |
| Deed | 8.00 |
| Total | $8,003.50 |

Recommendation: Sell to Willett, John R. for $8,003.50. 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 $8,025.00.

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T4 Indian Purchase, Penobscot County

Map PE033, Plan 1, Lot 1 198070331-2

Wilson, Patricia Building on leased lot

TAX LIABILITY

| | |
|---|---|
| 2007 | $980.42 |
| 2008 | 992.07 |
| 2009 | 1,228.86 |
| 2010 (estimated) | 1,228.86 |
| Estimated Total Taxes | $4,430.21 |
| Interest | 236.00 |
| Costs | 26.00 |
| Deed | 8.00 |
| Total | $4,700.21 |

Recommendation: Sell to Wilson, Patricia for $4,700.21. 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 $4,725.00.

---

Argyle TWP, Penobscot County

| | |
|---|---|
| Map PE035, Plan 1, Lots 21 and 23 | 198010020-2 |
| Baldyga, Stanley | 20 acres |

TAX LIABILITY

| | |
|---|---|
| 2005 | $103.49 |
| 2006 | 103.53 |
| 2007 | 101.71 |
| 2008 | 102.92 |
| 2009 | 124.49 |
| 2010 (estimated) | 124.49 |
| Estimated Total Taxes | $660.63 |
| Interest | 57.65 |
| Costs | 26.00 |
| Deed | 8.00 |
| Total | $752.28 |

Recommendation: Sell to Baldyga, Stanley for $752.28. 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 $775.00.

---

Greenfield TWP, Penobscot County

| | |
|---|---|
| Map PE039, Plan 8, Lot 56 | 192700316-1 |
| O'Brien, Mrs. John | 60 acres |

TAX LIABILITY

| | |
|---|---|
| 2007 | $193.66 |
| 2008 | 195.96 |
| 2009 | 242.65 |
| 2010 (estimated) | 242.65 |
| Estimated Total Taxes | $874.92 |
| Interest | 46.62 |
| Costs | 26.00 |
| Deed | 8.00 |
| Total | $955.54 |

Recommendation: Sell to O'Brien, Mrs. John for $955.54. 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 $975.00.

---

T2 R1 BKP WKR, Somerset County

| | |
|---|---|
| Map SO01, Plan 1, Lots 100.61 and 100.7 | 258310179-1 |
| Long, Milford | 2.29 acres and building |

TAX LIABILITY

| | |
|---|---|
| 2007 | $275.81 |
| 2008 | 334.97 |
| 2009 | 497.58 |
| 2010 (estimated) | 497.58 |
| Estimated Total Taxes | $1,605.94 |
| Interest | 69.74 |
| Costs | 26.00 |
| Deed | 8.00 |
| Total | $1,709.68 |

Recommendation: Sell to Long, Milford for $1,709.68. 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.

---

T1 R1 NBKP (Taunton & Raynham), Somerset County

| | |
|---|---|
| Map SO031, Plan 5, Lot 8.4 | 258030184-1 |
| Sokolewicz, Gene | 40 acres |

TAX LIABILITY

| | |
|---|---|
| 2005 | $3,480.83 |
| 2006 | 102.29 |
| 2007 | 38.23 |

| | |
|---|---|
| 2008 | 47.64 |
| 2009 | 48.84 |
| 2010 (estimated) | 48.84 |
| Estimated Total Taxes | $3,766.67 |
| Interest | 1,059.98 |
| Costs | 26.00 |
| Deed | 8.00 |
| Total | $4,860.65 |

Recommendation: Sell to Sokolewicz, Gene for $4,860.65. 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 $4,875.00.

---

T9 R4 NBPP, Washington County

Map WA027, Plan 1, Lot 21 298060029-1

Ely, Wilma E. 1 acre

TAX LIABILITY

| | |
|---|---|
| 2007 | $30.97 |
| 2008 | 28.49 |
| 2009 | 34.41 |
| 2010 (estimated) | 34.41 |
| Estimated Total Taxes | $128.28 |
| Interest | 7.28 |
| Costs | 26.00 |
| Deed | 8.00 |
| Total | $169.56 |

Recommendation: Sell to Ely, Wilma E. for $169.56. 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 $175.00.

---

Marion TWP, Washington County

Map WA031, Plan 2, Lot 45 298100068-1

Gardner, Moffat A. C. 30 acres

TAX LIABILITY

| | |
|---|---|
| 2007 | $96.26 |
| 2008 | 88.55 |
| 2009 | 106.95 |
| 2010 (estimated) | 106.95 |
| Estimated Total Taxes | $398.71 |
| Interest | 22.64 |
| Costs | 26.00 |
| Deed | 8.00 |
| Total | $455.35 |

Recommendation: Sell to Gardner, Moffat A. C. for $455.35. 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 $475.00.

---

Trescott TWP, Washington County

Map WA032, Plan 5, Lots 54 and 55 298110175-2

Hunting, Robert Samuel Coulter 0.61 acre

TAX LIABILITY

| | |
|---|---|
| 2007 | $19.59 |
| 2008 | 18.02 |
| 2009 | 21.76 |
| 2010 (estimated) | 21.76 |
| Estimated Total Taxes | $81.13 |
| Interest | 4.61 |
| Costs | 26.00 |
| Deed | 8.00 |
| Total | $119.74 |

Recommendation: Sell to Hunting, Robert Samuel Coulter for $119.74. 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 $125.00.

See title page for effective date.

## CHAPTER 151

## S.P. 677 - L.D. 1764

### Resolve, To Support the Development of Maine's Economic Future by Promoting Science, Technology, Engineering and Math 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 Department of Education and the University of Maine System have submitted a report to the Joint Standing Committee on Education and Cultural Affairs pursuant to Resolve 2009, Chapter 98, "Resolve, To Understand and Assist Efforts to Promote Science, Technology, Engineering and Math Education"; and

**Whereas,** this report on the status of Maine science, technology, engineering and mathematics learning initiatives notes that limited gains in student scores in mathematics and science on the National Assessment of Educational Progress, and unfavorable comparisons to student performance in other countries, are factors that are leading to a significant focus on science, technology, engineering and mathematics education in the State and the nation; and

**Whereas,** this report proposes that, by conducting a study, the Department of Education can further promote science, technology, engineering and mathematics learning initiatives in Maine while assisting Maine in documenting the current efforts necessary to enable the department to complete a successful application to the federal Race to the Top competitive grant fund; and

**Whereas,** it is necessary to enact this legislation immediately so that the Department of Education may submit the State's application for the federal Race to the Top competitive grant program by the deadline of June 2010; 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. State plan for science, technology, engineering and mathematics learning. Resolved:** That the Legislature supports the development of a state plan for the learning of science, technology, engineering and mathematics, in order that the Department of Education may submit the State application for the federal Race to the Top competitive grant program established under sections 14005 and 14006 of the federal American Recovery and Reinvestment Act of 2009 prior to the Phase Two deadline for applications in June 2010. The Department of Education shall conduct a study to provide comprehensive baseline data to support State and local efforts to improve science, technology, engineering and mathematics learning. The department shall use its review of existing plans related to the following three aspects of the priority on science, technology, engineering and mathematics, identified by the federal Department of Education; learning shall be used to develop a strategic plan that addresses the need to:

1. Offer a rigorous course of study in mathematics, the sciences, technology, and engineering;

2. Cooperate with industry experts, museums, universities, research centers, and other community partners to prepare and assist teachers in integrating science, technology, engineering and mathematics content across grades and disciplines, in promoting effective and relevant instruction, and in offering applied learning opportunities for students; and

3. Prepare more students for advanced study and careers in the sciences, technology, engineering, and mathematics, including by addressing the needs of underrepresented groups and of women and girls in the areas of science, technology, engineering and mathematics.

The Department of Education shall consult with educational partners at the University of Maine System and the Maine Community College System in the development of the strategic plan to ensure that the State application for the federal Race to the Top competitive grant program includes a high quality plan that addresses all three aspects of the science, technology, engineering and mathematics priority established by the United States Education Department. The Department of Education shall produce the strategic plan by May 15, 2010; and be it further

**Sec. 2. Department of Education review. Resolved:** That the Department of Education shall review existing state learning standards for kindergarten to grade 12 public education to determine whether students have sufficient opportunity to develop the skills and gain the knowledge that will be incorporated as part of a national assessment of technological liter-

acy beginning in 2012. The Department of Education review must include an evaluation of the following areas that, as part of the National Assessment of Educational Progress assessment, the National Assessment Governing Board will include in its assessment of technological literacy:

1. Technology and society; including:

A. Interactions of technology and humans;

B. Effects of technology on the natural world;

C. Effects of technology on the world of information and knowledge; and

D. Ethics, equity and responsibility;

2. Design and systems, including:

A. Nature of technology;

B. Engineering design;

C. Systems thinking; and

D. Maintenance and troubleshooting;

3. Information and communication technology, including:

A. Construction and exchange of ideas and solutions;

B. Information research;

C. Investigation of problems;

D. Acknowledgement of ideas and information; and

E. Selection and use of digital tools; and be it further

**Sec. 3. Report. Resolved:** That the Department of Education shall submit a report by February 1, 2011 to the joint standing committee of the Legislature having jurisdiction over education matters on the status of the State plan for science, technology, engineering and mathematics learning prepared pursuant to section 1 and on the review of state learning standards and opportunities for learning related to technological literacy pursuant to section 2. The joint standing committee of the Legislature having jurisdiction over education matters may submit a bill based on the findings and recommendations of the report submitted by the Department of Education to the First Regular Session of the 125th Legislature.

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

Effective February 23, 2010.

## CHAPTER 152

## H.P. 1098 - L.D. 1556

### Resolve, To Review Certification Requirements for Installation of Solar Photovoltaic Systems

**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 these hard economic times, solar and wind energy systems could alleviate financial hardships arising from the operation of heating and cooling systems for personal residences and businesses; and

**Whereas,** this resolve would require a thorough review to ascertain that the State's requirements under the solar and wind energy rebate program are appropriate for ensuring proper installation of solar photovoltaic systems; and

**Whereas,** this review 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 this 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. Certification requirements reviewed. Resolved:** That the Public Utilities Commission, energy programs division shall review the installation qualifications required for a rebate for solar photovoltaic systems under the Maine Revised Statutes, Title 35-A, section 3211-C, subsection 2, paragraph A, subparagraph (2) and evaluate whether those rebate program requirements are necessary and appropriate for ensuring safe and proper installation of solar photovoltaic systems, with particular attention to the requirement of certification by a North American board of certified energy practitioners. The division shall consider the appropriateness of a requirement based on a photovoltaic entry-level exam offered by a North American board of certified energy practitioners; and be it further

**Sec. 2. Report and recommended actions to be made. Resolved:** That the Public Utilities Commission, energy programs division shall report its findings and recommendations under section 1, including suggested legislation, to the Joint Standing Committee on Utilities and Energy within 30 days of the effective date of this resolve. The Joint Standing Committee on Utilities and Energy may introduce a

bill to implement the recommendations to the Second Regular Session of the 124th Legislature.

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

Effective March 1, 2010.

## CHAPTER 153

## S.P. 262 - L.D. 687

### Resolve, To Direct the Department of Conservation To Seek To Acquire Public Access to the Dead River

**Sec. 1. Access to the Dead River; direction to the Department of Conservation. Resolved:** That the Department of Conservation shall seek to acquire a public right-of-way approximately 16 miles in length along the Lower Enchanted Road, from Route 201 in West Forks Plantation westward to and including an area commonly used for vehicle parking, trip staging and watercraft access to the Dead River near its confluence with Spencer Stream.

The Department of Conservation shall exhaustively pursue all opportunities to acquire the public right-of-way through participating in any process by which public access via easements or fee acquisitions might reasonably be solicited and obtained; and be it further

**Sec. 2. No obligation to maintain. Resolved:** That the Department of Conservation may assume but is not required to assume any obligation to improve or maintain the right-of-way at public expense; and be it further

**Sec. 3. Request for funds. Resolved:** That the Department of Conservation shall seek public and private funds to acquire public access to the Dead River via easements or fee acquisitions; and be it further

**Sec. 4. Report. Resolved:** That the Department of Conservation shall report to the joint standing committee of the Legislature having jurisdiction over conservation matters no later than January 10, 2011 on the status of negotiations for access to the Dead River; and be it further

**Sec. 5. Bill authorized. Resolved:** That the joint standing committee of the Legislature having jurisdiction over conservation matters may submit a bill relating to public access to the Dead River to the First Regular Session of the 125th Legislature.

See title page for effective date.

## CHAPTER 154

## H.P. 1100 - L.D. 1563

### Resolve, To Develop Model Academic Year Calendars

**Sec. 1. Model academic year calendars. Resolved:** That the Commissioner of Education shall establish a working group of kindergarten-to-grade-12 school officials, primarily superintendents and career and technical education directors, to prepare draft model academic year calendars that account for regional differences within the State to be submitted to the joint standing committee of the Legislature having jurisdiction over education matters by February 1, 2011. The working group may seek input from other stakeholders as it determines appropriate and shall present recommendations to the Commissioner of Education as to how to present the model academic year calendars for statewide review; and be it further

**Sec. 2. Authorization to submit legislation. Resolved:** That the joint standing committee of the Legislature having jurisdiction over education matters is authorized to submit a bill to the First Regular Session of the 125th Legislature to implement the findings of the working group under section 1.

See title page for effective date.

## CHAPTER 155

## H.P. 1067 - L.D. 1517

### Resolve, Regarding Legislative Review of Portions 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 portions of Chapter 26: Producer Margins, a provisionally adopted major substantive rule of the Department of Agriculture, Food and Rural Resources, 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 March 5, 2010.

## CHAPTER 156

## S.P. 614 - L.D. 1649

### Resolve, To Increase the Financial Stability of Low-income Families in Maine

**Sec. 1. Working group established. Resolved:** That the Superintendent of Financial Institutions shall establish, within existing budgeted resources, a working group, to be known as "the Bank on ME working group," which may be composed of municipal officials and representatives of state and federal financial institutions, credit unions, community organizations and state agencies to develop and implement collaborative voluntary initiatives that increase the financial stability of low-income families in the State by increasing awareness of and access to basic financial services. The Bank on ME working group may:

1. Develop and market starter banking accounts with features that would benefit low-income families;

2. Educate low-income families without bank accounts about the benefits of account ownership and encourage those families to open bank accounts;

3. Educate and assist low-income families with basic money management skills; and

4. Create coalitions of financial institutions, financial regulators, municipal officials and nonprofit corporations to market starter banking accounts to low-income families; and be it further

**Sec. 2. Report. Resolved:** That the Superintendent of Financial Institutions shall submit a report to the joint standing committee of the Legislature having jurisdiction over banking and financial matters by November 3, 2010. The report must include a summary of the initiatives implemented by the Bank on ME working group established pursuant to section 1 and may recommend to the committee any changes to existing law that are necessary to implement the initiatives supported by the Bank on ME working group.

See title page for effective date.

## CHAPTER 157

## H.P. 1245 - L.D. 1751

### Resolve, Regarding Legislative Review of the Repeal of Chapter 182: Formula for Distribution of Funds to Child Development Services Regional Sites, a Major Substantive Rule That Has Been Provisionally Repealed by 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, amended, suspended or repealed by the agency; and

**Whereas,** the final repeal of 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 the final repeal 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. Repeal. Resolved:** That final repeal of Chapter 182: Formula for Distribution of Funds to Child Development Services Regional Sites, a provisionally repealed 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, 2010.

## CHAPTER 158

## H.P. 1246 - L.D. 1752

### Resolve, Regarding Legislative Review of the Repeal of Chapter 181: Child Development Services System: Regional Provider Advisory Boards, a Major Substantive Rule That Has Been Provisionally Repealed by 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, amended, suspended or repealed by the agency; and

**Whereas,** the final repeal of 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 the final repeal 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. Repeal. Resolved:** That final repeal of Chapter 181: Child Development Services System: Regional Provider Advisory Boards, a provisionally repealed 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, 2010.

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## CHAPTER 159

## H.P. 1123 - L.D. 1585

### Resolve, To Enhance Protection of Maine Farms and Nurseries

**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 identification of shipments of tomato seedlings coming into the State for commercial sale is needed to facilitate monitoring for disease; and

**Whereas,** the introduction of disease can devastate tomato crops of both commercial growers and home gardeners; and

**Whereas,** shipments for the 2010 growing season will begin prior to the effective date of nonemergency legislation; 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 Agriculture, Food and Rural Resources to require notice of shipment of tomato seedlings into the State. Resolved:** That the Commissioner of Agriculture, Food and Rural Resources shall adopt rules under the Maine Revised Statutes, Title 7, section 2217 to require a person shipping tomato seedlings into the State for ultimate sale at the wholesale or retail level to notify the State Horticulturist prior to shipping. The commissioner shall ensure that the rules are established to facilitate monitoring of tomato seedlings coming into the State during the 2010 growing season; and be it further

**Sec. 2. Commissioner of Agriculture, Food and Rural Resources to review license fees for owners of plant nurseries and dealers in nursery stock. Resolved:** That the Commissioner of Agriculture, Food and Rural Resources shall review license fees authorized under the Maine Revised Statutes, Title 7, section 2171 and established in Chapter 267 of the Department of Agriculture, Food and Rural Resources's rules. The commissioner shall research fees for licenses to sell nursery stock in other states and consider the advisability of a license fee structure with more than 2 tiers based on gross annual sales of nursery stock and square footage dedicated to nursery stock or a combination of these 2 or other parameters.

The commissioner shall also consider the benefit of establishing a dedicated account to receive license fees for plant nurseries and dealers of nursery stock, estimate the amount of dedicated revenue generated and determine the optimal use of the revenue to provide inspection and other services to protect growers in the State; and be it further

**Sec. 3. Commissioner of Agriculture, Food and Rural Resources to report recommenda-**

**tions. Resolved:** That the Commissioner of Agriculture, Food and Rural Resources shall report to the joint standing committee of the Legislature having jurisdiction over agriculture matters no later than January 15, 2011 with recommendations regarding fees for licenses to sell nursery stock and the advisability of establishing a dedicated account to receive license fees.

If the commissioner's recommendations include revisions to the Department of Agriculture, Food and Rural Resources's existing fees, the commissioner shall:

1. Provisionally adopt amendments to Chapter 267 of the department's rules to implement the recommendations and submit the provisionally adopted rule to the First Regular Session of the 125th Legislature for review as a major substantive rule in accordance with the Maine Revised Statutes, Title 5, section 8072; or

2. Submit a bill to the First Regular Session of the 125th Legislature to establish in statute fees for licenses to sell nursery stock.

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

Effective March 9, 2010.

## CHAPTER 160

## H.P. 1248 - L.D. 1754

### Resolve, Naming the Bridge over Pattagumpus Stream the Nicatou Bridge

**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 resolve has the time-sensitive goal of naming a bridge in the Town of Medway the Nicatou Bridge to coincide with the centennial celebration of the town; 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 named. Resolved:** That the Department of Transportation shall designate the new bridge over Pattagumpus Stream in the Town of Medway the Nicatou Bridge.

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

Effective March 16, 2010.

## CHAPTER 161

## S.P. 455 - L.D. 1222

### Resolve, To Promote Geothermal Energy

**Sec. 1. Policies to promote the use of geothermal energy. Resolved:** That the Executive Department, Governor's Office of Energy Independence and Security shall examine policy options and develop recommendations to promote and provide incentives for the installation of residential geothermal heating and cooling systems, particularly in multifamily residences. The Governor's Office of Energy Independence and Security shall, at a minimum, consult with the Maine State Housing Authority and the Efficiency Maine Trust in its examination under this section; and be it further

**Sec. 2. Report; legislation. Resolved:** That, by January 15, 2011, the Executive Department, Governor's Office of Energy Independence and Security shall submit a report of its findings and recommendations under section 1, together with any necessary implementing legislation, to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters. After its review of the report, the joint standing committee may submit a bill to the First Regular Session of the 125th Legislature relating to the report.

See title page for effective date.

## CHAPTER 162

## H.P. 1054 - L.D. 1505

### Resolve, To Ensure Consistency in the Scheduled Expiration of Terms of the Board Members of the Finance Authority 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,** except for so-called "state members," the 4-year terms of membership of the board of directors of the Finance Authority of Maine were initially staggered so as to avoid simultaneous turnover; and

**Whereas,** the terms of board members of the Finance Authority of Maine have over time become less staggered, leading to numerous terms expiring at similar times; and

**Whereas,** it is desirable to avoid excessive simultaneous turnover; 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. Members of the Finance Authority of Maine; terms. Resolved:** That, notwithstanding the Maine Revised Statutes, Title 10, section 966, the terms of certain members of the Finance Authority of Maine are as follows:

1. The term of the member appointed pursuant to Title 10, section 965, subsection 2, paragraph B, following its expiration in 2013, next expires in 2015;

2. The term of the member appointed pursuant to Title 10, section 965, subsection 3, paragraph B that expires in 2013 next expires in 2015; and

3. The term of the member appointed pursuant to Title 10, section 965, subsection 3, paragraph C, following its expiration in 2013, next expires in 2016.

Following completion of the adjusted terms of members under this section, terms of members under this section are for 4 years.

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

Effective March 17, 2010.

## CHAPTER 163
## H.P. 1221 - L.D. 1720

### Resolve, Regarding Waste-to-energy Power

**Sec. 1. Waste-to-energy power; examination. Resolved:** That the Executive Department, Governor's Office of Energy Independence and Security shall examine the issue of qualifying certain waste-to-energy power for renewable energy credits and renewable resource portfolio requirements. The examination must include, but is not limited to:

1. Relevant legislative proposals and actions in the United States Congress and in other states, with particular attention to other states within New England;

2. Appropriate qualifying criteria and technologies, including but not limited to advanced pyrolysis technology;

3. Potential implications of allowing certain waste-to-energy power to qualify for renewable energy credits and renewable resource portfolio requirements, including but not limited to impacts on the market for renewable energy credits and the environment; and

4. Consideration of the renewable resource portfolio requirements specified in the Maine Revised Statutes, Title 35-A, section 3210 and the solid waste management hierarchy specified in Title 38, section 2101.

In carrying out the examination under this section, the Governor's Office of Energy Independence and Security shall, at a minimum, consult with the Passamaquoddy Tribe, the Department of Environmental Protection, the Public Utilities Commission and the Efficiency Maine Trust; and be it further

**Sec. 2. Report; legislation. Resolved:** That, by February 15, 2011, the Executive Department, Governor's Office of Energy Independence and Security shall submit a report of its findings and recommendations under section 1, together with any necessary implementing legislation, to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters. After its review of the report, the joint standing committee may submit a bill to the First Regular Session of the 125th Legislature relating to the report.

See title page for effective date.

## CHAPTER 164
## H.P. 1239 - L.D. 1742

### Resolve, Regarding Legislative Review of Portions of Chapter 232: Well Drillers and Pump Installers Rules, 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 232: Well Drillers and Pump Installers Rules, 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 March 17, 2010.

## CHAPTER 165

## H.P. 1237 - L.D. 1740

### Resolve, Regarding Legislative Review of Chapter 2: Change of Use, Downsizing, or Closure of Correctional Facilities, a Major Substantive Rule of the State Board of Corrections

**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 2: Change of Use, Downsizing, or Closure of Correctional Facilities, a provisionally adopted major substantive rule of the State Board of Corrections 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 22, 2010.

## CHAPTER 166

## H.P. 1243 - L.D. 1749

### Resolve, Regarding Legislative Review of Portions of MaineCare Benefits Manual, Chapter III, Section 97, Private Non-Medical Institution 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 MaineCare Benefits Manual, Chapter III, Section 97, Private Non-Medical Institution 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.

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

Effective March 22, 2010.

## CHAPTER 167
## H.P. 1068 - L.D. 1518

### Resolve, Regarding Legislative Review of Section 16 Activities in Coastal Sand Dunes, 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 Section 16 Activities in Coastal Sand Dunes, 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 23, 2010.

## CHAPTER 168
## H.P. 1196 - L.D. 1695

### Resolve, Directing the Public Utilities Commission To Address Public Safety Issues Relating to Disconnection of Certain Utilities

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

**Whereas,** to promote the protection of life and safety, promote the protection of private property, ensure the privacy of customer information and ensure that both owners and tenants receive appropriate information about available utility payment assistance programs, standards or procedures relating to disconnection of service by electric, gas and water utilities should be developed 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

**Sec. 1. Development of standards or procedures to address utility disconnection safety issues. Resolved:** That the Public Utilities Commission, in consultation with representatives of transmission and distribution utilities, gas utilities and water utilities as well as representatives of owners of rental units and representatives of tenants and other interested persons, shall seek to develop appropriate and reasonable procedures to allow owners of rental units to receive notice of disconnection of electric, gas or water service to a tenant. In establishing any procedures, the commission shall seek to promote the protection of life and safety and of private property, to ensure the privacy of customer information and to ensure that both owners and tenants receive appropriate information about available utility payment assistance programs. Any procedures established by the commission must apply to tenancies in which there is a written lease, and the commission shall examine how and whether to apply any procedures to tenancies at will. The commission may not modify procedures relating to utility liens for nonpayment of charges. The commission shall establish appropriate time frames for any required notices and shall make clear the penalties that will apply under existing law for violations of established procedures. In developing any procedures, the commission shall examine all existing relevant laws and rules, including the Maine

Revised Statutes, Title 14, section 6024-A, relating to landlord failure to pay for utility services; Title 35-A, section 706, relating to disconnection of a tenant's utilities for a landlord's failure to pay for utility service; and Title 35-A, section 6111-B, relating to water utilities. The commission shall also consider enhancing notice to both tenants and owners of existing assistance programs that could help in paying for utility bills, including but not limited to low-income home energy assistance programs and "lifeline" programs. The commission shall review existing voluntary agreements that allow a utility account to be transferred to a landlord if a tenant's service is disconnected. The commission shall seek to limit the number of any new notices that are provided to landlords to the fewest possible consistent with the goals of this resolve. The commission shall examine and seek to resolve the following issues: how owners should notify utilities of the existence of rental units and whether the notice should be mandatory or voluntary; when a utility, after disconnection of a customer's service, may treat that person as no longer a customer and when policies governing the privacy of a customer's account should no longer apply; how any procedures adopted by the commission should apply to consumer-owned utilities; whether utilities should be permitted to collect a charge for providing any notifications under any new procedures adopted by the commission; whether procedures should be different for water, gas and transmission and distribution utilities; and whether a model clause for inclusion in lease agreements should be created that, if used, would allow notification to landlords of any disconnection of utility services to tenants. The commission may not establish any new fees for procedures or notices established under current law or rules; and be it further

**Sec. 2. Rules. Resolved:** That the Public Utilities Commission may adopt rules as necessary to accomplish the goals of this resolve. Any rules adopted under this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A; and be it further

**Sec. 3. Report. Resolved:** That the Public Utilities Commission shall report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters by January 15, 2011 the results of its examination under section 1 as well as any procedures established, including a description of any rules adopted under section 2.

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

Effective March 24, 2010.

## CHAPTER 169

## S.P. 676 - L.D. 1762

### Resolve, Regarding Energy Conservation through Voltage Regulation

**Sec. 1. Energy conservation through voltage regulation; examination. Resolved:** That the Efficiency Maine Trust, in the development and implementation of conservation programs pursuant to the Maine Revised Statutes, Title 35-A, section 10110, shall examine voltage regulation technologies and evaluate the potential for and cost-effectiveness of the application of these technologies for energy conservation by industrial, commercial and residential electricity customers of the State. In conducting the examination, the Efficiency Maine Trust shall seek input from the Public Utilities Commission and transmission and distribution utilities with respect to utility incentive issues and voltage regulation technologies in the context of smart grid implementation; and be it further

**Sec. 2. Report. Resolved:** That the Efficiency Maine Trust shall report on its examination and evaluation under section 1 as part of its annual report due by December 1, 2010 pursuant to the Maine Revised Statutes, Title 35-A, section 10104, subsection 5.

See title page for effective date.

## CHAPTER 170

## H.P. 1256 - L.D. 1766

### Resolve, Regarding Legislative Review of Chapter 15: Batterer Intervention Program Certification, a Major Substantive Rule of the Department of Corrections

**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 15: Batterer Intervention Program Certification, a provisionally adopted major substantive rule of the Department of Corrections 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 24, 2010.

## CHAPTER 171

## H.P. 1093 - L.D. 1551

### Resolve, Directing the Right To Know Advisory Committee To Examine Issues Related to Communications of Members of Public Bodies

**Sec. 1. Right To Know Advisory Committee review and recommendations. Resolved:** That the Right To Know Advisory Committee shall examine the following issues and include recommendations in the annual report due January 15, 2011 under Title 1, section 411, subsection 10 concerning:

1. How the freedom of access laws can appropriately address the use of communication technologies, both existing and those to be developed in the future, to ensure that decisions are made in proceedings that are open and accessible to the public;

2. If penalties for violations of the freedom of access laws should be revised, including consideration of criminalizing violations and making the individual who violates the laws responsible for the penalty, rather than the governmental entity; and

3. If partisan party caucuses should be specifically excluded from the definition of "public proceedings."

See title page for effective date.

## CHAPTER 172

## H.P. 1254 - L.D. 1763

### Resolve, Directing the Department of Transportation To Place Signs at the Interstate Exits in Pittsfield Directing Motorists to Maine Central Institute

**Preamble. Whereas,** Maine Central Institute is a college preparatory boarding and day school located in the Town of Pittsfield; and

**Whereas,** Maine Central Institute's student body currently represents 16 countries and 12 states; and

**Whereas,** Maine Central Institute is located 3 miles from Interstate 95, and increased visibility on the Interstate 95 corridor is critical to the ability of the public, as well as those members of the student body who are unfamiliar with the State, to identify and locate Maine Central Institute; now, therefore, be it

**Sec. 1. Signs placed for Maine Central Institute. Resolved:** That the Department of Transportation, notwithstanding national guidelines relating to directional signs for highways, shall place directional signs on Interstate 95 at the northbound and southbound exits of the highway at Pittsfield to direct motorists to Maine Central Institute in Pittsfield, and Maine Central Institute shall assume any and all costs associated with the directional signs.

See title page for effective date.

## CHAPTER 173

## H.P. 1225 - L.D. 1726

### Resolve, Regarding Legislative Review of Portions of Chapter 28: Notification Provisions for Outdoor Pesticide Applications, 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 28: Notification Provisions for Outdoor Pesticide Applications, 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 not authorized.

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

Effective March 25, 2010.

## CHAPTER 174

## H.P. 1241 - L.D. 1744

### Resolve, Regarding Legislative Review of Chapter 9: Rule Requiring Best Management Practices for Growing Crops To Minimize Cross Contamination, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources

**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 9: Rule Requiring Best Management Practices for Growing Crops to Minimize Cross Contamination, a provisionally adopted major substantive rule of the Department of Agriculture, Food and Rural Resources 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 in Section 4, subsection 2 by:

1. Replacing the first sentence with language clarifying that the expectation is for the grower to employ the procedures most appropriate for the crop and site after considering the list of potential protective procedures; and

2. Changing punctuation and adding conjunctions as needed in paragraphs A to K clarifying that paragraphs A to K list potential protective procedures to consider rather than required measures.

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

Effective March 25, 2010.

## CHAPTER 175

## H.P. 1226 - L.D. 1727

### Resolve, Regarding Legislative Review of Portions of Chapter 11: Rules Governing the Controlled Substances Prescription Monitoring Program, a Major Substantive Rule of the Department of Health and Human Services, Office of Substance Abuse

**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 11: Rules Governing the Controlled Substances Prescription Monitoring Program, a provisionally adopted major substantive rule of the Department of Health and Human Services, Office of Substance Abuse that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized as long as the rules are amended to include an intervention approach to be undertaken with MaineCare members who are determined to be accessing controlled substances in a quantity or with a frequency beyond the norm for persons with similar medical conditions or diagnoses and the intervention approach does not include terminating the member from MaineCare services.

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

Effective March 26, 2010.

## CHAPTER 176

## H.P. 1257 - L.D. 1767

### Resolve, Regarding Legislative Review of Portions of Chapter 101: MaineCare Benefits Manual, Chapter III, Section 21, Allowances for Home and Community Benefits for Members with Mental Retardation or Autistic Disorder, 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 21, Allowances for Home and Community Benefits for Members with Mental Retardation or Autistic Disorder, 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 March 26, 2010.

## CHAPTER 177

## H.P. 1258 - L.D. 1768

### Resolve, Regarding Legislative Review of Chapter 285: Adjustment of Non-bank Mortgage Lender Fees To Fund Investigative and Legal Compliance Personnel, 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 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 285: Adjustment of Non-bank Mortgage Lender Fees To Fund Investigative and Legal Compliance Personnel, 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.

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

Effective March 26, 2010.

## CHAPTER 178

## H.P. 1081 - L.D. 1537

### Resolve, Directing the Maine Human Rights Commission To Report on Improvements

**Sec. 1. Maine Human Rights Commission. Resolved:** That the Maine Human Rights Commission shall report to the joint standing committee of the Legislature having jurisdiction over judiciary matters by February 1, 2011 concerning case processing revisions, planned case processing revisions and recommendations for legislative action, all to reduce the time for investigating complaints. The report must include the estimated costs of the revisions and the recommendations.

See title page for effective date.

## CHAPTER 179

## H.P. 1119 - L.D. 1581

### Resolve, Regarding Commercial Electricity Customers Whose Bills Increased after a Decrease in Electricity Use

**Sec. 1. Best rate option; credit for affected customers. Resolved:** That, notwithstanding any other provision of law, the Public Utilities Commission shall direct the transmission and distribution utility serving those commercial electricity customers that are eligible for the best rate option pursuant to the final order in Public Utilities Commission Docket # 2009-397 dated March 5, 2010 that experienced higher electricity bills after decreasing their electricity use and to credit such a commercial electricity customer in a manner approved by the commission for the difference between what the customer was actually charged for delivery service during the 12-month period preceding the date of the final order and what the customer would have been charged under the best rate option during that period. The commission shall ensure that a transmission and distribution utility recovers in rates all costs incurred pursuant to this section.

See title page for effective date.

## CHAPTER 180

## H.P. 1283 - L.D. 1795

### Resolve, Regarding Legislative Review of Chapter 2: Standards for Qualifications of Assigned Counsel, a Major Substantive Rule of the Maine Commission on Indigent Legal 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 2: Standards for Qualifications of Assigned Counsel, a provisionally adopted major substantive rule of the Maine Commission on Indigent Legal Services that has been submitted to the Legislature for review pursuant to the Maine Revised Stat-

utes, 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, 2010.

## CHAPTER 181
## H.P. 60 - L.D. 71

### Resolve, To Create a Working Group To Review the Property Tax Exemption for Veterans

**Sec. 1. Convene working group. Resolved:** That the Department of Administrative and Financial Services, Bureau of Revenue Services shall convene a working group to review the current property tax exemption for veterans and make recommendations for changes that will increase the property tax exemption for qualified post-World War I veterans. The working group must include representatives of the Department of Defense, Veterans and Emergency Management, Bureau of Maine Veterans' Services. The Department of Administrative and Financial Services, Bureau of Revenue Services shall invite the participation of the Maine Municipal Association and other interested stakeholders; and be it further

**Sec. 2. Duties of working group. Resolved:** That the working group under section 1 shall review alternatives for increasing the property tax exemption for qualified post-World War I veterans. The alternatives must include, but are not limited to, an increase on a one-time basis, an increase over time through indexing to the Consumer Price Index or a 5% annual increase. The working group shall review the financial and administrative impact on state and local government as well as the benefit to veterans; and be it further

**Sec. 3. Report recommendations. Resolved:** That, by January 15, 2011, the Department of Administrative and Financial Services, Bureau of Revenue Services shall report to the joint standing committee of the Legislature having jurisdiction over taxation matters the findings and recommendations of the working group under section 1.

See title page for effective date.

## CHAPTER 182
## H.P. 1187 - L.D. 1686

### Resolve, To Clarify the Reporting of Debt Service Costs and the Allowance of Minor Capital School Improvement Projects Costs under Essential Programs and 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,** many school administrative units have an immediate need to submit proposals for approval under the school funding formula for recognition of non-state-funded debt service expenditures incurred for minor capital school improvement projects; and

**Whereas,** it may be necessary to change the law to allow for reimbursement for these non-state-funded debt service expenditures; and

**Whereas,** a review of current law and state policy pertaining to the funding and reporting requirements for these projects 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. Review of essential programs and services requirements for non-state-funded debt service expenditures incurred for minor capital school improvement projects. Resolved:** That the Commissioner of Education shall convene a stakeholder group to review current state law related to recognizing, funding and approving non-state-funded debt service costs incurred for minor capital school improvement projects; and be it further

**Sec. 2. Stakeholder group. Resolved:** That the Commissioner of Education or the commissioner's designee is a member of the stakeholder group. The Commissioner of Education shall invite the participation of representatives of the following educational associations:

1. The Maine School Superintendents Association;

2. The Maine Association of School Business Officials; and

3. The Maine School Boards Association.

The commissioner may invite any other person the commissioner determines will contribute to the development of effective policies related to the issues to be reviewed by the stakeholder group; and be it further

**Sec. 3. Duties. Resolved:** That the Commissioner of Education and the stakeholder group shall review the provisions of the Essential Programs and Services Funding Act pertaining to funding and reporting requirements for approval for reimbursement of non-state-funded debt service costs incurred for minor capital school improvement projects. The stakeholder group shall develop recommendations to change, as necessary, relevant provisions in the school funding formula to appropriately address these local expenditures. The recommendations must include, but are not limited to, recommendations relating to:

1. How school administrative unit expenditures for non-state-funded debt service costs incurred for minor capital school improvement projects should be recognized under the Essential Programs and Services Funding Act, particularly with respect to how these expenditures should be counted towards the amount of locally raised funds that meet or exceed the local cost share expectation as defined in the Maine Revised Statutes, Title 20-A, section 15671-A, subsection 1, paragraph B;

2. The types of expenditures, including the replacement of windows, a boiler or a roof, that may be included as non-state-funded debt service costs incurred for minor capital school improvement projects that are recognized as part of the amount of locally raised funds that meet the local cost share expectation;

3. How school administrative units should report expenditures for non-state-funded debt service expenditures incurred for minor capital school improvement projects;

4. How to clarify the school funding formula requirements related to the adoption and approval of expenditures for non-state-funded debt service costs incurred for minor capital school improvement projects, including how to more effectively communicate to the public how these expenditures are reflected in the language that is included in school budget articles and explanations that are presented to the voters to adopt and approve the school budget; and

5. Any other policy issue pertaining to the recognition and funding of debt service costs that a majority of the stakeholder group determines to be necessary and useful to improving public policy related to the appropriate maintenance and improvement of school facilities in the State; and be it further

**Sec. 4. Report. Resolved:** That the Commissioner of Education shall present the findings and recommendations of the stakeholder group to the joint standing committee of the Legislature having jurisdiction over education matters by January 15, 2011.

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

Effective March 30, 2010.

## CHAPTER 183

## H.P. 1276 - L.D. 1788

### Resolve, Directing the Commissioner of Agriculture, Food and Rural Resources To Examine the Collection of the Milk Handling Fee on Packaged Milk for Out-of-state Sales

**Sec. 1. Commissioner of Agriculture, Food and Rural Resources to examine the milk handling fee and its impact on out-of-state sales. Resolved:** That the Commissioner of Agriculture, Food and Rural Resources shall convene a group of stakeholders to examine the collection of the milk handling fee, occurrences of the fee being paid on Maine milk packaged and transported for retail sale out of state and any adverse impact of the handling fee on out-of-state sales of Maine milk. The commissioner shall report the findings and recommendations of the stakeholder group to the Joint Standing Committee on Agriculture, Conservation and Forestry no later than October 29, 2010; and be it further

**Sec. 2. Interim meeting; report to the First Regular Session of the 125th Legislature. Resolved:** That, upon receiving the report of the Commissioner of Agriculture, Food and Rural Resources under section 1, the Joint Standing Committee on Agriculture, Conservation and Forestry shall discuss the report at an authorized interim meeting of the committee and develop recommendations and any legislation necessary to implement the recommendations. Prior to December 1, 2010, the Joint Standing Committee on Agriculture, Conservation and Forestry shall prepare a written summary of its recommendations including any draft legislation developed and provide for the distribution of the written materials to the joint standing committee of the Legislature having jurisdiction over agricultural matters upon the convening of that committee in the First Regular Session of the 125th Legislature.

See title page for effective date.

## CHAPTER 184

## H.P. 1288 - L.D. 1802

### Resolve, Directing the Right To Know Advisory Committee To Examine Issues Related to Private Information Contained in the Communications of Public Officials

**Sec. 1. Electronic and other communications. Resolved:** That the Right To Know Advisory Committee, established under the Maine Revised Statutes, Title 1, section 411, shall examine issues relating to the protection of private information contained in electronic and other communications that are sent and received by public officials, particularly communications between elected public officials and their constituents. The advisory committee shall consider confidentiality requirements related to Legislators' oversight responsibilities. The advisory committee shall also consider appropriate warnings for public officials to provide with regard to communications that are or may be public records. The advisory committee shall submit a report containing its findings and recommendations with suggested legislation to the joint standing committee of the Legislature having jurisdiction over judiciary matters no later than November 30, 2010.

See title page for effective date.

## CHAPTER 185

## H.P. 1255 - L.D. 1765

### Resolve, Regarding Legislative Review of Chapter 348: Poultry Slaughter and Processing with Grower/Producer Exemption, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources

**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 348: Poultry Slaughter and Processing with Grower/Producer Exemption, a provisionally adopted major substantive rule of the Department of Agriculture, Food and Rural Resources 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 include requirements for the humane handling and slaughter of poultry.

The Commissioner of Agriculture, Food and Rural Resources is not required to hold hearings or conduct other formal proceedings prior to finally adopting the rule in accordance with this resolve.

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

Effective March 31, 2010.

## CHAPTER 186

## H.P. 1279 - L.D. 1791

### Resolve, Directing the Right To Know Advisory Committee To Further Examine Requirements That Public Bodies Keep Records of Public Proceedings

**Sec. 1. Records of public proceedings. Resolved:** That the Right To Know Advisory Committee, established under the Maine Revised Statutes, Title 1, section 411, shall further examine issues related to requiring public bodies to keep records of public proceedings. The issues to be examined must include the form and maintenance of the records to be kept, including how soon the records must be available and how long the records must be retained, the appropriate contents of the records, whether failure to comply with records requirements results in the invalidation of action taken by the public body and other related issues. The advisory committee shall submit a report containing its findings and recommendations to the joint standing committee of the Legislature having

jurisdiction over judiciary matters no later than February 15, 2011.

See title page for effective date.

## CHAPTER 187

## H.P. 1296 - L.D. 1812

### Resolve, Regarding Legislative Review of Chapter 37: Voluntary Municipal Farm Support Program, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources

**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 37: Voluntary Municipal Farm Support Program, a provisionally adopted major substantive rule of the Department of Agriculture, Food and Rural Resources 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 31, 2010.

## CHAPTER 188

## S.P. 644 - L.D. 1672

### Resolve, Regarding the Dispensing of Antiepileptic Drugs

**Sec. 1. Study. Resolved:** That the Maine Board of Pharmacy, the Governor's Office of Health Policy and Finance, the Board of Licensure in Medicine and the Department of Health and Human Services, Office of MaineCare Services shall each designate one or more officials to conduct a study for the purpose of examining substitution within the antiepileptic class of drugs, current state laws governing substitutions generally, the powers available to prescribers under current substitution laws and whether there is a need to grant any additional powers to prescribers in this State for any one class of drugs. This study must take into account the findings and opinions on this topic of the United States Food and Drug Administration and the American Medical Association and within any statistically valid peer-reviewed research in this area. The study group shall submit its findings in a report to the joint standing committee of the Legislature having jurisdiction over health and human services matters no later than January 15, 2011.

See title page for effective date.

## CHAPTER 189

## H.P. 1063 - L.D. 1514

### Resolve, To Promote Efficiency and To Streamline Access to the Circuitbreaker Program Application Process

**Sec. 1. Examine efficiencies. Resolved:** That the Department of Administrative and Financial Services, Bureau of Revenue Services and the Department of Health and Human Services, office of integrated access and support shall jointly examine the potential for gaining administrative efficiencies and reducing the burden on applicants applying for the Maine Residents Property Tax Program, also known as the Circuitbreaker Program. The bureau and the office shall determine whether improvements are possible through use of the Department of Health and Human Services' Automated Client Eligibility System, which currently collects and maintains verified eligibility information for low-income persons for a variety of public programs, and whether the system could be used to determine eligibility for the Circuitbreaker Program, eliminating the redundant application and verification efforts currently undertaken by the 2

agencies with regard to common clients and saving administrative resources by providing a simpler "one-stop-shopping" application process for claimants; and be it further

**Sec. 2. Report. Resolved:** That the bureau and the office shall jointly report their findings under section 1, including any costs associated with combining the application processes, to the joint standing committee of the Legislature having jurisdiction over taxation matters by January 15, 2011.

See title page for effective date.

## CHAPTER 190

## H.P. 1116 - L.D. 1578

### Resolve, To Direct the Public Utilities Commission and the Public Advocate To Account for Certain Resource Expenditures

**Sec. 1. Accounting by Public Utilities Commission and Public Advocate of allocation of certain resources. Resolved:** That the Public Utilities Commission and the Public Advocate shall, beginning no later than July 1, 2010, separately account for and track resources devoted to matters related to providers of communications services that are not subject to assessments pursuant to the Maine Revised Statutes, Title 35-A, section 116. The Public Utilities Commission and the Public Advocate shall establish reasonable and practical categories of such providers and shall account for resources devoted to each identified category. To the extent practical, the Public Utilities Commission and the Public Advocate shall identify in the accounting each individual provider to which resources were devoted, the type of proceeding or action to which the resources were devoted and the role of the provider in that proceeding or action. For purposes of this resolve, "providers of communications services" includes, but is not limited to, a wireline voice, satellite, data, fixed wireless data or video retail service provider; a facilities-based provider of wireless voice or data retail service; or any other provider of communications services; and be it further

**Sec. 2. Report. Resolved:** That the Public Utilities Commission and the Public Advocate shall report their accounting under section 1 to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters by January 15, 2012 together with any recommendations regarding the practicality of subjecting any providers of communications services to assessments pursuant to the Maine Revised Statutes, Title 35-A, section 116.

See title page for effective date.

## CHAPTER 191

## H.P. 1136 - L.D. 1608

### Resolve, Directing the Commissioner of Professional and Financial Regulation To Study the Complaint Resolution Process

**Sec. 1. Commissioner of Professional and Financial Regulation directed to study procedural changes in the complaint resolution process. Resolved:** That the Commissioner of Professional and Financial Regulation, in consultation with interested parties including the Maine Regulatory Fairness Board, shall conduct a study of the need to establish protocols for the resolution of complaints made to occupational and professional licensing boards within and affiliated with the Department of Professional and Financial Regulation; and be it further

**Sec. 2. Reporting date established. Resolved:** That the Commissioner of Professional and Financial Regulation shall submit any recommendations from the study under section 1 to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters by February 15, 2011.

See title page for effective date.

## CHAPTER 192

## H.P. 1249 - L.D. 1755

### Resolve, To Review Sales of Dairy Products

**Sec. 1. Commissioner of Agriculture, Food and Rural Resources directed to examine sales of dairy products. Resolved:** That the Commissioner of Agriculture, Food and Rural Resources shall, within existing resources, convene a working group to study the feasibility of extending a handling fee to or initiating a sales tax on dairy products other than fluid milk. The commissioner shall invite dairy farmers, milk processors, retail grocers, an economist with expertise in marketing and a representative of the Department of Administrative and Financial Services,

Bureau of Revenue Services to participate in the working group. The commissioner shall seek participation from other agencies and individuals as needed to assist in determining the products on which to impose a fee, the point of fee collection and an estimate of revenue generated.

The commissioner shall report to the joint standing committee of the Legislature having jurisdiction over agricultural matters and the joint standing committee of the Legislature having jurisdiction over taxation matters no later than January 15, 2011 with recommendations on how to increase revenue from the sales of dairy products.

See title page for effective date.

## CHAPTER 193

## H.P. 1270 - L.D. 1780

### 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 only if the rule is amended to require reporting of the results of a hospital's active surveillance culturing of high-risk patients for methicillin-resistant Staphylococcus aureus and to clarify that the Maine Quality Forum must within 90 days of adoption of the rule establish a schedule for periodic prevalence studies.

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

Effective April 1, 2010.

## CHAPTER 194

## H.P. 1284 - L.D. 1796

### Resolve, Regarding Legislative Review of Chapter 881: Fees; Chemical Use in Children's 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 Chapter 881: Fees; Chemical Use in Children's 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 until February 1, 2013; and be it further

**Sec. 2. Review; authority for legislation. Resolved:** That the Department of Environmental Protection shall examine the first 2 years of experience regarding fees assessed under the department's rule, Chapter 881: Fees; Chemical Use in Children's Prod-

ucts, as adopted pursuant to section 1. No later than February 1, 2013, the department shall submit a report of its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over natural resources matters. The report must identify the reporting fees and alternatives assessment fees actually assessed by the department, the actual costs to the department and the related priority chemicals that were the basis for the fees. The report must also include a description of the process used by the department to contract with contractors to prepare independent reports, including, but not limited to, the use of a competitive bidding process. Following its review of the report, the committee may submit a bill to the First Regular Session of the 126th Legislature regarding fees related to chemical use in children's products.

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

Effective April 1, 2010.

## CHAPTER 195

## S.P. 733 - L.D. 1818

### Resolve, To Continue Evaluating Climate Change Adaptation Options for the State

**Sec. 1. Continuation of stakeholder group; membership. Resolved:** That the Department of Environmental Protection with a stakeholder group authorized pursuant to Resolve 2009, chapter 16 shall continue to evaluate the options and actions available to Maine people and businesses to prepare for and adapt to the most likely impacts of climate change in accordance with Resolve 2009, chapter 16; and be it further

**Sec. 2. Reports. Resolved:** That, by January 31, 2011, the Department of Environmental Protection shall submit a report on the progress on developing a plan for state climate change adaptation to the joint standing committee of the Legislature having jurisdiction over natural resources matters. By January 31, 2012, the Department of Environmental Protection shall submit a final plan for state climate change adaptation to the Governor and the joint standing committee of the Legislature having jurisdiction over natural resources matters.

See title page for effective date.

## CHAPTER 196

## H.P. 1315 - L.D. 1828

### Resolve, Regarding Emergency Communications 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 activities relating to emergency communications services required under this legislation need to be undertaken 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

**Sec. 1. Report for Optimum PSAP Reconfiguration Assessment. Resolved:** That the Legislature finds the recommendations contained in the January 2010 Report for Optimum PSAP Reconfiguration Assessment, referred to in this resolve as "the Kimball report," submitted to the State by L. R. Kimball under a contract with the Emergency Service Communications Bureau, referred to in this resolve as "the bureau," meet the requirements of Public Law 2009, chapter 219 and are reasonable and a plan for implementing those recommendations should be developed; and be it further

**Sec. 2. Actions to implement the Kimball report. Resolved:** That the bureau shall, in consultation with public safety answering points and other interested entities, develop a plan for achieving the 15 to 17 public safety answering point configuration proposed in the Kimball report. The bureau, in developing the plan, shall examine the issues raised in the Kimball report, including issues relating to system fragmentation and the separation of E-9-1-1 call processing and dispatch functions; the transfer of E-9-1-1 calls and the absence of key E-9-1-1 features at dispatch-only facilities; the routing of E-9-1-1 wireless telephone calls; rate shopping and cost shifting; and the lack of collaboration among state, county and local agencies. The plan must address how appropriate consolidation studies should be conducted and funded, how appropriate consolidation incentives may be designed and implemented and how consolidation may be coordinated with the development of "Next Generation 9-1-1" as identified in the Kimball report; and be it further

**Sec. 3. Report. Resolved:** That the Emergency Service Communications Bureau shall submit its plan, together with any recommendations relating to the plan, including draft legislation to implement any recommendations for changes to law, to the Joint

Standing Committee on Utilities and Energy by November 1, 2010.

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

Effective April 1, 2010.

## CHAPTER 197

## H.P. 389 - L.D. 551

### Resolve, To Direct the Commissioner of Education To Review the Essential Programs and Services Funding Formula

**Sec. 1. Review. Resolved:** That the Commissioner of Education, in conjunction with the Maine Education Policy Research Institute, shall conduct a review of certain education finance and policy issues associated with The Essential Programs and Services Funding Act established under the Maine Revised Statutes, Title 20-A, chapter 606-B. In conducting this review, the Commissioner of Education and the Maine Education Policy Research Institute shall:

1. Analyze the components of the essential programs and services funding formula, including analyses of:

A. The original policy goal or educational objective established for each of the essential programs and services cost components and a detailed description of the original and current methodology used to calculate the resources determined to be adequate for each cost component;

B. The subsidy distribution methodology originally established for the essential programs and services funding formula and the subsidy distribution methodology currently included in the school funding formula; and

C. The practices found in schools identified as higher-performing, more efficient schools and schools identified as lower-performing, less efficient schools by the Maine Education Policy Research Institute, including the best practices found in higher-performing, more efficient schools where the actual educational performance of specialized student populations exceeds the expected performance for these specialized student populations as compared to the actual and expected educational performance of similar students in other schools in the State;

2. Evaluate the current statutory framework related to the Commissioner of Education's annual funding level computations and funding level recommendations as set forth in the Maine Revised Statutes, Title 20-A, chapter 606-B, as well as the provisions that provide for reviewing and updating certain essential programs and services cost components using information provided by a statewide educational policy research institute;

3. Propose any necessary changes to the current mechanisms that would permit the joint standing committee of the Legislature having jurisdiction over education matters the opportunity to review the most recent data available as the Legislature considers the enactment of legislation to appropriate the necessary funds for the State's share of the general purpose aid for local schools program and any changes to the essential programs and services funding formula necessary to respond to changing conditions; and

4. Make recommendations on the components and issues included in this section and on other matters relating to the essential programs and services funding formula; and be it further

**Sec. 2. Report. Resolved:** That, no later than January 3, 2011, the Commissioner of Education and the Maine Education Policy Research Institute shall submit a report that includes their findings and recommendations, including any suggested legislation, to the joint standing committee of the Legislature having jurisdiction over education matters.

See title page for effective date.

## CHAPTER 198

## H.P. 1194 - L.D. 1693

### Resolve, Regarding a Report on the Status of Federal Ship Ballast Water Discharge Rules

**Sec. 1. Report. Resolved:** That the Department of Environmental Protection shall report to the joint standing committee of the Legislature having jurisdiction over natural resources matters by January 5, 2012 on the status of rulemaking by the United States Coast Guard relating to ship ballast water discharge.

See title page for effective date.

## CHAPTER 199

## H.P. 1195 - L.D. 1694

### Resolve, To Increase Transparency and Accountability and Assess the Impact of Tax Expenditure Programs

**Sec. 1. Commissioner of Administrative and Financial Services to convene working group. Resolved:** That the Commissioner of Administrative and Financial Services shall convene a working group consisting of representatives of the Department of Administrative and Financial Services, Bureau of Revenue Services; the Department of Economic and Community Development; the Executive Department, State Planning Office; and any other state agency the commissioner considers appropriate. The working group shall:

1. Define the purpose of each tax expenditure program identified by the working group as subject to the information collection requirements of this resolve;

2. Design a method to collect data that measure the economic impact of tax expenditure programs, including, but not limited to, revenue loss versus economic gain, jobs created or lost and administrative burden. In designing the method, the working group shall examine practices in other states and other issues the working group considers relevant;

3. Recommend a regular reporting schedule for the tax expenditure program economic impact data to the joint standing committees of the Legislature having jurisdiction over taxation matters, appropriations and financial affairs and business, research and economic development matters; and

4. Recommend a regular schedule of review of the tax expenditure program economic impact data by the joint standing committee of the Legislature having jurisdiction over taxation matters; and be it further

**Sec. 2. Report. Resolved:** That, no later than November 3, 2010, the Commissioner of Administrative and Financial Services shall submit a report containing the working group's findings and recommendations to the joint standing committees of the Legislature having jurisdiction over taxation matters, appropriations and financial affairs and business, research and economic development matters.

See title page for effective date.

## CHAPTER 200

## H.P. 1238 - L.D. 1741

## Resolve, Regarding Legislative Review of Portions of Chapter 101: Maine Unified Special Education Regulation, 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

### PART A

**Sec. A-1. Adoption. Resolved:** That final adoption of portions of Chapter 101: Maine Unified Special Education Regulation, 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 provisionally adopted rule is amended as follows:

1. The rule must be amended in Section II to clarify the definition of "educational performance" by incorporating a reference to the definition of "functional performance" and to provide that this change applies only through June 30, 2011 and the former rule is restored on that date;

2. The rule must be amended in Section II to incorporate a new definition of "formative assessment" to be used for the purposes of general education interventions;

3. The rule must be amended in Section III to revise the provisions regarding pre-referral procedure by inserting a new part to establish the procedures that school administrative units must develop in implementing general education interventions and adjusting section headings to reflect this change;

4. The rule must be amended in Section VI and in Section IX to strike the provisions that proposed to permit the Individualized Education Program Team to begin postsecondary transition planning at age 16 or younger for the student and instead to provide that postsecondary transition planning for the student must begin no later than the beginning of grade 9;

5. The rule must be amended in Section VII in the part concerning other health impairment to refine the procedural steps established for determining eligibility for the other health impairment disability;

6. The rule must be amended in Section XVI to clarify that a complaint for an alleged violation under

the federal Individuals with Disabilities Education Act must allege a violation that occurred not more than one year prior to the date that the complaint is received unless a longer period is reasonable because the complainant is requesting compensatory services for a violation that allegedly occurred not more than 2 years prior to the date that the written complaint is received by the Department of Education;

7. The rule must be amended in Section XVI in those parts concerning a child's status during proceedings by deleting the proposed changes to the so-called "stay put" provisions permitting a child with a disability to remain in the child's educational placement while the child's parent is seeking mediation or a complaint investigation and is awaiting a pending decision from a mediation or due process hearing, as well as any court proceedings regarding a due process hearing request;

8. The rule must be amended in Section V in the part concerning evaluations, parental consent and reevaluations by deleting the proposed change that the evaluation of children from 3 to 5 years of age be conducted within 45 school days of receiving parental consent for the evaluation, restoring the 60 calendar day requirement for children from 3 to 5 years of age in the Child Development Services System;

9. The rule must be amended in that part of Section VII adopting a data based procedure for eligibility determination by providing that the provisions apply only through June 30, 2011 and the former rule is restored on that date;

10. The rule must be amended in Section VII in the part concerning criteria for change in eligibility by deleting only the provision related to demonstration of adverse effect;

11. The rule must be amended in Section XVIII in the part concerning payment for contracted services by striking this part of the rule and adding provisions that provide that:

A. Payment for services by school administrative units to qualified licensed contractors may be no higher than 140% of the Medicaid rate paid for comparable services on the effective date of the final adoption of this rule and must be considered payment in full. The rule must also provide that the payment for school psychological service providers may be no higher than 140% of the Medicaid rate that is provided for psychologists; and

B. If a school administrative unit is unable to find a qualified licensed contractor at or below 140% of the Medicaid rate for comparable services, the first priority of the school administrative unit must be to ensure the provision of free, appropriate public education for eligible children, and the second priority of the school administrative unit must be to enter into a short-term contract with a qualified licensed contractor. The rule must also provide that the Department of Education shall provide guidance to school administrative units on the procedures that must be followed when a qualified licensed contractor is not available at or below the Medicaid rate ceiling for comparable services;

12. The rule must be amended in Section VI with regard to transition from a regional Child Development Services site to public school to:

A. Provide that, in addition to the right of a parent to request a due process hearing, the parent must be permitted to request mediation and file a complaint if there is a dispute about the determination of the Individualized Education Program Team with respect to transition from a Child Development Services site to a public school; and

B. Restore alignment with the 60 calendar day requirement for conducting an evaluation or reevaluation for children from 3 to 5 years of age in the Child Development Services System;

13. The rule must be amended in Section V with regard to standardized reports of evaluation for children 3 to 20 years of age by removing the requirement that evaluation reports must provide that the "DSM multi-axial" must be included when "DSM diagnostic impression" is required; and

14. The rule must be amended in Section VI with regard to abbreviated school days to include a requirement that Individualized Education Program Teams make every effort to maintain students in full-day programs utilizing supplementary aids and services before determining that an abbreviated school day is appropriate and necessary and to provide that this change applies only through June 30, 2011 and the former rule is restored on that date.

## PART B

**Sec. B-1. Stakeholder group review. Resolved:** That the Commissioner of Education shall convene a stakeholder group, referred to in this resolve as "the stakeholder group," to examine the federal and state rules and laws that pertain to the portions of Department of Education rule Chapter 101: Maine Unified Special Education Regulation that expire on June 30, 2011; and be it further

**Sec. B-2. Stakeholder group membership. Resolved:** That the stakeholder group consists of 13 members appointed by the Commissioner of Education as set out in this section:

1. Six members who are recommended by the Maine Educational Advocacy Alliance, including one member from each of the following organizations:

A. The Autism Society of Maine;

B. The Disability Rights Center;

C. The Learning Disabilities Association of Maine;

D. The Maine Developmental Disabilities Council;

E. The Maine Parent Federation; and

F. The Maine Transition Network;

2. Six members who are recommended by the Maine Administrators of Services for Children with Disabilities, including one member of each of the following organizations:

A. The Maine Administrators of Services for Children with Disabilities;

B. The Maine Education Association;

C. The Maine School Superintendents Association;

D. The Maine School Board Association;

E. The Maine Principals' Association; and

F. The Child Development Services System Site Directors Group within the Maine Administrators of Services for Children with Disabilities; and

3. One member who is appointed by the Commissioner of Education to represent the Department of Education; and be it further

**Sec. B-3. Chair. Resolved:** That the stakeholder group shall select a chair from among its members; and be it further

**Sec. B-4. Appointments; convening of stakeholder group. Resolved:** That all appointments must be made no later than 30 days following the effective date of this resolve. The recommending authorities shall notify the Commissioner of Education of the names of and contact information for the recommended stakeholder group members. Within 15 days after appointment of all members, the Commissioner of Education shall convene the first meeting of the stakeholder group. During the first meeting of the stakeholder group, the members may add an additional member who is a faculty member at a Maine public or private higher education institution and who has expertise in the field of special education; and be it further

**Sec. B-5. Duties. Resolved:** That the stakeholder group shall perform the examination required under section 1; and be it further

**Sec. B-6. First meeting agenda. Resolved:** That the agenda for the first meeting of the stakeholder group must include the selection of a chair, a review of the enabling legislation that established the stakeholder group, consideration of adding an additional member as provided in section 4 and the development of a work plan and a meeting schedule; and be it further

**Sec. B-7. Report. Resolved:** That the stakeholder group shall submit a report that includes its findings and recommendations, including suggested revisions to the rule, to the Commissioner of Education no later than January 14, 2011; and be it further

**Sec. B-8. Adoption of rules. Resolved:** That the Commissioner of Education shall consider and address the recommendations contained in the report of the stakeholder group and may adopt major substantive rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A for those portions of Department of Education rule Chapter 101: Maine Unified Special Education Regulation that pertain to the examination required under section 1 for consideration by the First Regular Session of the 125th Legislature.

## PART C

**Sec. C-1. Review of Medicaid rates. Resolved:** That the Commissioner of Education shall conduct a review of the Medicaid rate schedule for qualified licensed contractors and report findings and recommendations by January 14, 2011 to the joint standing committee of the Legislature having jurisdiction over education matters.

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

Effective April 2, 2010.

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## CHAPTER 201

## S.P. 674 - L.D. 1760

### Resolve, Concerning the Proper Disposal of Motor Fuels Containing Ethanol

**Sec. 1. Education and outreach. Resolved:** That the Department of Environmental Protection shall conduct an outreach and education campaign to provide information to residents statewide regarding the handling and disposal of motor fuels containing ethanol. The outreach and education campaign must include, but is not limited to, providing information to educate the public on how to determine when phase separation occurs; how to deal with the motor fuel; how to dispose of the motor fuel; and the problems associated with disposing of the motor fuel. As part of the outreach and education campaign, the department shall update its publicly accessible website to include information relating to safe handling and disposal options for the motor fuel.

See title page for effective date.

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## CHAPTER 202

## H.P. 1306 - L.D. 1823

### Resolve, To Review and Update the Telecommunications Taxation Laws

**Sec. 1. Convene working group. Resolved:** That the Department of Administrative and Financial Services, Bureau of Revenue Services shall convene a working group to review the telecommunications personal property tax and other forms of taxation of telecommunications providers in this State and make recommendations for updating the telecommunications taxation laws. The Department of Administrative and Financial Services, Bureau of Revenue Services shall invite the participation of the Maine Municipal Association and other interested stakeholders representing the telecommunications industry including the incumbent local exchange carriers, newer competitive phone services without significant personal property in the State, including wireless carriers, and the cable industry; and be it further

**Sec. 2. Duties. Resolved:** That the working group under section 1 shall review options for updating the telecommunications taxation laws that are revenue neutral for the State and provide for the equitable tax treatment of telecommunications providers. The options must include, but are not limited to, options that replace the personal property tax on telecommunications personal property with a sales tax or a gross receipts tax. The working group shall review the financial and administrative impact on state and local government as well as the impact on consumers. The working group shall make recommendations for changes to the telecommunications taxation laws based on this review; and be it further

**Sec. 3. Report recommendations. Resolved:** That, by January 17, 2011, the Department of Administrative and Financial Services, Bureau of Revenue Services shall report to the joint standing committee of the Legislature having jurisdiction over taxation matters findings and recommendations for updating the telecommunications taxation laws under section 2, including any necessary implementing legislation.

See title page for effective date.

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## CHAPTER 203

## H.P. 1090 - L.D. 1548

### Resolve, To Prevent the Spread of Invasive Plants and Protect Maine's Lakes

**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 that the efforts to prevent the spread of invasive plants in Maine's lakes proposed in this resolve be initiated before the start of the spring boating 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

**Sec. 1. Review of lakes within the State infested with aquatic invasive plant species. Resolved:** That the Department of Environmental Protection and the Department of Inland Fisheries and Wildlife shall collaborate to review all lakes individually in the State with known infestations of aquatic invasive plant species to determine:

1. The type, extent and location of each infestation and its proximity to boat access points;

2. The general uses of the body of water;

3. The extent of involvement by local courtesy boat inspectors and lake associations regarding the prevention and control of aquatic invasive plant species; and

4. The use of existing surface water management strategies.

The departments shall collaborate with lake associations and user groups to identify private boat ramps on lakes infested with aquatic invasive plant species. For purposes of this section, "boat access point" includes but is not limited to public boat ramps, carry-in sites, lake access provided by sporting camps and private boat ramps and access areas; and be it further

**Sec. 2. Surface water extraction information and review. Resolved:** That the Department of Environmental Protection shall collect data on the types and extent of surface water extraction and review surface water extraction activities to determine in each case if an informational letter to the extractor regarding the spread of aquatic invasive plant species is necessary to prevent the introduction or spread of an aquatic invasive plant species through the surface water extraction process; and be it further

**Sec. 3. Educational and outreach efforts. Resolved:** That the Department of Environmental Protection and the Department of Inland Fisheries and Wildlife shall work cooperatively to increase the effectiveness of educational and outreach efforts regarding aquatic invasive plant species through methods that may include but are not limited to:

1. Department of Inland Fisheries and Wildlife radio broadcasts;

2. Placing signs about aquatic invasive plant species on Interstate 95;

3. Prominently publishing information about aquatic invasive plant species on the departments' publicly accessible websites;

4. E-mailing aquatic invasive plant species alerts to e-mail addresses contained in databases of the Department of Inland Fisheries and Wildlife; and

5. Improving communication with sporting and tourist camps and professional guides; and be it further

**Sec. 4. Working group. Resolved:** That the Department of Environmental Protection and the Department of Inland Fisheries and Wildlife shall facilitate the continued work of an aquatic invasive plant species working group that includes the Maine Congress of Lake Associations, a statewide sporting group, bass fishing clubs and any other person or entity that the working group determines is necessary to conduct its work. The working group shall continue its work exploring initiatives related to aquatic invasive plant species and collaborate with the Interagency Task Force on Invasive Aquatic Plants and Nuisance Species established pursuant to the Maine Revised Statutes, Title 5, section 12004-D. The working group shall assign a chair, who is in charge of convening the meetings and keeping notes of discussions. The working group shall hold meetings before January 1, 2011 and may continue its work after that date as needed; and be it further

**Sec. 5. Report. Resolved:** That the Department of Environmental Protection and the Department of Inland Fisheries and Wildlife shall report to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters, the joint standing committee of the Legislature having jurisdiction over natural resources matters and the Interagency Task Force on Invasive Aquatic Plants and Nuisance Species, established pursuant to the Maine Revised Statutes, Title 5, section 12004-D, by January 2, 2011 regarding matters contained in this resolve and on any new aquatic invasive plant species infestations identified; and be it further

**Sec. 6. Funding. Resolved:** That the Department of Environmental Protection and the Department of Inland Fisheries and Wildlife shall meet the requirements of this resolve within existing resources but may accept outside funding to supplement those resources.

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

Effective April 6, 2010.

## CHAPTER 204

## H.P. 1204 - L.D. 1703

### Resolve, To Implement the Recommendations of the Juvenile Justice Task Force

**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 Legislature recognizes the immediate need to better coordinate services for juveniles in order to improve and protect their educational opportunities, safety and health; 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. Coordinated services district system. Resolved:** That the Department of Corrections, the Department of Education, the Department of Health and Human Services and the Department of Labor shall develop a jointly agreed-upon statewide coordinated services district system by June 1, 2010. The system shall coordinate and implement service delivery initiatives to increase high school graduation rates, reduce the number of youth in the juvenile justice system, reduce child abuse and neglect and increase employment opportunities for youth. The system shall work with and report to the Children's Cabinet and the commissioners who are members of the cabinet; and be it further

**Sec. 2. Create and coordinate a service system. Resolved:** That the Department of Corrections, in cooperation with the Department of Health and Human Services, the Department of Education and the Department of Labor, shall work with the coordinated services district system developed under section 1 and the Children's Cabinet to coordinate services and to ensure flexible funding and timely response and provision of services. The coordinated services district system must be funded with existing resources; and be it further

**Sec. 3. Plan for in-home and out-of-home placements. Resolved:** That, by September 1, 2010, the Department of Corrections, in conjunction with the Department of Health and Human Services, shall develop a plan that will detail a statewide system for in-home and out-of-home placements for youth in the juvenile justice system. The plan must include funding options for emergency shelter placements, foster home placements and residential placements; and be it further

**Sec. 4. Plan that identifies ongoing mechanism to ensure provision of flexible funding for youth services from multiple agencies. Resolved:** That, by January 15, 2011, the Department of Corrections, the Department of Health and Human Services and the Department of Education shall together develop a plan that identifies an ongoing mechanism for providing flexible funding for youth who are served by multiple state agencies. The plan must include resources from public, private and nonprofit sectors; and be it further

**Sec. 5. Report; legislation. Resolved:** That, by January 15, 2011, the Department of Corrections shall report to the joint standing committee of the Legislature having jurisdiction over juvenile justice issues progress on the implementation of this resolve.

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

Effective April 7, 2010.

## CHAPTER 205

## H.P. 1311 - L.D. 1825

### Resolve, Authorizing the Commissioner of Administrative and Financial Services To Sell or Lease the Interests of the State in Certain Real Property Located at 187-189 State Street, Augusta, Known as the Smith-Merrill House, and at 159 Hogan Road, Bangor, known as the Elizabeth Levinson Center

**Sec. 1. Authority to convey state property. Resolved:** That, notwithstanding any other provision of law, the State, by and through the Commissioner of Administrative and Financial Services, may, pursuant to the Augusta State Facilities Master Plan:

1. Enter into a lease or leases or convey by sale the interests of the State in the state property described in section 2 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;

2. Negotiate, draft, execute and deliver any documents necessary to settle any boundary line discrepancies;

3. Exercise, pursuant to the Maine Revised Statutes, Title 23, chapter 3, subchapter 3, the power of eminent domain to quiet for all time any possible challenges to ownership of the state property;

4. 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 or lease of the State's interests; and

5. Release any interests in the state property that, in the commissioner's discretion, do not contribute to the value of the remaining state property; and be it further

**Sec. 2. Property interests that may be conveyed. Resolved:** That the state property authorized to be sold or leased is:

1. A parcel of land and buildings on State Street in Augusta, known as the Smith-Merrill House, occupied by the State Planning Office, and any associated land as may be necessary in the determination of the Commissioner of Administrative and Financial Services; and

2. A parcel of land and building on Hogan Road in Bangor, known as the Elizabeth Levinson Center, occupied by United Cerebral Palsy of Maine, and any associated land as may be necessary in the determination of the Commissioner of Administrative and Financial Services; and be it further

**Sec. 3. Property to be sold as is. Resolved:** That the Commissioner of Administrative and Financial Services may negotiate and execute leases and purchase and sale agreements upon terms the commissioner considers appropriate, but the state property described in section 2 must be sold "as is," with no representations or warranties.

The title must be transferred by quitclaim deed without covenant or release deed and executed by the commissioner; and be it further

**Sec. 4. Exemptions. Resolved:** That any lease or conveyance pursuant to this resolve is exempt from any statutory or regulatory requirement that the state property described in section 2 first be offered to the Maine State Housing Authority or another state or local agency; and be it further

**Sec. 5. Appraisal. Resolved:** That the Commissioner of Administrative and Financial Services shall have the current market value of the state property described in section 2 determined by an independent appraiser. The commissioner may list the state property for sale or lease with private real estate brokers and negotiate any sales or leases, solicit bids, sell directly to purchasers or enter directly into leases with tenants. The commissioner may reject any offers; and be it further

**Sec. 6. Proceeds. Resolved:** That any proceeds from the sale or lease of the state property described in section 2 pursuant to this resolve must, as designated by the Commissioner of Administrative and Financial Services, be deposited as undedicated revenue to the General Fund, including any proceeds

the commissioner may identify as the result of any legislation enacted in the Second Regular Session of the 124th Legislature, or into the Department of Administrative and Financial Services, Bureau of General Services' capital repair and improvement account for capital improvements; and be it further

**Sec. 7. Resolve 1999, c. 114, §7, amended. Resolved:** That Resolve 1999, c. 114, §7, as amended by Resolve 2005, c. 98, §2, is further amended to read:

**Sec. 7. Repealed. Resolved:** That this resolve is repealed August 11, ~~2010~~ 2015.

; and be it further

**Sec. 8. Repeal. Resolved:** That this resolve is repealed 5 years from its effective date, except that the section of the resolve that amends Resolve 1999, chapter 114 is repealed August 11, 2015.

See title page for effective date.

## CHAPTER 206

## S.P. 341 - L.D. 891

### Resolve, To Develop Practices for Developments of State and Regional Significance in Order To Reduce Dependency on Fossil Fuels and Meet the State's Greenhouse Gas Emissions Reduction Goals

**Sec. 1. Energy-efficient and carbon-efficient building practices. Resolved:** That the Department of Environmental Protection, referred to in this resolve as "the department," in consultation with the Efficiency Maine Trust Board and technical experts in the field of energy efficiency and other interested parties, shall identify alternative approaches from existing sources and provide recommendations regarding ways to ensure that the design and operation of developments, but excluding industrial and manufacturing processes and equipment contained within these developments, further the state climate action plan by minimizing overall energy use and dependence on fossil fuels, avoid or minimize emissions of greenhouse gases while considering mitigation and maximize energy efficiency. These practices must be evaluated for developments subject to the jurisdiction of the site location of development laws set forth in the Maine Revised Statutes, Title 38, chapter 3, subchapter 1, article 6. By January 1, 2011, the department shall submit a report on the recommended practices to the joint standing committee of the Legislature having jurisdiction over natural resources matters; and be it further

**Sec. 2. Creation of best management practices for the siting and construction of developments of state and regional significance that may substantially affect the environment. Resolved:** That the department, in consultation with the Executive Department, State Planning Office, the Department of Transportation, technical experts in architecture, transportation and site development and other interested parties, shall develop a series of best management practices for the design and site layout of developments subject to the jurisdiction of the site location of development laws in the Maine Revised Statutes, Title 38, chapter 3, subchapter 1, article 6 that will contribute to minimizing or avoiding the emission of greenhouse gases and maximizing energy efficiency and reducing dependence on fossil fuels. By January 1, 2011, the department shall report on the development of the best management practices to the joint standing committee of the Legislature having jurisdiction over natural resources matters; and be it further

**Sec. 3. Evaluation of current energy-efficient and carbon-efficient building practices. Resolved:** That the department, in consultation with the Efficiency Maine Trust Board, the Technical Building Codes and Standards Board within the Department of Public Safety and technical experts, shall evaluate the energy performance of the Maine Uniform Building and Energy Code in relation to other commonly used benchmarking systems, such as the United States Green Building Council's "LEED" system, Green Building Initiative's "Green Globes" and Energy Star and the Home Energy Rating System established by the United States Department of Energy and the United States Environmental Protection Agency. The department shall evaluate and make recommendations as to whether developments subject to the jurisdiction of the site location of development laws in the Maine Revised Statutes, Title 38, chapter 3, subchapter 1, article 6 that are designed and operated to those benchmarking systems will further the state climate action plan, minimize overall energy use and dependence on fossil fuels, reduce or avoid emissions of greenhouse gases and maximize energy efficiency. The department's report must consider how any recommended practices relate to existing requirements in the Maine Uniform Building and Energy Code. Nothing in the department's recommendations may require changes to the Maine Uniform Building and Energy Code.

See title page for effective date.

## CHAPTER 207

## H.P. 1272 - L.D. 1784

### Resolve, Directing the Joint Standing Committee on State and Local Government To Study the Rule-making Process under the Maine Administrative Procedure Act

**Sec. 1. Interim committee study. Resolved:** That the Joint Standing Committee on State and Local Government is authorized to hold up to 3 interim meetings to study the rule-making process under the Maine Administrative Procedure Act. In conducting the study, the committee shall examine:

1. The circumstances surrounding the adoption of emergency rules, in particular major substantive rules, to ensure that the process of adopting an emergency rule is applied only when there is truly an emergency;

2. The Legislature's role in reviewing major substantive rules, including whether sufficient information is being provided by agencies, oversight functions are adequate and appropriate notice is being provided to the public, and the implications for state agencies of the statutory deadline for submitting major substantive rules to the Legislature; and

3. The relationship between the intention of the Legislature in adopting specific content in a major substantive rule and the rule as drafted by the department; and be it further

**Sec. 2. Report. Resolved:** That the Joint Standing Committee on State and Local Government shall, by November 3, 2010, submit a report that includes its findings and recommendations on matters relating to the issues identified in section 1, along with any suggested legislation, to the First Regular Session of the 125th Legislature for presentation to the joint standing committee of the Legislature having jurisdiction over state and local government matters.

See title page for effective date.

## CHAPTER 208

## H.P. 1224 - L.D. 1725

### Resolve, Regarding Legislative Review of Portions of Section 10: Stream Crossings within Chapter 305 Permit by Rule Standards, a Major Substantive Rule of the Department of Environmental Protection

**Sec. 1. Adoption. Resolved:** That final adoption of portions of Section 10: Stream Crossings within Chapter 305 Permit by Rule Standards, 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 only as it applies to the construction of new stream crossings undertaken on or after the effective date of this resolve; and be it further

**Sec. 2. Department review and report; rulemaking. Resolved:** That the Department of Environmental Protection, with the Department of Transportation, the Department of Inland Fisheries and Wildlife and the Department of Marine Resources, referred to in this section as "the departments," shall conduct a series of meetings with municipal public works officials to provide training, information and opportunities to evaluate stream crossings subject to the requirements of the rule approved pursuant to section 1 and stream crossings in existence on the effective date of this resolve that may be subject to rules adopted pursuant to this section. The meetings must be held in locations around the State sufficient to provide for widespread participation by municipal officials and must provide opportunities for field work for the departments and municipal officials to examine specific crossing examples. The Department of Environmental Protection shall adopt major substantive rules in accordance with Public Law 2009, chapter 460, sections 3 and 4 regarding stream crossings in existence on the effective date of this resolve and shall submit the provisionally adopted rules to the Legislature by January 1, 2011 for review by the joint standing committee of the Legislature having jurisdiction over natural resources matters. By January 5, 2011, the Department of Environmental Protection and the Department of Transportation shall report to the joint standing committee of the Legislature having jurisdiction over natural resources matters on the outreach and field work activities undertaken by the departments and on the impact of the rule.

See title page for effective date.

## CHAPTER 209

## H.P. 1291 - L.D. 1803

### Resolve, Authorizing Certain Land Transactions by the Department of Conservation, Bureau of Parks and Lands and the Department of Inland Fisheries and Wildlife and Directing the Initiation of Negotiations Regarding Easements on Certain Land

**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; and

**Whereas,** the Director of the Bureau of Parks and Lands within the Department of Conservation may sell or exchange lands or interests in lands with the approval of the Legislature in accordance with Title 5, section 6209 and Title 12, sections 1814, 1837 and 1851; and

**Whereas,** any conveyance of state land for electric transmission is governed by Title 35-A, section 3132, subsection 13; and

**Whereas,** the Department of Conservation jointly with the Land for Maine's Future Board enforces terms and conditions according to which certain other cooperating entities as defined in Title 5, section 6201 that acquire land with funding from the Land for Maine's Future Fund may sell or exchange lands or change the use of the land only with the approval of the Legislature in accordance with Title 5, section 6209; now, therefore, be it

**Sec. 1. Director of Bureau of Parks and Lands authorized, but not directed, to convey certain interests in land in Monhegan Plantation, Lincoln County. Resolved:** That the Director of the Bureau of Parks and Lands within the Department of Conservation may by quitclaim deed without covenant, for negotiated value, and on such other terms and conditions as the director may direct, convey or release all interests in any land in Monhegan Plantation to Monhegan Plantation that appears to have reverted to the bureau upon the death of Evelyn Cazallis Carter. This conveyance is intended to include, but is not limited to, Lot #10 on a "Plan of Lots on Prospect Hill on the Island of Monhegan Maine" dated 1891 and recorded in the Lincoln County Registry of Deeds in Plan Book 1, Page 21; Lot #29 on a "Plan of Lots at Surf Side on the Island of Monhegan" dated 1891 and recorded in the Lincoln County Registry of Deeds in Plan Book 1, Page 85 and any interest acquired in land on the westerly half of Monhegan Avenue that abuts Lot #29 as shown on said plan of Surf Side as Monhegan Avenue that was never built or used; and be it further

**Sec. 2. Director of Bureau of Parks and Lands authorized, but not directed, to convey certain interests in land in the Town of St. Francis, Aroostook County. Resolved:** That the Director of the Bureau of Parks and Lands within the Department of Conservation may by quitclaim deed without covenant convey a road crossing easement for all purposes including but not limited to commercial and residential travel and utilities with such other terms and conditions as the director may direct, including maintenance and safety obligations and responsibilities. The easement crosses the ownership interest of the bureau in the St. John Valley Heritage Trail. The conveyance is for the sum of $1,000 plus any expenses incurred by the bureau, such as legal or survey contracts, but not including the time and incidental expenses of state employees. The easement will benefit the property currently owned by Thomas Pelletier of 14 Pelletier Drive, Tax Map 22, Lot A19 in the Town of St. Francis in Aroostook County. For reference see Recreational Trail Easement deed from the Town of Fort Kent to the Department of Conservation, dated June 19, 2000 and recorded in the Aroostook County Registry of Deeds - Northern Division in Book 1213, Page 213; and be it further

**Sec. 3. Director of Bureau of Parks and Lands authorized, but not directed, to convey certain interests in land in the Town of Sullivan and Town of Franklin, both in Hancock County. Resolved:** That the Director of the Bureau of Parks and Lands within the Department of Conservation may by quitclaim deed without covenant convey at any time prior to April 1, 2013 on such other terms and conditions as the director may direct, including maintenance and safety obligations and responsibilities, any number of linear nonexclusive easements for electric transmission purposes together with access easements along with tree trimming rights to benefit Bangor Hydro Electric Company, a Maine corporation with its principal place of business in Bangor, Maine, and its successors and assigns.

The easements may be across various parcels of land owned by the Bureau of Parks and Lands in the Town of Sullivan and the Town of Franklin, both in Hancock County, which parcels are part of the Donnell Pond unit of public reserved land and also may be proximate to Little Pond in the Town of Franklin and Flanders Pond in the Town of Sullivan. The easements must generally be proximate to and parallel to the existing railroad corridor and the existing transmission corridor, except where alternative routes are

directed by the director to minimize or balance scenic, recreational and ecological impacts.

A condition of the conveyance is that no transmission line may be constructed except under the terms of the certificate of public convenience and necessity as originally issued for that transmission line by the Public Utilities Commission or as modified by order of the Department of Environmental Protection under the Maine Revised Statutes, Title 35-A, section 3132, subsection 7 or under the terms of an amended certificate of public convenience and necessity issued by the commission or deemed to have been issued by the commission under Title 35-A, section 3132, subsection 11-A.

The value of this transaction must be negotiated and agreed upon by the director and the Land for Maine's Future Board as established by Title 5, section 12004-G, subsection 29; and be it further

**Sec. 4. Land for Maine's Future Board and Director of Bureau of Parks and Lands authorized, but not directed, to allow Frenchman Bay Conservancy to convey certain interests in land in the Town of Sullivan, in Hancock County. Resolved:** That the Land for Maine's Future Board as established by Title 5, section 12004-G, subsection 29 and the Director of the Bureau of Parks and Lands may authorize the Frenchman Bay Conservancy to convey at any time prior to April 1, 2013 portions of certain interests in the Schoodic Bog parcel located in the Town of Sullivan in Hancock County, further described in the Hancock County Registry of Deeds in Book 4365, Pages 311 to 317 and acquired with funding from the Land for Maine's Future Fund as established by Title 5, section 6203.

Conveyance must be by quitclaim deed without covenant and on such other terms and conditions as the director may approve upon consultation with the parties, including maintenance and safety obligations and responsibilities, and may include a linear nonexclusive easement for electric transmission purposes together with access easements and tree trimming rights to benefit Bangor Hydro Electric Company, a Maine corporation with its principal place of business in Bangor, Maine, and its successors and assigns.

The easement must generally be proximate to and parallel to the existing railroad corridor and the existing transmission corridor, except where alternative routes are approved by the director upon consultation with the parties to minimize or balance scenic, recreational and ecological impacts.

A condition of the conveyance is that no transmission line may be constructed except under the terms of the certificate of public convenience and necessity as originally issued for that transmission line by the Public Utilities Commission or as modified by order of the Department of Environmental Protection under the Maine Revised Statutes, Title 35-A, section 3132, subsection 7 or under the terms of an amended certificate of public convenience and necessity issued by the commission or deemed to have been issued by the commission under Title 35-A, section 3132, subsection 11-A.

The value of this transaction must be negotiated and agreed upon by the director and the Land for Maine's Future Board; and be it further

**Sec. 5. Director of Bureau of Parks and Lands authorized, but not directed, to convey certain interests in land in Big Lake Township, Washington County. Resolved:** That the Director of the Bureau of Parks and Lands within the Department of Conservation may by quitclaim deed without covenant convey a parcel of land in Big Lake Township formerly known as Township 21 or T21 ED BPP in Washington County with such other terms and conditions as the director may direct. The conveyance must be for negotiated value and may be to any party. The parcel of land is approximately 3 acres and includes a garage and is located on West Street near Yates Point Road. For reference see Maine Revenue Services Map WA033 Plan 4 Lot 27 and Washington County Registry of Deeds, Book 1238, Page 92; and be it further

**Sec. 6. Commissioner of Inland Fisheries and Wildlife authorized, but not directed, to convey certain interests in land in Kennebunk, York County. Resolved:** That the Commissioner of Inland Fisheries and Wildlife may by quitclaim deed without covenant convey for negotiated value a parcel of land approximately 1 1/3 acres in the Town of Kennebunk in York County to Central Maine Power Company. The parcel is situated northerly of, but not adjacent to, Maguire Road, being a portion of land described in a deed from the Coastal Blueberry Service, Inc. to the State of Maine dated May 1, 1990 and recorded in the York County Registry of Deeds in Book 5383, Page 332.

A condition of the conveyance is that no transmission line or ancillary appurtenances may be constructed except under the terms of the certificate of public convenience and necessity as originally issued for that transmission line by the Public Utilities Commission or as modified by order of the Department of Environmental Protection under the Maine Revised Statutes, Title 35-A, section 3132, subsection 7 or under the terms of an amended certificate of public convenience and necessity issued by the commission or deemed to have been issued by the commission under Title 35-A, section 3132, subsection 11-A; and be it further

**Sec. 7. Director of Bureau of Parks and Lands authorized, but not directed, to convey certain interests in land in the Town of Lubec,**

**Washington County. Resolved:** That the Director of the Bureau of Parks and Lands within the Department of Conservation may by quitclaim deed without covenant, for negotiated value, and on such other terms and conditions as the director may direct, convey interests in land in the Town of Lubec to the municipal government of the Town of Lubec. Consistent with requirements of federal funds used for the acquisition of this parcel by the State, the conveyance must be conditioned by a deeded limitation that the parcel be used only for recreation and open space purposes and be available to the general public, with allowed uses including but not limited to the construction and operation of public memorial structures.

This conveyance is intended to include, but is not limited to, a small parcel of land located on the southeasterly corner of the existing Johnson Bay public boating facility and identified as Map 15, Lot 10 on the Town of Lubec tax records, which parcel is currently undeveloped, and recorded in the Washington County Registry of Deeds, Book 706, Page 81; and be it further

**Sec. 8. Commissioner of Inland Fisheries and Wildlife directed to negotiate easements in Cumberland County. Resolved:** That the Commissioner of Inland Fisheries and Wildlife shall initiate negotiations with interested parties, including but not limited to abutting property owners, regarding granting easements on land known as the Eastern Trail near the intersection of Blackpoint Road in Scarborough, Cumberland County, with such terms and conditions as the commissioner may direct. The commissioner shall endeavor to conclude such negotiations no later than December 1, 2010.

See title page for effective date.

## CHAPTER 210

## H.P. 1160 - L.D. 1632

### Resolve, Regarding Biofuel in Number 2 Heating Oil

**Sec. 1. Biofuel study. Resolved:** That the Executive Department, Governor's Office of Energy Independence and Security, referred to in this section as "the office," shall oversee a study of the energy, environmental and economic feasibility of setting a requirement for the percentage of biofuel to be used in number 2 heating oil. As used in this section, "biofuel" means any commercially produced liquid or gas used to fire a heating device or a stationary power device or otherwise substitute for liquid or gaseous fuels that is derived from renewable biomass, including, but not limited to, agricultural crops and residues, forest products and by-products and separated food waste, as distinct from petroleum or other fossil carbon sources.

1. The study must include, but is not limited to, the following:

A. The feasibility of linking annual production of biofuel in the State to use goals and requirements;

B. Consideration of biofuel supply, price and infrastructure issues for number 2 heating oil;

C. Consideration of federal regulations and programs, including, but not limited to, the United States Environmental Protection Agency's renewable fuels standard and the United States Department of Agriculture's biomass crop assistance program;

D. Consideration of relevant legislative proposals and actions in the United States Congress, including, but not limited to, low-carbon fuel standards;

E. Consideration of relevant policies in other states, particularly in other New England states; and

F. Conformance of goals with the office's State of Maine Comprehensive Energy Plan.

2. The study must supplement the January 2008 report by the office titled "Liquid Biofuels Policy for Maine" and update recommendations regarding the establishment of an alternative fuel incentive program to stimulate the production, distribution and use of biofuels in number 2 heating oil.

3. In carrying out the study, the office shall consult with the Department of Environmental Protection, the Public Utilities Commission and the Efficiency Maine Trust Board.

4. Performance of the study's examination of supply goals and requirements and price considerations under subsection 1 is dependent on receipt of funding through a 3rd-party grant or donation. Performance of the study's update of policy recommendations to stimulate the production, distribution and use of biofuels, with supply goals and price considerations, must be undertaken by the office regardless of funding source.

5. By February 15, 2011, the office shall submit a report of its findings and recommendations, together with any necessary implementing legislation, to the joint standing committee of the Legislature having jurisdiction over natural resources matters; and be it further

**Sec. 2. Authority to submit legislation. Resolved:** That the joint standing committee of the Legislature having jurisdiction over natural resources matters may submit a bill relating to the subject matter of the report submitted pursuant to section 1 to the First Regular Session of the 125th Legislature.

See title page for effective date.

## CHAPTER 211

## H.P. 1314 - L.D. 1827

### Resolve, To Review the Waste Motor Oil Disposal Site Remediation Program

**Sec. 1. Stakeholder group. Resolved:** That the Department of Environmental Protection, referred to in this resolve as "the department," shall coordinate a review of the waste motor oil disposal site remediation program under the Maine Revised Statutes, Title 10, chapter 110, subchapter 1-F, referred to in this resolve as "the program." The department shall invite the participation of a stakeholder group in the review. The group must include the State Tax Assessor or the assessor's designee, a representative of the Finance Authority of Maine, representatives of sellers and distributors of lubricating oil, consumers of lubricating oil, potentially responsible parties at the waste motor oil disposal sites identified in Title 10, section 963-A, subsection 51-E and new motor vehicle dealers and other interested parties. The review must include, but is not limited to, the following:

1. Revenue collections under the program;

2. Methods to enhance enforceability of payment of the premium pursuant to Title 10, section 1020, subsection 6-A under the program;

3. Funding options to increase revenue to support additional revenue obligation securities issuances under the program; and

4. The premium paid for prepackaged motor vehicle oil that is stored in the State, and then sold out-of-state.

By December 1, 2010, the department shall submit a written report of the findings of the review under this section and any recommendations concerning the review to the joint standing committee of the Legislature having jurisdiction over natural resources matters. The report may include suggested legislation.

See title page for effective date.

## CHAPTER 212

## H.P. 1253 - L.D. 1759

### Resolve, To Transfer the Ownership of the Fort Kent Armory from the Military Bureau to the University of Maine at Fort Kent

**Sec. 1. Fort Kent Armory ownership transfer. Resolved:** That, notwithstanding the requirement in the Maine Revised Statutes, Title 37-B, section 264 that the Fort Kent Armory property must be sold for no less than its appraised value, the Adjutant General is authorized to transfer the land and buildings constituting the Fort Kent Armory to the University of Maine at Fort Kent for $150,000 by means of a quitclaim deed as long as the University of Maine at Fort Kent agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise in connection with the land or the buildings constituting the armory. The University of Maine System may make payments for the ownership transfer in up to 5 annual installments; and be it further

**Sec. 2. Use of proceeds from transfer of ownership. Resolved:** That, notwithstanding the Maine Revised Statutes, Title 37-B, section 264, the payments made by the University of Maine System in connection with the transfer of the Fort Kent Armory from the Department of Defense, Veterans and Emergency Management to the University of Maine at Fort Kent under section 1 must be deposited by the State Controller into the Sale of State Property, Other Special Revenue Funds account within the Department of Administrative and Financial Services. As a first priority, the amount deposited must be used to meet the outstanding Maine Governmental Facilities Authority obligations associated with prior improvements to the armory. Any balance remaining after meeting the outstanding Maine Governmental Facilities Authority obligations, as determined by the Commissioner of Administrative and Financial Services, must be used for maintenance and repair costs at National Guard armories; and be it further

**Sec. 3. Appropriations and allocations. Resolved:** That the following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

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

Initiative: Allocates funds to meet Maine Governmental Facilities Authority obligations for prior improvements to the Fort Kent Armory and for maintenance and repairs costs at National Guard armories.

| OTHER SPECIAL REVENUE FUNDS | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $30,000 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | $0 | $30,000 |

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

| DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| OTHER SPECIAL REVENUE FUNDS | $0 | $30,000 |
| DEPARTMENT TOTAL - ALL FUNDS | $0 | $30,000 |

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

**Educational and General Activities - UMS 0031**

Initiative: Provides funds for the first installment payment to transfer ownership of the Fort Kent Armory to the University of Maine at Fort Kent.

| GENERAL FUND | 2009-10 | 2010-11 |
|---|---|---|
| All Other | $0 | $30,000 |
| GENERAL FUND TOTAL | $0 | $30,000 |

| UNIVERSITY OF MAINE SYSTEM, BOARD OF TRUSTEES OF THE DEPARTMENT TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | $0 | $30,000 |
| DEPARTMENT TOTAL - ALL FUNDS | $0 | $30,000 |

| SECTION TOTALS | 2009-10 | 2010-11 |
|---|---|---|
| GENERAL FUND | $0 | $30,000 |
| OTHER SPECIAL REVENUE FUNDS | $0 | $30,000 |
| SECTION TOTAL - ALL FUNDS | $0 | $60,000 |

See title page for effective date.

# CHAPTER 213

## H.P. 1139 - L.D. 1611

## Resolve, Directing the Department of Corrections To Coordinate Review of Due Process Procedures and To Ensure Transparency in Policies Regarding the Placement of Special Management Prisoners

**Sec. 1. Commissioner of Corrections's review of due process and other policies related to placement of the special management prisoners at the Maine State Prison. Resolved:** That the Commissioner of Corrections shall, in consultation with the mental health and substance abuse focus group of the State Board of Corrections, review due process procedures and other policies related to the placement of special management prisoners. In its review of due process procedures and placement policies, the commissioner shall also consider and propose an appropriate timeline for regular reporting to the joint standing committee of the Legislature having jurisdiction over corrections matters; and be it further

**Sec. 2. Reporting date established. Resolved:** That the Commissioner of Corrections shall report findings and recommendations pursuant to the report under section 1, including any suggested policy or legislative changes, to the joint standing committee of the Legislature having jurisdiction over corrections matters by January 15, 2011. Upon receiving that report, the committee may report out a bill to the 125th Legislature.

See title page for effective date.

(There were none)

## JOINT ORDER ESTABLISHING A JOINT SELECT COMMITTEE ON HEALTH CARE REFORM OPPORTUNITIES AND IMPLEMENTATION

## H.P. 1262

**ORDERED,** the Senate concurring, that the Joint Select Committee on Health Care Reform Opportunities and Implementation is established as follows.

**1. Joint Select Committee on Health Care Reform Opportunities and Implementation established.** The Joint Select Committee on Health Care Reform Opportunities and Implementation, referred to in this order as "the committee," is established.

**2. Membership.** Notwithstanding Joint Rule 353, section 5, the committee consists of 17 members, appointed as follows:

A. Five members of the Senate appointed by the President of the Senate, including members from each of the 2 parties holding the largest number of seats in the Legislature and with preference to members of the Joint Standing Committee on Insurance and Financial Services, Joint Standing Committee on Health and Human Services and Joint Standing Committee on Appropriations and Financial Affairs; and

B. Twelve members of the House of Representatives appointed by the Speaker of the House, including members from each of the 2 parties holding the largest number of seats in the Legislature and with preference to members of the Joint Standing Committee on Insurance and Financial Services, Joint Standing Committee on Health and Human Services and Joint Standing Committee on Appropriations and Financial Affairs.

**3. Committee chairs.** The first-named Senator is the Senate chair of the committee and the first-named member of the House is the House chair of the committee.

**4. Appointments; convening of committee.** All appointments must be made by May 20, 2010. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been made. When the appointment of all members has been completed, the chairs of the committee shall call and convene the first meeting of the committee, which may not be held before May 20, 2010. If by May 20, 2010 a majority but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the committee to meet and conduct its business.

**5. Duties.** The committee shall study any federal health care reform legislation enacted by the United States Congress and determine the State's opportunities for health care reform and the State's role in implementation of federal legislation. In examining these issues, the committee shall consider:

A. The impact of federal legislation on existing state law and programs that provide access to health care to residents of this State;

B. The role of the State in the implementation and oversight of a health insurance exchange;

C. The opportunity for the State to conduct pilot projects, including, but not limited to, pilot projects related to cost containment, payment reform, use of health care technology or health care coverage, with federal funding;

D. The impact of federal legislation on the State's MaineCare program;

E. How federal legislation affects the ability of the State to adopt a system of universal health care through a single-payer plan or other mechanism, including the use of Medicare, MaineCare and other state money to provide funding for universal health care in the State; and

F. Any other issue related to implementation of the federal legislation.

If federal legislation is not enacted, the committee shall consider any other issue related to the State's options for health care reform.

**6. Consultation with stakeholders.** The committee shall consult with stakeholders including the Governor's Office of Health Policy and Finance; the Department of Health and Human Services; the Department of Professional and Financial Regulation, Bureau of Insurance; health insurance companies; hospitals; health care providers; business and labor representatives; and advocates for health care reform.

**7. Staff assistance.** The Legislative Council shall provide necessary staffing services to the committee.

**8. Report.** No later than November 3, 2010, the committee shall submit a report that includes its findings and recommendations, including suggested legislation, to the First Regular Session of the 125th Legislature.

**Passed by the House of Representatives February 4, 2010 and the Senate April 7, 2010.**

**INITIATED BILL OF THE STATE OF MAINE**
**REFERRED TO THE VOTERS BY**
**THE ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE**
**AND APPROVED AT REFERENDUM**

# CHAPTER 1

## I.B. 2 - L.D. 975

### An Act To Establish the Maine Medical Marijuana Act

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

**Sec. 1. 15 MRSA §5821-A,** as enacted by IB 1999, c. 1, §3, is amended to read:

**§5821-A. Property not subject to forfeiture based on medical use of marijuana**

~~Beginning January 1, 1999, property~~ Property is not subject to forfeiture under this chapter if the activity that subjects the person's property to forfeiture is ~~possession~~ medical use of marijuana and the person meets the requirements for medical use of marijuana under Title 22, ~~section 2383-B, subsection 5~~ chapter 558-C.

**Sec. 2. 17-A MRSA §1111-A, sub-§1,** as amended by PL 2001, c. 383, §135 and affected by §156, is further amended to read:

**1.** As used in this section the term "drug paraphernalia" means all equipment, products and materials of any kind that are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a scheduled drug in violation of this chapter or Title 22, section 2383, except that this section does not apply to a person who is authorized to possess marijuana for medical use pursuant to Title 22, ~~section 2383-B, subsection 5~~ chapter 558-C, to the extent the drug paraphernalia is ~~required~~ used for that person's medical use of marijuana. It includes, but is not limited to:

A. Kits used or intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a scheduled drug or from which a scheduled drug can be derived;

B. Kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing scheduled drugs;

C. Isomerization devices used or intended for use in increasing the potency of any species of plant that is a scheduled drug;

D. Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of scheduled drugs;

E. Scales and balances used or intended for use in weighing or measuring scheduled drugs;

F. Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use in cutting scheduled drugs;

G. Separation gins and sifters, used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

H. Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding scheduled drugs;

I. Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of scheduled drugs;

J. Containers and other objects used or intended for use in storing or concealing scheduled drugs; and

K. Objects used or intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

(1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

(2) Water pipes;

(3) Carburetion tubes and devices;

(4) Smoking and carburetion masks;

(5) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;

(6) Miniature cocaine spoons and cocaine vials;

(7) Chamber pipes;

(8) Carburetor pipes;

(9) Electric pipes;

(10) Air-driven pipes;

(11) Chillums;

(12) Bongs; or

(13) Ice pipes or chillers.

**Sec. 3. 22 MRSA §2383, sub-§1,** as amended by PL 2005, c. 386, Pt. DD, §3, is further amended to read:

**1. Marijuana.** Except as provided in ~~section 2383-B, subsection 5~~ chapter 558-C, a person may not possess marijuana.

A. A person who possesses a usable amount of marijuana commits a civil violation for which a fine of not less than $350 and not more than $600 must be adjudged, none of which may be suspended.

B. A person who possesses a usable amount of marijuana after having previously violated this subsection within a 6-year period commits a civil violation for which a fine of $550 must be adjudged, none of which may be suspended.

**Sec. 4. 22 MRSA §2383-B, sub-§5,** as amended by PL 2001, c. 580, §3, is repealed.

**Sec. 5. 22 MRSA c. 558-C** is enacted to read:

## CHAPTER 558-C

## MAINE MEDICAL MARIJUANA ACT

### §2421. Short title

This chapter may be known and cited as "the Maine Medical Marijuana Act."

### §2422. Definitions

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

**1. Cardholder.** "Cardholder" means a qualifying patient, a primary caregiver or a principal officer, board member, employee or agent of a nonprofit dispensary who has been issued and possesses a valid registry identification card.

**2. Debilitating medical condition.** "Debilitating medical condition" means:

A. Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, nail-patella syndrome or the treatment of these conditions;

B. A chronic or debilitating disease or medical condition or its treatment that produces intractable pain, which is pain that has not responded to ordinary medical or surgical measures for more than 6 months;

C. A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe nausea; seizures, including but not limited to those characteristic of epilepsy; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis; or

D. Any other medical condition or its treatment approved by the department as provided for in section 2424, subsection 2.

**3. Enclosed, locked facility.** "Enclosed, locked facility" means a closet, room, greenhouse or other enclosed area equipped with locks or other security devices that permit access only by a cardholder.

**4. Felony drug offense.** "Felony drug offense" means a violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted. It does not include:

A. An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years earlier; or

B. An offense that consisted of conduct that would have been permitted under this chapter.

**5. Medical use.** "Medical use" means the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

**6. Nonprofit dispensary.** "Nonprofit dispensary" means a not-for-profit entity registered under section 2428 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to cardholders. A nonprofit dispensary is a primary caregiver.

**7. Physician.** "Physician" means a person licensed as an osteopathic physician by the Board of Osteopathic Licensure pursuant to Title 32, chapter 36 or a person licensed as a physician or surgeon by the Board of Licensure in Medicine pursuant to Title 32, chapter 48.

**8. Primary caregiver.** "Primary caregiver" means a person who is at least 21 years of age who has agreed to assist with a qualifying patient's medical use of marijuana and who has never been convicted of a felony drug offense. Unless the primary caregiver is a nonprofit dispensary, the primary caregiver may assist no more than 5 qualifying patients with their medical use of marijuana.

**9. Qualifying patient.** "Qualifying patient" means a person who has been diagnosed by a physician as having a debilitating medical condition.

**10. Registered nonprofit dispensary.** "Registered nonprofit dispensary" means a nonprofit dispensary that is registered by the department pursuant to section 2428, subsection 2, paragraph A.

**11. Registered primary caregiver.** "Registered primary caregiver" means a primary caregiver who is registered by the department pursuant to section 2425, subsection 4.

**12. Registered qualifying patient.** "Registered qualifying patient" means a qualifying patient who is registered by the department pursuant to section 2425, subsection 1.

**13. Registry identification card.** "Registry identification card" means a document issued by the department that identifies a person as a registered qualifying patient, registered primary caregiver or a principal officer, board member, employee or agent of a nonprofit dispensary.

**14. Usable marijuana.** "Usable marijuana" means the dried leaves and flowers of the marijuana plant, and any mixture or preparation of those dried leaves and flowers, but does not include the seeds, stalks and roots of the plant and does not include the weight of other ingredients in marijuana prepared for consumption as food.

**15. Visiting qualifying patient.** "Visiting qualifying patient" means a patient with a debilitating medical condition who is not a resident of this State or who has been a resident of this State less than 30 days.

**16. Written certification.** "Written certification" means a document signed by a physician and stating that in the physician's professional opinion a patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. A written certification may be made only in the course of a bona fide physician-patient relationship after the physician has completed a full assessment of the qualifying patient's medical history. The written certification must specify the qualifying patient's debilitating medical condition.

**§2423. Protections for the medical use of marijuana**

**1. Qualifying patient.** A qualifying patient who has been issued and possesses a registry identification card may not be subject to arrest, prosecution or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the medical use of marijuana in accordance with this chapter as long as the qualifying patient possesses an amount of marijuana that:

A. Is not more than 2 1/2 ounces of usable marijuana; and

B. If the qualifying patient has not specified that a primary caregiver is allowed under state law to cultivate marijuana for the qualifying patient, does not exceed 6 marijuana plants, which must be kept in an enclosed, locked facility unless they are being transported because the qualifying patient is moving or they are being transported to the qualifying patient's property.

**2. Primary caregiver.** A primary caregiver, other than a nonprofit dispensary, who has been issued and possesses a registry identification card may not be subject to arrest, prosecution or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for assisting a qualifying patient to whom the primary caregiver is connected through the department's registration process with the medical use of marijuana in accordance with this chapter as long as the primary caregiver possesses an amount of marijuana that:

A. Is not more than 2 1/2 ounces of usable marijuana for each qualifying patient to whom the primary caregiver is connected through the department's registration process; and

B. For each qualifying patient who has specified that the primary caregiver is allowed under state law to cultivate marijuana for the qualifying patient, does not exceed 6 marijuana plants, which must be kept in an enclosed, locked facility unless they are being transported because the primary caregiver is moving.

**3. Incidental amount of marijuana.** Any incidental amount of seeds, stalks and unusable roots must be allowed and may not be included in the amounts specified in this section.

**4. Presumption.** There is a presumption that a qualifying patient or primary caregiver is engaged in the medical use of marijuana in accordance with this chapter if the qualifying patient or primary caregiver:

A. Is in possession of a registry identification card; and

B. Is in possession of an amount of marijuana that does not exceed the amount allowed under this chapter.

The presumption may be rebutted by evidence that conduct related to marijuana was not for the purpose of treating or alleviating the qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition in accordance with this chapter.

**5. Cardholder not subject to arrest.** A cardholder may not be subject to arrest, prosecution or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for giving an amount of marijuana the person is allowed to possess under subsection 1 or 2 to a cardholder for the registered qualifying patient's medical use when nothing of value is transferred in return or for offering to do the same.

**6. School, employer or landlord may not discriminate.** A school, employer or landlord may not refuse to enroll or employ or lease to or otherwise penalize a person solely for that person's status as a registered qualifying patient or a registered primary caregiver unless failing to do so would put the school, employer or landlord in violation of federal law or cause it to lose a federal contract or funding.

**7. Person may not be denied custody or visitation of minor.** A person may not be denied custody or visitation of a minor for acting in accordance with this chapter unless the person's behavior is such that it creates an unreasonable danger to the minor that can be clearly articulated and substantiated.

**8. Registered primary caregiver may receive compensation for costs.** A registered primary caregiver may receive compensation for costs associated with assisting a registered qualifying patient's medical use of marijuana as long as the registered primary caregiver is connected to the registered qualifying patient through the department's registration process. Any such compensation does not constitute the sale of controlled substances.

**9. Physician not subject to penalty.** A physician may not be subject to arrest, prosecution or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by the Board of Licensure in Medicine or the Board of Osteopathic Licensure or by any other business or occupational or professional licensing board or bureau, solely for providing written certifications or for otherwise stating that, in the physician's professional opinion, a patient is likely to receive therapeutic benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition except that nothing prevents a professional licensing board from sanctioning a physician for failing to properly evaluate a patient's medical condition or otherwise violating the standard of care for evaluating medical conditions.

**10. Person not subject to penalty for providing registered qualifying patient or registered primary caregiver marijuana paraphernalia.** A person may not be subject to arrest, prosecution or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for providing a registered qualifying patient or a registered primary caregiver with marijuana paraphernalia for purposes of a qualifying patient's medical use of marijuana.

**11. Property not subject to forfeiture.** Any marijuana, marijuana paraphernalia, licit property or interest in licit property that is possessed, owned or used in connection with the medical use of marijuana, as allowed under this chapter, or property incidental to such use, may not be seized or forfeited.

**12. Person not subject to penalty for being in presence of medical use of marijuana.** A person may not be subject to arrest, prosecution or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, simply for being in the presence or vicinity of the medical use of marijuana as allowed under this chapter or for assisting a registered qualifying patient with using or administering marijuana.

**13. Effect of registry identification card issued by another jurisdiction.** A registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth or insular possession of the United States that allows the medical use of marijuana by a visiting qualifying patient has the same force and effect as a registry identification card issued by the department.

**§2424. Rules**

**1. Rulemaking.** The 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.

**2. Adding debilitating medical conditions.** Not later than 120 days after the effective date of this chapter, the department shall adopt rules that govern the manner in which the department shall consider petitions from the public to add medical conditions or treatments to the list of debilitating medical conditions set forth in section 2422, subsection 2. In considering such petitions, the department shall include public notice of, and an opportunity to comment in a public hearing upon, such petitions. The department shall, after hearing, approve or deny such petitions within 180 days of their submission. The approval or denial of such a petition constitutes final agency action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Superior Court.

**3. Registry identification cards.** Not later than 120 days after the effective date of this chapter, the department shall adopt rules governing the manner in which it considers applications for and renewals of registry identification cards. The department's rules must establish application and renewal fees that generate revenues sufficient to offset all expenses of imple-

menting and administering this chapter. The department may establish a sliding scale of application and renewal fees based upon a qualifying patient's family income. The department may accept donations from private sources in order to reduce the application and renewal fees.

**§2425. Registry identification cards**

**1. Application for registry identification card; qualifications.** The department shall issue registry identification cards to qualifying patients who submit the documents and information described in this subsection, in accordance with the department's rules:

A. Written certification;

B. Application or renewal fee;

C. Name, address and date of birth of the qualifying patient, except that if the applicant is homeless, no address is required;

D. Name, address and telephone number of the qualifying patient's physician;

E. Name, address and date of birth of each primary caregiver, if any, of the qualifying patient. A qualifying patient may designate only one primary caregiver unless the qualifying patient is under 18 years of age and requires a parent to serve as a primary caregiver or the qualifying patient designates a nonprofit dispensary to cultivate marijuana for the qualifying patient's medical use and the qualifying patient requests the assistance of a second caregiver to assist with the qualifying patient's medical use; and

F. If the qualifying patient designates one or 2 primary caregivers, a designation as to who will be allowed under state law to cultivate marijuana plants for the qualifying patient's medical use. Only one person may be allowed to cultivate marijuana plants for a qualifying patient.

**2. Issuing registry identification card to minor.** The department may not issue a registry identification card to a qualifying patient who is under 18 years of age unless:

A. The qualifying patient's physician has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient and to a parent, guardian or person having legal custody of the qualifying patient; and

B. The parent, guardian or person having legal custody consents in writing to:

(1) Allow the qualifying patient's medical use of marijuana;

(2) Serve as one of the qualifying patient's primary caregivers; and

(3) Control the acquisition of the marijuana, the dosage and the frequency of the medical use of marijuana by the qualifying patient.

**3. Department approval or denial.** The department shall verify the information contained in an application or renewal submitted pursuant to this section and shall approve or deny an application or renewal within 30 days of receiving it. The department may deny an application or renewal only if the applicant did not provide the information required pursuant to this section or the department determines that the information provided was falsified. Rejection of an application or renewal is considered a final agency action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Superior Court.

**4. Primary caregiver registry identification card.** The department shall issue a registry identification card to each primary caregiver, if any, who is named in a qualifying patient's approved application pursuant to subsection 1, paragraph E. Only one person may cultivate marijuana for the qualifying patient's medical use, who is determined based solely on the qualifying patient's preference. That person may either be the qualifying patient or one of the 2 primary caregivers.

**5. Registry identification card issuance.** The department shall issue registry identification cards to qualifying patients and to 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. Registry identification cards must contain:

A. The name, address and date of birth of the qualifying patient;

B. The name, address and date of birth of each primary caregiver, if any, of the qualifying patient;

C. The date of issuance and expiration date of the registry identification card;

D. A random identification number that is unique to the cardholder;

E. A photograph, if the department decides to require one; and

F. A clear designation showing whether the cardholder will be allowed under state law to cultivate marijuana plants for the qualifying patient's medical use, which must be determined based solely on the qualifying patient's preference.

**6. Notification of changes in status or loss of card.** This subsection governs notification of changes in status or the loss of a registry identification card.

A. A registered qualifying patient shall notify the department within 10 days of any change in the registered qualifying patient's name, address, pri-

mary caregiver or preference regarding who may cultivate marijuana for the registered qualifying patient or if the registered qualifying patient ceases to have a debilitating medical condition.

B. A registered qualifying patient who fails to notify the department as required under paragraph A commits a civil violation for which a fine of not more than $150 may be adjudged. If the registered qualifying patient's certifying physician notifies the department in writing that the registered qualifying patient has ceased to suffer from a debilitating medical condition, the registered qualifying patient's registry identification card becomes void upon notification by the department to the qualifying patient.

C. A registered primary caregiver shall notify the department of any change in the caregiver's name or address within 10 days of such change. A registered primary caregiver who fails to notify the department of any of these changes commits a civil violation for which a fine of not more than $150 may be adjudged.

D. When a registered qualifying patient or registered primary caregiver notifies the department of any changes listed in this subsection, the department shall issue the registered qualifying patient and each registered primary caregiver a new registry identification card within 10 days of receiving the updated information and a $10 fee.

E. When a registered qualifying patient changes the patient's registered primary caregiver, the department shall notify the old primary caregiver within 10 days. The old primary caregiver's protections as provided in this chapter expire 10 days after notification by the department.

F. If a cardholder loses the cardholder's registry identification card, the cardholder shall notify the department and submit a $10 fee within 10 days of losing the card. Within 5 days after such notification, the department shall issue a new registry identification card with a new random identification number.

**7. Possession of or application for card not probable cause for search.** Possession of, or application for, a registry identification card does not constitute probable cause or reasonable suspicion, nor may it be used to support the search of the person or property of the person possessing or applying for the registry identification card. The possession of, or application for, a registry identification card does not prevent the issuance of a warrant if probable cause exists on other grounds.

**8. Confidentiality.** This subsection governs confidentiality.

A. Applications and supporting information submitted by qualifying patients under this chapter, including information regarding their primary caregivers and physicians, are confidential.

B. Applications and supporting information submitted by primary caregivers operating in compliance with this chapter, including the physical address of a nonprofit dispensary, are confidential.

C. The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list are confidential, exempt from the freedom of access laws, Title 1, chapter 13, and not subject to disclosure except to authorized employees of the department as necessary to perform official duties of the department.

D. The department shall verify to law enforcement personnel whether a registry identification card is valid without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card.

E. A person, including an employee or official of the department or another state agency or local government, who breaches the confidentiality of information obtained pursuant to this chapter commits a Class E crime. Notwithstanding this subsection, department employees may notify law enforcement about falsified or fraudulent information submitted to the department as long as the employee who suspects that falsified or fraudulent information has been submitted confers with the employee's supervisor and both agree that circumstances exist that warrant reporting.

**9. Cardholder who sells marijuana to person not allowed to possess.** Any cardholder who sells marijuana to a person who is not allowed to possess marijuana for medical purposes under this chapter must have that cardholder's registry identification card revoked and is liable for any other penalties for the sale of marijuana. The department may revoke the registry identification card of any cardholder who violates this chapter, and the cardholder is liable for any other penalties for the violation.

**10. Annual report.** The department shall submit to the Legislature an annual report that does not disclose any identifying information about cardholders or physicians, but does contain, at a minimum:

A. The number of applications and renewals filed for registry identification cards;

B. The number of qualifying patients and primary caregivers approved in each county;

C. The nature of the debilitating medical conditions of the qualifying patients;

D. The number of registry identification cards revoked;

E. The number of physicians providing written certifications for qualifying patients;

F. The number of registered nonprofit dispensaries; and

G. The number of principal officers, board members, employees and agents of nonprofit dispensaries.

**§2426. Scope**

**1. Limitations.** This chapter does not permit any person to:

A. Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice;

B. Possess marijuana or otherwise engage in the medical use of marijuana:

(1) In a school bus;

(2) On the grounds of any preschool or primary or secondary school; or

(3) In any correctional facility;

C. Smoke marijuana:

(1) On any form of public transportation; or

(2) In any public place;

D. Operate, navigate or be in actual physical control of any motor vehicle, aircraft or motorboat while under the influence of marijuana; or

E. Use marijuana if that person does not have a debilitating medical condition.

**2. Construction.** This chapter may not be construed to require:

A. A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana; or

B. An employer to accommodate the ingestion of marijuana in any workplace or any employee working while under the influence of marijuana.

**3. Penalty for fraudulent representation.** Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution is a civil violation punishable by a fine of $500, which must be in addition to any other penalties that may apply for making a false statement or for the use of marijuana other than use undertaken pursuant to this chapter.

**§2427. Affirmative defense and dismissal for medical marijuana**

**1. Affirmative defense.** Except as provided in section 2426, a qualifying patient and a qualifying patient's primary caregiver, other than a nonprofit dispensary, may assert the medical purpose for using marijuana as a defense to any prosecution involving marijuana, and this defense must be presumed valid where the evidence shows that:

A. A physician has stated that, in the physician's professional opinion, after having completed a full assessment of the qualifying patient's medical history and current medical condition made in the course of a bona fide physician-patient relationship, the qualifying patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition;

B. The qualifying patient and the qualifying patient's primary caregiver, if any, were collectively in possession of a quantity of marijuana that was not more than was reasonably necessary to ensure the uninterrupted availability of marijuana for the purpose of treating or alleviating the qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition; and

C. The qualifying patient and the qualifying patient's primary caregiver, if any, were engaged in the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana solely to treat or alleviate the qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition.

**2. Motion to dismiss.** A person may assert the medical purpose for using marijuana in a motion to dismiss, and the charges must be dismissed following an evidentiary hearing where the person proves the elements listed in subsection 1.

**3. No sanction for medical use of marijuana.** If a qualifying patient or a qualifying patient's primary caregiver demonstrates the qualifying patient's medical purpose for using marijuana pursuant to this section, the qualifying patient and the qualifying patient's primary caregiver may not be subject, for the qualifying patient's medical use of marijuana, to any state sanction, including:

A. Disciplinary action by a business or occupational or professional licensing board or bureau; and

B. Forfeiture of any interest in or right to property.

**§2428. Nonprofit dispensaries**

**1. Provisions pertaining to primary caregiver apply to nonprofit dispensary.** All provisions of this chapter pertaining to a primary caregiver apply to a nonprofit dispensary unless they conflict with a provision contained in this section.

**2. Registration requirements.** This subsection governs the registration of a nonprofit dispensary.

A. The department shall register a nonprofit dispensary and issue a registration certificate within 30 days to any person or entity that provides:

(1) A fee paid to the department in the amount of $5,000;

(2) The legal name of the nonprofit dispensary;

(3) The physical address of the nonprofit dispensary and the physical address of one additional location, if any, where marijuana will be cultivated;

(4) The name, address and date of birth of each principal officer and board member of the nonprofit dispensary; and

(5) The name, address and date of birth of any person who is an agent of or employed by the nonprofit dispensary.

B. The department shall track the number of registered qualifying patients who designate a nonprofit dispensary as a primary caregiver and issue to each nonprofit dispensary a written statement of the number of qualifying patients who have designated the nonprofit dispensary to cultivate marijuana for them. This statement must be updated each time a new registered qualifying patient designates the nonprofit dispensary or ceases to designate the nonprofit dispensary and may be transmitted electronically if the department's rules so provide. The department may provide by rule that the updated written statements may not be issued more frequently than once each week.

C. The department shall issue each principal officer, board member, agent and employee of a nonprofit dispensary a registry identification card within 10 days of receipt of the person's name, address and date of birth under paragraph A and a fee in an amount established by the department. Each card must specify that the cardholder is a principal officer, board member, agent or employee of a nonprofit dispensary and must contain:

(1) The name, address and date of birth of the principal officer, board member, agent or employee;

(2) The legal name of the nonprofit dispensary with which the principal officer, board member, agent or employee is affiliated;

(3) A random identification number that is unique to the cardholder;

(4) The date of issuance and expiration date of the registry identification card; and

(5) A photograph, if the department decides to require one.

D. The department may not issue a registry identification card to any principal officer, board member, agent or employee of a nonprofit dispensary who has been convicted of a felony drug offense. The department may conduct a background check of each principal officer, board member, agent or employee in order to carry out this provision. The department shall notify the nonprofit dispensary in writing of the purpose for denying the registry identification card.

**3. Rules.** Not later than 120 days after the effective date of this chapter, the department shall adopt rules governing the manner in which it considers applications for and renewals of registration certificates for nonprofit dispensaries, including rules governing:

A. The form and content of registration and renewal applications;

B. Minimum oversight requirements for nonprofit dispensaries;

C. Minimum record-keeping requirements for nonprofit dispensaries;

D. Minimum security requirements for nonprofit dispensaries; and

E. Procedures for suspending or terminating the registration of nonprofit dispensaries that violate the provisions of this section or the rules adopted pursuant to this subsection.

**4. Expiration.** A nonprofit dispensary registration certificate and the registry identification card for each principal officer, board member, agent or employee expire one year after the date of issuance. The department shall issue a renewal nonprofit dispensary registration certificate and renewal registry identification cards within 10 days to any person who complies with the requirements contained in subsection 2. A registry identification card of a principal officer, board member, agent or employee expires 10 days after notification by a nonprofit dispensary that such person ceases to work at the nonprofit dispensary.

**5. Inspection.** A nonprofit dispensary is subject to reasonable inspection by the department. The de-

partment shall give reasonable notice of an inspection under this subsection.

**6. Nonprofit dispensary requirements.** This subsection governs the operations of nonprofit dispensaries.

A. A nonprofit dispensary must be operated on a not-for-profit basis for the mutual benefit of its members and patrons. The bylaws of a nonprofit dispensary and its contracts with patrons must contain such provisions relative to the disposition of revenues and receipts as may be necessary and appropriate to establish and maintain its nonprofit character. A nonprofit dispensary need not be recognized as a tax-exempt organization under 26 United States Code, Section 501(c)(3) and is not required to incorporate pursuant to Title 13-B.

B. A nonprofit dispensary may not be located within 500 feet of the property line of a preexisting public or private school.

C. A nonprofit dispensary shall notify the department within 10 days of when a principal officer, board member, agent or employee ceases to work at the nonprofit dispensary.

D. A nonprofit dispensary shall notify the department in writing of the name, address and date of birth of any new principal officer, board member, agent or employee and shall submit a fee in an amount established by the department for a new registry identification card before the new principal officer, board member, agent or employee begins working at the nonprofit dispensary.

E. A nonprofit dispensary shall implement appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana.

F. The operating documents of a nonprofit dispensary must include procedures for the oversight of the nonprofit dispensary and procedures to ensure accurate record keeping.

G. A nonprofit dispensary is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying or dispensing marijuana for any purpose except to assist registered qualifying patients with the medical use of marijuana directly or through the registered qualifying patients' other primary caregivers.

H. All principal officers and board members of a nonprofit dispensary must be residents of this State.

I. All cultivation of marijuana must take place in an enclosed, locked facility.

**7. Maximum amount of medical marijuana to be dispensed.** A nonprofit dispensary or a principal officer, board member, agent or employee of a nonprofit dispensary may not dispense more than 2 1/2 ounces of usable marijuana to a qualifying patient or to a primary caregiver on behalf of a qualifying patient during a 15-day period.

**8. Immunity.** This subsection governs immunity for a nonprofit dispensary.

A. A nonprofit dispensary may not be subject to prosecution, search, seizure or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or entity, solely for acting in accordance with this section to provide usable marijuana to or to otherwise assist registered qualifying patients to whom it is connected through the department's registration process with the medical use of marijuana.

B. Principal officers, board members, agents and employees of a registered nonprofit dispensary may not be subject to arrest, prosecution, search, seizure or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or entity, solely for working for or with a nonprofit dispensary to provide usable marijuana to or to otherwise assist registered qualifying patients to whom the nonprofit dispensary is connected through the department's registration process with the medical use of marijuana in accordance with this chapter.

**9. Prohibitions.** The prohibitions in this subsection apply to a nonprofit dispensary.

A. A nonprofit dispensary may not possess more than 6 live marijuana plants for each registered qualifying patient who has designated the nonprofit dispensary as a primary caregiver and designated that the dispensary will be permitted to cultivate marijuana for the registered qualifying patient's medical use.

B. A nonprofit dispensary may not dispense, deliver or otherwise transfer marijuana to a person other than a qualifying patient who has designated the nonprofit dispensary as a primary caregiver or to the patient's other registered primary caregiver.

C. The department shall immediately revoke the registry identification card of a principal officer, board member, employee or agent of a nonprofit dispensary who is found to have violated paragraph B, and such a person is disqualified from serving as a principal officer, board member, employee or agent of a nonprofit dispensary.

D. A person who has been convicted of a felony drug offense may not be a principal officer, board member, agent or employee of a nonprofit dispensary.

(1) A person who is employed by or is an agent, principal officer or board member of a nonprofit dispensary in violation of this paragraph commits a civil violation for which a fine of not more than $1,000 may be adjudged.

(2) A person who is employed by or is an agent, principal officer or board member of a nonprofit dispensary in violation of this paragraph and who at the time of the violation has been previously found to have violated this paragraph commits a Class D crime.

E. A nonprofit dispensary may not acquire usable marijuana or mature marijuana plants except through the cultivation of marijuana by that nonprofit dispensary.

**10. Local regulation.** This chapter does not prohibit a political subdivision of this State from limiting the number of nonprofit dispensaries that may operate in the political subdivision or from enacting reasonable zoning regulations applicable to nonprofit dispensaries.

**§2429. Enforcement**

**1. Department fails to adopt rules.** If the department fails to adopt rules to implement this chapter within 120 days of the effective date of this chapter, a qualifying patient may commence an action in Superior Court to compel the department to perform the actions mandated pursuant to the provisions of this chapter.

**2. Department fails to issue a valid registry identification card.** If the department fails to issue a valid registry identification card or a registration certificate in response to a valid application or renewal submitted pursuant to this chapter within 45 days of its submission, the registry identification card or registration certificate is deemed granted, and a copy of the registry identification application or renewal is deemed a valid registry identification card.

**3. Department fails to accept applications.** If at any time after the 140 days following the effective date of this chapter the department is not accepting applications, including if it has not adopted rules allowing qualifying patients to submit applications, a notarized statement by a qualifying patient containing the information required in an application, pursuant to section 2425, subsection 1, is deemed a valid registry identification card.

Effective December 23, 2009.

## CHAPTER 1

**Sec. 1. 1 MRSA §402, sub-§3, ¶O,** as amended by PL 2009, c. 176, §2 and c. 339, §2, is corrected to read:

O. Personal contact information concerning public employees, except when that information is public pursuant to other law. For the purposes of this paragraph:

(1) "Personal contact information" means home address, home telephone number, home facsimile number, home e-mail address and personal cellular telephone number and personal pager number; and

(2) "Public employee" means an employee as defined in Title 14, section 8102, subsection 1, except that "public employee" does not include elected officials; ~~and~~

**Sec. 2. 1 MRSA §402, sub-§3, ¶P,** as enacted by PL 2009, c. 176, §3, is corrected to read:

P. Geographic information regarding recreational trails that are located on private land that are authorized voluntarily as such by the landowner with no public deed or guaranteed right of public access, unless the landowner authorizes the release of the information.~~.~~; and

**Sec. 3. 1 MRSA §402, sub-§3, ¶P,** as enacted by PL 2009, c. 339, §3, is reallocated to 1 MRSA §402, sub-§3, ¶Q.

**EXPLANATION**

These sections correct a lettering problem created by Public Law 2009, chapters 176 and 339, which enacted 2 substantively different provisions with the same paragraph letter.

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**Sec. 4. 4 MRSA §115, first ¶,** as amended by PL 2009, c. 1, Pt. J, §1, is corrected to read:

In each county, the place for holding court is located in a building designated by the Chief Justice of the Supreme Judicial Court or the Chief Justice's designee, who, with the advice and approval of the Bureau of General Services, is empowered to negotiate, on behalf of the State, the leases, contracts and other arrangements the Chief Justice considers necessary, within the limits of appropriations and other funds available to the Supreme Judicial, Superior and District Courts, to provide suitable quarters, adequately furnished and equipped, for the Supreme Judicial, Superior or District Court in each county. The county commissioners in each county shall continue to provide for the use of the Supreme Judicial, Superior and District Courts such quarters, facilities, furnishings and equipment in existing county buildings as were in use by the Supreme Judicial and Superior Courts on January 1, 1976, without charge. The county commissioners are not required to provide without charge those quarters, facilities, furnishings and equipment in existing county ~~building~~ buildings that were in use by the District Courts and were subject to a charge prior to January 1, 1976.

**EXPLANATION**

This section corrects a clerical error.

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**Sec. 5. 5 MRSA §285, sub-§1, ¶F-7,** as enacted by PL 2009, c. 233, §1, is corrected to read:

F-7. Any employee of a regional site of the Child Development Services System under Title 20-A, section 7209, if the group health plan is agreed to in collective bargaining and funds are available.~~:~~;

**EXPLANATION**

This section corrects a punctuation error.

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**Sec. 6. 5 MRSA §1591, sub-§3,** as enacted by PL 2009, c. 213, Pt. HHH, §1 and affected by §3, is reallocated to 5 MRSA §1591, sub-§4.

**EXPLANATION**

This section corrects a numbering problem created by Public Law 2009, c. 213, Parts QQ and HHH, which enacted 2 substantively different provisions with the same subsection number.

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**Sec. 7. 5 MRSA §12004-I, sub-§91,** as enacted by PL 2005, c. 634, §8, is corrected to read:

**91.**

| | | | |
|---|---|---|---|
| Emergency Management | Homeland Security Advisory Council | Not Authorized | 37-B MRSA ~~§709~~ §708 |

**EXPLANATION**

This section corrects a cross-reference.

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**Sec. 8. 5 MRSA §13171, first ¶,** as enacted by PL 2007, c. 641, §2, is corrected to read:

The Maine Council on Poverty and Economic Security, as established in ~~Title 5,~~ section 12004-I, subsection 6-H and referred to in this section as "the council," advises the Governor and the Legislature on

approaches that this State can successfully employ to end poverty and provide economic security to those who are poor or near poor in the State and benchmarks to measure the State's progress in reaching those goals. For purposes of this chapter, "poverty" means either having family income below the nonfarm income official poverty line or below the annual basic needs budget as adjusted to family size determined by the Department of Labor under Title 26, section 1405.

**EXPLANATION**

This section corrects an internal cross-reference.

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**Sec. 9. 7 MRSA §3952, sub-§1, ¶B,** as amended by PL 1997, c. 690, §35, is corrected to read:

B. Order the dog to be ~~euthanatized~~ euthanized if it has killed, maimed or inflicted serious bodily injury upon a person or has a history of a prior assault.

**EXPLANATION**

This section corrects a spelling error.

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**Sec. 10. 9-B MRSA §325, sub-§1, ¶A,** as amended by PL 2009, c. 19, §1, is corrected to read:

A. The persons named in the articles of incorporation constitute the original board of corporators of a mutual financial institution. Membership on this board continues until terminated pursuant to the articles of incorporation or bylaws~~,~~ or by death, resignation or disqualification as provided in this section.

**EXPLANATION**

This section corrects a clerical error.

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**Sec. 11. 10 MRSA §1038, sub-§3, ¶D,** as enacted by PL 2009, c. 427, §1, is corrected to read:

D. Practice in an underserved practice area, including but not limited to the practice of social work:

(1) In a public or private child welfare or family service agency;

(2) In a public interest law service;

(3) In a public child care facility;

(4) In a public service for individuals with disabilities;

(5) In a public service for the elderly;

(6) In a public service for veterans; or

(7) At an organization exempt from taxation under the ~~Unites~~ United States Internal Revenue Code, Section 501(c)(3).

Priority consideration must be given to social workers practicing in a public or private child welfare or family service agency, in a public service for the elderly or in a public service for individuals with disabilities;

**EXPLANATION**

This section corrects a clerical error.

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**Sec. 12. 10 MRSA §1174, sub-§4, ¶D,** as amended by PL 1997, c. 521, §21, is corrected to read:

D. To fail to disclose conspicuously in writing the motor vehicle dealer's policy in relation to the return of deposits received from any person. A dealer shall require that a person making a deposit sign the form on which the disclosure appears; ~~or~~

**Sec. 13. 10 MRSA §1174, sub-§4, ¶E,** as amended by PL 2003, c. 356, §8, is corrected to read:

E. To fail to disclose in writing to a purchaser of a new motor vehicle before entering into a sales contract that the new motor vehicle has been damaged and repaired if the dealer has knowledge of the damage or repair and if the damage calculated at the retail cost of repair to the new motor vehicle exceeds 5% of the manufacturer's suggested retail price, except that a new motor vehicle dealer is not required to disclose to a purchaser that any glass, bumpers, audio system, instrument panel, communication system or tires were damaged at any time if the glass, bumpers, audio system, instrument panel, communication system or tires have been replaced with original or comparable equipment~~.~~; or

**EXPLANATION**

These sections correct punctuation errors.

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**Sec. 14. 22 MRSA §7250, sub-§4, ¶E,** as amended by PL 2009, c. 196, §2 and c. 298, §2, is corrected to read:

E. Office personnel or personnel of any vendor or contractor, as necessary for establishing and maintaining the program's electronic system; ~~and~~

**Sec. 15. 22 MRSA §7250, sub-§4, ¶F,** as enacted by PL 2009, c. 196, §3, is corrected to read:

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 fol-

lowing access to prescription monitoring information pursuant to this paragraph remains subject to protection or dissemination in accordance with section 3022.; and

**Sec. 16. 22 MRSA §7250, sub-§4, ¶F,** as enacted by PL 2009, c. 298, §3, is reallocated to 22 MRSA §7250, sub-§4, ¶G.

**EXPLANATION**

These sections correct a lettering problem created by Public Law 2009, chapters 196 and 298, which enacted 2 substantively different provisions with the same paragraph letter.

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**Sec. 17. 24-A MRSA §6706, sub-§2, ¶A,** as amended by PL 2009, c. 335, §12, is corrected to read:

A. Incorporated as a stock insurer with its capital divided into shares and held by the stockholders; ~~or~~

**EXPLANATION**

This section corrects a clerical error.

---

**Sec. 18. 29-A MRSA §2117,** as enacted by PL 2009, c. 446, §1, is reallocated to 29-A MRSA §2118.

**EXPLANATION**

This section corrects a numbering problem created by Public Law 2009, chapters 223 and 446, which enacted 2 substantively different provisions with the same section number.

---

**Sec. 19. 30 MRSA §6209-B, sub-§1, ¶B,** as enacted by PL 1995, c. 388, §6 and affected by §8, is corrected to read:

B. Juvenile crimes against a person or property involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Penobscot Nation under paragraph A, and juvenile crimes, as defined in Title 15, section 3103, subsection 1, paragraphs B ~~to D~~ and C, committed by a juvenile member of either the Passamaquoddy Tribe or the Penobscot Nation on the Indian reservation of the Penobscot Nation;

**EXPLANATION**

This section corrects a cross-reference.

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**Sec. 20. 30-A MRSA §1501, sub-§1,** 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 corrected to read:

**1. Subordinate assistants and employees.** The jailer, master or keeper shall appoint, subject to the requirements of section 501, all subordinate assistants and employees. Subordinate assistants and employees shall be appointed for the same period that is provided for deputy sheriffs under section 381. The professional qualifications required of them must emphasize training or experience in or knowledge of corrections. The jailer, master or keeper and all subordinate assistants and employees are subject to the training requirements of Title 25, section ~~2805~~ 2804-D.

**EXPLANATION**

This section corrects a cross-reference.

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**Sec. 21. 30-A MRSA §3013,** as enacted by PL 2009, c. 351, §1, is reallocated to 30-A MRSA §3014.

**EXPLANATION**

This section corrects a numbering problem created by Public Law 2009, chapters 273 and 351, which enacted 2 substantively different provisions with the same section number.

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**Sec. 22. 30-A MRSA §5225, sub-§1, ¶A,** as amended by PL 2009, c. 314, §10, is corrected to read:

A. Costs of improvements made within the tax increment financing district, including, but not limited to:

(1) Capital costs, including, but not limited to:

(a) The acquisition or construction of land, improvements, buildings, structures, fixtures and equipment for public, arts district, commercial or transit-oriented development district use;.

(i) Eligible transit-oriented development district capital costs include but are not limited to: transit vehicles such as buses, ferries, vans, rail conveyances and related equipment; bus shelters and other transit-related structures; benches, signs and other transit-related infrastructure; bicycle lane construction and other bicycle-related improvements; pedestrian improvements such as crosswalks, crosswalk signals and warning systems and crosswalk curb treatments; and the nonresidential commercial portions of transit-oriented development projects;

(b) The demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures;

(c) Site preparation and finishing work; and

(d) All fees and expenses that are eligible to be included in the capital cost of such improvements, including, but not limited to, licensing and permitting expenses and planning, engineering, architectural, testing, legal and accounting expenses;

(2) Financing costs, including, but not limited to, closing costs, issuance costs and interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity;

(3) Real property assembly costs;

(4) Professional service costs, including, but not limited to, licensing, architectural, planning, engineering and legal expenses;

(5) Administrative costs, including, but not limited to, reasonable charges for the time spent by municipal employees in connection with the implementation of a development program;

(6) Relocation costs, including, but not limited to, relocation payments made following condemnation;

(7) Organizational costs relating to the establishment of the district, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public about the creation of development districts and the implementation of project plans; and

(8) 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;

**EXPLANATION**

This section corrects a punctuation error.

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**Sec. 23. 34-B MRSA §5604, sub-§3,** as enacted by PL 2007, c. 356, §23 and affected by §31, is corrected to read:

**3. Grievance right.** Providing a person with mental retardation 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 ~~1203~~ 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 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 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 articulate 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.

**EXPLANATION**

This section corrects a cross-reference.

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**Sec. 24. 35-A MRSA §3703, sub-§2,** as enacted by PL 1987, c. 141, Pt. A, §6, is corrected to read:

**2. Rural electrification cooperative or cooperative.** "Rural electrification cooperative" or "cooperative" means any corporation organized under this chapter or which becomes subject to this chapter in the manner provided.

**EXPLANATION**

This section corrects a punctuation error.

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**Sec. 25. 35-A MRSA §10106, first ¶,** as enacted by PL 2009, c. 372, Pt. B, §3, is corrected to read:

The proceedings of the board and records of the trust are subject to the freedom of access laws, Title 1, chapter 13, except as specifically provided in this ~~subsection~~ section.

**EXPLANATION**

This section corrects a cross-reference.

---

**Sec. 26. 36 MRSA §5122, sub-§2, ¶CC,** as enacted by PL 2009, c. 213, Pt. ZZZ, §5, is corrected to read:

CC. An amount equal to the value of any prior year addition modification under subsection 1, paragraph DD, but only to the extent that:

(1) Maine taxable income is not reduced below zero;

(2) The taxable year is within the allowable federal period for carry-over plus the number of years that the net operating loss carry-over adjustment was not deducted as a result of the restriction with respect to tax years beginning in 2009, 2010 or 2011;

(3) The amount has not been previously used as a modification pursuant to this subsection; and

(4) The modification under this paragraph is not claimed for any tax year beginning in 2009, 2010 or 2011~~.~~;

**Sec. 27. 36 MRSA §5122, sub-§2, ¶CC,** as enacted by PL 2009, c. 213, Pt. BBBB, §8 and affected by §17, is reallocated to 36 MRSA §5122, sub-§2, ¶DD.

**Sec. 28. 36 MRSA §5122, sub-§2, ¶CC,** as enacted by PL 2009, c. 434, §69 and affected by §84, is reallocated to 36 MRSA §5122, sub-§2, ¶EE.

**EXPLANATION**

These sections correct a numbering problem created by Public Law 2009, chapters 213 and 434, which enacted 3 substantively different provisions with the same paragraph letter, and make technical changes.

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**Sec. 29. 36 MRSA §5228, sub-§3,** as amended by PL 2009, c. 1, Pt. I, §3 and affected by §6, is corrected to read:

**3. Amount of estimated tax to be paid.** Every person required to make payment of estimated tax is liable for an estimated tax that is no less than the smaller of ~~the~~ paragraphs A and B, except that large corporations as defined in the Code, Section 6655(g), are subject only to paragraph B, except as provided in subsection 5, paragraph C and individual taxpayers encountering an unusual event are subject only to paragraph B with respect to the unusual event, except as provided in subsection 5, paragraph D:

A. An amount equal to the person's tax liability under this Part for the preceding taxable year, if that preceding year was a taxable year of 12 months; or

B. An amount equal to 90% of the person's tax liability under this Part for the current taxable year determined without taking into account the current year's investment tax credit set forth in section 5219-E, except that for farmers and persons who fish commercially, this amount is 66 2/3% of the person's tax liability under this Part for the current taxable year.

**EXPLANATION**

This section corrects a clerical error.

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**Sec. 30. 38 MRSA §467, sub-§4, ¶A,** as amended by PL 2009, c. 163, §3, is corrected to read:

A. Kennebec River, main stem.

(1) From the east outlet of Moosehead Lake to a point 1,000 feet below the lake - Class A.

(2) From the west outlet of Moosehead Lake to a point 1,000 feet below the lake - Class A.

(3) From a point 1,000 feet below Moosehead Lake to its confluence with Indian Pond - Class AA.

(4) From Harris Dam to a point located 1,000 feet downstream from Harris Dam - Class A.

(5) From a point located 1,000 feet downstream from Harris Dam to its confluence with the Dead River - Class AA.

(6) From its confluence with the Dead River to the confluence with Wyman Lake, including all impoundments - Class A.

(7) From the Wyman Dam to its confluence with the impoundment formed by the Williams Dam - Class A.

(8) From the confluence with the Williams impoundment to the Route 201A bridge in Anson-Madison, including all impoundments - Class A.

(9) From the Route 201A bridge in Anson-Madison to the Fairfield-Skowhegan boundary, including all impoundments - Class B.

(10) From the Fairfield-Skowhegan boundary to the Shawmut Dam - Class C.

(10-A) From the Shawmut Dam to its confluence with Messalonskee Stream, excluding all impoundments - Class B.

(a) Waters impounded by the Hydro-Kennebec Dam and the Lockwood Dam in Waterville-Winslow - Class C.

(11) From its confluence with Messalonskee Stream to the Sidney-Augusta boundary, including all impoundments - Class B.

(12) From the Sidney-Augusta boundary to the ~~Father John J. Curran~~ Calumet Bridge at Old Fort Western in Augusta, including all impoundments - Class B.

(13) From the ~~Father John J. Curran~~ Calumet Bridge at Old Fort Western in Augusta to a line drawn across the tidal estuary of the Kennebec River due east of Abagadasset Point - Class B. Further, the Legislature finds that the free-flowing habitat of this river segment provides irreplaceable social and economic benefits and that this use must be maintained. Further, the license limits for total residual chlorine and bacteria for existing direct discharges of wastewater to this segment as of January 1, 2003 must remain the same as the limits in effect on that date and must remain in effect until June 30, 2009 or upon renewal of the license, whichever comes later. Thereafter, license limits for total residual chlorine and bacteria must be those established by the department in the license and may include a compliance schedule pursuant to section 414-A, subsection 2.

(14) From a line drawn across the tidal estuary of the Kennebec River due east of Abagadasset Point, to a line across the southwesterly area of Merrymeeting Bay formed by an extension of the Brunswick-Bath boundary across the bay in a northwesterly direction to the westerly shore of Merrymeeting Bay and to a line drawn from Chop Point in Woolwich to West Chop Point in Bath - Class B. Further, the Legislature finds that the free-flowing habitat of this river segment provides irreplaceable social and economic benefits and that this use must be maintained.

**EXPLANATION**

This section changes the name of a bridge to reflect the name change made by Resolve 2009, chapter 4.

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**Sec. 31. PL 2009, c. 211, Pt. B, §14** is corrected to read:

**Sec. B-14. 12 MRSA §13068-A, sub-§4, ¶B,** as enacted by PL 2003, c. 655, Pt. B, §380 and affected by §422 and amended by ~~PL 2003,~~ c. 689, Pt. B, §6, is further amended to read:

B. Notwithstanding paragraph A:

(1) Canoes, owned by a ~~boys or girls summer~~ youth camp located upon internal waters in the State and duly licensed by the Department of Health and Human Services and utilized by campers under the direction and supervision of a youth camp counselor at least 18 years of age or older during training and instruction periods on waters adjacent to the main location of the youth camp within a distance of 500 feet from the shoreline of that camp, are exempt from this subsection; and

(2) Log rafts, carrying not more than 2 persons and used on ponds or lakes or internal waters of less than 50 acres in area, are exempt from carrying personal flotation devices.

**EXPLANATION**

This section corrects an amending clause.

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**Sec. 32. PL 2009, c. 415, Pt. C, §1** is corrected to read:

**Sec. C-1. 29-A MRSA §2558, sub-§2, ¶B,** as ~~enacted~~ amended by PL 2009, c. 54, §6 and affected by §7, is amended to read:

B. A person who violates subsection 1 and at the time has one OUI conviction, one conviction for violating this section or one conviction for violating former section 2557 or section 2557-A within the previous 10 years commits a Class C crime for which a minimum fine of $1,000 and a minimum term of imprisonment of one year must be im-

posed, neither of which may be suspended by the court.

**EXPLANATION**

This section corrects an enacting clause.

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**Sec. 33. P&SL 2009, c. 8, §1** is corrected to read:

**Sec. 1. P&SL 1945, c. 83, §1** is amended to read:

**Sec. 1. Territorial limits and corporate name and purposes.** The inhabitants and territory within the ~~town~~ City of Caribou in the ~~county~~ County of Aroostook ~~shall be, and hereby are, constituted~~ constitute a body politic and corporate under the name of the Caribou Utilities District, referred to in this Act as "the district," for the purpose of supplying the ~~town~~ City of Caribou and the inhabitants of ~~said town~~ the city or any part of ~~said town~~ the city with pure water for domestic, commercial, sanitary and municipal purposes, including the extinguishment of fires, and of supplying the ~~town~~ City of Caribou and the inhabitants of ~~said town~~ the city or any part of ~~said town~~ the city with suitable and adequate sewerage facilities.

**EXPLANATION**

This section corrects a clerical error.

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**Sec. 34. P&SL 2009, c. 22, §5** is corrected to read:

**Sec. 5. P&SL 1945, c. 72, §10, first ¶** is amended to read:

**Sec. 10. Annual meeting of district; qualification of voters of district.** After the acceptance of this charter and the organization of the board, the annual meeting of the district ~~shall~~ must be held within the district ~~on the 1st Monday of March~~ at a date selected by the trustees, at such hour and place as may be designated by resolution of the board of trustees as provided in the by-laws. Notice ~~thereof~~ of the annual meeting, signed by the ~~chairman~~ chair or clerk of the board, ~~shall~~ must be conspicuously posted in 2 public places within the district, not less than 7 days before the meeting. Special meetings may be called by the board in like manner at any time, and notice of special meetings ~~shall~~ must state the business to be transacted ~~thereat~~ at the meeting. Ten per cent of the voters qualified to vote in such meetings ~~shall constitute~~ constitutes a quorum. ~~If for any reason a legally sufficient annual meeting is not held on the above date, a meeting in lieu thereof may be called in like manner to be held within 2 months from said date.~~

**EXPLANATION**

This section corrects the amending clause and a clerical error.

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## JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO FULFILL THE INTENT TO FUND 40% OF THE COSTS OF SPECIAL EDUCATION AND TO END UNFUNDED MANDATES

### S.P. 691

**WE,** your Memorialists, the Members of the One Hundred and Twenty-fourth 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 United States Congress as follows:

**WHEREAS,** the United States Congress has found that all children deserve a high-quality education, including children with disabilities; and

**WHEREAS,** the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., provides that the Federal Government and state and local governments are to share in the expense of education for children with disabilities and commits the Federal Government to provide funds to assist with the excess expenses of education for children with disabilities; and

**WHEREAS,** the United States Congress has committed to contribute up to 40% of the average per-pupil expenditure of educating children with disabilities and the Federal Government has failed to meet this commitment to assist the states; and

**WHEREAS,** the Federal Government has never contributed more than a fraction of the national average per-pupil expenditure to assist with the excess expenses of educating children with disabilities under the Individuals with Disabilities Education Act; and

**WHEREAS,** this failure of the Federal Government to meet its commitment to assist with the excess expenses of educating a child with a disability contradicts the goal of ensuring that children with disabilities receive a high-quality education; and

**WHEREAS,** the imposition of unfunded mandates by the Federal Government on state governments interferes with the separation of powers between the 2 levels of government and the ability of each state to determine the issues and concerns of that state and what resources should be directed to address these issues and concerns; and

**WHEREAS,** the Federal Government recognized the inequalities of unfunded mandates on state governments when it passed the Unfunded Mandates Reform Act of 1995; and

**WHEREAS,** since the passage of the Unfunded Mandates Reform Act of 1995, however, the Federal Government continues to impose unfunded mandates on state governments, including in areas such as special education requirements; 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 either provide 40% of the national average per-pupil expenditure to assist states and local education agencies with the excess costs of educating children with disabilities or amend the Individuals with Disabilities Education Act to allow the states more flexibility in implementing its mandates; and be it further

**RESOLVED:** That We, your Memorialists, on behalf of the people we represent, respectfully urge and request that the United States Congress revisit and reconfirm the Unfunded Mandate Reform Act of 1995 and put the intent and purpose of the Act into practice by ending the imposition of unfunded federal mandates on state governments; 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, to the President of the United States Senate, to the Speaker of the United States House of Representatives and to each Member of the Maine Congressional Delegation.

**Read and adopted by the Senate February 17, 2010 and the House of Representatives February 18, 2010.**

## JOINT RESOLUTION HONORING THOSE MAINE FISHERMEN LOST AT SEA

### H.P. 1325

**WHEREAS,** every day, men and women along Maine's coast leave safe harbors to go and fish for the diverse array of species with which the Gulf of Maine has been blessed; and

**WHEREAS,** lobstermen, ground fishermen, shrimpers, scallopers, sea urchin harvesters and others set out each day to pursue their livelihoods in a challenging and often treacherous environment; and

**WHEREAS,** sadly, there are inevitably some who do not return home. Commercial fishing is one of the most dangerous occupations one can pursue, and

even the most experienced fisherman can fall victim to treacherous conditions; and

**WHEREAS,** 46 of Maine's commercial fishermen have been tragically lost at sea since 1993, when a tradition of memorializing these individuals was begun at the Maine Fishermen's Forum to ensure that they are not forgotten; and

**WHEREAS,** the Maine Fishermen's Forum is a long-standing Maine institution dedicated to educating the public, fishing industry members and managers about marine resource issues and providing a neutral platform for constructive discussion and decision-making; and

**WHEREAS,** the loss of these brave and hard-working men reverberated through their communities and altered the lives of their family members forever. We acknowledge their passing with deep regret and express our sympathy to all who knew and loved them; now, therefore, be it

**RESOLVED:** That We, the Members of the One Hundred and Twenty-fourth Legislature now assembled in the Second Regular Session, on behalf of the people we represent, take this opportunity to honor the memory of the Maine men who lost their lives in pursuit of their livelihood from the sea:

| Name | Home Port | Date lost at sea |
|---|---|---|
| Carroll MacLean | | March 24, 1993 |
| Donald Costain | Newagen | August 19, 1993 |
| Thomas Schwartz | Harpswell | August 31, 1993 |
| Matthew Rice | Jonesport | October 16, 1993 |
| David Maxwell | Biddeford | November 3, 1993 |
| Ronald Haskell | Little Deer Isle | November 11, 1993 |
| Christopher Caramihalis | | January 14, 1994 |
| Jerry Moody | Roque Island | March 7, 1995 |
| Roy Hutchins | Petit Manan Point | September 9, 1995 |
| David Fahey | Bailey Island | March 19, 1996 |
| Milton Anthony | Roque Bluff | July 29, 1996 |
| Joseph Smith | | October 15, 1997 |
| Lewis Green | Mt. Desert | February 6, 1999 |
| James Huntley | Jonesport | August 9, 1999 |
| Winfred Alley | Great Wass Island | August 16, 1999 |
| Paul Wood | Jericho Bay | August 20, 1999 |
| Allen Ayers | Mackerel Cove | October 19, 1999 |
| Larry Rich | Raymond | January 25, 2000 |
| Harry Ross | Raymond | January 25, 2000 |
| Geoffrey Martin | Freeport | June 6, 2000 |
| Sean McDougall | Freeport | June 6, 2000 |
| David Stortz | Rockland | August 29, 2000 |
| Carlyle Minott | | October 24, 2000 |
| Dawson Allen | Jonesport | December 14, 2000 |
| Michael Laytart | Jonesport | December 14, 2000 |
| Dwayne Smith | Jonesport | December 14, 2000 |
| Edgar Mcleod | Portland | January 19, 2001 |
| Mark Doughty | Rockland | August 5, 2001 |
| Thomas Fronteiro | Rockland | August 5, 2001 |
| James Sanfilippo | Rockland | August 5, 2001 |
| Frank Parker | Bailey Island | March 23, 2003 |
| Philbert Buteau | Bar Harbor | April 14, 2003 |
| Roy Bickford | | October 13, 2003 |
| Gary Thorbjornson | Port Clyde | July 14, 2005 |
| Steven Smith | Hollis | September 13, 2006 |
| James Weaver | Port Clyde | November 26, 2006 |
| Sean Cone | Bar Harbor | January 31, 2007 |
| Daniel Miller | Bar Harbor | January 31, 2007 |
| Byron Gross | Little Deer Isle | October 26, 2007 |
| Christopher Whittaker | Matinicus Island | October 27, 2008 |
| Loren Lank | Roque Bluffs | March 25, 2009 |
| Logan Preston | Roque Bluffs | March 25, 2009 |
| Joseph Jones | Lubec | October 21, 2009 |
| Darryl Cline | Lubec | October 21, 2009 |
| Norman Johnson | Lubec | October 21, 2009 |
| Christopher Hanahann | Harpswell | December 31, 2009 |

; and be it further

**RESOLVED:** That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Maine Fishermen's Forum.

**Read and adopted by the House of Representatives April 7, 2010 and the Senate April 7, 2010.**

## STATE OF THE STATE ADDRESS
## OF
## GOVERNOR JOHN ELIAS BALDACCI
## JANUARY 21, 2010

Madam President, Madam Speaker, Madam Chief Justice, members of the Legislature, members of the Cabinet, distinguished guests and my fellow citizens:

I can not remember a time that has presented Maine with such hard choices and such great opportunities.

It's a bit of a contradiction – to talk about economic hardship and opportunity in the same breath.

But that is the situation we face today.

In the last 12 months, State revenues have fallen by $1.1 billion dollars. Unemployment has topped 8 percent; housing and businesses are struggling; and people are uncertain and anxious.

It's a time of great turmoil.

But it's also a time of incredible opportunity and revolutionary change.

A time when our State is breaking with the comfortable past to blaze a new trail.

We have come together to say enough, to put our foot down and to put an end to the circumstances that have held our people and our economy hostage.

Today, we are laying the groundwork for economic revitalization and freedom from the tyranny of foreign oil.

Are we there yet? No.

But we are on our way.

Despite the difficulties we face, the hard choices and hard work ahead, the next chapter in Maine's history will be one of resurgence, growth and opportunity.

As I report to you tonight on the State of the State, I am not sullen or deterred by the road ahead.

Because I know beyond question or doubt that the people of this State – our greatest resource – can persevere and overcome any challenge.

And they are looking to us, the men and women gathered here in this great hall of the people, to lead.

To balance tough choices and compassion.

To reach forward to welcome a bright future, but also to make sure opportunity doesn't leave anyone behind.

I see a Maine that is energy secure, with highly educated and successful people.

Natural resources that are protected, accessible and put to work.

A place where innovation and creativity prevail.

And cities, towns and villages draw people from around the world to a quality of life unmatched.

This is our job.

We are in the midst of unprecedented times.

Locked in a struggle between recession and recovery.

The choices we make will help to determine which way Maine goes.

About a month ago, I submitted to the Legislature my plan to close a $438 million dollar shortfall in the State budget.

It continues themes you've heard from me before: A leaner government, increased efficiencies and frugality.

The causes of the shortfall are well-known.

Our State and country are beset by a global recession that has destroyed jobs and wealth, and undermined consumer confidence.

My plan includes tough choices and pain.

There's no way around that hard truth.

It will impact people and their communities.

It won't be easy.

During public hearings on the budget, we heard people talk about their economic plight.

Many of them told compelling, personal stories about how State government touches their lives, the good work that it does, especially in the area of human services.

I am committed to maintaining life-sustaining services, but we can't avoid reductions.

We must change the way we help people.

And we'll continue our mission to reduce administration, so there are more dollars available for what's really important.

If we can't break down the walls between State agencies to save money during this crisis, how can we tell other folks they need to go without?

My budget proposal also contains new efforts to streamline government.

I've suggested improving cooperation between the State's four natural resource agencies – the folks who help us manage our forests, fish, water and wildlife.

They have so much in common, but are artificially broken into four pieces.

We can save money and improve results by helping them to work better together.

During the last seven years, my administration has been aggressive about cutting the size of State government.

We've eliminated 1,000 positions, about 8.8 percent of the State's workforce.

State workers have taken shutdown days, lost pay raises and are now required to pay a portion of their health care.

We've combined State agencies and departments, school administrations, and county and State corrections.

And we are continuing our efforts to find efficiencies and to reshape government at all levels to be less expensive.

I am convinced that government at all levels can operate more efficiently, that administrative costs can be reduced through greater cooperation.

We've seen it work with the Board of Corrections and with regional school units, saving millions of property tax dollars.

Every dollar that we save from reduced administration means more resources for direct services – those places where the money does the most good.

It's hard to change structures. But we must.

About 46 cents of every dollar brought into the General Fund is returned to county and municipal governments.

There is no way that the State can absorb such a sharp reduction in revenues without impacting other levels of government.

Through school administrative consolidation and our unified correction systems, we have reduced the load on local governments.

But the times demand more.

While it's a tentative first step, I was encouraged by the election results in Brewer this fall. Voters there approved a ballot question that will begin the process of greater cooperation between their city and Bangor.

Maine has almost 500 municipalities plus 16 counties. We have a local government for every 2,500 State residents.

We cannot afford that redundancy and the duplication.

But we have also recognized that local governments need help.

With our unified corrections system, we have curbed State and local spending for jails and frozen property taxes needed for this area, helping counties to hold increases to their lowest level in many years.

The system is projected to save $189 million dollars in property taxes over the next five years.

In addition, school funding for this budget will still be $352 million dollars more than it was when I took office seven years ago, even after the proposed reductions.

And over the last five years, State aid to schools has increased faster than the cost of essential programs and services for the classrooms.

For communities willing to change, they can find a way through this recession.

Now the budget is in your hands, the Legislature.

Just last spring, we worked together to cut State spending by $500 million dollars.

At the time, it might have seemed impossible.

But leaders in the Legislature showed courage and resolve. They put aside partisanship and they trusted one another.

When the work was done, the cuts were made and we didn't raise taxes. For some, on both sides of the aisle, it was a hard vote to cast. But it was the right thing to do.

Now, we are again faced with the necessity to cut spending.

And once again, I am confident that working with the Legislature we can find a bipartisan path forward.

There should be no illusions.

There are no easy answers.

We must balance core government functions while protecting the vulnerable and safeguarding our economy.

While we still have a long way to go, there are signs that things are beginning to turn around.

When I addressed this body last year, I spoke about my visit to Domtar in Washington County. The plant had just announced that it was indefinitely closing.

I'm happy to say that today, 300 workers are back on the job and the owners of the company are committed to finding a business model that will work.

Maine is ready to help. We want to keep those men and women working.

We shouldn't take any action that will jeopardize recovery.

I will not support a tax increase to balance this budget.

Working families and businesses simply can't afford it.

I don't question the motives of those who seek a tax increase. They look around and see real problems and people struggling.

Their heart tells them they have to do something. My heart says the same thing.

But I know that the best way to help all Maine people is to promote job growth and economic recovery.

To spread opportunity and give our people a chance for prosperity.

We can't tax our way out of our problems, but we can grow our way out.

As President Kennedy said: "A rising tide lifts all boats."

And that's why I have an aggressive agenda that is already creating jobs today and will continue to create jobs for years to come.

It begins with our people and our natural resources.

Right now, Maine is leading New England in wind power generation.

And every day this important sector is growing.

Producing renewable and safe electricity.

But we have only begun to tap the potential for wind.

Work going on today by Habib Dagher at the University of Maine, with private-sector partners and critical support from the federal government, is positioning our State at the forefront of a new energy revolution.

We have it within our power to develop new, cutting edge sources of energy that can help to forever reshape the world.

From start to finish, Maine has a role to play. We can develop the technology; use composites from the University of Maine to build the turbines; and lower electricity rates.

That means good jobs.

It's also important for communities to see the benefits of new energy development.

That's why I am supporting legislation that makes sure wind projects produce tangible benefits to host communities.

Real benefits that communities can see and feel, like lower property taxes or improved public services.

There is a burning urgency to the work we are doing. We can not wait; too much is in the balance.

What's remarkable is that the right and left should be united on the need to free ourselves from foreign oil and all that dependency does to our people, our economy and our world.

Whether you believe in global warming or not, ending our dependency on foreign oil is a matter of national security that demands action now.

In 2008, this Legislature set a goal of producing 2 Gigawatts of wind power by 2020.

With 430 Megawatts already permitted, Maine is ahead of the schedule.

We are on the brink of a new day;

Will we allow the clock to be turned back to midnight or will we embrace the dawn?

The choice is as stark as night and day.

In the coming weeks, I will submit legislation to continue our aggressive pursuit of offshore wind energy.

The plan, which is the result of my Ocean Energy Task Force, will help to spark this new industry and confirm Maine's leadership role.

We will set a target of producing 5 Gigawatts of electricity from offshore turbines by 2030. That sounds like a long time from now, but in the birth of a new technology it's just a blink.

In just two years, there will be a prototype turbine in the water, producing electricity. And in five years, the amount of power produced will double.

Already, our efforts are being recognized.

The DeepCwind Consortium at the University of Maine already includes more than 35 public and private partners.

The project has earned nearly $25 million dollars in competitive grants and is in line for additional federal support.

Maine competed nationally and was one of just 12 sites in the entire country that has received this support to construct an offshore wind laboratory.

There are no sure things, but the plan has tremendous potential to create thousands of jobs in Maine and attract billions of dollars worth of investment.

Permitted and approved wind power development in Maine already represents more than $1 billion dollars of capital investment in our economy.

When it comes to energy, Maine's potential is not limited to wind alone.

Matt Simmons of Rockland is one of the world's leading thinkers about the oil industry and its limitations.

Matt founded the Ocean Energy Institute, which is working with some of the most prominent researchers in the world to develop a new source of energy.

Matt is working on an innovative approach that would utilize wind and tidal power to make ammonia, which could be handled and used much like propane.

Imagine, using the power of the wind and waves to create a new energy source almost literally out of thin air. Matt's imagined it, and he's working to make it real.

My administration is working with the Ocean Energy Institute, which is planning to build a pilot plant within the next two years.

And Maine is right in the middle of the action.

Our future doesn't solely depend on new technologies. Maine can also look to its forests to help provide for an independent future.

Just as our woodlands powered Maine's industrialization, they can contribute to new industries. Bio-fuels, like ethanol, and a new generation of boilers can turn wood into the energy and electricity we need for our industries and our homes.

Whether it's our ability to produce energy ourselves from sustainable resources or our strategic location between energy-rich Canada and the needs of southern New England, Maine is in a position to benefit.

I'm talking about new jobs, lower electricity rates and cleaner air and water.

It goes beyond turbines on a ridge or biomass boilers at paper mills. Our new energy future can reach into every home, bringing benefits that are felt throughout our economy.

Maine is a national leader in weatherization and conservation efforts. We know that any serious effort to reduce our dependency on oil starts with conservation.

It's where we get the biggest bang for the buck.

Two weeks ago, Maine awarded nearly $9 million dollars in grants to companies around the State committed to reducing their energy consumption, which will leverage about $81 million dollars in private investment.

Using estimates from the Department of Energy, that translates into more than 950 jobs.

But for Tex Tech Industries in Monmouth, the grants are a little more personal. The investment will pay for improvements that will save between 45 and 50 jobs that were slated to head offshore.

Those good jobs will be saved because energy improvements will help Tex Tech hold its costs in line with its competitors in the Far East.

Conservation means jobs.

And for those families at Tex Tech, it's the difference between hope and despair.

Our efforts aren't limited to just businesses.

We also have a new program for homeowners that can provide rebates of up to $3,000 dollars for weatherization and heating upgrades.

That's money coming right back to families who make the investment to cut their energy bills.

It's available to anyone, regardless of income.

The program helps families determine how to be more energy efficient and make the improvements, and the results can cut energy bills by up to half.

Government can't solve every problem, but as the grants and rebate program show, it can give businesses and families the tools to find their own answers.

For as long as I can remember, people have talked about "Two Maines."

I've always rejected that notion. We are one people, united in the things that matter most.

But there is truth to the idea that we live in different communities, each with its own strengths and challenges.

We can't be satisfied with an economy that favors one region or one industry. We need statewide growth, building on the assets that make each part of Maine unique and strong.

That is the idea behind the Great Maine Forest Initiative.

I believe it's the key to a successful rural economy, and can find the right balance for tourists and sportsmen, energy and industry.

A group of dedicated and diverse people have been working since last summer to develop a pilot program for this initiative.

The idea is to create large-scale conservation that maintains access for traditional uses;

It protects Maine's valuable forest resources from development;

And provides a stable source of wood, sustainably managed, for our forest products industries and our growing energy sector.

If we make wise choices, and keep our forests as forests, there are enough resources for everyone.

In the last seven years, Maine has conserved nearly 1.3 million acres of land, including completing Governor Baxter's vision for Baxter State Park.

We've done it through a State trusted program, Land for Maine's Future, with federal and private resources and, most importantly, with local support.

Environmentalists, private landowners, sportsmen and industry have bridged the gaps that in the past had kept them from working together.

This is the model the Great Maine Forest Initiative will build upon.

In February, we will present this innovative plan to the Obama Administration, where it will be considered as a national model of how conservation can be done in a new, cooperative way.

No initiative can be successful without the most important ingredient.

Our people.

If we want our economy to grow, then our people need the tools to succeed.

On February 9th, I will be holding a Jobs Summit at the Augusta Civic Center.

This is a cooperative event between the Maine Chamber of Commerce, Department of Economic and Community Development and the Department of Labor.

We'll listen to people who are growing their businesses in this tough economy and take away the lessons they can share.

We want to put people to work today.

We're also going to make sure that Maine businesses are aware of the tax incentive and business development programs that are available.

For example, Maine's Pine Tree Zone program was expanded statewide last spring. The program is an important tool for companies that create new jobs or relocate here.

For 2009, Maine received 65 applications for the program, more than any other year since it was introduced and despite the recession. Of those, 27 came from York and Cumberland counties, which were just made Pine Tree Zone eligible.

These companies are creating jobs right now. And that's good news.

Also at the summit, I want to introduce my proposed new structure for the Department of Economic and Community Development.

Our economic development efforts are going to be more locally and regionally based, growing from the ground up and not from Augusta down.

This new approach will build on local assets and will be more friendly to businesses looking for assistance.

Over the long-term, jobs creation depends upon having a quality workforce.

And that starts with a quality education.

Despite mounting financial pressures, Maine continues to demonstrate that our children are our highest priority.

Education spending accounts for half of every dollar spent by State government.

I want to do more, but a good education depends upon more than just money.

My administration has made it a focus to reduce administrative costs for education, so resources can be directed to the classroom where they matter the most. And in those districts that have reorganized, there are real savings.

We have never sacrificed quality to save money. And we won't start now.

The voters this fall validated our approach to reducing unnecessary school district administration.

And I will not support changes that undermine the law. We must move forward, not back.

But I also recognize administrative reform can take you only so far.

We are at a crossroads in education. We must make changes.

President Obama has set aside significant incentive dollars as part of a national Race to the Top competition. For states to be eligible for the increased funding, they must answer some difficult questions.

Beginning with accountability.

Teachers and principals are responsible for their classrooms and the students in them. Student achievement must be part of how they are evaluated.

There are many factors that contribute to student performance, some of them outside the control of hard-working teachers. But we know that effective teachers get better results.

It's time we put that common sense into policy.

I know this proposal will be controversial in some quarters. But no less an authority than Randi Weingarten, the president of the American Federation of Teachers, acknowledges that student performance must be part of teacher evaluations.

How can we, in good faith, hand out grades to students based on how they perform if we fail to do the same thing for the people teaching them?

Recognizing good teachers is an overdue reform.

Next, we need to provide schools with the flexibility to succeed.

Under my plan, schools will be encouraged to innovate.

They will be able to manage their budgets on the school-level, set their own schedules, and try creative approaches to curriculum and instruction.

For example, we could see schools try a year-round schedule with a science-based theme that runs through the curriculum.

And we must address low-performing schools and reduce dropout rates.

We can do it by empowering parents and districts, and encouraging programs like Jobs for Maine's Graduates that we know are effective in keeping kids in school and preparing them for a career or college.

It's not enough to have good schools if too many of our kids don't go to them.

We will also adopt national standards for performance.

Maine already has rigorous standards, but because most states use different ones, comparisons are difficult.

By adopting core national benchmarks, we will be able to better understand the places where Maine excels and the areas where we need more work.

Look around and the world is a much different place than when I was in school.

The challenges are greater, and they require a focus on science, technology, engineering and math – or STEM for short.

Schools are partnering with businesses to create STEM-related internships, to engage students and introduce them to a world of possibilities.

Later this month, we'll hold our STEM Summit, where Maine's leading high-tech industries and thinkers will come together.

Companies will locate to places like Maine with a highly skilled workforce.

Attention to early childhood education is also critical for laying the foundation for success in life.

Even during these difficult times, we know that we have to invest in early childhood education.

Last year, working with the Legislature, we created New England's first and only Educare site, a public-

private partnership that will help improve early childhood education in every part of the State.

Educare wouldn't have happened without the vision and determination of the First Lady.

She is a dedicated educator and advocate for children and families.

She is here tonight with our son, Jack. Would you both please stand and receive the greetings of the chamber?

Thank you.

Maine is blessed with an active and committed people, determined to make our State better.

We see it every day in big ways and small, whether its donations to churches, relief efforts and spaghetti fundraisers, or big gifts to support our soldiers or our students.

And we see it from individuals like Stephen and Tabitha King or the Alfond Foundation, who continually contribute to worthy causes, and from groups like State workers, who contributed more than $340,000 to their communities through our coordinated campaign.

Tonight, I would like to recognize Richard Collins, who is here with us.

Dick and his wife, Anne, have contributed $6 million dollars to support the University of Maine, providing one of the largest gifts in the school's history.

It's an example of how the people of Maine support their communities and partner with government on issues that matter.

Dick grew up on a Maine potato farm and despite great success never forgot about his alma mater or his State. His contribution will help thousands of students and Maine's flagship university.

Dick, would you please stand and receive the greetings of the assembly.

Thank you.

There's a temptation to look around and see our challenges and feel like the terms of our economy are being dictated by others:

Financiers.

Wall Street.

Oil companies.

They've all certainly taken their toll.

But come June, Maine voters will have a chance to take control and make a real and lasting difference in our economy.

No, I'm not talking about the 23 – or more – people who are running so they can give this speech next year. Although that's important too.

I'm talking about an investment package and tax cut that will appear on the ballot.

Maine has an opportunity to invest in economic development and innovation, green energy, clean drinking water, higher education and the redevelopment of Brunswick Naval Air Station.

About $69 million dollars in bonds will go to voters in June.

I understand that during a recession, voters might be reluctant to approve new borrowing.

But the truth is, we can't afford not to make these investments.

They will put people to work, make our universities and colleges stronger, and help our critical Midcoast economy weather the storm of the air station's closing.

This is an investment in our people and our future. It's strategic and timely.

We must make it.

Also on the ballot in June will be a question opposing an income tax cut.

Last spring, we passed legislation that cuts income taxes in Maine. The Wall Street Journal editorial page called it the "Maine Miracle."

We lowered the rate from 8.5 percent, one of the highest in the country, to 6.5 percent for people making $250,000 or less.

We did it by closing loopholes in the sales tax and by increasing the tax on meals and lodging to spread the burden onto visitors who come to Maine but who don't pay taxes here.

Maine Revenue Service says 90 percent of Maine families will benefit and more of our tax burden will be exported to tourists.

After all, when you and your family plan a vacation, you don't check to see how much the lodging tax is before you go.

This is a middle-class tax break that rewards work.

If you earn a paycheck, you'll be able to keep more of your wages.

And the lower income tax burden will attract new investors to Maine, where they can create needed private-sector jobs.

In June, I urge you to vote NO on this misguided effort to raise the personal income tax again.

Working families and small businesses deserve a tax break, and Maine needs new jobs now.

In Washington, there's a loud debate centered on health care.

The policy choices are far from clear cut, but the States are struggling, and we need relief both in terms of increased financial support and better policies so that everyone has access to affordable and high quality care.

It's a big issue and it touches every family and business in Maine.

Reform is difficult work. We know because Maine has been a leader, enacting the first comprehensive health reform effort in the country.

While we know we need a national solution, we will continue on our path of increasing access, quality and reducing costs.

Tonight I'm announcing another part of that effort.

Each one of us can help lower health care costs by taking better care of ourselves and taking responsibility.

As a doctor once told me: We can't show up at the emergency room and pretend we had nothing to do with getting there.

Tomorrow, a new resource will be available to help Mainers take control of their own health.

It's not health care reform from Washington or Augusta, but better health in the hands of the individual.

By logging on to "KeepMEWell.org," people can sign up and learn more about their health status and lower their risk for disease.

The confidential Web site will connect people to information and resources they need to be healthier and lower their health care expenses.

It will connect them to low-cost health services and community resources built through our sustained commitment to using tobacco settlement money for improved health and the Healthy Maine Partnerships that are located throughout Maine.

We need systematic improvements in health care. But we also have an obligation as individuals to take responsibility.

No matter the challenges we face as individuals or as a State, the people of Maine are always willing to help others even when money is short at home.

As we work to balance a difficult budget and to set Maine on the course for a prosperous future, I keep coming back to how lucky we really are to live in such a wonderful place.

Last week, the tiny island nation of Haiti was devastated by an earthquake.

The capital was destroyed, and it's hard to imagine the scale of the destruction and the terrible loss of life.

A country and its people precariously cling to life.

Mainers are already answering the call.

They rushed into chaos to provide aid and comfort, and to tell the stories of life and death.

Our State stands ready to do its part to help Haiti.

Soon, 324 members of the Maine Army National Guard will deploy to Afghanistan.

Whether it's at home during a disaster, or overseas in the fight against Al Qaida or delivering humanitarian assistance to a battered neighbor, Maine's National Guard is ready.

Every time I meet these men and women, I am overwhelmed with pride. They are among our best, they do us proud and they keep us safe.

The Herald tonight is Lieutenant Colonel Diane Dunn.

Colonel Dunn recently returned from Afghanistan, where she led a team of 81 National Guard soldiers. She is the first woman to lead a Maine National Guard battalion in either Iraq or Afghanistan.

The unit performed its mission with professionalism and courage.

Colonel Dunn please stand and accept the appreciation of the assembly for a job well-done and for bringing our soldiers home safely.

Thank you.

Tonight, I make this promise to the people of Maine.

We will not relent.

We will drive forward regardless of the obstacles that confront us.

We will sacrifice today, and we will make strategic investments for tomorrow.

We face hurdles and hardships, but we are not afraid to make decisions, to break new ground and to build. To set the bar high. To challenge old and outdated limits.

We are called to act prudently and responsibly. But we are called to act.

This is not an easy time.

But we are not adrift. We are grounded in the Maine values of hard work and integrity, and by a spirit of determination.

We are not trying to just get by. We are making changes so that Maine can be at the forefront of recovery and a new economy.

Our State is small enough where you know everyone, but big enough to get the right things done.

We have the power, the ability, the skills, the resources and the people.

On January 4th, 1972, Sen. Edmund Muskie came home to Maine to announce that he would run for President.

That night, he said:

"There is not a single problem we do not have the resources to solve if we overcome our fears and quiet our doubts and renew our search for the common good."

"Ultimately, of course, what is at stake is your future. I am not telling you that I can guarantee the best of all possible worlds. All I am asking is that we pledge a new beginning."

Tonight I say to you, the future is ours to make.

God bless you. God bless Maine and God bless the United States of America.

Thank you.

# STATE OF THE JUDICIARY ADDRESS
# OF
# CHIEF JUSTICE LEIGH INGALLS SAUFLEY
# JANUARY 26, 2010

**Building for the Future in Precarious Times**

Governor Baldacci, President Mitchell, Speaker Pingree, members of the 124th Maine Legislature; members of the Court; colleagues from Tribal, Probate, and Federal Courts; friends and family, it is an honor to present this report on the State of Maine's Judiciary.

This has been a challenging year. Last year, I told you that the state of the Judiciary was **Precarious**, and that, if Justice fails, Democracy fails.

We are not alone in this concern. Recently, the President of the National Conference of Chief Justices, Margaret Marshall, said: "Our state courts are in crisis. A perfect storm of circumstances threatens much that we know, or think we know, about our American system of justice." As you know, the Maine judiciary has struggled more than most states, and has made national headlines because of the lack of court security.

But we have something in Maine that many states do not: a willingness to collaborate across branches of government, and a Maine work ethic that carries us through the toughest of times.

Today, the state of the Maine Judiciary remains Precarious, but with your support, with the support of Governor Baldacci, and with the incredible talent and hard work of our dedicated court employees and judges, there is hope. Today, I will give you some bad news, some encouraging news, and some very good news.

**I. Bad News**

First, the bad news. Like the other two branches of government, we face a serious shortfall. The Judicial Branch is made up of buildings and people to resolve society's disputes. There are no programs to cut. You have worked with us to avert the closing of courthouses, and we have already worked extensively to cut expenses to the bone—in fact this year, we have not even brought you paper copies of this speech. In the future, it will be on-line if you want to pore through it.

Because of these hard facts, when there is a shortfall in the budget, we have no option but to maintain vacancies. The current shortfall requires us to maintain 30 to 40 positions vacant, out of a total, including judges, of just over 500 positions. In a system that was understaffed at the start of this recession, these vacancies have a direct impact on our ability to get the job done.

- Security equipment goes unstaffed.
- Courthouses have regularly suffered reduced public hours.
- The Business and Consumer Docket remains at half strength.
- Requests for information or documents meet extended delays.
- With civil cases on the rise, small claims and landlord/tenant cases may wait months for judicial attention.

That is the bad news, plain and simple. We do not have sufficient people to keep up with all of the work that justice demands. Daily, we feel public frustration mounting.

**II. Encouraging News**

But there is encouraging news: through innovation and consolidation, we are endeavoring to do more with less. We are acutely aware of the challenges you face, and we are well aware that a fiscal solution to the problems in the court system is not on the immediate horizon. We have therefore focused on two overarching goals:

- First, we must preserve limited resources for the core mission of the Judicial Branch: providing safe, accessible, efficient, and impartial dispute resolution. That core mission guides us as we make tough choices regarding what we should do and what we cannot do.
- Second, we must streamline and consolidate resources to allow us to provide those core func-

tions within funding limitations. This often requires changes to systems that have existed for decades. I will talk to you about some of those important changes today.

A. Courthouse Safety

But first, as always, I report to you on courthouse safety. Despite budget cuts, we have not lost our focus on preventing guns from reaching our courtrooms. A good example of the critical importance of entry screening occurred recently in Nevada when an unhappy litigant sought to kill those involved in his adjudication. The incident ended tragically with the death of a security officer. But the tragedy would have been immensely worse had the litigant not been met at the courthouse door by the brave entry screening team who stopped his rampage.

At the same time, the number of dangerous events in Maine's courthouses is on the rise. The professional work of our Marshals and Sheriffs in defusing tense situations has been effective in preventing tragedies, but we have been lucky. We must improve our capacity to stop weapons at the doors of Maine's courthouses.

The vacancies we must carry present a serious barrier to improving security. We have, therefore, wherever possible, taken dollars saved from vacancies in other positions and applied them to security staffing. We have made the conscious decision to leave other vacancies in place, while we slowly fill the security positions. By shifting resources and maintaining vacancies, we have restored some marshal positions.

We anticipate that the court's entry screening capacity will soon rebound from a low of less than 5% to almost 25% of all court days. It should be 100%, but 25% will mark a significant improvement. Unless there are further cuts in the Judicial Branch budget, the shifting of critical resources will allow us to improve courthouse safety.

There is, of course, a trade-off from the loss of other important staff. These vacant positions have a very real effect on our ability to get the work done: they will reduce the effectiveness of Bail Commissioner services, limit our ability to work with the jails and prisons to improve video conferencing capacities, and reduce the ability to respond quickly to public needs and to your requests for information. We ask for your patience while we prioritize safety in our courthouses, and wait for economic recovery.

B. Case Processing

I have just a bit more difficult news before we move to more hopeful topics. During Fiscal Year 2009, more than 292,000 new cases were filed. That represents more filings than the courts have seen in recent memory, and the new filings had to be processed by a clerk staff that is suffering substantial vacancies.

The increases are primarily in civil cases: mental health commitments, foreclosures, small claims, and traffic infractions. We cannot reach all of the cases in a timely manner. Backlogs are increasing, and we are straining good staff to the brink.

Notwithstanding the increasing caseloads and decreasing staff, our trial courts and Violation Bureau resolved 288,000 cases last year. Every one of those cases was important to the people involved, and many have profound effects on your communities.

- Attorney General Mills reports there were 31 homicides in Maine in 2008, the highest in 30 years, 60% of which were related to domestic violence, and that, of the 26 new Homicide cases that were filed in 2009, ten are alleged to have involved domestic violence. A growing number of homicides are related to the violence that accompanies illegal drug use.

- Fully one thousand new mental health commitment petitions were filed last year. That number is up 36% over the last 5 years.

- Criminal cases have become more complex, as our citizens struggle with drug addiction, sexual assault, and domestic violence.

- 6,130 people sought protection from abuse.

- Despite the improvements brought about by the Adult Drug Treatment Courts and the Co-occurring Disorders Courts, the Attorney General reports that 464 drug-affected babies were born in Maine last year.

- At the same time, businesses and individuals are struggling just to stay afloat. Small claims, col-

lections, and foreclosure cases reached an all-time high.

If our citizens are going to find the courthouse doors open when they need justice the most, we must continue to work together to avoid further reductions.

C. Consolidations

Moving then to the more encouraging news. There are two areas of consolidation that have been highly successful and help us make the very best use of the dollars available.

1. Merger of Clerks' Offices

As of today, we have consolidated 26 separate clerks offices into 13 streamlined, efficient offices. Our clerks are the backbone of the court system. They constitute more than half of the total 500 people who make up the court system. Clerks' office consolidations have been critical to our ability to run a system that has so many clerk vacancies. It does not solve the shortage completely, but it allows a more flexible use of human resources, and it has improved our capacity to provide public service.

2. Unified Criminal Dockets

The second type of consolidation has occurred in the Criminal Dockets. The historic design of the District and Superior Courts has resulted in a substantial overlap of work, complete with frequent re-keying, transfers of paper and delays in scheduling. It has created an unproductive duplication of work. By 2007, fully half of the criminal cases in the Superior Courts had originated in the District Courts and were forced through this duplicative, and time-consuming process. I will not detail all of the problems, but it is hard to imagine a less efficient and less public service oriented system.

Enter the incredibly creative judicial team of Justices Roland Cole and Robert Crowley. I asked them to bring together the necessary stakeholders, and to create a unified process for criminal cases. Portland was chosen because District Attorney Stephanie Anderson was supportive of the concept, despite the enormous changes it would bring.

In January 2009, the first Unified Criminal Docket in Maine was launched as a pilot project in Cumberland County. All of the clerks in both the District and Superior criminal courts were combined into a single unit. Duplicative work was eliminated. Defendants know from the first day they appear in court when their trials will occur. Victims have the same information. Law enforcement appearances have been substantially reduced. Strained resources in the District Attorney's office can be diverted to the most serious crimes. Defense attorneys are involved early with immediate access to information. And best of all, the resolution of the combined criminal cases in the Portland Unified Criminal Docket is accomplished more promptly than in any other Region in the State.

The Unified Criminal Docket represents a major change for all involved, requiring a constant balancing of constitutional rights and the public's interests. It was done without new dollars, but it is one of the most significant improvements in the court system in decades. As the concepts expand to other areas of the State, we have launched a Unified Criminal Docket in Penobscot County this month.

The Team that came together to create the new process had to redesign the plane while it was in the air. I'd like the members of the Team who were able to join us today to stand and be recognized. (Please hold your applause until they have all been identified.)

- Justice Ellen Gorman from the Supreme Judicial Court,
- Justice Roland Cole from the Superior Court,
- Judge Paul Eggert from the District Court,
- Sally Bourget, Clerk of the newly consolidated Portland Courts,
- District Attorney Stephanie Anderson, who had to completely reorganize her own staff, and
- Attorney Sarah Churchill representing the wonderful group of defense attorneys in Portland—Thank you for your efforts.

D. Indigent Legal Services Commission

Another area of encouraging progress assists Maine's low-income people. Last year at this time, the provision of legal services for criminal defense and child protection for our poorest citizens was under the con-

trol of judges who selected the lawyers and approved their bills. The appearance of a conflict of interest was intolerable. Justice Clifford and I spoke to you about the importance of creating an independent system.

Despite all of the pressing issues competing for your attention, you responded wisely by creating the Maine Commission on Indigent Legal Services. By July 1, the transition will be complete. The Maine Legislature's approach to ending this conflict of interest and creating independent oversight will be one of the lasting achievements of the 124th Legislature.

E. Access to Justice

Finding attorneys to assist the poor in critical civil cases requires a very different approach. When our citizens are faced with losing their homes, losing medical care, or losing their children to someone other than the State, they are not entitled to government funds for legal help. The mortgage foreclosure crisis is an excellent example of the desperate need for that help.

This is where the work of Maine's legal community is critical. The Justice Action Group is designing a multitude of ways to help litigants who cannot afford an attorney. And Maine lawyers and legal services providers continue to help those in need. Despite the terrible economy, Maine lawyers gave more than $350,000 last year to the fund that helps low-income Mainers with legal services. They gave even more of their time, donating more than 13,000 hours of free legal services, and those are just the hours that are recorded. In January, Bangor attorneys opened a free Saturday legal clinic, staffed by lawyers volunteering their weekend time, and in Portland attorneys stepped up to provide help to low-income litigants caught up in the complexities of appeals. And we should not forget that the work of Maine's trial attorneys on behalf of injured people returns millions of dollars to Maine's Medicaid accounts each year.

Don't believe what you see on T.V. Maine lawyers are a key part of their communities, and I am personally grateful for their tireless support for people in need.

F. Facilities

Last session also brought lasting achievements for Maine's courthouses. The Tri-Branch Courthouse Advisory Committee helped us create an effective plan for addressing critical facilities needs while making the best use of scarce dollars. Legislators, members of the Governor's office, county officials, law enforcement, and attorneys all came together to design long-term, state-wide solutions. And last year, you provided bipartisan support for their recommendations.

- You passed a budget that supported rural courthouses.
- You created a small but important capital account for critical repairs.
- You helped us plan for consolidating courthouses that are down the street from each other, or even across a parking lot, into single efficient buildings.

The newly renovated Houlton Courthouse provides an excellent example of the benefits of this planning process. In Bangor, the consolidated, energy efficient, safer courthouse will serve the citizens of Penobscot County for centuries. Soon Piscataquis, Kennebec, and Washington Counties will have greatly improved facilities.

All of it was accomplished in fiscally responsible ways, and none of it could have been accomplished without the support of Legislative leadership—President Mitchell, Senator Raye, Speaker Pingree, and Representative Tardy, and so many of you who work on the committees that oversee the Branch and our budget. Thank you.

**III. Other Encouraging News**

Also in the category of encouraging news, the Chief Justices of Maine, New Hampshire, and Vermont are working together to determine whether the resources and talents of the three states can be shared. One example is the effort to leverage the purchasing power of the three states regarding essential court services, such as interpreters and electronic research.

At the national level, responding to our request, Congresswoman Chellie Pingree has co-sponsored a bill to allow a federal tax offset for unpaid state fines. Revenues from fines are down for the first time in many years. We have had success with the tax offset program in state government, and we hope to achieve similar success with a federal tax offset.

Here in Maine, Foreclosure Mediation is now available statewide. The willingness of Maine attorneys and community service providers to offer their time at no cost was invaluable to the efforts to get started. Implementing the judicial aspects of your innovative legislation statewide has required a tremendous effort to develop materials for judges and clerks, educate parties and attorneys about the process, and to recruit, select, and train foreclosure mediators. Again, judges, particularly Judge Andre Janelle, and our terrific staff have risen to the challenge. Sixty-seven mediators have been trained. We will be back to you next year with information on the accomplishments of Foreclosure Mediation in Maine.

**IV. Very Good News**

I now turn to two areas of truly exciting opportunities: A pending dramatic upgrade in technology, and transformative changes in Juvenile Justice.

A. Juvenile Justice

During the last year, First Lady Karen Baldacci, representing all of the Executive Branch agencies that work with children and families, and Dean Peter Pitegoff of the University of Maine School of Law, joined me in leading a unique coalition of many stakeholders to consider how to better serve Maine's youth in and out of the juvenile justice system.

The problem? Although Longcreek and Mountainview had improved dramatically through the last decade, the community, educational, and judicial responses to our youth were in desperate need of a similar overhaul.

- Too many of Maine's young people are leaving school, and losing their way.
- Too many resources have been spent in ways that were not effective.
- Too many of our kids are consigned to lives of hopelessness, homelessness, violence and despair.

The Task Force set out to create the blueprint to substantially improve our response to juvenile problems, without new dollars. This extraordinary collaborative, including many legislators, has generated 10 primary recommendations.

- Some of the recommendations require legislation, and Representative Haskell and Senator Alfond have taken the lead;
- Some require a focus on improved coordination of resources, and communication. The Courts and the Children's Cabinet have taken the lead; and
- Others require real human commitment and the sharing of resources at the community level.

If we follow through, many more of our youth will graduate from high school, fewer will spend the days of their adolescence behind bars, and local leaders and volunteers will strengthen the very foundation of our communities.

B. Technology

The second area of exciting news affects technology. In the last several years, I have talked to you about the need to bring the Maine courts into the 21st century. General fund dollars have simply not become available. In the last year, with the support of the Department of Public Safety and Commissioner Jordan, the Judicial Branch has sought and received almost 2 million dollars in various grant funds, all aimed at dramatically improving the State's technology in criminal matters.

As the new system develops, the technology that supports law enforcement officers, prosecutors, defense attorneys, clerks and judges will be one seamless electronic flow of information. Judgments will automatically reach the jails without retyping, eliminating human errors and confusion. Arrest warrants will be centralized and immediately available in the field. The public will have prompt access to information. Public safety will be substantially improved. I am incredibly proud of the accomplishments of our technology staff and judges. With the grant funds in hand, we hope to change the world of criminal justice information.

**V. Conclusion**

In the end, although serious understaffing continues to hurt the public, working with all of you, we have taken several significant steps forward. Please help us meet our goals by supporting the Governor's budget proposal and avoiding further cuts in the justice budget.

TABLE I

Sections of the Maine Revised Statutes affected by the laws of the Second Regular Session of the 124th Legislature, the Revisor's Report 2009, Chapter 1 and Initiated Bill 2009, Chapter 1.

| TITLE | SECTION | SUB | PARA | EFF | CHAPTER | PART | SEC |
|---|---|---|---|---|---|---|---|
| 1 | 150-E | | | NEW | PL 494 | | 1 |
| 1 | 353 | | | AMD | PL 538 | | 1 |
| 1 | 353 | | | AMD | PL 462 | D | 1 |
| 1 | 402 | 3 | O | COR | RR 1 | | 1 |
| 1 | 402 | 3 | P | COR | RR 1 | | 2 |
| 1 | 402 | 3 | P | RAL | RR 1 | | 3 |
| 1 | 402 | 3 | Q | RAL | RR 1 | | 3 |
| 2 | 9 | 3 | C | AMD | PL 655 | C | 1 |
| 2 | 9 | 4 | | NEW | PL 655 | C | 2 |
| 2 | 104 | 7 | F | AMD | PL 609 | | 1 |
| 2 | 104 | 7 | G | AMD | PL 609 | | 2 |
| 2 | 104 | 7 | H | NEW | PL 609 | | 3 |
| 3 | 1 | | 2nd | AMD | PL 636 | A | 1 |
| 3 | 2 | | 8th | AMD | PL 636 | A | 2 |
| 3 | 168-A | | | RP | PL 623 | | 1 |
| 3 | 168-B | | | NEW | PL 623 | | 2 |
| 3 | 701 | 10-A | | NEW | PL 474 | | 1 |
| 3 | 702 | | 1st | AMD | PL 474 | | 2 |
| 3 | 705 | | | NEW | PL 474 | | 3 |
| 3 | 801 | 1-A | | AMD | PL 474 | | 4 |
| 3 | 805-B | 1 | | AMD | PL 474 | | 5 |
| 3 | 959 | 1 | A | AMD | PL 552 | | 1 |
| 3 | 959 | 1 | G | AMD | PL 561 | | 1 |
| 4 | 115 | | 1st | COR | RR 1 | | 4 |
| 4 | 807 | 3 | O | AMD | PL 480 | | 1 |
| 4 | 807 | 3 | P | AMD | PL 480 | | 2 |
| 4 | 807 | 3 | Q | NEW | PL 480 | | 3 |
| 4 | 1201 | 9 | | AFF | PL 571 | MMM | 3 |
| 4 | 1201 | 9 | | AMD | PL 571 | MMM | 1 |
| 4 | 1201 | 11-A | | NEW | PL 474 | | 6 |
| 4 | 1202 | | 1st | AMD | PL 474 | | 7 |
| 4 | 1205 | | | NEW | PL 474 | | 8 |
| 4 | 1305-B | 1 | | AMD | PL 474 | | 9 |
| 4 | 1306 | 2 | | AMD | PL 474 | | 10 |
| 4 | 1358 | 1 | A | AMD | PL 473 | | 1 |
| 4 | 1358 | 1 | A-1 | AMD | PL 473 | | 2 |
| 5 | 19 | 1 | E | AMD | PL 524 | | 1 |
| 5 | 19 | 2 | | AMD | PL 524 | | 2 |
| 5 | 19 | 2-A | | AMD | PL 524 | | 3 |
| 5 | 92-A | 5 | | AMD | PL 509 | | 1 |
| 5 | 95 | 12 | | AMD | PL 509 | | 2 |
| 5 | 95 | 13 | | AMD | PL 509 | | 3 |
| 5 | 95 | 14 | | NEW | PL 509 | | 4 |
| 5 | 95-A | 1 | | AMD | PL 509 | | 5 |
| 5 | 244-E | | | NEW | PL 567 | | 1 |
| 5 | 282 | 9 | | RPR | PL 655 | B | 1 |
| 5 | 285 | 1 | F-7 | COR | RR 1 | | 5 |
| 5 | 285 | 1 | F-8 | NEW | PL 571 | NN | 1 |
| 5 | 285 | 7-A | | AMD | PL 571 | JJJ | 1 |
| 5 | 933 | 1 | K | RP | PL 552 | | 2 |
| 5 | 933 | 1 | L | AMD | PL 462 | K | 1 |
| 5 | 933 | 1 | L | RP | PL 552 | | 3 |
| 5 | 933 | 1 | M | RP | PL 462 | K | 2 |
| 5 | 933 | 1 | N | AMD | PL 552 | | 4 |
| 5 | 933 | 1 | O | NEW | PL 552 | | 5 |
| 5 | 933 | 1 | P | NEW | PL 552 | | 6 |
| 5 | 1582 | 4 | | AMD | PL 462 | G | 1 |
| 5 | 1582 | 4 | | AMD | PL 571 | GGGG | 1 |
| 5 | 1591 | 3 | | RAL | RR 1 | | 6 |
| 5 | 1591 | 4 | | RAL | RR 1 | | 6 |
| 5 | 1664 | 3-B | | NEW | PL 636 | C | 1 |
| 5 | 1665 | 1 | | AMD | PL 636 | C | 2 |
| 5 | 3307-G | | | NEW | PL 522 | | 1 |
| 5 | 3331 | 6 | | AMD | PL 652 | A | 1 |
| 5 | 4654 | 8 | | NEW | PL 555 | | 1 |
| 5 | 4655 | 6 | A | NEW | PL 555 | | 2 |
| 5 | 4655 | 6 | B | NEW | PL 555 | | 3 |
| 5 | 7019 | | | NEW | PL 483 | | 1 |
| 5 | 7020 | | | NEW | PL 483 | | 1 |
| 5 | 7020-A | | | NEW | PL 483 | | 1 |
| 5 | 12004-G | 15-B | | NEW | PL 595 | | 1 |
| 5 | 12004-G | 20-A | | RP | PL 561 | | 2 |
| 5 | 12004-G | 26-E | | RP | PL 652 | A | 2 |
| 5 | 12004-G | 29-C | | NEW | PL 483 | | 2 |
| 5 | 12004-G | 30-D | | NEW | PL 655 | A | 1 |
| 5 | 12004-I | 24 | | RP | PL 652 | A | 3 |
| 5 | 12004-I | 54-C | | AMD | PL 623 | | 3 |
| 5 | 12004-I | 84-A | | AMD | PL 481 | | 1 |
| 5 | 12004-I | 91 | | COR | RR 1 | | 7 |
| 5 | 12004-J | 17 | | AMD | PL 652 | A | 4 |
| 5 | 13080-S | 3 | | AMD | PL 571 | LL | 1 |
| 5 | 13083-G | | | AMD | PL 641 | | 1 |
| 5 | 13083-I | 4 | | AMD | PL 641 | | 2 |
| 5 | 13083-L | 5 | | NEW | PL 641 | | 3 |
| 5 | 13083-N | 4 | | AMD | PL 641 | | 4 |
| 5 | 13083-P | 2 | B | AMD | PL 641 | | 5 |
| 5 | 13083-S | 1 | G | AMD | PL 641 | | 6 |
| 5 | 13083-S | 1 | H | AMD | PL 641 | | 7 |
| 5 | 13083-S | 1 | I | NEW | PL 641 | | 8 |
| 5 | 13083-S-1 | | | NEW | PL 641 | | 9 |
| 5 | 13090-L | | | AMD | PL 470 | | 1 |
| 5 | 13171 | | 1st | COR | RR 1 | | 8 |

**CROSS REFERENCE TABLE I**

| TITLE | SECTION | SUB | PARA | EFF | CHAPTER | PART | SEC |
|---|---|---|---|---|---|---|---|
| 5 | 17001 | 4 | A | AMD | PL 571 | RRR | 1 |
| 5 | 17001 | 4 | A | AMD | PL 630 | | 1 |
| 5 | 17001 | 18-A | | NEW | PL 474 | | 11 |
| 5 | 17054-A | | | NEW | PL 474 | | 12 |
| 5 | 17057 | 4 | | NEW | PL 633 | | 1 |
| 5 | 17602 | | 1st | AMD | PL 474 | | 13 |
| 5 | 17603 | | | NEW | PL 474 | | 14 |
| 5 | 17652 | | | AMD | PL 474 | | 15 |
| 5 | 17704 | | | RP | PL 474 | | 16 |
| 5 | 17704-A | | | RP | PL 474 | | 17 |
| 5 | 17704-B | 2 | | AMD | PL 474 | | 18 |
| 5 | 17704-C | | | NEW | PL 474 | | 19 |
| 5 | 17706-A | 1 | | AMD | PL 474 | | 20 |
| 5 | 17707 | 4 | C | AMD | PL 474 | | 21 |
| 5 | 17753 | | | AMD | PL 474 | | 22 |
| 5 | 17758 | | | RP | PL 474 | | 23 |
| 5 | 17806 | 1 | A | AMD | PL 473 | | 3 |
| 5 | 17806 | 1 | A-1 | AMD | PL 473 | | 4 |
| 5 | 18057 | | | AFF | PL 515 | | 3 |
| 5 | 18057 | | | AMD | PL 515 | | 1 |
| 5 | 18058 | 1 | | AMD | PL 474 | | 24 |
| 5 | 18058 | 2 | | AMD | PL 474 | | 25 |
| 5 | 18200 | | 1st | AMD | PL 474 | | 26 |
| 5 | 18205 | | | NEW | PL 474 | | 27 |
| 5 | 18251 | 3 | | AMD | PL 474 | | 28 |
| 5 | 18251 | 4 | | RP | PL 474 | | 29 |
| 5 | 18251 | 5 | | RP | PL 474 | | 30 |
| 5 | 18252 | | | AMD | PL 474 | | 31 |
| 5 | 18252-A | 1 | A | AMD | PL 474 | | 32 |
| 5 | 18252-A | 1 | B | AMD | PL 474 | | 33 |
| 5 | 18252-B | 6 | C | RP | PL 474 | | 34 |
| 5 | 18254 | 1 | | AMD | PL 474 | | 35 |
| 5 | 18254 | 5 | | AMD | PL 474 | | 36 |
| 5 | 18305 | | | RP | PL 474 | | 37 |
| 5 | 18305-A | | | RP | PL 474 | | 38 |
| 5 | 18305-B | | | NEW | PL 474 | | 39 |
| 5 | 18305-C | | | NEW | PL 630 | | 2 |
| 5 | 18307-A | 1 | | AMD | PL 474 | | 40 |
| 5 | 18308 | 4 | C | AMD | PL 474 | | 41 |
| 5 | 18353 | | | AMD | PL 474 | | 42 |
| 5 | 18358 | 2 | | RPR | PL 474 | | 43 |
| 5 | 18407 | 4 | A | AMD | PL 473 | | 5 |
| 5 | 18407 | 4 | A-1 | AMD | PL 473 | | 6 |
| 5 | 18601 | | | AFF | PL 513 | | 3 |
| 5 | 18601 | | | RPR | PL 513 | | 1 |
| 5 | 18657 | | | AFF | PL 515 | | 3 |
| 5 | 18657 | | | AMD | PL 515 | | 2 |
| 5 | 18801 | | 1st | RPR | PL 474 | | 44 |
| 5 | 20006-B | | | NEW | PL 622 | | 1 |
| 5 | 20072-A | | | NEW | PL 462 | J | 1 |
| 6 | 302 | 2 | A | AMD | PL 485 | | 1 |
| 7 | 353 | 6 | | AMD | PL 652 | A | 5 |
| 7 | 415 | 1 | | AMD | PL 547 | | 1 |
| 7 | 415 | 2 | B | AMD | PL 547 | | 2 |
| 7 | 483 | | 1st | AFF | PL 631 | | 51 |
| 7 | 483 | | 1st | AMD | PL 631 | | 1 |
| 7 | 1708 | | | NEW | PL 544 | | 1 |
| 7 | 2902-B | 2 | | AMD | PL 652 | B | 1 |
| 7 | 2952-A | 3 | A | AMD | PL 467 | | 1 |
| 7 | 3153-B | 1 | D | AMD | PL 467 | | 2 |
| 7 | 3153-B | 3 | | AMD | PL 467 | | 3 |
| 7 | 3153-C | | | RP | PL 467 | | 4 |
| 7 | 3153-D | | | AMD | PL 467 | | 5 |
| 7 | 3906-B | 16 | | AMD | PL 548 | | 1 |
| 7 | 3906-B | 17 | | NEW | PL 548 | | 2 |
| 7 | 3909 | 2 | | RPR | PL 652 | A | 6 |
| 7 | 3923-A | 4 | | AMD | PL 548 | | 3 |
| 7 | 3952 | 1 | B | COR | RR 1 | | 9 |
| 7 | 3972 | 4 | | AMD | PL 487 | B | 1 |
| 7 | 4041 | 1-A | | AMD | PL 548 | | 4 |
| 7 | 4041 | 4 | | AMD | PL 548 | | 5 |
| 8 | 522 | 7 | | AMD | PL 582 | | 1 |
| 8 | 523 | | | AFF | PL 582 | | 9 |
| 8 | 523 | | | AMD | PL 582 | | 2 |
| 8 | 528 | | | RP | PL 582 | | 3 |
| 8 | 529 | | | NEW | PL 582 | | 4 |
| 8 | 530 | | | NEW | PL 582 | | 5 |
| 8 | 531 | | | NEW | PL 582 | | 6 |
| 8 | 532 | | | NEW | PL 582 | | 7 |
| 8 | 1001 | 19 | | AMD | PL 487 | B | 2 |
| 8 | 1003 | 2 | | AMD | PL 571 | HHHH | 1 |
| 8 | 1016 | 2 | D | AMD | PL 487 | B | 3 |
| 8 | 1036 | 2 | A | AMD | PL 622 | | 2 |
| 8 | 1036 | 2 | E | AMD | PL 462 | H | 1 |
| 8 | 1036 | 5 | | NEW | PL 571 | FFF | 1 |
| 8 | 1064 | | | AMD | PL 487 | B | 4 |
| 9-A | 1-301 | 17-A | | NEW | PL 618 | | 1 |
| 9-A | 5-111 | 6 | | NEW | PL 476 | A | 1 |
| 9-A | 5-116-A | | | NEW | PL 526 | | 1 |
| 9-A | 8-303 | 2 | | AMD | PL 618 | | 2 |
| 9-A | 8-303 | 2-A | | AMD | PL 571 | LLL | 1 |
| 9-A | 13-120 | | | AMD | PL 497 | | 1 |
| 9-B | 311 | | | AFF | PL 629 | A | 3 |
| 9-B | 311 | | | AMD | PL 629 | B | 1 |
| 9-B | 316-A | | 1st | AFF | PL 629 | A | 3 |
| 9-B | 316-A | | 1st | AMD | PL 629 | B | 2 |
| 9-B | 317-A | | 1st | AFF | PL 629 | A | 3 |
| 9-B | 317-A | | 1st | AMD | PL 629 | B | 3 |
| 9-B | 325 | 1 | A | COR | RR 1 | | 10 |
| 9-B | 352 | 5 | | AFF | PL 629 | A | 3 |
| 9-B | 352 | 5 | | AMD | PL 629 | B | 4 |
| 9-B | 1222 | 1 | | AFF | PL 629 | A | 3 |
| 9-B | 1222 | 1 | | AMD | PL 629 | B | 5 |
| 10 | 382 | 3 | | AMD | PL 475 | | 1 |
| 10 | 382 | 3-A | | NEW | PL 475 | | 2 |
| 10 | 382 | 5 | | NEW | PL 475 | | 3 |
| 10 | 383 | | | AMD | PL 475 | | 4 |
| 10 | 681 | | | AMD | PL 613 | | 1 |
| 10 | 682 | 2 | | AMD | PL 613 | | 2 |
| 10 | 683 | | | AMD | PL 613 | | 3 |
| 10 | 688 | | | AMD | PL 613 | | 4 |
| 10 | 689 | 1 | | AMD | PL 613 | | 5 |

| TITLE | SECTION | SUB | PARA | EFF | CHAPTER | PART | SEC |
|---|---|---|---|---|---|---|---|
| 10 | 689 | 2 | | AMD | PL 613 | | 6 |
| 10 | 945-J | | 1st | AMD | PL 567 | | 2 |
| 10 | 945-J | 1 | | AMD | PL 567 | | 3 |
| 10 | 963-A | 10 | | AMD | PL 517 | | 1 |
| 10 | 963-A | 39-A | | NEW | PL 517 | | 2 |
| 10 | 963-A | 40-A | | NEW | PL 517 | | 3 |
| 10 | 963-A | 44-A | | NEW | PL 517 | | 4 |
| 10 | 963-A | 44-B | | NEW | PL 517 | | 5 |
| 10 | 963-A | 47-D | | NEW | PL 633 | | 2 |
| 10 | 963-A | 49 | | AMD | PL 517 | | 6 |
| 10 | 963-A | 49-J | | NEW | PL 633 | | 3 |
| 10 | 1026-T | | | NEW | PL 633 | | 4 |
| 10 | 1038 | 3 | D | COR | RR 1 | | 11 |
| 10 | 1043 | 2 | L | AMD | PL 517 | | 7 |
| 10 | 1043 | 2 | M | AMD | PL 517 | | 8 |
| 10 | 1043 | 2 | N | NEW | PL 517 | | 9 |
| 10 | 1061-B | | | NEW | PL 517 | | 10 |
| 10 | 1074-A | | | NEW | PL 517 | | 11 |
| 10 | 1074-B | | | NEW | PL 517 | | 12 |
| 10 | 1074-C | | | NEW | PL 517 | | 13 |
| 10 | 1100-T | 2 | B | AMD | PL 470 | | 2 |
| 10 | 1100-T | 2-A | B | AMD | PL 470 | | 3 |
| 10 | 1171 | 11 | | AMD | PL 562 | | 1 |
| 10 | 1174 | 4 | D | COR | RR 1 | | 12 |
| 10 | 1174 | 4 | E | COR | RR 1 | | 13 |
| 10 | 1210 | | | RPR | PL 502 | | 1 |
| 10 | 1210-A | | | AMD | PL 502 | | 2 |
| 10 | 1210-B | 1 | | RP | PL 502 | | 3 |
| 10 | 1210-B | 1-A | | NEW | PL 502 | | 4 |
| 10 | 1361 | 8 | | AMD | PL 562 | | 2 |
| 10 | 1372 | 5-A | | NEW | PL 525 | | 1 |
| 10 | 1372 | 6-A | | NEW | PL 525 | | 2 |
| 10 | 1375 | 1 | | AMD | PL 525 | | 3 |
| 10 | 1375 | 1-A | | NEW | PL 525 | | 4 |
| 10 | 1375 | 1-B | | NEW | PL 525 | | 5 |
| 10 | 1375 | 3 | | AMD | PL 525 | | 6 |
| 10 | 1375 | 7 | | AMD | PL 525 | | 7 |
| 10 | 1375 | 7-A | | NEW | PL 525 | | 8 |
| 10 | 1377 | | | NEW | PL 525 | | 9 |
| 10 | 1391 | 1 | | RP | PL 572 | | 1 |
| 10 | 1391 | 2 | | AMD | PL 572 | | 2 |
| 10 | 1391 | 4 | | AMD | PL 572 | | 3 |
| 10 | 1391 | 4-A | | NEW | PL 572 | | 4 |
| 10 | 1392 | | | RP | PL 572 | | 5 |
| 10 | 1393 | | | NEW | PL 572 | | 6 |
| 10 | 1394 | | | NEW | PL 572 | | 7 |
| 10 | 1432 | 1-A | | NEW | PL 562 | | 3 |
| 10 | 1432 | 2 | | AMD | PL 562 | | 4 |
| 10 | 1432 | 8-A | | NEW | PL 562 | | 5 |
| 10 | 1432 | 10 | | AMD | PL 562 | | 6 |
| 10 | 1432 | 10-A | | NEW | PL 562 | | 7 |
| 10 | 1432 | 12-A | | NEW | PL 562 | | 8 |
| 10 | 1432 | 13-A | | NEW | PL 562 | | 9 |
| 10 | 1432 | 16-A | | NEW | PL 562 | | 10 |
| 10 | 1432 | 18 | | RP | PL 562 | | 11 |
| 10 | 1432 | 18-A | | NEW | PL 562 | | 12 |
| 10 | 1432 | 19-A | | NEW | PL 562 | | 13 |
| 10 | 1432 | 20-A | | NEW | PL 562 | | 14 |
| 10 | 1432 | 21 | | AMD | PL 562 | | 15 |
| 10 | 1432 | 23 | | NEW | PL 562 | | 16 |
| 10 | 1434 | 3 | J | AMD | PL 562 | | 17 |
| 10 | 1434-A | | | NEW | PL 562 | | 18 |
| 10 | 1437 | 1 | A | AMD | PL 562 | | 19 |
| 10 | 1439 | | | RP | PL 562 | | 20 |
| 10 | 1439-A | | | NEW | PL 562 | | 21 |
| 10 | 1440 | | | RP | PL 562 | | 22 |
| 10 | 1440-A | | | NEW | PL 562 | | 23 |
| 10 | 1440-B | | | NEW | PL 562 | | 24 |
| 10 | 1441 | | | RP | PL 562 | | 25 |
| 10 | 1442 | | | RP | PL 562 | | 26 |
| 10 | 1442-A | | | NEW | PL 562 | | 27 |
| 10 | 1443 | | | RP | PL 562 | | 28 |
| 10 | 1447 | | | AMD | PL 562 | | 29 |
| 10 | 1447-A | | | NEW | PL 562 | | 30 |
| 10 | 1521 | 2-B | | AFF | PL 629 | A | 3 |
| 10 | 1521 | 2-B | | AMD | PL 629 | B | 6 |
| 10 | 8003-B | 1 | | AMD | PL 465 | | 1 |
| 10 | 8003-B | 2-A | | AMD | PL 465 | | 2 |
| 10 | 8003-C | 1 | | AMD | PL 465 | | 3 |
| 10 | 8003-C | 3 | | AMD | PL 465 | | 4 |
| 10 | 8003-C | 4 | | AMD | PL 465 | | 5 |
| 10 | 8003-D | | | AMD | PL 465 | | 6 |
| 10 | 8003-E | | | AMD | PL 465 | | 7 |
| 10 | 9416 | 4 | | AFF | PL 652 | A | 8 |
| 10 | 9416 | 4 | | RPR | PL 652 | A | 7 |
| 10 | 9551 | | | RP | PL 560 | | 1 |
| 10 | 9552 | | | RP | PL 560 | | 1 |
| 10 | 9553 | | | RP | PL 560 | | 1 |
| 10 | 9554 | | | RP | PL 560 | | 1 |
| 11 | 4-104 | 3 | | AFF | PL 652 | A | 10 |
| 11 | 4-104 | 3 | | RPR | PL 652 | A | 9 |
| 11 | 7-102 | | | AFF | PL 652 | A | 12 |
| 11 | 7-102 | | | RP | PL 652 | A | 11 |
| 12 | 549-B | 5 | D | AMD | PL 567 | | 4 |
| 12 | 549-B | 13 | | AMD | PL 567 | | 5 |
| 12 | 550-B | 6 | | AMD | PL 567 | | 6 |
| 12 | 682 | 1 | | AMD | PL 615 | D | 1 |
| 12 | 682 | 19 | | NEW | PL 615 | D | 2 |
| 12 | 685-B | 1-A | E | AMD | PL 615 | F | 1 |
| 12 | 685-B | 2-C | | RPR | PL 492 | | 1 |
| 12 | 685-B | 2-C | | AMD | PL 615 | D | 3 |
| 12 | 685-B | 4 | | AMD | PL 615 | D | 4 |
| 12 | 685-B | 4 | C | AMD | PL 492 | | 2 |
| 12 | 685-B | 4-B | | AMD | PL 615 | D | 5 |
| 12 | 685-F | 1 | | AMD | PL 492 | | 3 |
| 12 | 685-F | 3 | | AMD | PL 642 | A | 1 |
| 12 | 689 | | | AMD | PL 642 | B | 1 |
| 12 | 756 | | | NEW | PL 607 | | 1 |
| 12 | 903 | 2 | | AMD | PL 644 | | 1 |
| 12 | 1862 | | | AMD | PL 615 | B | 1 |
| 12 | 1863 | 3 | | AMD | PL 615 | B | 2 |
| 12 | 1863-A | | | NEW | PL 615 | B | 3 |
| 12 | 6022 | 16 | | NEW | PL 561 | | 3 |
| 12 | 6032 | | | AFF | PL 559 | | 4 |
| 12 | 6032 | | | RPR | PL 559 | | 1 |
| 12 | 6041 | | | NEW | PL 527 | | 1 |

**CROSS REFERENCE TABLE I**

| TITLE | SECTION | SUB | PARA | EFF | CHAPTER | PART | SEC |
|---|---|---|---|---|---|---|---|
| 12 | 6071 | 1 | | AMD | PL 561 | | 4 |
| 12 | 6137 | | | RP | PL 561 | | 5 |
| 12 | 6138 | | | RP | PL 561 | | 6 |
| 12 | 6171-A | | | RPR | PL 528 | | 1 |
| 12 | 6171-C | | | RP | PL 528 | | 2 |
| 12 | 6172 | 1-B | | AMD | PL 528 | | 3 |
| 12 | 6192 | 1 | | AMD | PL 528 | | 4 |
| 12 | 6301 | 2 | Q | AMD | PL 561 | | 7 |
| 12 | 6301 | 2 | Q | AMD | PL 523 | | 1 |
| 12 | 6301 | 2 | R | AMD | PL 561 | | 8 |
| 12 | 6301 | 2 | R | AMD | PL 523 | | 2 |
| 12 | 6301 | 2 | S | NEW | PL 561 | | 9 |
| 12 | 6301 | 2 | S | NEW | PL 523 | | 3 |
| 12 | 6301 | 2 | T | NEW | PL 561 | | 10 |
| 12 | 6301 | 2 | U | NEW | PL 561 | | 11 |
| 12 | 6302 | 2 | | AMD | PL 523 | | 4 |
| 12 | 6302 | 3 | | AMD | PL 523 | | 5 |
| 12 | 6302 | 4 | | RP | PL 523 | | 6 |
| 12 | 6312 | | | AFF | PL 559 | | 4 |
| 12 | 6312 | | | NEW | PL 559 | | 2 |
| 12 | 6371 | 2 | | AMD | PL 561 | | 12 |
| 12 | 6402 | | 1st | RPR | PL 561 | | 13 |
| 12 | 6409 | | | AMD | PL 561 | | 14 |
| 12 | 6410 | | | AMD | PL 561 | | 15 |
| 12 | 6411 | | | NEW | PL 561 | | 16 |
| 12 | 6431 | 4 | | AMD | PL 523 | | 7 |
| 12 | 6434 | 4 | | AMD | PL 561 | | 17 |
| 12 | 6439 | | | AFF | PL 499 | | 3 |
| 12 | 6439 | | | RP | PL 499 | | 1 |
| 12 | 6447 | 5 | | AFF | PL 499 | | 3 |
| 12 | 6447 | 5 | | AMD | PL 499 | | 2 |
| 12 | 6451 | 1 | | AMD | PL 561 | | 18 |
| 12 | 6455 | 1-A | C | AMD | PL 567 | | 7 |
| 12 | 6455 | 1-B | | NEW | PL 567 | | 8 |
| 12 | 6502-A | | | NEW | PL 527 | | 2 |
| 12 | 6505-C | 5 | | AMD | PL 561 | | 19 |
| 12 | 6533 | | | AMD | PL 561 | | 20 |
| 12 | 6535 | | | RPR | PL 561 | | 21 |
| 12 | 6536 | | | RP | PL 652 | C | 1 |
| 12 | 6701 | | | RPR | PL 561 | | 22 |
| 12 | 6721-A | 2 | | AMD | PL 561 | | 23 |
| 12 | 6729 | 1 | C | AMD | PL 561 | | 24 |
| 12 | 6729 | 1 | D | AMD | PL 561 | | 25 |
| 12 | 6729 | 1 | E | NEW | PL 561 | | 26 |
| 12 | 6729 | 2 | | AMD | PL 561 | | 27 |
| 12 | 6748 | | | RPR | PL 561 | | 28 |
| 12 | 6749-Q | 1-B | | NEW | PL 561 | | 29 |
| 12 | 6803-A | | 1st | NEW | PL 478 | | 1 |
| 12 | 6803-A | 1 | | AMD | PL 561 | | 30 |
| 12 | 6851 | 2 | | AMD | PL 478 | | 2 |
| 12 | 6851 | 2-A | | AMD | PL 523 | | 8 |
| 12 | 6851 | 2-D | | AMD | PL 561 | | 31 |
| 12 | 6851-B | | | NEW | PL 523 | | 9 |
| 12 | 6852 | 2 | | AMD | PL 478 | | 3 |
| 12 | 6852 | 2 | C | AMD | PL 523 | | 10 |
| 12 | 6852 | 3-A | | NEW | PL 523 | | 11 |
| 12 | 6853 | | 1st | NEW | PL 478 | | 4 |
| 12 | 6854 | 2 | | AMD | PL 523 | | 12 |
| 12 | 6856 | 3-A | | AMD | PL 561 | | 32 |
| 12 | 6858 | | | RP | PL 523 | | 13 |
| 12 | 6861-A | 1 | B | AMD | PL 523 | | 14 |
| 12 | 6862 | | | RP | PL 523 | | 15 |
| 12 | 6864 | | 1st | NEW | PL 478 | | 5 |
| 12 | 8305 | | | AMD | PL 585 | | 1 |
| 12 | 8869 | 13 | | AMD | PL 567 | | 9 |
| 12 | 8870 | 6 | | NEW | PL 536 | | 1 |
| 12 | 8885 | 4 | | AMD | PL 568 | | 1 |
| 12 | 9701 | | 2nd | NEW | PL 536 | | 2 |
| 12 | 10051 | | 2nd | RPR | PL 652 | A | 13 |
| 12 | 10105 | 4-A | | NEW | PL 543 | | 1 |
| 12 | 10154 | | | RP | PL 652 | A | 14 |
| 12 | 10206 | 3 | C | RPR | PL 652 | A | 15 |
| 12 | 10351 | 2 | | AMD | PL 550 | | 1 |
| 12 | 10352 | 2 | | AMD | PL 550 | | 2 |
| 12 | 11224 | 1 | | AMD | PL 550 | | 3 |
| 12 | 11302 | 1 | | AMD | PL 550 | | 4 |
| 12 | 11801 | 2 | A | AMD | PL 550 | | 5 |
| 12 | 12001 | 1 | | AMD | PL 550 | | 6 |
| 12 | 12051 | 1 | | AMD | PL 550 | | 7 |
| 12 | 12457 | 1 | A | AMD | PL 550 | | 8 |
| 12 | 12760 | 3 | | AMD | PL 561 | | 33 |
| 12 | 12804 | 1 | D | AMD | PL 561 | | 34 |
| 12 | 12860 | 5 | | RPR | PL 652 | A | 16 |
| 12 | 12861 | | 1st | AMD | PL 598 | | 1 |
| 14 | 2401 | 3 | G | AFF | PL 476 | B | 9 |
| 14 | 2401 | 3 | G | AMD | PL 476 | B | 1 |
| 14 | 4422 | 9-A | | NEW | PL 532 | | 1 |
| 14 | 6001 | 1-A | | NEW | PL 566 | | 1 |
| 14 | 6001 | 3 | | AMD | PL 566 | | 2 |
| 14 | 6001 | 5 | | NEW | PL 566 | | 3 |
| 14 | 6002 | | 2nd | NEW | PL 566 | | 4 |
| 14 | 6010-A | 1 | | AMD | PL 566 | | 5 |
| 14 | 6010-A | 4 | B | AMD | PL 566 | | 6 |
| 14 | 6013 | | | RPR | PL 566 | | 7 |
| 14 | 6021-A | | | NEW | PL 566 | | 8 |
| 14 | 6023 | | | AMD | PL 566 | | 9 |
| 14 | 6024 | | | AMD | PL 566 | | 10 |
| 14 | 6024-A | | | RPR | PL 566 | | 11 |
| 14 | 6026 | 1 | | AMD | PL 566 | | 12 |
| 14 | 6026 | 5 | | AMD | PL 566 | | 13 |
| 14 | 6026 | 10 | | NEW | PL 566 | | 14 |
| 14 | 6026-A | | | AMD | PL 566 | | 15 |
| 14 | 6030 | | | AMD | PL 566 | | 16 |
| 14 | 6030-B | | | AMD | PL 566 | | 17 |
| 14 | 6030-C | | | AMD | PL 566 | | 18 |
| 14 | 6030-C | 1 | | AFF | PL 652 | B | 3 |
| 14 | 6030-C | 1 | | AMD | PL 652 | B | 2 |
| 14 | 6030-D | | | AMD | PL 566 | | 19 |
| 14 | 6031 | 2 | | AMD | PL 566 | | 20 |
| 14 | 6031 | 3 | | AMD | PL 566 | | 21 |
| 14 | 6032 | | | AMD | PL 566 | | 22 |
| 14 | 6036 | | | AMD | PL 566 | | 23 |
| 14 | 6038 | | | RPR | PL 566 | | 24 |
| 14 | 6071 | 2 | | AMD | PL 495 | | 1 |
| 14 | 6073 | 5 | | AMD | PL 495 | | 2 |
| 14 | 6111 | 1-A | C | AFF | PL 476 | B | 9 |
| 14 | 6111 | 1-A | C | AMD | PL 476 | B | 2 |

| TITLE | SECTION | SUB | PARA | EFF | CHAPTER | PART | SEC |
|---|---|---|---|---|---|---|---|
| 14 | 6111 | 5 | | RP | PL 476 | A | 2 |
| 14 | 6203-A | | | AFF | PL 476 | B | 9 |
| 14 | 6203-A | | | RPR | PL 476 | B | 3 |
| 14 | 6203-B | | | AFF | PL 476 | B | 9 |
| 14 | 6203-B | | | AMD | PL 476 | B | 4 |
| 14 | 6321 | | 3rd | AFF | PL 476 | B | 9 |
| 14 | 6321 | | 3rd | AMD | PL 476 | B | 5 |
| 14 | 6321-A | 11 | A | AFF | PL 476 | B | 9 |
| 14 | 6321-A | 11 | A | AMD | PL 476 | B | 6 |
| 14 | 6321-A | 13 | | AFF | PL 476 | B | 9 |
| 14 | 6321-A | 13 | | AMD | PL 476 | B | 7 |
| 14 | 6322-A | | | AFF | PL 476 | B | 9 |
| 14 | 6322-A | | | AMD | PL 476 | B | 8 |
| 14 | 8109 | 1 | | AMD | PL 652 | B | 4 |
| 14 | 8109 | 2 | | AMD | PL 652 | B | 5 |
| | | | | | | | |
| 15 | 393 | 1 | E | AMD | PL 651 | | 1 |
| 15 | 393 | 2 | | AMD | PL 503 | | 1 |
| 15 | 393 | 4 | | AMD | PL 503 | | 2 |
| 15 | 3314 | 1 | E | AMD | PL 608 | | 1 |
| 15 | 3314 | 7 | | AMD | PL 608 | | 2 |
| 15 | 5821-A | | | AMD | IB 1 | | 1 |
| | | | | | | | |
| 17 | 314 | | 1st | AMD | PL 487 | B | 5 |
| 17 | 314-A | 1 | B | AMD | PL 487 | B | 6 |
| 17 | 314-A | 1-A | | AMD | PL 505 | | 1 |
| 17 | 314-A | 2-A | | AMD | PL 487 | B | 7 |
| 17 | 314-A | 4 | | AMD | PL 534 | | 1 |
| 17 | 324-A | 2 | B | AMD | PL 487 | B | 8 |
| 17 | 330 | | | RP | PL 487 | A | 1 |
| 17 | 331 | | | RP | PL 487 | A | 1 |
| 17 | 331-A | | | RP | PL 487 | A | 1 |
| 17 | 332 | | | RP | PL 487 | A | 1 |
| 17 | 332-A | | | RP | PL 487 | A | 1 |
| 17 | 333 | | | RP | PL 487 | A | 1 |
| 17 | 333-A | | | RP | PL 487 | A | 1 |
| 17 | 334 | | | RP | PL 487 | A | 1 |
| 17 | 335 | | | RP | PL 487 | A | 1 |
| 17 | 336 | | | RP | PL 487 | A | 1 |
| 17 | 336-A | | | RP | PL 487 | A | 1 |
| 17 | 337 | | | RP | PL 487 | A | 1 |
| 17 | 338 | | | RP | PL 487 | A | 1 |
| 17 | 338-A | | | RP | PL 487 | A | 1 |
| 17 | 339 | | | RP | PL 487 | A | 1 |
| 17 | 340 | | | RP | PL 487 | A | 1 |
| 17 | 341 | | | RP | PL 487 | A | 1 |
| 17 | 342 | | | RP | PL 487 | A | 1 |
| 17 | 343 | | | RP | PL 487 | A | 1 |
| 17 | 343-A | | | RP | PL 487 | A | 1 |
| 17 | 344 | | | RP | PL 487 | A | 1 |
| 17 | 345 | | | RP | PL 487 | A | 1 |
| 17 | 346 | | | RP | PL 487 | A | 1 |
| 17 | 347 | | | RP | PL 487 | A | 1 |
| 17 | 1021 | 5-A | | AMD | PL 573 | | 1 |
| 17 | 1031 | 3-B | A | AMD | PL 573 | | 2 |
| 17 | 1831 | | | NEW | PL 487 | A | 2 |
| 17 | 1831 | 5 | | AMD | PL 599 | | 1 |
| 17 | 1831 | 13 | | AMD | PL 599 | | 2 |
| 17 | 1831 | 14-A | | NEW | PL 599 | | 3 |
| 17 | 1832 | | | NEW | PL 487 | A | 2 |
| 17 | 1833 | | | NEW | PL 487 | A | 2 |
| 17 | 1834 | | | NEW | PL 487 | A | 2 |
| 17 | 1834 | 3 | | AFF | PL 652 | C | 4 |
| 17 | 1834 | 3 | | AMD | PL 652 | C | 2 |
| 17 | 1835 | | | NEW | PL 487 | A | 2 |
| 17 | 1835 | 1 | B | AFF | PL 652 | C | 4 |
| 17 | 1835 | 1 | B | AMD | PL 652 | C | 3 |
| 17 | 1836 | | | NEW | PL 487 | A | 2 |
| 17 | 1837 | | | NEW | PL 487 | A | 2 |
| 17 | 1838 | | | NEW | PL 487 | A | 2 |
| 17 | 1839 | | | NEW | PL 487 | A | 2 |
| 17 | 1840 | | | NEW | PL 487 | A | 2 |
| 17 | 1841 | | | NEW | PL 487 | A | 2 |
| 17 | 1842 | | | NEW | PL 487 | A | 2 |
| 17 | 1843 | | | NEW | PL 487 | A | 2 |
| 17 | 1844 | | | NEW | PL 487 | A | 2 |
| 17 | 1845 | | | NEW | PL 487 | A | 2 |
| 17 | 1846 | | | NEW | PL 487 | A | 2 |
| 17 | 2306 | | | AMD | PL 487 | B | 9 |
| | | | | | | | |
| 17-A | 283 | 3 | | NEW | PL 608 | | 3 |
| 17-A | 284 | 5 | | NEW | PL 608 | | 4 |
| 17-A | 515 | 2-A | | AMD | PL 582 | | 8 |
| 17-A | 756 | | | AMD | PL 608 | | 5 |
| 17-A | 757 | 2 | | AMD | PL 608 | | 6 |
| 17-A | 951 | | | AMD | PL 487 | B | 10 |
| 17-A | 952 | 5-A | C | AMD | PL 487 | B | 11 |
| 17-A | 1111-A | 1 | | AMD | IB 1 | | 2 |
| 17-A | 1117 | 1 | | AFF | PL 631 | | 51 |
| 17-A | 1117 | 1 | | AMD | PL 631 | | 2 |
| 17-A | 1117 | 4 | | AFF | PL 631 | | 51 |
| 17-A | 1117 | 4 | | NEW | PL 631 | | 3 |
| 17-A | 1175 | | 1st | RPR | PL 652 | A | 17 |
| 17-A | 1177 | | | NEW | PL 608 | | 7 |
| 17-A | 1201 | 1 | A-1 | AMD | PL 573 | | 3 |
| 17-A | 1202 | 1-A | A | AMD | PL 608 | | 8 |
| 17-A | 1204 | 2-A | B | AMD | PL 608 | | 9 |
| 17-A | 1304 | 1-A | | NEW | PL 608 | | 10 |
| 17-A | 1304 | 3 | A | AMD | PL 608 | | 11 |
| 17-A | 1326-A | | | AMD | PL 608 | | 12 |
| 17-A | 1326-B | 1 | | AMD | PL 608 | | 13 |
| 17-A | 1326-F | | | NEW | PL 608 | | 14 |
| 17-A | 1329 | 6 | | NEW | PL 608 | | 15 |
| | | | | | | | |
| 18-A | 2-203 | | | AFF | PL 571 | UU | 2 |
| 18-A | 2-203 | | | RPR | PL 571 | UU | 1 |
| 18-A | 5-944 | b | 6 | AMD | PL 652 | A | 18 |
| | | | | | | | |
| 19-A | 1653 | 1 | C | AMD | PL 593 | | 1 |
| 19-A | 1653 | 3 | L | AMD | PL 593 | | 2 |
| 19-A | 1653 | 3 | Q | AMD | PL 593 | | 3 |
| 19-A | 1653 | 3 | R | AMD | PL 593 | | 4 |
| 19-A | 1653 | 3 | S | NEW | PL 593 | | 5 |
| 19-A | 4006 | 6 | A | NEW | PL 555 | | 4 |
| 19-A | 4006 | 6 | B | NEW | PL 555 | | 5 |
| 19-A | 4007 | 6 | A | NEW | PL 555 | | 6 |
| 19-A | 4007 | 6 | B | NEW | PL 555 | | 7 |

**CROSS REFERENCE TABLE I**

| TITLE | SECTION | SUB | PARA | EFF | CHAPTER | PART | SEC |
|---|---|---|---|---|---|---|---|
| 20-A | 1 | 26 | C | AMD | PL 580 | | 1 |
| 20-A | 1 | 26 | G | AMD | PL 580 | | 2 |
| 20-A | 10 | | 1st | AMD | PL 540 | | 1 |
| 20-A | 10 | 2 | G | AMD | PL 540 | | 2 |
| 20-A | 10 | 2 | H | AMD | PL 540 | | 3 |
| 20-A | 10 | 2 | I | NEW | PL 540 | | 4 |
| 20-A | 203 | 1 | A | AMD | PL 571 | W | 1 |
| 20-A | 203 | 1 | F | AMD | PL 571 | W | 2 |
| 20-A | 203 | 1 | J | RP | PL 571 | W | 3 |
| 20-A | 1001 | 9-A | | AMD | PL 614 | | 1 |
| 20-A | 1305-A | | | RP | PL 571 | E | 1 |
| 20-A | 1305-B | | | RP | PL 571 | E | 2 |
| 20-A | 1461 | 3 | B | AMD | PL 580 | | 3 |
| 20-A | 1461 | 3 | C | NEW | PL 580 | | 4 |
| 20-A | 1461-B | | | NEW | PL 580 | | 5 |
| 20-A | 1464 | 2 | H | AMD | PL 580 | | 6 |
| 20-A | 1464 | 5 | | NEW | PL 580 | | 7 |
| 20-A | 1464-A | | | NEW | PL 580 | | 8 |
| 20-A | 1466 | | | NEW | PL 580 | | 9 |
| 20-A | 1467 | | | NEW | PL 580 | | 10 |
| 20-A | 1468 | | | NEW | PL 580 | | 11 |
| 20-A | 1472-C | | | NEW | PL 580 | | 12 |
| 20-A | 1481-A | 2-A | | NEW | PL 571 | E | 3 |
| 20-A | 1486 | 1 | | AMD | PL 571 | QQQ | 1 |
| 20-A | 1486 | 2 | | AMD | PL 571 | QQQ | 2 |
| 20-A | 1486 | 3 | | AMD | PL 571 | E | 4 |
| 20-A | 1701 | 11 | B | AMD | PL 571 | E | 5 |
| 20-A | 1701-A | | | RP | PL 571 | E | 6 |
| 20-A | 1701-B | | | RP | PL 571 | E | 7 |
| 20-A | 5031 | | | NEW | PL 626 | | 1 |
| 20-A | 5205 | 3-A | | NEW | PL 508 | | 1 |
| 20-A | 5806 | 2 | | AMD | PL 571 | E | 8 |
| 20-A | 6004 | 2 | B | AMD | PL 508 | | 2 |
| 20-A | 6051 | 1 | E | AMD | PL 571 | E | 9 |
| 20-A | 6051 | 1 | F | AMD | PL 571 | E | 10 |
| 20-A | 6051 | 1 | G | NEW | PL 571 | E | 11 |
| 20-A | 6051 | 1 | H | NEW | PL 571 | E | 12 |
| 20-A | 6051 | 1 | I | NEW | PL 571 | E | 13 |
| 20-A | 6051 | 7 | | NEW | PL 571 | E | 14 |
| 20-A | 6051 | 8 | | NEW | PL 571 | E | 15 |
| 20-A | 6204 | 3 | | RP | PL 646 | | 1 |
| 20-A | 6209 | | 1st | AMD | PL 647 | | 1 |
| 20-A | 6212 | | | NEW | PL 616 | | 1 |
| 20-A | 6552 | 1 | | AMD | PL 614 | | 2 |
| 20-A | 6552 | 2 | | RPR | PL 614 | | 3 |
| 20-A | 6651 | 6 | | RP | PL 571 | V | 1 |
| 20-A | 7201 | 5 | | AMD | PL 508 | | 3 |
| 20-A | 7205 | | | AMD | PL 508 | | 4 |
| 20-A | 7206 | 1 | | AMD | PL 571 | U | 1 |
| 20-A | 8202 | 2 | B | AMD | PL 486 | | 1 |
| 20-A | 8202 | 3 | | AMD | PL 486 | | 2 |
| 20-A | 8202 | 4 | | AMD | PL 486 | | 3 |
| 20-A | 8202 | 5 | | NEW | PL 486 | | 4 |
| 20-A | 8204 | 1 | C | RPR | PL 486 | | 5 |
| 20-A | 8204 | 1 | F | AMD | PL 486 | | 6 |
| 20-A | 8204 | 1 | I | AMD | PL 486 | | 7 |
| 20-A | 8204 | 4 | | AMD | PL 486 | | 8 |
| 20-A | 8204 | 7 | | NEW | PL 486 | | 9 |
| 20-A | 8205 | 7 | | AMD | PL 486 | | 10 |
| 20-A | 8206 | 3 | | AMD | PL 486 | | 11 |
| 20-A | 8206 | 5 | | AMD | PL 486 | | 12 |
| 20-A | 10010 | | | AMD | PL 463 | | 1 |
| 20-A | 12102 | | | AMD | PL 488 | | 1 |
| 20-A | 12103 | 1 | | AMD | PL 488 | | 2 |
| 20-A | 12104 | 1 | | AMD | PL 488 | | 3 |
| 20-A | 12104 | 2 | | RP | PL 488 | | 4 |
| 20-A | 12104 | 2-A | | AMD | PL 488 | | 5 |
| 20-A | 12104 | 4 | | RP | PL 488 | | 6 |
| 20-A | 12104 | 5 | | AMD | PL 488 | | 7 |
| 20-A | 12104 | 5-A | | NEW | PL 488 | | 8 |
| 20-A | 12104 | 6 | | AMD | PL 488 | | 9 |
| 20-A | 12105 | 1 | | RPR | PL 488 | | 10 |
| 20-A | 12105 | 2 | | AMD | PL 488 | | 11 |
| 20-A | 12105 | 3 | | AMD | PL 488 | | 12 |
| 20-A | 12106 | 2 | | AMD | PL 488 | | 13 |
| 20-A | 12121 | | | NEW | PL 488 | | 14 |
| 20-A | 12122 | | | NEW | PL 488 | | 14 |
| 20-A | 12123 | | | NEW | PL 488 | | 14 |
| 20-A | 12124 | | | NEW | PL 488 | | 14 |
| 20-A | 12541 | 1 | | AMD | PL 553 | A | 1 |
| 20-A | 12541 | 2 | | AMD | PL 553 | A | 2 |
| 20-A | 12541 | 2-A | | NEW | PL 553 | A | 3 |
| 20-A | 12541 | 4-A | | NEW | PL 553 | A | 4 |
| 20-A | 12541 | 5 | | AMD | PL 553 | A | 5 |
| 20-A | 12541 | 6 | | RP | PL 553 | A | 6 |
| 20-A | 12541 | 7 | | AMD | PL 553 | A | 7 |
| 20-A | 12542 | 2 | | RP | PL 553 | A | 8 |
| 20-A | 12542 | 2-A | | NEW | PL 553 | A | 9 |
| 20-A | 12542 | 3 | | AMD | PL 553 | A | 10 |
| 20-A | 12542 | 3-A | | NEW | PL 553 | A | 11 |
| 20-A | 12542 | 4 | | RP | PL 553 | A | 12 |
| 20-A | 12542 | 4-A | | NEW | PL 553 | A | 13 |
| 20-A | 12542 | 5 | | AMD | PL 553 | A | 14 |
| 20-A | 12542 | 6 | | NEW | PL 553 | A | 15 |
| 20-A | 12543 | | | AMD | PL 553 | A | 16 |
| 20-A | 12544 | | | RP | PL 553 | A | 17 |
| 20-A | 12722 | 2 | | RPR | PL 474 | | 45 |
| 20-A | 12722 | 3 | | RP | PL 474 | | 46 |
| 20-A | 12722 | 8 | | RP | PL 474 | | 47 |
| 20-A | 13004 | 2-A | D | NEW | PL 567 | | 10 |
| 20-A | 13802 | | | AMD | PL 646 | | 2 |
| 20-A | 15005 | 3 | | AMD | PL 571 | E | 16 |
| 20-A | 15671 | 7 | A | AMD | PL 571 | E | 17 |
| 20-A | 15671 | 7 | B | RPR | PL 571 | E | 18 |
| 20-A | 15671-A | 2 | B | AMD | PL 571 | E | 19 |
| 20-A | 15683 | 1 | F | AMD | PL 571 | E | 20 |
| 20-A | 15689 | 1 | A | AMD | PL 571 | E | 21 |
| 20-A | 15689 | 1 | B | RPR | PL 571 | E | 22 |
| 20-A | 15689 | 2 | | AMD | PL 571 | E | 23 |
| 20-A | 15689-B | 4 | | AMD | PL 571 | E | 24 |
| 20-A | 15689-B | 6 | | AMD | PL 571 | XXX | 1 |
| 20-A | 15690 | 1 | D | NEW | PL 571 | E | 25 |
| 20-A | 15690 | 2 | | AMD | PL 571 | E | 26 |
| 20-A | 15693 | 3 | B | AMD | PL 571 | E | 27 |
| 20-A | 15694 | | | AMD | PL 571 | E | 28 |
| 21-A | 3 | | | AMD | PL 538 | | 2 |
| 21-A | 7 | | | AMD | PL 538 | | 3 |

| TITLE | SECTION | SUB | PARA | EFF | CHAPTER | PART | SEC |
|---|---|---|---|---|---|---|---|
| 21-A | 22 | 3 | B | AMD | PL 564 | | 1 |
| 21-A | 101 | 1 | | RPR | PL 538 | | 4 |
| 21-A | 141 | 1 | | AMD | PL 538 | | 5 |
| 21-A | 191 | | | RP | PL 564 | | 2 |
| 21-A | 192 | | | RP | PL 564 | | 3 |
| 21-A | 193 | | | RP | PL 564 | | 4 |
| 21-A | 194 | | | AMD | PL 564 | | 5 |
| 21-A | 195 | | | AMD | PL 564 | | 6 |
| 21-A | 196 | | | RP | PL 564 | | 7 |
| 21-A | 196-A | | | NEW | PL 564 | | 8 |
| 21-A | 312 | | | AMD | PL 564 | | 9 |
| 21-A | 501 | 3 | | AMD | PL 538 | | 6 |
| 21-A | 625 | | | AMD | PL 538 | | 7 |
| 21-A | 629 | 1 | D-1 | AMD | PL 538 | | 8 |
| 21-A | 753-A | 6 | | AMD | PL 563 | | 1 |
| 21-A | 753-B | 1 | | AMD | PL 563 | | 2 |
| 21-A | 756 | | | AMD | PL 538 | | 9 |
| 21-A | 759 | 3 | | AMD | PL 538 | | 10 |
| 21-A | 759 | 8 | | AMD | PL 538 | | 11 |
| 21-A | 760-B | 3 | | AMD | PL 538 | | 12 |
| 21-A | 760-B | 4 | | AMD | PL 538 | | 13 |
| 21-A | 777-A | | | AMD | PL 563 | | 3 |
| 21-A | 778 | | | AMD | PL 563 | | 4 |
| 21-A | 780 | | | AMD | PL 563 | | 5 |
| 21-A | 780-A | | | AMD | PL 563 | | 6 |
| 21-A | 781-A | | | AMD | PL 563 | | 7 |
| 21-A | 782 | | | AMD | PL 563 | | 8 |
| 21-A | 783 | | | AMD | PL 563 | | 9 |
| 21-A | 828 | | | AMD | PL 538 | | 14 |
| 21-A | 850 | | | AMD | PL 538 | | 15 |
| 21-A | 901-A | 2 | | AMD | PL 611 | | 1 |
| 21-A | 902 | | 2nd | AMD | PL 611 | | 2 |
| 21-A | 902-A | | | NEW | PL 611 | | 3 |
| 21-A | 903-C | | | NEW | PL 611 | | 4 |
| 21-A | 905 | 1 | | AMD | PL 611 | | 5 |
| 21-A | 905 | 2 | | AMD | PL 611 | | 6 |
| 21-A | 1003 | 1 | | AMD | PL 524 | | 4 |
| 21-A | 1011 | | 2nd | RP | PL 652 | A | 19 |
| 21-A | 1014 | 1 | | RPR | PL 652 | A | 20 |
| 21-A | 1017 | 3-B | | AMD | PL 524 | | 5 |
| 21-A | 1019-B | 3 | | RPR | PL 524 | | 6 |
| 21-A | 1019-B | 4 | | NEW | PL 524 | | 7 |
| 21-A | 1056-B | | 1st | RPR | PL 524 | | 8 |
| 21-A | 1056-B | 2 | | AMD | PL 524 | | 9 |
| 21-A | 1056-B | 2-A | A | AMD | PL 524 | | 10 |
| 21-A | 1056-B | 2-A | B | AMD | PL 524 | | 11 |
| 21-A | 1056-B | 2-A | C | AMD | PL 524 | | 12 |
| 21-A | 1056-B | 4 | A | AMD | PL 524 | | 13 |
| 21-A | 1058 | | | RPR | PL 652 | A | 21 |
| 21-A | 1059 | | 1st | RPR | PL 652 | A | 22 |
| 21-A | 1125 | 2-B | | AMD | PL 524 | | 14 |
| 21-A | 1125 | 8 | | AFF | PL 652 | A | 24 |
| 21-A | 1125 | 8 | | RP | PL 652 | A | 23 |
| 21-A | 1125 | 9 | | AFF | PL 652 | A | 26 |
| 21-A | 1125 | 9 | | RPR | PL 652 | A | 25 |
| 21-A | 1125 | 10 | | AFF | PL 652 | A | 28 |
| 21-A | 1125 | 10 | | RPR | PL 652 | A | 27 |
| 21-A | 1125 | 12-A | D | RP | PL 524 | | 15 |
| 21-A | 1125 | 12-A | E | NEW | PL 524 | | 16 |
| 21-A | 1125 | 13 | | RPR | PL 524 | | 17 |
| 21-A | 1125 | 13-A | | NEW | PL 524 | | 18 |
| 22 | 42 | 5 | | AMD | PL 514 | | 1 |
| 22 | 256-A | | 1st | AMD | PL 601 | | 1 |
| 22 | 256-B | 3 | | AMD | PL 601 | | 2 |
| 22 | 261 | | | AMD | PL 531 | | 1 |
| 22 | 263 | | | NEW | PL 589 | | 1 |
| 22 | 329 | 6 | | RPR | PL 652 | A | 29 |
| 22 | 349-A | | | NEW | PL 556 | | 1 |
| 22 | 1066 | | | NEW | PL 595 | | 2 |
| 22 | 1066 | 2 | B | AFF | PL 652 | E | 3 |
| 22 | 1066 | 2 | B | AMD | PL 652 | E | 1 |
| 22 | 1066 | 2 | E | AFF | PL 652 | E | 3 |
| 22 | 1066 | 2 | E | AMD | PL 652 | E | 2 |
| 22 | 1241 | | | NEW | PL 533 | | 1 |
| 22 | 1242 | | | NEW | PL 533 | | 1 |
| 22 | 1471-AA | | | NEW | PL 584 | | 3 |
| 22 | 1471-Y | | | RP | PL 584 | | 1 |
| 22 | 1471-Z | | | AMD | PL 584 | | 2 |
| 22 | 1532 | | | AMD | PL 514 | | 2 |
| 22 | 1533 | 2 | | AMD | PL 514 | | 3 |
| 22 | 1555-C | 2 | E | AMD | PL 652 | A | 30 |
| 22 | 1560-D | | | AMD | PL 606 | | 1 |
| 22 | 1645 | 1 | B | AMD | PL 494 | | 2 |
| 22 | 1645 | 1 | C | AMD | PL 494 | | 3 |
| 22 | 1645 | 3 | | NEW | PL 494 | | 4 |
| 22 | 1723 | | | NEW | PL 621 | | 1 |
| 22 | 1723 | | | NEW | PL 590 | | 1 |
| 22 | 1812-G | 4-A | | NEW | PL 590 | | 2 |
| 22 | 2127 | 6-A | | AFF | PL 645 | G | 1 |
| 22 | 2127 | 6-A | | NEW | PL 645 | E | 1 |
| 22 | 2131 | 1 | | AMD | PL 621 | | 2 |
| 22 | 2131 | 3 | | AMD | PL 590 | | 3 |
| 22 | 2131 | 4 | | RPR | PL 621 | | 3 |
| 22 | 2131 | 5 | | NEW | PL 621 | | 4 |
| 22 | 2136 | | | NEW | PL 621 | | 5 |
| 22 | 2137 | | | NEW | PL 621 | | 5 |
| 22 | 2138 | | | NEW | PL 621 | | 5 |
| 22 | 2139 | | | NEW | PL 621 | | 5 |
| 22 | 2152 | 4-A | | AFF | PL 631 | | 51 |
| 22 | 2152 | 4-A | | AMD | PL 631 | | 4 |
| 22 | 2158 | | | AFF | PL 631 | | 51 |
| 22 | 2158 | | | AMD | PL 631 | | 5 |
| 22 | 2174 | | | NEW | PL 547 | | 3 |
| 22 | 2383 | 1 | | AMD | IB 1 | | 3 |
| 22 | 2383 | 1 | | RPR | PL 652 | B | 6 |
| 22 | 2383-B | 3 | E | AFF | PL 631 | | 51 |
| 22 | 2383-B | 3 | E | AMD | PL 631 | | 6 |
| 22 | 2383-B | 5 | | RP | IB 1 | | 4 |
| 22 | 2421 | | | NEW | IB 1 | | 5 |
| 22 | 2421 | | | AFF | PL 631 | | 51 |
| 22 | 2421 | | | AMD | PL 631 | | 7 |
| 22 | 2422 | | | NEW | IB | 1 | 5 |
| 22 | 2422 | 1 | | AFF | PL 631 | | 51 |
| 22 | 2422 | 1 | | AMD | PL 631 | | 8 |
| 22 | 2422 | 2 | D | AFF | PL 631 | | 51 |
| 22 | 2422 | 2 | D | AMD | PL 631 | | 9 |
| 22 | 2422 | 4 | | AFF | PL 631 | | 51 |

**CROSS REFERENCE TABLE I**

| TITLE | SECTION | SUB | PARA | EFF | CHAPTER | PART | SEC |
|---|---|---|---|---|---|---|---|
| 22 | 2422 | 4 | | AMD | PL 631 | | 10 |
| 22 | 2422 | 5 | | AFF | PL 631 | | 51 |
| 22 | 2422 | 5 | | AMD | PL 631 | | 11 |
| 22 | 2422 | 6 | | AFF | PL 631 | | 51 |
| 22 | 2422 | 6 | | AMD | PL 631 | | 12 |
| 22 | 2422 | 6-A | | AFF | PL 631 | | 51 |
| 22 | 2422 | 6-A | | NEW | PL 631 | | 13 |
| 22 | 2422 | 7 | | AFF | PL 631 | | 51 |
| 22 | 2422 | 7 | | AMD | PL 631 | | 14 |
| 22 | 2422 | 8 | | AFF | PL 631 | | 51 |
| 22 | 2422 | 8 | | RP | PL 631 | | 15 |
| 22 | 2422 | 11 | | AFF | PL 631 | | 51 |
| 22 | 2422 | 11 | | RPR | PL 631 | | 16 |
| 22 | 2422 | 12 | | AFF | PL 631 | | 51 |
| 22 | 2422 | 12 | | AMD | PL 631 | | 17 |
| 22 | 2422 | 13 | | AFF | PL 631 | | 51 |
| 22 | 2422 | 13 | | AMD | PL 631 | | 18 |
| 22 | 2422 | 14 | | AFF | PL 631 | | 51 |
| 22 | 2422 | 14 | | RPR | PL 631 | | 19 |
| 22 | 2423 | | | NEW | IB 1 | | 5 |
| 22 | 2423 | | | AFF | PL 631 | | 51 |
| 22 | 2423 | | | RP | PL 631 | | 20 |
| 22 | 2423-A | | | AFF | PL 631 | | 51 |
| 22 | 2423-A | | | NEW | PL 631 | | 21 |
| 22 | 2423-B | | | AFF | PL 631 | | 51 |
| 22 | 2423-B | | | NEW | PL 631 | | 22 |
| 22 | 2423-C | | | AFF | PL 631 | | 51 |
| 22 | 2423-C | | | NEW | PL 631 | | 23 |
| 22 | 2423-D | | | AFF | PL 631 | | 51 |
| 22 | 2423-D | | | NEW | PL 631 | | 24 |
| 22 | 2423-E | | | AFF | PL 631 | | 51 |
| 22 | 2423-E | | | NEW | PL 631 | | 25 |
| 22 | 2424 | | | NEW | IB 1 | | 5 |
| 22 | 2424 | 2 | | AFF | PL 631 | | 51 |
| 22 | 2424 | 2 | | RPR | PL 631 | | 26 |
| 22 | 2424 | 3 | | AFF | PL 631 | | 51 |
| 22 | 2424 | 3 | | AMD | PL 631 | | 27 |
| 22 | 2425 | | | NEW | IB 1 | | 5 |
| 22 | 2425 | 1 | | AFF | PL 631 | | 51 |
| 22 | 2425 | 1 | | AMD | PL 631 | | 28 |
| 22 | 2425 | 2 | | AFF | PL 631 | | 51 |
| 22 | 2425 | 2 | | AMD | PL 631 | | 29 |
| 22 | 2425 | 3-A | | AFF | PL 631 | | 51 |
| 22 | 2425 | 3-A | | NEW | PL 631 | | 30 |
| 22 | 2425 | 4 | | AFF | PL 631 | | 51 |
| 22 | 2425 | 4 | | AMD | PL 631 | | 31 |
| 22 | 2425 | 5 | | AFF | PL 631 | | 51 |
| 22 | 2425 | 5 | | AMD | PL 631 | | 32 |
| 22 | 2425 | 7 | | AFF | PL 631 | | 51 |
| 22 | 2425 | 7 | | RPR | PL 631 | | 33 |
| 22 | 2425 | 8 | | AFF | PL 631 | | 51 |
| 22 | 2425 | 8 | | AMD | PL 631 | | 34 |
| 22 | 2425 | 9 | | AFF | PL 631 | | 51 |
| 22 | 2425 | 9 | | AMD | PL 631 | | 35 |
| 22 | 2425 | 10 | | AFF | PL 631 | | 51 |
| 22 | 2425 | 10 | | AMD | PL 631 | | 36 |
| 22 | 2426 | | | NEW | IB 1 | | 5 |
| 22 | 2426 | 1 | A | AFF | PL 631 | | 51 |
| 22 | 2426 | 1 | A | AMD | PL 631 | | 37 |
| 22 | 2426 | 1 | D | AFF | PL 631 | | 51 |
| 22 | 2426 | 1 | D | AMD | PL 631 | | 38 |
| 22 | 2426 | 3 | | AFF | PL 631 | | 51 |
| 22 | 2426 | 3 | | RP | PL 631 | | 39 |
| 22 | 2427 | | | NEW | IB 1 | | 5 |
| 22 | 2427 | 1 | | AFF | PL 631 | | 51 |
| 22 | 2427 | 1 | | AMD | PL 631 | | 40 |
| 22 | 2427 | 4 | | AFF | PL 631 | | 51 |
| 22 | 2427 | 4 | | NEW | PL 631 | | 41 |
| 22 | 2428 | | | NEW | IB 1 | | 5 |
| 22 | 2428 | | | AFF | PL 631 | | 51 |
| 22 | 2428 | | | AMD | PL 631 | | 42 |
| 22 | 2429 | | | NEW | IB 1 | | 5 |
| 22 | 2429 | 1 | | AFF | PL 631 | | 51 |
| 22 | 2429 | 1 | | AMD | PL 631 | | 43 |
| 22 | 2429 | 3 | | AFF | PL 631 | | 51 |
| 22 | 2429 | 3 | | AMD | PL 631 | | 44 |
| 22 | 2430 | | | AFF | PL 631 | | 51 |
| 22 | 2430 | | | NEW | PL 631 | | 45 |
| 22 | 2430-A | | | AFF | PL 631 | | 51 |
| 22 | 2430-A | | | NEW | PL 631 | | 46 |
| 22 | 2494 | 3 | | AMD | PL 589 | | 2 |
| 22 | 2502 | | | NEW | PL 589 | | 3 |
| 22 | 2699 | 4 | | AMD | PL 581 | | 1 |
| 22 | 2699 | 6 | | NEW | PL 581 | | 2 |
| 22 | 2701 | | 1st | AMD | PL 601 | | 3 |
| 22 | 2701 | 5 | | AMD | PL 601 | | 4 |
| 22 | 2701 | 7 | | AMD | PL 601 | | 5 |
| 22 | 2702 | | | AMD | PL 601 | | 6 |
| 22 | 2702-A | | | AMD | PL 601 | | 7 |
| 22 | 2703 | | | AMD | PL 601 | | 8 |
| 22 | 2704 | | | AMD | PL 601 | | 9 |
| 22 | 2705 | 1 | | AMD | PL 601 | | 10 |
| 22 | 2705 | 2 | | AMD | PL 601 | | 11 |
| 22 | 2706 | | | AMD | PL 601 | | 12 |
| 22 | 2708 | 1-B | | NEW | PL 601 | | 13 |
| 22 | 2709 | | | AMD | PL 601 | | 14 |
| 22 | 2710 | 1 | | AMD | PL 601 | | 15 |
| 22 | 2761 | | 1st | AMD | PL 601 | | 16 |
| 22 | 2761 | 1 | | AMD | PL 601 | | 17 |
| 22 | 2761 | 4 | | AMD | PL 601 | | 18 |
| 22 | 2761-A | | | AMD | PL 601 | | 19 |
| 22 | 2765 | 2-A | B | AMD | PL 601 | | 20 |
| 22 | 2766 | | 2nd | AMD | PL 601 | | 21 |
| 22 | 2768 | 5 | | AMD | PL 601 | | 22 |
| 22 | 2769 | 5 | | AMD | PL 601 | | 23 |
| 22 | 2841 | 1 | | AMD | PL 601 | | 24 |
| 22 | 2842 | | | AMD | PL 601 | | 25 |
| 22 | 2842-B | | | AMD | PL 601 | | 26 |
| 22 | 2843 | | | AMD | PL 601 | | 27 |
| 22 | 2843-A | 1 | B-1 | NEW | PL 601 | | 28 |
| 22 | 2843-A | 2 | | AMD | PL 601 | | 29 |
| 22 | 2844 | | | AMD | PL 601 | | 30 |
| 22 | 3174-PP | | | NEW | PL 643 | | 1 |
| 22 | 3174-Q | 2 | | AMD | PL 571 | PPP | 1 |
| 22 | 3273 | 7 | | RP | PL 462 | I | 1 |
| 22 | 3273 | 7-A | | NEW | PL 462 | I | 2 |
| 22 | 3274 | 4 | | AMD | PL 462 | I | 3 |
| 22 | 3769 | 3 | | NEW | PL 571 | XX | 1 |

| TITLE | SECTION | SUB | PARA | EFF | CHAPTER | PART | SEC |
|---|---|---|---|---|---|---|---|
| 22 | 4004 | 2 | C | RP | PL 558 | | 1 |
| 22 | 4004 | 2 | C-1 | NEW | PL 558 | | 2 |
| 22 | 4005 | 3 | | NEW | PL 557 | | 1 |
| 22 | 4038-B | 4 | D | NEW | PL 557 | | 2 |
| 22 | 4038-B | 5 | | AMD | PL 557 | | 3 |
| 22 | 4055 | 3 | | AMD | PL 557 | | 4 |
| 22 | 5107-J | | | RP | PL 652 | A | 31 |
| 22 | 7250 | 4 | E | COR | RR 1 | | 14 |
| 22 | 7250 | 4 | F | COR | RR 1 | | 15 |
| 22 | 7250 | 4 | F | RAL | RR 1 | | 16 |
| 22 | 7250 | 4 | G | RAL | RR 1 | | 16 |
| 22 | 7301 | 2 | C | AMD | PL 546 | | 1 |
| 22 | 7301 | 2 | F | RPR | PL 546 | | 2 |
| 22 | 7302 | 5 | | RPR | PL 652 | A | 32 |
| 22 | 7704 | | | NEW | PL 621 | | 6 |
| 22 | 7704 | | | NEW | PL 590 | | 4 |
| 22 | 7705 | | | NEW | PL 590 | | 5 |
| 22 | 7946 | 4 | | AMD | PL 621 | | 7 |
| 22 | 8101 | 1 | | AMD | PL 557 | | 5 |
| 22 | 8303-A | | | RPR | PL 590 | | 6 |
| 22 | 8705-A | 6 | | NEW | PL 613 | | 7 |
| 22 | 8712 | | | AMD | PL 613 | | 8 |
| 23 | 753-A | | | RP | PL 648 | B | 1 |
| 23 | 3105 | | | RP | PL 501 | | 1 |
| 23 | 3105-A | | | NEW | PL 501 | | 2 |
| 23 | 3106 | 1 | | AMD | PL 501 | | 3 |
| 23 | 4210-E | | | NEW | PL 655 | B | 2 |
| 23 | 4244 | | | NEW | PL 648 | B | 2 |
| 23 | 4251 | | | NEW | PL 648 | A | 1 |
| 24 | 2317-B | 12-F | | AFF | PL 634 | | 5 |
| 24 | 2317-B | 12-F | | NEW | PL 634 | | 1 |
| 24 | 2317-B | 12-F | | AFF | PL 635 | | 6 |
| 24 | 2317-B | 12-F | | NEW | PL 635 | | 1 |
| 24 | 2317-B | 12-F | | AFF | PL 578 | | 4 |
| 24 | 2317-B | 12-F | | NEW | PL 578 | | 1 |
| 24 | 2961 | 3 | A | AMD | PL 652 | B | 7 |
| 24-A | 221-A | 3 | | AMD | PL 511 | A | 1 |
| 24-A | 221-A | 7 | | RPR | PL 511 | A | 2 |
| 24-A | 222 | 11-A | | RP | PL 511 | A | 3 |
| 24-A | 222 | 11-B | | RP | PL 511 | A | 4 |
| 24-A | 222 | 11-C | | NEW | PL 511 | A | 5 |
| 24-A | 601 | 28 | | NEW | PL 581 | | 3 |
| 24-A | 788 | | | AMD | PL 511 | A | 6 |
| 24-A | 952-A | 5 | | NEW | PL 511 | B | 1 |
| 24-A | 994 | 1 | | AMD | PL 511 | B | 2 |
| 24-A | 1402 | 1 | B | AMD | PL 511 | C | 1 |
| 24-A | 1402 | 9-A | | NEW | PL 511 | C | 2 |
| 24-A | 1402 | 11-A | | NEW | PL 511 | C | 3 |
| 24-A | 1410 | 9 | | NEW | PL 511 | C | 4 |
| 24-A | 1415 | 3 | | AMD | PL 511 | C | 5 |
| 24-A | 1472 | 2 | C | AMD | PL 511 | C | 6 |
| 24-A | 1913 | | | NEW | PL 581 | | 4 |
| 24-A | 2436 | 2-A | | RPR | PL 613 | | 9 |
| 24-A | 2436 | 2-B | | NEW | PL 613 | | 10 |
| 24-A | 2766 | | | AFF | PL 634 | | 5 |
| 24-A | 2766 | | | NEW | PL 634 | | 2 |
| 24-A | 2766 | | | AFF | PL 635 | | 6 |
| 24-A | 2766 | | | NEW | PL 635 | | 2 |
| 24-A | 2766 | | | AFF | PL 578 | | 4 |
| 24-A | 2766 | | | NEW | PL 578 | | 2 |
| 24-A | 2809-A | 11 | | AMD | PL 574 | | 1 |
| 24-A | 2847-R | | | AFF | PL 634 | | 5 |
| 24-A | 2847-R | | | NEW | PL 634 | | 3 |
| 24-A | 2847-R | | | AFF | PL 635 | | 6 |
| 24-A | 2847-R | | | NEW | PL 635 | | 3 |
| 24-A | 2847-R | | | AFF | PL 578 | | 4 |
| 24-A | 2847-R | | | NEW | PL 578 | | 3 |
| 24-A | 2849-B | 4-A | | AMD | PL 511 | D | 1 |
| 24-A | 4258 | | | AFF | PL 634 | | 5 |
| 24-A | 4258 | | | NEW | PL 634 | | 4 |
| 24-A | 4258 | | | AFF | PL 635 | | 6 |
| 24-A | 4258 | | | NEW | PL 635 | | 4 |
| 24-A | 4302 | 5 | | AMD | PL 494 | | 5 |
| 24-A | 4303 | 1 | | AMD | PL 652 | A | 33 |
| 24-A | 4315 | 6 | | AFF | PL 603 | | 2 |
| 24-A | 4315 | 6 | | AMD | PL 603 | | 1 |
| 24-A | 4317 | | | AFF | PL 519 | | 2 |
| 24-A | 4317 | | | NEW | PL 519 | | 1 |
| 24-A | 4317 | | | AFF | PL 588 | | 3 |
| 24-A | 4317 | | | NEW | PL 588 | | 1 |
| 24-A | 4603 | 3 | B | RPR | PL 652 | A | 34 |
| 24-A | 4603 | 3 | C | RPR | PL 652 | A | 35 |
| 24-A | 6451-A | | | RPR | PL 511 | E | 1 |
| 24-A | 6453 | 1 | A | AMD | PL 511 | E | 2 |
| 24-A | 6706 | 2 | A | COR | RR 1 | | 17 |
| 24-A | 6802-A | 12-A | | AMD | PL 597 | | 1 |
| 25 | 1531 | 2 | E | AMD | PL 617 | | 1 |
| 25 | 1531 | 2 | F | RP | PL 617 | | 2 |
| 25 | 1531 | 2 | G | RP | PL 617 | | 3 |
| 25 | 1531 | 4 | B | AMD | PL 617 | | 4 |
| 25 | 1535 | | | AMD | PL 617 | | 5 |
| 25 | 1541 | 3 | C | AMD | PL 651 | | 2 |
| 25 | 2201 | | | NEW | PL 583 | | 1 |
| 25 | 2202 | | | NEW | PL 583 | | 1 |
| 25 | 2354 | | | RPR | PL 652 | A | 36 |
| 25 | 2464 | 2 | | RP | PL 551 | | 1 |
| 25 | 2464 | 2-A | | NEW | PL 551 | | 2 |
| 25 | 2464 | 6 | | AMD | PL 551 | | 3 |
| 25 | 2464 | 9 | | AMD | PL 551 | | 4 |
| 25 | 2464 | 10 | | AMD | PL 551 | | 5 |
| 25 | 2468 | 1 | B | AMD | PL 551 | | 6 |
| 25 | 2468 | 2 | | AMD | PL 551 | | 7 |
| 25 | 2468 | 4 | | AMD | PL 551 | | 8 |
| 25 | 2468 | 5 | | AMD | PL 551 | | 9 |
| 25 | 2468 | 6 | | AMD | PL 551 | | 10 |
| 25 | 2803-B | 2 | | RPR | PL 652 | A | 37 |
| 25 | 2803-B | 3 | | RPR | PL 652 | A | 38 |
| 25 | 2926 | 1-A | | NEW | PL 617 | | 6 |
| 25 | 2927 | 1-B | | AFF | PL 617 | | 13 |
| 25 | 2927 | 1-B | | RP | PL 617 | | 7 |
| 25 | 2927 | 1-E | A | AFF | PL 617 | | 13 |
| 25 | 2927 | 1-E | A | AMD | PL 617 | | 8 |
| 25 | 2927 | 1-F | A | AFF | PL 617 | | 13 |
| 25 | 2927 | 1-F | A | AMD | PL 617 | | 9 |

**CROSS REFERENCE TABLE I**

| TITLE | SECTION | SUB | PARA | EFF | CHAPTER | PART | SEC |
|---|---|---|---|---|---|---|---|
| 25 | 2927 | 3-B | | NEW | PL 617 | | 10 |
| 25 | 2927 | 5 | | RPR | PL 617 | | 11 |
| 26 | 663 | 3 | J | AMD | PL 529 | | 1 |
| 26 | 663 | 3 | K | AMD | PL 529 | | 2 |
| 26 | 663 | 3 | L | NEW | PL 529 | | 3 |
| 26 | 772 | 2 | | AFF | PL 631 | | 51 |
| 26 | 772 | 2 | | AMD | PL 631 | | 47 |
| 26 | 773 | | 6th | AMD | PL 487 | B | 12 |
| 26 | 871 | 1-A | | NEW | PL 637 | | 1 |
| 26 | 871 | 2 | | AMD | PL 637 | | 2 |
| 26 | 872 | 1 | | RPR | PL 637 | | 3 |
| 26 | 872 | 2 | | AMD | PL 637 | | 4 |
| 26 | 872 | 2-A | | NEW | PL 637 | | 5 |
| 26 | 872 | 2-B | | NEW | PL 637 | | 6 |
| 26 | 872 | 4 | | RPR | PL 637 | | 7 |
| 26 | 872 | 5 | | RPR | PL 637 | | 8 |
| 26 | 872 | 6 | | AMD | PL 637 | | 9 |
| 26 | 873 | | | NEW | PL 637 | | 10 |
| 26 | 874 | | | NEW | PL 637 | | 11 |
| 26 | 1043 | 11 | F | AMD | PL 637 | | 12 |
| 26 | 1191 | 3 | | AMD | PL 466 | | 1 |
| 26 | 1192 | 6-A | | AMD | PL 466 | | 2 |
| 26 | 1193 | 5 | A | AMD | PL 638 | | 1 |
| 26 | 1413-A | 1-A | | AMD | PL 652 | A | 39 |
| 26 | 1413-C | | 1st | AMD | PL 652 | A | 40 |
| 26 | 2164 | 3 | | AMD | PL 628 | | 1 |
| 26 | 2164 | 4 | | AMD | PL 628 | | 2 |
| 27 | 7 | | | NEW | PL 571 | YYY | 1 |
| 28-A | 2 | 12-A | | AMD | PL 652 | A | 41 |
| 28-A | 460 | 2 | J | AMD | PL 510 | | 1 |
| 28-A | 460 | 2 | N | AMD | PL 510 | | 2 |
| 28-A | 460 | 2 | O | NEW | PL 510 | | 3 |
| 28-A | 708 | 7 | | AMD | PL 504 | | 1 |
| 28-A | 1075-A | 2 | A | AMD | PL 472 | | 1 |
| 28-A | 1075-A | 2 | K | AMD | PL 472 | | 2 |
| 28-A | 1075-A | 2-A | | NEW | PL 472 | | 3 |
| 28-A | 1076 | 10 | | NEW | PL 530 | | 1 |
| 28-A | 1205 | 2 | H | AMD | PL 510 | | 4 |
| 28-A | 1205 | 2 | L | AMD | PL 510 | | 5 |
| 28-A | 1205 | 2 | M | NEW | PL 510 | | 6 |
| 28-A | 1206 | | | RPR | PL 652 | A | 42 |
| 28-A | 1207 | | | RAL | PL 510 | | 7 |
| 28-A | 1207 | 1 | | AMD | PL 510 | | 8 |
| 28-A | 1207 | 2 | H | AMD | PL 510 | | 9 |
| 28-A | 1207 | 2 | L | AMD | PL 510 | | 10 |
| 28-A | 1207 | 2 | M | NEW | PL 510 | | 11 |
| 28-A | 1208 | | | RAL | PL 510 | | 7 |
| 29-A | 101 | 63-A | | NEW | PL 484 | | 1 |
| 29-A | 456-D | 2 | A | AMD | PL 481 | | 2 |
| 29-A | 456-D | 3 | A | AMD | PL 481 | | 3 |
| 29-A | 456-D | 7 | | AMD | PL 481 | | 4 |
| 29-A | 456-D | 8 | | RP | PL 481 | | 5 |
| 29-A | 502 | 2 | | RP | PL 598 | | 2 |
| 29-A | 517 | 2 | | AMD | PL 598 | | 3 |
| 29-A | 520 | 1 | | AMD | PL 598 | | 4 |
| 29-A | 521 | 14 | | NEW | PL 598 | | 5 |
| 29-A | 525 | 11 | | AMD | PL 598 | | 6 |
| 29-A | 551 | 2 | C | AMD | PL 598 | | 7 |
| 29-A | 551 | 6 | | NEW | PL 598 | | 8 |
| 29-A | 552 | | | RP | PL 598 | | 9 |
| 29-A | 555 | 4 | | AMD | PL 598 | | 10 |
| 29-A | 556 | | 2nd | RP | PL 598 | | 17 |
| 29-A | 556 | | 3rd | RP | PL 598 | | 18 |
| 29-A | 556 | | 4th | RP | PL 598 | | 19 |
| 29-A | 556 | 1 | | RP | PL 598 | | 11 |
| 29-A | 556 | 2 | | RP | PL 598 | | 12 |
| 29-A | 556 | 3 | | AMD | PL 598 | | 13 |
| 29-A | 556 | 4 | | RP | PL 598 | | 14 |
| 29-A | 556 | 5 | | RP | PL 598 | | 15 |
| 29-A | 556 | 6 | | AMD | PL 598 | | 16 |
| 29-A | 558 | 1-A | | AMD | PL 598 | | 20 |
| 29-A | 558 | 1-B | F | NEW | PL 598 | | 21 |
| 29-A | 558 | 3 | | AMD | PL 598 | | 22 |
| 29-A | 559 | | | RP | PL 598 | | 23 |
| 29-A | 562 | 3 | | AMD | PL 598 | | 24 |
| 29-A | 603 | 3-A | | AMD | PL 598 | | 25 |
| 29-A | 652 | 15 | | AMD | PL 598 | | 26 |
| 29-A | 652 | 16 | | AMD | PL 598 | | 27 |
| 29-A | 652 | 17 | | NEW | PL 598 | | 28 |
| 29-A | 664-A | 1 | | AMD | PL 598 | | 29 |
| 29-A | 667 | 4 | | AMD | PL 598 | | 30 |
| 29-A | 667 | 5 | | AMD | PL 598 | | 31 |
| 29-A | 701 | 2 | | AMD | PL 598 | | 32 |
| 29-A | 957 | 4 | | AMD | PL 598 | | 33 |
| 29-A | 1404 | | | AMD | PL 598 | | 34 |
| 29-A | 1606 | 6 | | AMD | PL 598 | | 35 |
| 29-A | 1611 | 3 | | AMD | PL 598 | | 36 |
| 29-A | 1611 | 4 | | RP | PL 598 | | 37 |
| 29-A | 1611 | 5 | | AMD | PL 598 | | 38 |
| 29-A | 1758 | 2 | | AFF | PL 624 | | 4 |
| 29-A | 1758 | 2 | | AMD | PL 624 | | 1 |
| 29-A | 1758 | 3 | | AFF | PL 624 | | 4 |
| 29-A | 1758 | 3 | | NEW | PL 624 | | 2 |
| 29-A | 1912 | 1 | | AMD | PL 639 | | 1 |
| 29-A | 1912 | 3 | | AMD | PL 639 | | 2 |
| 29-A | 2052 | 5 | B | AMD | PL 484 | | 2 |
| 29-A | 2060 | 1-A | | AMD | PL 484 | | 3 |
| 29-A | 2062 | 5 | | AMD | PL 484 | | 4 |
| 29-A | 2063 | | | AMD | PL 484 | | 5 |
| 29-A | 2069 | 3 | | AMD | PL 493 | | 1 |
| 29-A | 2070 | 1-A | | AMD | PL 484 | | 6 |
| 29-A | 2070 | 6 | | AMD | PL 484 | | 7 |
| 29-A | 2071 | 5 | | AMD | PL 484 | | 8 |
| 29-A | 2074 | 1-A | | NEW | PL 554 | | 1 |
| 29-A | 2083 | 2 | | RPR | PL 652 | C | 5 |
| 29-A | 2102 | | | AMD | PL 493 | | 2 |
| 29-A | 2117 | | | RAL | RR 1 | | 18 |
| 29-A | 2117-A | | | NEW | PL 605 | | 1 |
| 29-A | 2118 | | | RAL | RR 1 | | 18 |
| 29-A | 2321 | | | AMD | PL 484 | | 9 |
| 29-A | 2322 | 8 | | AMD | PL 484 | | 10 |
| 29-A | 2323 | | | AMD | PL 484 | | 11 |
| 29-A | 2324 | | | AMD | PL 484 | | 12 |
| 29-A | 2325 | | | AMD | PL 484 | | 13 |

| TITLE | SECTION | SUB | PARA | EFF | CHAPTER | PART | SEC |
|---|---|---|---|---|---|---|---|
| 29-A | 2326 | 1 | | AMD | PL 484 | | 14 |
| 29-A | 2328 | | | AMD | PL 484 | | 15 |
| 29-A | 2355-A | | | AFF | PL 469 | | 2 |
| 29-A | 2355-A | | | NEW | PL 469 | | 1 |
| 29-A | 2356 | 8 | | AMD | PL 598 | | 39 |
| 29-A | 2360 | 11 | | AMD | PL 598 | | 40 |
| 29-A | 2360 | 12 | | RP | PL 598 | | 41 |
| 29-A | 2360 | 14 | | AMD | PL 598 | | 42 |
| 29-A | 2412-A | 8 | | AMD | PL 493 | | 3 |
| 29-A | 2458 | 1 | | AMD | PL 598 | | 43 |
| 29-A | 2458 | 2 | | AMD | PL 598 | | 44 |
| 29-A | 2486 | 2 | | AMD | PL 598 | | 46 |
| 29-A | 2508 | 1 | C | AMD | PL 482 | | 1 |
| 30 | 6203 | 8 | | AFF | PL 636 | B | 2 |
| 30 | 6203 | 8 | | AMD | PL 636 | B | 1 |
| 30 | 6209-B | 1 | B | COR | RR 1 | | 19 |
| 30 | 6212 | 6 | | AFF | PL 636 | C | 4 |
| 30 | 6212 | 6 | | AMD | PL 636 | C | 3 |
| 30-A | 706 | | | AMD | PL 625 | | 1 |
| 30-A | 723 | 1 | D | RPR | PL 650 | | 1 |
| 30-A | 898 | | | AMD | PL 576 | | 1 |
| 30-A | 934 | | | AMD | PL 517 | | 14 |
| 30-A | 1501 | 1 | | COR | RR 1 | | 20 |
| 30-A | 2201 | | | AMD | PL 636 | D | 1 |
| 30-A | 2202 | 2 | | NEW | PL 636 | D | 2 |
| 30-A | 2203 | | | AMD | PL 636 | D | 3 |
| 30-A | 2206 | | | AMD | PL 636 | D | 4 |
| 30-A | 2208 | | | NEW | PL 636 | D | 5 |
| 30-A | 2343 | | | NEW | PL 483 | | 3 |
| 30-A | 2652 | 1 | C | AMD | PL 589 | | 4 |
| 30-A | 2652 | 1 | D | AMD | PL 589 | | 5 |
| 30-A | 2652 | 2 | | AMD | PL 589 | | 6 |
| 30-A | 2652 | 3 | | AMD | PL 589 | | 7 |
| 30-A | 2652 | | last | NEW | PL 589 | | 8 |
| 30-A | 3013 | | | RAL | RR 1 | | 21 |
| 30-A | 3014 | | | RAL | RR 1 | | 21 |
| 30-A | 3110 | | | NEW | PL 477 | | 1 |
| 30-A | 4211 | 5 | | AMD | PL 589 | | 9 |
| 30-A | 4352 | 4 | | AMD | PL 615 | G | 1 |
| 30-A | 4361 | | | NEW | PL 615 | G | 2 |
| 30-A | 4366 | 6 | | AMD | PL 549 | | 1 |
| 30-A | 4372 | | | NEW | PL 549 | | 2 |
| 30-A | 5223 | 3 | | AMD | PL 627 | | 1 |
| 30-A | 5225 | 1 | A | COR | RR 1 | | 22 |
| 30-A | 5250-I | 8 | | AMD | PL 627 | | 2 |
| 30-A | 5250-I | 14 | E | AMD | PL 627 | | 3 |
| 30-A | 5250-I | 14 | F | AMD | PL 627 | | 4 |
| 30-A | 5250-J | 3-A | | AFF | PL 652 | D | 2 |
| 30-A | 5250-J | 3-A | | AMD | PL 652 | D | 1 |
| 30-A | 5681 | 5-C | | AMD | PL 462 | E | 1 |
| 30-A | 5681 | 5-C | | AMD | PL 571 | JJ | 1 |
| 30-A | 5721-A | 1 | C | AMD | PL 545 | | 1 |
| 30-A | 5903 | 8-B | | NEW | PL 517 | | 15 |
| 30-A | 5903 | 8-C | | NEW | PL 517 | | 16 |
| 30-A | 5953-F | | | NEW | PL 517 | | 17 |
| 30-A | 5957 | | | AMD | PL 517 | | 18 |
| 30-A | 6006-G | 2 | A | AMD | PL 652 | A | 43 |
| 31 | 7 | | | AFF | PL 629 | A | 3 |
| 31 | 7 | | | AMD | PL 629 | B | 7 |
| 31 | 601 | | | AFF | PL 629 | A | 3 |
| 31 | 601 | | | RP | PL 629 | A | 1 |
| 31 | 602 | | | AFF | PL 629 | A | 3 |
| 31 | 602 | | | RP | PL 629 | A | 1 |
| 31 | 603-A | | | AFF | PL 629 | A | 3 |
| 31 | 603-A | | | RP | PL 629 | A | 1 |
| 31 | 604-A | | | AFF | PL 629 | A | 3 |
| 31 | 604-A | | | RP | PL 629 | A | 1 |
| 31 | 605-A | | | AFF | PL 629 | A | 3 |
| 31 | 605-A | | | RP | PL 629 | A | 1 |
| 31 | 606-A | | | AFF | PL 629 | A | 3 |
| 31 | 606-A | | | RP | PL 629 | A | 1 |
| 31 | 607 | | | AFF | PL 629 | A | 3 |
| 31 | 607 | | | RP | PL 629 | A | 1 |
| 31 | 607-A | | | AFF | PL 629 | A | 3 |
| 31 | 607-A | | | RP | PL 629 | A | 1 |
| 31 | 608-A | | | AFF | PL 629 | A | 3 |
| 31 | 608-A | | | RP | PL 629 | A | 1 |
| 31 | 608-B | | | AFF | PL 629 | A | 3 |
| 31 | 608-B | | | RP | PL 629 | A | 1 |
| 31 | 608-C | | | AFF | PL 629 | A | 3 |
| 31 | 608-C | | | RP | PL 629 | A | 1 |
| 31 | 608-D | | | AFF | PL 629 | A | 3 |
| 31 | 608-D | | | RP | PL 629 | A | 1 |
| 31 | 608-E | | | AFF | PL 629 | A | 3 |
| 31 | 608-E | | | RP | PL 629 | A | 1 |
| 31 | 608-F | | | AFF | PL 629 | A | 3 |
| 31 | 608-F | | | RP | PL 629 | A | 1 |
| 31 | 609-A | | | AFF | PL 629 | A | 3 |
| 31 | 609-A | | | RP | PL 629 | A | 1 |
| 31 | 610 | | | AFF | PL 629 | A | 3 |
| 31 | 610 | | | RP | PL 629 | A | 1 |
| 31 | 611 | | | AFF | PL 629 | A | 3 |
| 31 | 611 | | | RP | PL 629 | A | 1 |
| 31 | 612 | | | AFF | PL 629 | A | 3 |
| 31 | 612 | | | RP | PL 629 | A | 1 |
| 31 | 613 | | | AFF | PL 629 | A | 3 |
| 31 | 613 | | | RP | PL 629 | A | 1 |
| 31 | 614 | | | AFF | PL 629 | A | 3 |
| 31 | 614 | | | RP | PL 629 | A | 1 |
| 31 | 615 | | | AFF | PL 629 | A | 3 |
| 31 | 615 | | | RP | PL 629 | A | 1 |
| 31 | 616 | | | AFF | PL 629 | A | 3 |
| 31 | 616 | | | RP | PL 629 | A | 1 |
| 31 | 621 | | | AFF | PL 629 | A | 3 |
| 31 | 621 | | | RP | PL 629 | A | 1 |
| 31 | 622 | | | AFF | PL 629 | A | 3 |
| 31 | 622 | | | RP | PL 629 | A | 1 |
| 31 | 623 | | | AFF | PL 629 | A | 3 |
| 31 | 623 | | | RP | PL 629 | A | 1 |
| 31 | 624 | | | AFF | PL 629 | A | 3 |
| 31 | 624 | | | RP | PL 629 | A | 1 |
| 31 | 625 | | | AFF | PL 629 | A | 3 |
| 31 | 625 | | | RP | PL 629 | A | 1 |
| 31 | 627 | | | AFF | PL 629 | A | 3 |
| 31 | 627 | | | RP | PL 629 | A | 1 |
| 31 | 628 | | | AFF | PL 629 | A | 3 |

**CROSS REFERENCE TABLE I**

| TITLE | SECTION | SUB PARA | EFF | CHAPTER | PART | SEC |
|---|---|---|---|---|---|---|
| 31 | 628 | | RP | PL 629 | A | 1 |
| 31 | 629 | | AFF | PL 629 | A | 3 |
| 31 | 629 | | RP | PL 629 | A | 1 |
| 31 | 630 | | AFF | PL 629 | A | 3 |
| 31 | 630 | | RP | PL 629 | A | 1 |
| 31 | 631 | | AFF | PL 629 | A | 3 |
| 31 | 631 | | RP | PL 629 | A | 1 |
| 31 | 641 | | AFF | PL 629 | A | 3 |
| 31 | 641 | | RP | PL 629 | A | 1 |
| 31 | 642 | | AFF | PL 629 | A | 3 |
| 31 | 642 | | RP | PL 629 | A | 1 |
| 31 | 643 | | AFF | PL 629 | A | 3 |
| 31 | 643 | | RP | PL 629 | A | 1 |
| 31 | 644 | | AFF | PL 629 | A | 3 |
| 31 | 644 | | RP | PL 629 | A | 1 |
| 31 | 645 | | AFF | PL 629 | A | 3 |
| 31 | 645 | | RP | PL 629 | A | 1 |
| 31 | 646 | | AFF | PL 629 | A | 3 |
| 31 | 646 | | RP | PL 629 | A | 1 |
| 31 | 651 | | AFF | PL 629 | A | 3 |
| 31 | 651 | | RP | PL 629 | A | 1 |
| 31 | 652 | | AFF | PL 629 | A | 3 |
| 31 | 652 | | RP | PL 629 | A | 1 |
| 31 | 653 | | AFF | PL 629 | A | 3 |
| 31 | 653 | | RP | PL 629 | A | 1 |
| 31 | 654 | | AFF | PL 629 | A | 3 |
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| 31 | 719-C | | AFF | PL 629 | A | 3 |
| 31 | 719-C | | RP | PL 629 | A | 1 |
| 31 | 720 | | AFF | PL 629 | A | 3 |
| 31 | 720 | | RP | PL 629 | A | 1 |
| 31 | 721 | | AFF | PL 629 | A | 3 |

| TITLE | SECTION | SUB PARA | EFF | CHAPTER | PART | SEC |
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| 31 | 721 | | RP | PL 629 | A | 1 |
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| 31 | 1501 | | AFF | PL 629 | A | 3 |
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| 31 | 1502 | | AFF | PL 629 | A | 3 |
| 31 | 1502 | | NEW | PL 629 | A | 2 |
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| 31 | 1504 | | AFF | PL 629 | A | 3 |
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| 31 | 1508 | | AFF | PL 629 | A | 3 |
| 31 | 1508 | | NEW | PL 629 | A | 2 |
| 31 | 1509 | | AFF | PL 629 | A | 3 |
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| 31 | 1511 | | AFF | PL 629 | A | 3 |
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| 31 | 1521 | | AFF | PL 629 | A | 3 |
| 31 | 1521 | | NEW | PL 629 | A | 2 |
| 31 | 1522 | | AFF | PL 629 | A | 3 |
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| 31 | 1531 | | AFF | PL 629 | A | 3 |
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| 31 | 1532 | | AFF | PL 629 | A | 3 |
| 31 | 1532 | | NEW | PL 629 | A | 2 |
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| 31 | 1543 | | NEW | PL 629 | A | 2 |
| 31 | 1544 | | AFF | PL 629 | A | 3 |
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| 31 | 1551 | | AFF | PL 629 | A | 3 |
| 31 | 1551 | | NEW | PL 629 | A | 2 |
| 31 | 1552 | | AFF | PL 629 | A | 3 |
| 31 | 1552 | | NEW | PL 629 | A | 2 |
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| 31 | 1553 | | NEW | PL 629 | A | 2 |
| 31 | 1554 | | AFF | PL 629 | A | 3 |
| 31 | 1554 | | NEW | PL 629 | A | 2 |
| 31 | 1555 | | AFF | PL 629 | A | 3 |
| 31 | 1555 | | NEW | PL 629 | A | 2 |
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| 31 | 1556 | | NEW | PL 629 | A | 2 |
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| 31 | 1558 | | NEW | PL 629 | A | 2 |
| 31 | 1559 | | AFF | PL 629 | A | 3 |

**CROSS REFERENCE TABLE I**

| TITLE | SECTION | SUB | PARA | EFF | CHAPTER | PART | SEC |
|---|---|---|---|---|---|---|---|
| 31 | 1559 | | | NEW | PL 629 | A | 2 |
| 31 | 1560 | | | AFF | PL 629 | A | 3 |
| 31 | 1560 | | | NEW | PL 629 | A | 2 |
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| 31 | 1636 | | | NEW | PL 629 | A | 2 |
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| 31 | 1637 | | | NEW | PL 629 | A | 2 |
| 31 | 1641 | | | AFF | PL 629 | A | 3 |
| 31 | 1641 | | | NEW | PL 629 | A | 2 |
| 31 | 1642 | | | AFF | PL 629 | A | 3 |
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| 31 | 1647 | | | NEW | PL 629 | A | 2 |
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| 31 | 1666 | | | AFF | PL 629 | A | 3 |
| 31 | 1666 | | | NEW | PL 629 | A | 2 |
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| 31 | 1667 | | | NEW | PL 629 | A | 2 |
| 31 | 1668 | | | AFF | PL 629 | A | 3 |
| 31 | 1668 | | | NEW | PL 629 | A | 2 |
| 31 | 1669 | | | AFF | PL 629 | A | 3 |
| 31 | 1669 | | | NEW | PL 629 | A | 2 |
| 31 | 1670 | | | AFF | PL 629 | A | 3 |

| TITLE | SECTION | SUB | PARA | EFF | CHAPTER | PART | SEC |
|---|---|---|---|---|---|---|---|
| 31 | 1670 | | | NEW | PL 629 | A | 2 |
| 31 | 1671 | | | AFF | PL 629 | A | 3 |
| 31 | 1671 | | | NEW | PL 629 | A | 2 |
| 31 | 1672 | | | AFF | PL 629 | A | 3 |
| 31 | 1672 | | | NEW | PL 629 | A | 2 |
| 31 | 1673 | | | AFF | PL 629 | A | 3 |
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| 31 | 1692 | | | NEW | PL 629 | A | 2 |
| 31 | 1693 | | | AFF | PL 629 | A | 3 |
| 31 | 1693 | | | NEW | PL 629 | A | 2 |
| 32 | 88 | 2 | E | AMD | PL 571 | Y | 1 |
| 32 | 1086 | | last | NEW | PL 464 | | 1 |
| 32 | 1243 | | | AMD | PL 589 | | 10 |
| 32 | 1866-E | 8 | | NEW | PL 592 | | 1 |
| 32 | 1873 | | | AMD | PL 487 | B | 13 |
| 32 | 2104 | 4 | | AMD | PL 628 | | 3 |
| 32 | 2110 | | | NEW | PL 533 | | 2 |
| 32 | 2202-B | | | AMD | PL 628 | | 4 |
| 32 | 2205-B | 3 | | RP | PL 512 | | 1 |
| 32 | 2402-A | | | RP | PL 652 | A | 44 |
| 32 | 2600-B | | | NEW | PL 533 | | 3 |
| 32 | 3300-B | | | NEW | PL 533 | | 4 |
| 32 | 4252 | | | AMD | PL 589 | | 11 |
| 32 | 4314 | | | AMD | PL 589 | | 12 |
| 32 | 4325 | | | AMD | PL 589 | | 13 |
| 32 | 4700-J | | | AMD | PL 652 | A | 45 |
| 32 | 13794 | | 2nd | NEW | PL 533 | | 5 |
| 32 | 13798 | | | NEW | PL 533 | | 6 |
| 32 | 16202 | 26 | | AMD | PL 500 | | 1 |
| 32 | 16302 | 3 | A | AMD | PL 500 | | 2 |
| 32 | 16302 | 3 | B | AMD | PL 500 | | 3 |
| 32 | 18107 | | | AMD | PL 652 | A | 46 |
| 32 | 18123 | 2 | | AMD | PL 652 | A | 47 |
| 33 | 651 | | | AMD | PL 575 | | 1 |
| 33 | 751 | 14 | | AMD | PL 575 | | 2 |
| 33 | 1954 | 2 | | RP | PL 566 | | 25 |
| 34-A | 3013 | | | NEW | PL 498 | | 1 |
| 34-A | 11202-A | | | AMD | PL 570 | | 1 |
| 34-A | 11222 | 4 | | AMD | PL 570 | | 2 |
| 34-A | 11222 | 4-A | | NEW | PL 570 | | 3 |
| 34-A | 11222 | 4-B | | NEW | PL 570 | | 4 |
| 34-A | 11225-A | 1 | | AMD | PL 570 | | 5 |
| 34-B | 1224 | | | NEW | PL 621 | | 8 |
| 34-B | 1224 | | | NEW | PL 590 | | 7 |
| 34-B | 1409 | 15 | | AMD | PL 571 | SSS | 1 |
| 34-B | 3801 | 4 | | RP | PL 651 | | 3 |
| 34-B | 3801 | 4-A | | NEW | PL 651 | | 4 |
| 34-B | 3801 | 4-B | | NEW | PL 651 | | 5 |
| 34-B | 3801 | 5 | | AMD | PL 651 | | 6 |
| 34-B | 3801 | 7 | | AMD | PL 651 | | 7 |
| 34-B | 3801 | 7-A | | AMD | PL 651 | | 8 |
| 34-B | 3801 | 7-B | | AMD | PL 651 | | 9 |
| 34-B | 3831 | 6 | | AMD | PL 651 | | 10 |
| 34-B | 3862 | 1 | | AMD | PL 651 | | 11 |
| 34-B | 3862 | 3 | | AMD | PL 651 | | 12 |
| 34-B | 3863 | 1 | | AMD | PL 651 | | 13 |
| 34-B | 3863 | 2 | | AMD | PL 651 | | 14 |
| 34-B | 3863 | 5 | | RP | PL 651 | | 15 |
| 34-B | 3863 | 5-A | | NEW | PL 651 | | 16 |
| 34-B | 3863 | 6 | E | AMD | PL 651 | | 17 |
| 34-B | 3863 | 7 | | AMD | PL 651 | | 18 |
| 34-B | 3863 | 8 | | AMD | PL 651 | | 19 |
| 34-B | 3864 | 1 | | AMD | PL 651 | | 20 |
| 34-B | 3864 | 4 | | AMD | PL 651 | | 21 |
| 34-B | 3864 | 5 | A | AMD | PL 651 | | 22 |
| 34-B | 3864 | 6 | | AMD | PL 651 | | 23 |
| 34-B | 3864 | 7 | | AMD | PL 651 | | 24 |
| 34-B | 3864 | 7-A | C | AMD | PL 651 | | 25 |
| 34-B | 3864 | 7-A | D | AMD | PL 651 | | 26 |
| 34-B | 3871 | 6 | | AMD | PL 651 | | 27 |
| 34-B | 3873 | | | RP | PL 651 | | 28 |
| 34-B | 3873-A | | | NEW | PL 651 | | 29 |
| 34-B | 5604 | 3 | | COR | RR 1 | | 23 |
| 35-A | 102 | 4-A | | NEW | PL 612 | | 1 |
| 35-A | 102 | 4-B | | NEW | PL 612 | | 2 |
| 35-A | 102 | 13 | | AMD | PL 539 | | 1 |
| 35-A | 102 | 19 | | AMD | PL 612 | | 3 |
| 35-A | 122 | | | AMD | PL 655 | A | 2 |
| 35-A | 711 | 5 | | NEW | PL 612 | | 4 |
| 35-A | 2102 | 1 | | AMD | PL 612 | | 5 |
| 35-A | 2102 | 4 | | NEW | PL 612 | | 6 |
| 35-A | 2301 | | | AMD | PL 612 | | 7 |
| 35-A | 2501 | 2 | | AMD | PL 612 | | 8 |
| 35-A | 3131 | 4-A | | NEW | PL 655 | A | 3 |
| 35-A | 3132 | 6 | | AMD | PL 655 | A | 4 |
| 35-A | 3132 | 6 | | AMD | PL 615 | A | 1 |
| 35-A | 3132 | 6-A | | NEW | PL 655 | A | 5 |
| 35-A | 3132 | 13 | | AMD | PL 655 | C | 3 |
| 35-A | 3143 | | | NEW | PL 539 | | 2 |
| 35-A | 3210 | 2 | B-1 | RP | PL 542 | | 1 |
| 35-A | 3210 | 2 | B-2 | AMD | PL 542 | | 2 |
| 35-A | 3210 | 2 | B-3 | NEW | PL 542 | | 3 |
| 35-A | 3210 | 2 | B-4 | NEW | PL 542 | | 4 |
| 35-A | 3210 | 2 | C | AMD | PL 542 | | 5 |
| 35-A | 3210 | 5 | | RPR | PL 565 | | 1 |
| 35-A | 3210 | 6 | | AFF | PL 565 | | 9 |

**CROSS REFERENCE TABLE I**

| TITLE | SECTION | SUB | PARA | EFF | CHAPTER | PART | SEC |
|---|---|---|---|---|---|---|---|
| 35-A | 3210 | 6 | | RP | PL 565 | | 2 |
| 35-A | 3210 | 6-A | | AFF | PL 565 | | 9 |
| 35-A | 3210 | 6-A | | RP | PL 565 | | 3 |
| 35-A | 3210 | 9 | B | AFF | PL 565 | | 9 |
| 35-A | 3210 | 9 | B | AMD | PL 565 | | 4 |
| 35-A | 3210-C | 1 | E | AMD | PL 542 | | 6 |
| 35-A | 3210-C | 1 | F | NEW | PL 518 | | 1 |
| 35-A | 3210-C | 1 | G | NEW | PL 518 | | 2 |
| 35-A | 3210-C | 3 | | AMD | PL 518 | | 3 |
| 35-A | 3210-C | 6 | | AMD | PL 518 | | 4 |
| 35-A | 3210-C | 7 | | AMD | PL 518 | | 5 |
| 35-A | 3210-C | 9 | | AMD | PL 518 | | 6 |
| 35-A | 3210-E | | | AFF | PL 627 | | 12 |
| 35-A | 3210-E | | | NEW | PL 627 | | 5 |
| 35-A | 3212-A | 1 | | AMD | PL 542 | | 7 |
| 35-A | 3402 | 1 | | AMD | PL 615 | A | 2 |
| 35-A | 3404 | 1 | | AMD | PL 615 | A | 3 |
| 35-A | 3404 | 2 | | AMD | PL 615 | A | 4 |
| 35-A | 3451 | 1-B | | NEW | PL 642 | A | 2 |
| 35-A | 3451 | 1-C | | NEW | PL 642 | A | 3 |
| 35-A | 3451 | 7 | | AMD | PL 642 | A | 4 |
| 35-A | 3451 | 8-A | | NEW | PL 642 | A | 5 |
| 35-A | 3451 | 10 | | AMD | PL 642 | A | 6 |
| 35-A | 3454 | | | AMD | PL 642 | A | 7 |
| 35-A | 3458 | | | NEW | PL 642 | B | 2 |
| 35-A | 3602 | 2 | | AMD | PL 542 | | 8 |
| 35-A | 3603 | 3 | A | AMD | PL 565 | | 5 |
| 35-A | 3703 | 2 | | COR | RR 1 | | 24 |
| 35-A | 6111-A | 4 | | NEW | PL 490 | | 1 |
| 35-A | 6111-C | | | NEW | PL 541 | | 1 |
| 35-A | 7902 | | | AMD | PL 612 | | 9 |
| 35-A | 8704 | 1 | B | AMD | PL 652 | A | 48 |
| 35-A | 9202-A | | | NEW | PL 586 | | 1 |
| 35-A | 9216 | | | NEW | PL 612 | | 10 |
| 35-A | 10103 | 1 | C | AMD | PL 518 | | 7 |
| 35-A | 10103 | 4 | | AMD | PL 655 | B | 3 |
| 35-A | 10103 | 4-A | | NEW | PL 655 | B | 4 |
| 35-A | 10104 | 4 | | AMD | PL 518 | | 8 |
| 35-A | 10106 | | 1 | COR | RR 1 | | 25 |
| 35-A | 10107 | | | AMD | PL 518 | | 9 |
| 35-A | 10109 | 4 | D | AFF | PL 565 | | 9 |
| 35-A | 10109 | 4 | D | AMD | PL 565 | | 6 |
| 35-A | 10110 | 5 | | AMD | PL 518 | | 10 |
| 35-A | 10115 | 3 | | NEW | PL 518 | | 11 |
| 35-A | 10119 | 1 | B | AMD | PL 652 | A | 49 |
| 35-A | 10121 | | | AFF | PL 565 | | 9 |
| 35-A | 10121 | | | NEW | PL 565 | | 7 |
| 35-A | 10151 | | | NEW | PL 591 | | 1 |
| 35-A | 10152 | | | NEW | PL 591 | | 1 |
| 35-A | 10153 | | | NEW | PL 591 | | 1 |
| 35-A | 10154 | | | NEW | PL 591 | | 1 |
| 35-A | 10155 | | | NEW | PL 591 | | 1 |
| 35-A | 10156 | | | NEW | PL 591 | | 1 |
| 35-A | 10157 | | | NEW | PL 591 | | 1 |
| 35-A | 10158 | | | NEW | PL 591 | | 1 |
| 35-A | 10159 | | | NEW | PL 591 | | 1 |
| 35-A | 10160 | | | NEW | PL 591 | | 1 |
| 35-A | 10161 | | | NEW | PL 591 | | 1 |
| 35-A | 10162 | | | NEW | PL 591 | | 1 |
| 36 | 111 | 1-A | | AFF | PL 596 | | 2 |
| 36 | 111 | 1-A | | AMD | PL 596 | | 1 |
| 36 | 111 | 5 | | AMD | PL 625 | | 2 |
| 36 | 112 | 5-A | | AMD | PL 496 | | 1 |
| 36 | 112 | 8 | D | AMD | PL 496 | | 2 |
| 36 | 141 | 1 | | AMD | PL 496 | | 3 |
| 36 | 175 | 2 | | AMD | PL 496 | | 4 |
| 36 | 175 | 6 | | AMD | PL 496 | | 5 |
| 36 | 186 | | | AMD | PL 625 | | 3 |
| 36 | 191 | 2 | D | AMD | PL 496 | | 6 |
| 36 | 191 | 2 | V | AMD | PL 637 | | 13 |
| 36 | 191 | 2 | LL | AMD | PL 652 | A | 50 |
| 36 | 191 | 2 | MM | AMD | PL 470 | | 4 |
| 36 | 191 | 2 | MM | AMD | PL 652 | A | 51 |
| 36 | 191 | 2 | NN | AMD | PL 652 | A | 52 |
| 36 | 191 | 2 | PP | NEW | PL 592 | | 2 |
| 36 | 191 | 2 | PP | NEW | PL 568 | | 2 |
| 36 | 191 | 4 | | AMD | PL 496 | | 7 |
| 36 | 271 | 2 | C | AMD | PL 571 | WWW | 1 |
| 36 | 271 | 2 | D | AMD | PL 571 | WWW | 2 |
| 36 | 271 | 2 | E | NEW | PL 571 | WWW | 3 |
| 36 | 271 | 3 | | AMD | PL 571 | WWW | 4 |
| 36 | 271 | 3-A | | AMD | PL 571 | WWW | 5 |
| 36 | 271 | 9 | | NEW | PL 571 | WWW | 6 |
| 36 | 271 | 10 | | NEW | PL 571 | WWW | 7 |
| 36 | 272 | 4 | B | AMD | PL 496 | | 8 |
| 36 | 581 | 1 | | AMD | PL 577 | | 1 |
| 36 | 581 | 1-A | | NEW | PL 577 | | 2 |
| 36 | 683 | 1 | | AFF | PL 652 | A | 63 |
| 36 | 685 | 4 | | AFF | PL 571 | MM | 2 |
| 36 | 685 | 4 | | AMD | PL 571 | MM | 1 |
| 36 | 691 | 1 | A | AMD | PL 487 | B | 14 |
| 36 | 691 | 1 | A | AFF | PL 571 | II | 5 |
| 36 | 691 | 1 | A | AMD | PL 571 | II | 1 |
| 36 | 941 | | 2nd | AMD | PL 489 | | 1 |
| 36 | 942 | | 2nd | AMD | PL 489 | | 2 |
| 36 | 942 | | 5th | AMD | PL 489 | | 3 |
| 36 | 943-B | | | NEW | PL 489 | | 4 |
| 36 | 1113 | | | AMD | PL 496 | | 9 |
| 36 | 1115 | | | AMD | PL 496 | | 10 |
| 36 | 1132 | 1 | | AMD | PL 496 | | 11 |
| 36 | 1132 | 3 | | AMD | PL 496 | | 12 |
| 36 | 1483 | 13 | | AMD | PL 598 | | 45 |
| 36 | 1506 | | | AMD | PL 496 | | 13 |
| 36 | 1603 | | | AMD | PL 619 | B | 1 |
| 36 | 1606 | 2 | | AMD | PL 619 | B | 2 |
| 36 | 1752 | 5-A | | AMD | PL 496 | | 14 |
| 36 | 1752 | 14 | B | AFF | PL 496 | | 30 |
| 36 | 1752 | 14 | B | AFF | PL 496 | | 31 |
| 36 | 1752 | 14 | B | AMD | PL 496 | | 15 |
| 36 | 1752 | 14 | B | AMD | PL 496 | | 16 |
| 36 | 1752 | 14 | B | AFF | PL 625 | | 16,18 |
| 36 | 1752 | 14 | B | AFF | PL 625 | | 17,18 |
| 36 | 1752 | 14 | B | AMD | PL 625 | | 4 |
| 36 | 1752 | 14 | B | AMD | PL 625 | | 5 |
| 36 | 1752 | 14 | B | AFF | PL 652 | C | 8 |
| 36 | 1752 | 14 | B | AFF | PL 652 | C | 9 |
| 36 | 1754-B | 2 | | AMD | PL 496 | | 17 |
| 36 | 1760 | 5 | | AMD | PL 625 | | 6 |

| TITLE | SECTION | SUB | PARA | EFF | CHAPTER | PART | SEC |
|---|---|---|---|---|---|---|---|
| 36 | 1760 | 7-C | | AMD | PL 632 | | 1 |
| 36 | 1760 | 9 | | AMD | PL 625 | | 7 |
| 36 | 1760 | 25 | | AFF | PL 620 | | 2 |
| 36 | 1760 | 25 | | RPR | PL 620 | | 1 |
| 36 | 1760 | 45 | A | AMD | PL 625 | | 8 |
| 36 | 1760 | 87 | | AFF | PL 627 | | 12 |
| 36 | 1760 | 87 | | AMD | PL 627 | | 6 |
| 36 | 1760 | 90 | | AMD | PL 491 | | 1 |
| 36 | 1760-D | | | NEW | PL 632 | | 2 |
| 36 | 2013 | 4 | | NEW | PL 632 | | 3 |
| 36 | 2016 | 4 | A | AFF | PL 627 | | 12 |
| 36 | 2016 | 4 | A | AMD | PL 627 | | 7 |
| 36 | 2513 | 1 | | AMD | PL 625 | | 9 |
| 36 | 2529 | 1 | B | AFF | PL 627 | | 12 |
| 36 | 2529 | 1 | B | AMD | PL 627 | | 8 |
| 36 | 2529 | 3 | | AMD | PL 627 | | 9 |
| 36 | 2557 | 3 | G-1 | AFF | PL 652 | A | 65 |
| 36 | 2892 | 4 | | NEW | PL 571 | AAA | 1 |
| 36 | 2893 | 2 | | AMD | PL 571 | VV | 1 |
| 36 | 2893 | 3 | | AMD | PL 571 | VV | 2 |
| 36 | 2894 | | | NEW | PL 571 | VV | 3 |
| 36 | 2895 | | | NEW | PL 571 | VV | 4 |
| 36 | 2903 | 4 | A | AMD | PL 625 | | 10 |
| 36 | 2909 | | 1st | AMD | PL 598 | | 47 |
| 36 | 3203 | 1 | | RP | PL 496 | | 18 |
| 36 | 3203 | 4 | | AMD | PL 496 | | 19 |
| 36 | 3203-C | | | RPR | PL 496 | | 20 |
| 36 | 3203-C | | | AFF | PL 652 | B | 9 |
| 36 | 3203-C | | | AMD | PL 652 | B | 8 |
| 36 | 3204-A | 5 | | AMD | PL 625 | | 11 |
| 36 | 3215 | | 1st | AMD | PL 598 | | 48 |
| 36 | 3219-A | 1 | D | AMD | PL 598 | | 49 |
| 36 | 3219-A | 1 | E | AMD | PL 598 | | 50 |
| 36 | 3219-A | 1 | F | RP | PL 598 | | 51 |
| 36 | 3321 | 1 | | RPR | PL 652 | B | 10 |
| 36 | 4902 | 2-A | | AMD | PL 468 | | 1 |
| 36 | 5122 | 1 | Z | RPR | PL 496 | | 21 |
| 36 | 5122 | 2 | AA | RPR | PL 496 | | 22 |
| 36 | 5122 | 2 | CC | COR | RR 1 | | 26 |
| 36 | 5122 | 2 | CC | RAL | RR 1 | | 27,28 |
| 36 | 5122 | 2 | DD | RAL | RR 1 | | 27 |
| 36 | 5122 | 2 | EE | RAL | RR 1 | | 28 |
| 36 | 5122 | 2 | FF | AFF | PL 553 | B | 5 |
| 36 | 5122 | 2 | FF | NEW | PL 553 | B | 1 |
| 36 | 5122 | 2 | FF | AFF | PL 625 | | 15 |
| 36 | 5122 | 2 | FF | NEW | PL 625 | | 12 |
| 36 | 5180 | 1 | | AFF | PL 629 | A | 3 |
| 36 | 5180 | 1 | | AMD | PL 629 | B | 9 |
| 36 | 5180 | 2 | | AFF | PL 629 | A | 3 |
| 36 | 5180 | 2 | | RP | PL 629 | B | 10 |
| 36 | 5200-A | 1 | T | RPR | PL 652 | A | 53 |
| 36 | 5200-A | 1 | V | AMD | PL 652 | A | 54 |
| 36 | 5200-A | 1 | V | RAL | PL 652 | A | 55 |
| 36 | 5200-A | 1 | W | RAL | PL 652 | A | 55 |
| 36 | 5200-A | 2 | R | RPR | PL 496 | | 23 |
| 36 | 5200-A | 2 | T | RPR | PL 652 | A | 56 |
| 36 | 5200-A | 2 | U | AFF | PL 652 | A | 58 |
| 36 | 5200-A | 2 | U | NEW | PL 652 | A | 57 |
| 36 | 5211 | 14 | | AFF | PL 571 | GG | 2 |
| 36 | 5211 | 14 | | AMD | PL 571 | GG | 1 |
| 36 | 5217-D | 1 | F | AFF | PL 553 | B | 5 |
| 36 | 5217-D | 1 | F | RP | PL 553 | B | 2 |
| 36 | 5217-D | 1 | G | AFF | PL 553 | B | 5 |
| 36 | 5217-D | 1 | G | AMD | PL 553 | B | 3 |
| 36 | 5217-D | 3 | | AFF | PL 553 | B | 5 |
| 36 | 5217-D | 3 | | AMD | PL 553 | B | 4 |
| 36 | 5219-E | | | RP | PL 496 | | 24 |
| 36 | 5219-EE | | | NEW | PL 633 | | 5 |
| 36 | 5219-W | 1 | B | AFF | PL 627 | | 12 |
| 36 | 5219-W | 1 | B | AMD | PL 627 | | 10 |
| 36 | 5219-W | 4 | | AMD | PL 627 | | 11 |
| 36 | 5219-Y | | | RPR | PL 470 | | 5 |
| 36 | 5228 | 3 | | AMD | PL 496 | | 25 |
| 36 | 5228 | 3 | | COR | RR 1 | | 29 |
| 36 | 5278 | 4 | | AMD | PL 496 | | 26 |
| 36 | 6271 | | | NEW | PL 489 | | 5 |
| 36 | 6601 | | | NEW | PL 571 | HH | 1 |
| 36 | 6602 | | | NEW | PL 571 | HH | 1 |
| 36 | 6603 | | | NEW | PL 571 | HH | 1 |
| 36 | 6604 | | | NEW | PL 571 | HH | 1 |
| 36 | 6605 | | | NEW | PL 571 | HH | 1 |
| 36 | 6606 | | | NEW | PL 571 | HH | 1 |
| 36 | 6607 | | | NEW | PL 571 | HH | 1 |
| 36 | 6652 | 1 | | AMD | PL 496 | | 27 |
| 36 | 6652 | 1-B | B | AFF | PL 571 | II | 5 |
| 36 | 6652 | 1-B | B | AMD | PL 571 | II | 2 |
| 36 | 6652 | 1-B | C | AMD | PL 487 | B | 15 |
| 36 | 6652 | 1-B | C | AFF | PL 571 | II | 5 |
| 36 | 6652 | 1-B | C | AMD | PL 571 | II | 3 |
| 36 | 6652 | 1-B | D | AFF | PL 571 | II | 5 |
| 36 | 6652 | 1-B | D | NEW | PL 571 | II | 4 |
| 36 | 6652 | 4 | | AMD | PL 496 | | 28 |
| 36 | 6754 | 1 | | RPR | PL 496 | | 29 |
| 36 | 6758 | 3 | | RPR | PL 571 | LL | 2 |
| 36 | 6901 | | | AMD | PL 470 | | 6 |
| 36 | 6902 | | | AMD | PL 470 | | 7 |
| 37-B | 158 | | | AMD | PL 481 | | 6 |
| 37-B | 185 | 1-A | | NEW | PL 587 | | 1 |
| 37-B | 512 | | | NEW | PL 471 | | 1 |
| 37-B | 601 | | | RPR | PL 652 | A | 59 |
| 37-B | 797 | | | AMD | PL 479 | | 1 |
| 37-B | 797 | 6 | | AFF | PL 579 | B | 13 |
| 37-B | 797 | 6 | | AMD | PL 579 | B | 1 |
| 37-B | 797 | 7 | | AFF | PL 579 | B | 13 |
| 37-B | 797 | 7 | | AMD | PL 579 | B | 2 |
| 37-B | 797 | 8 | | AFF | PL 579 | B | 13 |
| 37-B | 797 | 8 | | RP | PL 579 | B | 3 |
| 37-B | 799 | | | AFF | PL 579 | B | 13 |
| 37-B | 799 | | | AMD | PL 579 | B | 4 |
| 37-B | 1112 | | | AMD | PL 561 | | 35 |
| 37-B | 1119 | 3 | | AMD | PL 561 | | 36 |
| 38 | 341-D | 2 | | AMD | PL 615 | E | 1 |
| 38 | 341-D | 4 | D | AMD | PL 615 | E | 2 |
| 38 | 342 | 4 | B | AFF | PL 579 | B | 13 |
| 38 | 342 | 4 | B | AMD | PL 579 | B | 5 |
| 38 | 343-D | | 1st | AFF | PL 579 | B | 13 |

**CROSS REFERENCE TABLE I**

| TITLE | SECTION | SUB | PARA | EFF | CHAPTER | PART | SEC |
|---|---|---|---|---|---|---|---|
| 38 | 343-D | | 1st | AMD | PL 579 | B | 6 |
| 38 | 343-D | 8 | | AFF | PL 579 | B | 13 |
| 38 | 343-D | 8 | | AMD | PL 579 | B | 7 |
| 38 | 344 | 2-A | A | AMD | PL 615 | E | 3 |
| 38 | 344-A | | 1st | AMD | PL 615 | E | 4 |
| 38 | 346 | 1 | | AMD | PL 642 | B | 3 |
| 38 | 346 | 4 | | AMD | PL 642 | B | 4 |
| 38 | 346 | 4 | | AMD | PL 615 | E | 5 |
| 38 | 352 | 3 | | AMD | PL 642 | A | 8 |
| 38 | 358 | 3 | A | AFF | PL 579 | B | 13 |
| 38 | 358 | 3 | A | AMD | PL 579 | B | 8 |
| 38 | 361-A | 3-B | | AFF | PL 579 | B | 13 |
| 38 | 361-A | 3-B | | AMD | PL 579 | B | 9 |
| 38 | 411-A | 1 | | RPR | PL 654 | | 1 |
| 38 | 411-A | 2-A | | AMD | PL 654 | | 2 |
| 38 | 413 | 3 | | AMD | PL 654 | | 3 |
| 38 | 413 | 3-A | | NEW | PL 654 | | 4 |
| 38 | 414 | 8 | | AMD | PL 537 | | 1 |
| 38 | 414-A | 1-B | | AMD | PL 654 | | 5 |
| 38 | 420-D | 7 | A | RPR | PL 537 | | 2 |
| 38 | 420-D | 9 | | AMD | PL 602 | | 1 |
| 38 | 423-B | 2 | | AMD | PL 654 | | 6 |
| 38 | 465-B | 1 | C | AMD | PL 654 | | 7 |
| 38 | 467 | 4 | A | COR | RR 1 | | 30 |
| 38 | 480-B | 6-A | | NEW | PL 615 | E | 6 |
| 38 | 480-B | 10 | A | AMD | PL 561 | | 37 |
| 38 | 480-D | | 1st | AMD | PL 615 | E | 7 |
| 38 | 480-D | 1 | | AMD | PL 615 | E | 8 |
| 38 | 480-D | 11 | | NEW | PL 615 | E | 9 |
| 38 | 480-E | 1 | | RPR | PL 615 | E | 10 |
| 38 | 480-E-1 | | 1st | AMD | PL 615 | E | 11 |
| 38 | 480-E-1 | 3 | | NEW | PL 615 | E | 12 |
| 38 | 480-Q | 7-A | A | RP | PL 537 | | 3 |
| 38 | 480-Q | 7-A | D | AMD | PL 537 | | 4 |
| 38 | 480-U | 2 | A | AMD | PL 561 | | 38 |
| 38 | 482 | 2 | D | AMD | PL 615 | E | 13 |
| 38 | 482 | 2 | F | AMD | PL 615 | E | 14 |
| 38 | 482 | 2 | J | NEW | PL 615 | E | 15 |
| 38 | 482 | 8 | | NEW | PL 615 | E | 16 |
| 38 | 484 | 3 | G | AMD | PL 615 | E | 17 |
| 38 | 484 | 4-A | | AFF | PL 506 | | 3 |
| 38 | 484 | 4-A | | AMD | PL 506 | | 1 |
| 38 | 484 | 10 | | AMD | PL 615 | E | 18 |
| 38 | 485-A | | | AMD | PL 602 | | 2 |
| 38 | 488 | 9 | | AMD | PL 615 | E | 19 |
| 38 | 488 | 25 | | NEW | PL 615 | E | 20 |
| 38 | 489-E | | | NEW | PL 602 | | 3 |
| 38 | 548 | | 1st | AMD | PL 501 | | 4 |
| 38 | 551 | 5 | E | AMD | PL 501 | | 5 |
| 38 | 551 | 6-A | | AMD | PL 501 | | 6 |
| 38 | 566-A | 1 | | AMD | PL 501 | | 7 |
| 38 | 566-A | 1-A | | AMD | PL 501 | | 8 |
| 38 | 568-A | 2 | C | AMD | PL 501 | | 9 |
| 38 | 569-A | 8 | B | AMD | PL 501 | | 10 |
| 38 | 569-A | 10-A | | AMD | PL 501 | | 11 |
| 38 | 569-B | 5 | B | AMD | PL 501 | | 12 |
| 38 | 571 | | | RPR | PL 550 | | 9 |
| 38 | 580-B | 7 | | RPR | PL 652 | A | 60 |
| 38 | 580-B | 10 | | RPR | PL 652 | A | 61 |
| 38 | 585-B | 5 | | AMD | PL 535 | | 1 |
| 38 | 585-B | 6 | | AMD | PL 535 | | 2 |
| 38 | 585-B | 7 | | NEW | PL 535 | | 3 |
| 38 | 603-A | 2 | | AMD | PL 604 | | 1 |
| 38 | 603-A | 9 | | NEW | PL 604 | | 2 |
| 38 | 610-D | | | NEW | PL 653 | | 1 |
| 38 | 631 | 3 | | NEW | PL 615 | A | 5 |
| 38 | 634-A | 1 | B | AMD | PL 615 | F | 2 |
| 38 | 634-A | 2 | | AMD | PL 615 | F | 3 |
| 38 | 636 | 5 | | AMD | PL 615 | F | 4 |
| 38 | 636 | 7 | B | AMD | PL 561 | | 39 |
| 38 | 1208-A | | | NEW | PL 490 | | 2 |
| 38 | 1257 | | | NEW | PL 490 | | 3 |
| 38 | 1296 | | 5th | NEW | PL 501 | | 13 |
| 38 | 1298 | 3 | | AMD | PL 501 | | 14 |
| 38 | 1304 | 1-C | | AMD | PL 507 | | 1 |
| 38 | 1310-B | 2 | | AMD | PL 579 | A | 1 |
| 38 | 1310-B | 2 | | AMD | PL 610 | | 1 |
| 38 | 1319-C | 3 | | NEW | PL 501 | | 15 |
| 38 | 1319-E | 1 | G | AFF | PL 579 | B | 13 |
| 38 | 1319-E | 1 | G | AMD | PL 579 | B | 10 |
| 38 | 1319-G | 1-A | | NEW | PL 501 | | 16 |
| 38 | 1319-I | 2-A | | AFF | PL 579 | B | 13 |
| 38 | 1319-I | 2-A | | RP | PL 579 | B | 11 |
| 38 | 1393 | 2 | | AMD | PL 501 | | 17 |
| 38 | 1609 | 5-A | | NEW | PL 610 | | 2 |
| 38 | 1609 | 5-B | | NEW | PL 610 | | 3 |
| 38 | 1609 | 7 | | AMD | PL 610 | | 4 |
| 38 | 1609 | 11 | | AMD | PL 610 | | 5 |
| 38 | 1609 | 13 | | AMD | PL 610 | | 6 |
| 38 | 1609 | 14 | | NEW | PL 610 | | 7 |
| 38 | 1609 | 15 | | NEW | PL 610 | | 8 |
| 38 | 1661-C | 1 | | RP | PL 501 | | 18 |
| 38 | 1661-C | 2 | | RP | PL 501 | | 19 |
| 38 | 1661-C | 6 | F | AMD | PL 501 | | 20 |
| 38 | 1661-C | 6 | I | AMD | PL 501 | | 21 |
| 38 | 1661-C | 9 | A | AMD | PL 501 | | 22 |
| 38 | 1664 | 2 | | RP | PL 501 | | 23 |
| 38 | 1665-B | 2-A | | AMD | PL 501 | | 24 |
| 38 | 1692 | | | AFF | PL 579 | B | 13 |
| 38 | 1692 | | | AMD | PL 579 | B | 12 |
| 38 | 1771 | | | NEW | PL 516 | | 1 |
| 38 | 1772 | | | NEW | PL 516 | | 1 |
| 38 | 1773 | | | NEW | PL 516 | | 1 |
| 38 | 1774 | | | NEW | PL 516 | | 1 |
| 38 | 1775 | | | NEW | PL 516 | | 1 |
| 38 | 2014 | | | AFF | PL 506 | | 3 |
| 38 | 2014 | | | NEW | PL 506 | | 2 |
| 38 | 2301 | | | AFF | PL 579 | A | 6 |
| 38 | 2301 | | | RP | PL 579 | A | 2 |
| 38 | 2302 | | | AFF | PL 579 | A | 6 |
| 38 | 2302 | | | RP | PL 579 | A | 2 |
| 38 | 2303 | | | AFF | PL 579 | A | 6 |
| 38 | 2303 | | | RP | PL 579 | A | 2 |
| 38 | 2304-A | | | AFF | PL 579 | A | 6 |
| 38 | 2304-A | | | RP | PL 579 | A | 2 |
| 38 | 2305 | | | AFF | PL 579 | A | 6 |
| 38 | 2305 | | | RP | PL 579 | A | 2 |
| 38 | 2305-A | | | AFF | PL 579 | A | 6 |

| TITLE | SECTION | SUB | PARA | EFF | CHAPTER | PART | SEC |
|---|---|---|---|---|---|---|---|
| 38 | 2305-A | | | RP | PL 579 | A | 2 |
| 38 | 2306 | | | AFF | PL 579 | A | 6 |
| 38 | 2306 | | | RP | PL 579 | A | 2 |
| 38 | 2307-A | | | AFF | PL 579 | A | 6 |
| 38 | 2307-A | | | RP | PL 579 | A | 2 |
| 38 | 2308 | | | AFF | PL 579 | A | 6 |
| 38 | 2308 | | | RP | PL 579 | A | 2 |
| 38 | 2309 | | | AFF | PL 579 | A | 6 |
| 38 | 2309 | | | RP | PL 579 | A | 2 |
| 38 | 2311-A | | | AFF | PL 579 | A | 6 |
| 38 | 2311-A | | | RP | PL 579 | A | 2 |
| 38 | 2313 | | | AFF | PL 579 | A | 6 |
| 38 | 2313 | | | RP | PL 579 | A | 2 |
| 38 | 2321 | | | NEW | PL 579 | A | 3 |
| 38 | 2322 | | | NEW | PL 579 | A | 3 |
| 38 | 2323 | | | NEW | PL 579 | A | 3 |
| 38 | 2324 | | | NEW | PL 579 | A | 3 |
| 38 | 2325 | | | NEW | PL 579 | A | 3 |
| 38 | 2326 | | | NEW | PL 579 | A | 3 |
| 38 | 2327 | | | NEW | PL 579 | A | 3 |
| 38 | 2328 | | | NEW | PL 579 | A | 3 |
| 38 | 2329 | | | NEW | PL 579 | A | 3 |
| 38 | 2330 | | | NEW | PL 579 | A | 3 |
| 39-A | 102 | 11 | E | AMD | PL 529 | | 4 |
| 39-A | 105 | | | AMD | PL 569 | | 1 |
| 39-A | 105-A | 5 | | NEW | PL 649 | | 1 |
| 39-A | 151 | 1 | | AMD | PL 640 | | 1 |
| 39-A | 153 | 5 | B | AMD | PL 520 | | 1 |
| 39-A | 203 | 1 | | AMD | PL 529 | | 5 |
| 39-A | 221 | 2 | | AFF | PL 521 | | 2 |
| 39-A | 221 | 2 | | RPR | PL 521 | | 1 |
| 39-A | 324 | 3 | | AMD | PL 520 | | 2 |

## TABLE II

Public Laws not allocated to the Maine Revised Statutes of 1964 affected by the laws of the Second Regular Session of the 124th Legislature and the Revisor's Report 2009, Chapter 1.

| YEAR | CHAP | SEC | AFFECTED BY | (TYPE) | YEAR | CHAP | SEC |
|---|---|---|---|---|---|---|---|
| 1995 | 704 | A24 | AMD | PL | 2009 | 501 | 25 |
| 2005 | 519 | WW1 | AMD | PL | 2009 | 571 | X1 |
| 2007 | 240 | OOO2 | RP | PL | 2009 | 467 | 6 |
| 2007 | 240 | XXXX36 | AMD | PL | 2009 | 571 | VVV1 |
| 2007 | 240 | XXXX36 | AMD | PL | 2009 | 571 | VVV2 |
| 2007 | 262 | 2 | RP | PL | 2009 | 467 | 7 |
| 2007 | 531 | 8 | RP | PL | 2009 | 482 | 2 |
| 2007 | 661 | A8 | AMD | PL | 2009 | 642 | A9 |
| 2009 | 162 | 6 | AMD | PL | 2009 | 551 | 11 |
| 2009 | 174 | 28 | AMD | PL | 2009 | 652 | A62 |
| 2009 | 211 | B14 | COR | RR | 2009 | 1 | 31 |
| 2009 | 213 | C17 | AMD | PL | 2009 | 571 | E29 |
| 2009 | 213 | C19 | AMD | PL | 2009 | 571 | E30 |
| 2009 | 213 | C22 | AMD | PL | 2009 | 571 | X2 |
| 2009 | 213 | DD2 | RP | PL | 2009 | 645 | H1 |
| 2009 | 213 | DD3 | RP | PL | 2009 | 645 | H1 |
| 2009 | 213 | DD4 | RP | PL | 2009 | 645 | H1 |
| 2009 | 213 | DD5 | RP | PL | 2009 | 645 | H1 |
| 2009 | 213 | LLL1 | RP | PL | 2009 | 571 | EE1 |
| 2009 | 213 | MMM2 | AMD | PL | 2009 | 571 | UUU1 |
| 2009 | 213 | MMM2 | AMD | PL | 2009 | 645 | H2 |
| 2009 | 213 | SSS4 | AMD | PL | 2009 | 571 | MMM1 |
| 2009 | 213 | SSS5 | AMD | PL | 2009 | 571 | MMM2 |
| 2009 | 213 | TT1 | AMD | PL | 2009 | 571 | C1 |
| 2009 | 213 | TT3 | NEW | PL | 2009 | 571 | C2 |
| 2009 | 213 | TTT2 | AMD | PL | 2009 | 467 | 8 |
| 2009 | 213 | YYY2 | AMD | PL | 2009 | 652 | A63 |
| 2009 | 261 | A20 | RP | PL | 2009 | 652 | A64 |
| 2009 | 344 | D15/3 | AMD | PL | 2009 | 652 | C6 |
| 2009 | 344 | D15/3 | AFF | PL | 2009 | 652 | C7 |
| 2009 | 361 | 37 | AMD | PL | 2009 | 652 | A65 |
| 2009 | 372 | F5 | RP | PL | 2009 | 655 | A6 |
| 2009 | 413 | I1 | AMD | PL | 2009 | 600 | C1 |
| 2009 | 413 | S1 | AMD | PL | 2009 | 600 | G1 |
| 2009 | 414 | B1 | AMD | PL | 2009 | 645 | I1 |
| 2009 | 414 | B6 | AMD | PL | 2009 | 645 | I2 |
| 2009 | 414 | B10 | AMD | PL | 2009 | 645 | I3 |
| 2009 | 414 | D1 | AMD | PL | 2009 | 645 | C1 |
| 2009 | 414 | D5 | AMD | PL | 2009 | 645 | C2 |
| 2009 | 414 | D5 | AMD | PL | 2009 | 571 | PP1 |
| 2009 | 414 | D6 | AMD | PL | 2009 | 571 | PP2 |
| 2009 | 414 | D6 | AMD | PL | 2009 | 645 | C3 |
| 2009 | 414 | D10 | AMD | PL | 2009 | 645 | C4 |
| 2009 | 414 | E1 | AMD | PL | 2009 | 645 | J1 |
| 2009 | 414 | E5/5 | AMD | PL | 2009 | 645 | J2 |
| 2009 | 414 | E6 | AMD | PL | 2009 | 645 | J3 |
| 2009 | 414 | E10 | AMD | PL | 2009 | 645 | J4 |
| 2009 | 415 | C1 | COR | RR | 2009 | 1 | 32 |
| 2009 | 467 | 10 | AMD | PL | 2009 | 594 | 1 |
| 2009 | 467 | 11 | AMD | PL | 2009 | 594 | 2 |
| 2009 | 467 | 12 | AMD | PL | 2009 | 594 | 3 |
| 2009 | 470 | 9 | NEW | PL | 2009 | 625 | 13 |
| 2009 | 496 | 30 | AMD | PL | 2009 | 652 | C8 |
| 2009 | 496 | 31 | AMD | PL | 2009 | 652 | C9 |
| 2009 | 571 | CCC1 | AMD | PL | 2009 | 645 | H3 |
| 2009 | 571 | EEE1 | AMD | PL | 2009 | 652 | F1 |
| 2009 | 571 | PP2 | AMD | PL | 2009 | 652 | B11 |

## TABLE III

Public Laws exempted in revisions prior to 1964 affected by the laws of the Second Regular Session of the 124th Legislature and the Revisor's Report 2009, Chapter 1.

(THERE WERE NONE)

# SUBJECT INDEX

to the Laws of the Second Regular Session of the 124th Legislature