**Amend LD 1019 Part C by deleting the current Part and replacing with the following:**

**PART C**

**Sec. C-1. 20-A MRSA §4251,** as amended by PL 1989, c. 548, §2, is further amended to read:

The intent of this subchapter is to encourage school administrative units to place an increased emphasis on instruction and curriculum for all children ~~ages 4 to 9~~ in public preschool programs to grade 2. This subchapter is not intended as a method of financing existing efforts but as a way of encouraging the development of new or expanded programs.

**Sec. C-2. 20-A MRSA §4252, sub-§1,** as enacted by PL 1983, c. 576, §1, is amended to read:

**1. Class size.** Reduce the student-teacher ratio in all classrooms ~~within one or more grades, kindergarten through grade 3, to a recommended ratio of 15 to 1 and maximum ratio of 18 to 1~~;

**Sec. C-3. 20-A MRSA §4722-A, sub-§4,** as enacted by PL 2011, c. 669, §7, is amended to read:

**4. Grants; contingent extension of full implementation.** During the period of transition to proficiency-based graduation in accordance with this section, the department, if funds are available, shall make annual transition grants to each school administrative unit equal to 1/10 of 1% of the school administrative unit's total cost of education calculated under section 15688, subsection 1 to be used in the manner determined by the school administrative unit to fund the costs of the transition not otherwise subsidized by the State through the 2014-15 school year. The date for implementation of the awarding of diplomas based on student demonstration of proficiency as described in this section is extended one year for each year for which transition grants are not made available to a school administrative unit or for which levels of general purpose aid for local schools fall below school year 2012-2013 levels. Beginning in the 2015-16 school year, the department, if funds are available, shall make annual transition grants to each school administrative unit that operates schools equal to 1/9 of 1% of the school administrative unit's total cost of education calculated under section 15688, subsection 1 to be used in the manner determined by the school administrative unit to fund the costs of the transition not otherwise subsidized by the State.

**Sec. C-4. 20-A MRSA §15671, sub-§1-A,** as enacted by PL 2013, c. 368, Pt. C, §4, is amended to read:

**1-A. State funding for kindergarten to grade 12 public education.** Beginning in fiscal year ~~2015-16~~2016-17 and in each fiscal year thereafter until the state share percentage of the total cost of funding public education from kindergarten to grade 12 reaches 55% pursuant to subsection 7, paragraph B, the State shall increase the state share percentage of the funding for the cost of essential programs and services by at least one percentage point per year over the percentage of the previous year and the department, in allocating funds, shall make this increase in funding a priority. For those fiscal years that the funding appropriated or allocated for the cost of essential programs and services is not sufficient to increase the state share percentage of the total cost of funding public education from kindergarten to grade 12 by at least one percentage point, no new programs or initiatives may be established for kindergarten to grade 12 public education within the department that would divert funds that would otherwise be distributed as general purpose aid for local schools pursuant to subsection 5.

**Sec. C-5. 20-A MRSA §15671, sub-§5-A,** as amended by PL 2013, c. 581, §6, is further amended to read:

**5-A. Funds from casino slot machines or table games.** Revenues received by the department from casino slot machines or casino table games pursuant to Title 8, section 1036, subsection 2-A, paragraph A or Title 8, section 1036, subsection 2-B, paragraph A must be distributed until the end of fiscal year 2014-15 as general purpose aid for local schools, and each school administrative unit shall make its own determination as to how to allocate these resources. ~~Beginning in fiscal year 2015-16, $4,000,000 in revenues must be distributed by the department to provide start-up funds for approved public preschool programs for children 4 years of age in accordance with chapter 203, subchapter 3.~~ Neither the Governor nor the Legislature may divert the revenues payable to the department to any other fund or for any other use. Any proposal to enact or amend a law to allow distribution of the revenues paid to the department from casino slot machines or casino table games for another purpose must be submitted to the Legislative Council and to the joint standing committee of the Legislature having jurisdiction over education matters at least 30 days prior to any vote or public hearing on the proposal.

**Sec. C-6. 20-A MRSA §15671, sub-§7, ¶B,** as amended by PL 2013, c. 595, Pt. C, §1, is

further amended to read:

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

(1) For fiscal year 2005-06, the target is 52.6%.

(2) For fiscal year 2006-07, the target is 53.86%.

(3) For fiscal year 2007-08, the target is 53.51%.

(4) For fiscal year 2008-09, the target is 52.52%.

(5) For fiscal year 2009-10, the target is 48.93%.

(6) For fiscal year 2010-11, the target is 45.84%.

(7) For fiscal year 2011-12, the target is 46.02%.

(8) For fiscal year 2012-13, the target is 45.87%.

(9) For fiscal year 2013-14, the target is 47.29%.

(10) For fiscal year 2014-15, the target is 46.80%.

(11) For fiscal year 2015-16, the target is 46.48%.

**Sec. C-7. 20-A MRSA §15671, sub-§7, ¶C,** as amended by PL 2013, c. 595, Pt. C, §2, is further amended to read:

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

(1) For fiscal year 2011-12, the target is 49.47%.

(2) For fiscal year 2012-13, the target is 49.35%.

(3) For fiscal year 2013-14, the target is 50.44%.

(4) For fiscal year 2014-15, the target is 50.13%.

(5) For fiscal year 2015-16 ~~and succeeding years~~, the target is ~~55%~~49.10%.

(6) For fiscal year 2016-17 and succeeding years, the target is 55%.

**Sec. C-8. 20-A MRSA §15671-A, sub-§2, ¶B,** as amended by PL 2013, c. 595, Pt. C, §3, is further amended to read:

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

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

(1) For the 2005 property tax year, the full-value education mill rate is the amount necessary to result in a 47.4% statewide total local share in fiscal year 2005-06.

(2) For the 2006 property tax year, the full-value education mill rate is the amount necessary to result in a 46.14% statewide total local share in fiscal year 2006-07.

(3) For the 2007 property tax year, the full-value education mill rate is the amount necessary to result in a 46.49% statewide total local share in fiscal year 2007-08.

(4) For the 2008 property tax year, the full-value education mill rate is the amount necessary to result in a 47.48% statewide total local share in fiscal year 2008-09.

(4-A) For the 2009 property tax year, the full-value education mill rate is the amount necessary to result in a 51.07% statewide total local share in fiscal year 2009-10.

(4-B) For the 2010 property tax year, the full-value education mill rate is the amount necessary to result in a 54.16% statewide total local share in fiscal year 2010-11.

(4-C) For the 2011 property tax year, the full-value education mill rate is the amount necessary to result in a 53.98% statewide total local share in fiscal year 2011-12.

(5) For the 2012 property tax year, the full-value education mill rate is the amount necessary to result in a 54.13% statewide total local share in fiscal year 2012-13.

(6) For the 2013 property tax year, the full-value education mill rate is the amount necessary to result in a 52.71% statewide total local share in fiscal year 2013-14.

(7) For the 2014 property tax year, the full-value education mill rate is the amount necessary to result in a 53.20% statewide total local share in fiscal year 2014-15.

(8) For the 2015 property tax year~~ and subsequent tax years~~, the full-value education mill rate is the amount necessary to result in a ~~45%~~53.52% statewide total local share in fiscal year 2015-16~~ and after~~.

(9) For the 2016 property tax year and subsequent tax years, the full-value education mill rate is the amount necessary to result in a 45% statewide total local share in fiscal year 2016-17 and after.

**Sec. C-9. 20-A MRSA §15681-A, sub-§4,** as amended by PL 2013, c. 595, Pt. C, §4, is further amended to read:

**4**. **Career and technical education costs.** Career and technical education costs in the base year adjusted to the year prior to the allocation year. This section does not apply to the ~~2015-16~~2017-18 funding year and thereafter; and

**Sec. C-10. 20-A MRSA 15688-A, sub-§1,** as amended by PL 2013, c. 595, Pt. C, §5, is further amended to read:

**1**. **Career and technical education costs.** Beginning in fiscal year ~~2015-16~~2017-18, the allocation for career and technical education must be based upon a program-driven model that considers components for direct instruction, central administration, supplies, operation and maintenance of plant, other student and staff support and equipment. Monthly payments must be made directly to school administrative units with career and technical education centers and directly to career and technical education regions. If a school administrative unit with a career and technical education center or a career and technical education region has any unexpended funds at the end of the fiscal year, these funds must be carried forward for the purposes of career and technical education.

**Sec. C-11. 20-A MRSA 15688-A, sub-§5,** is enacted to read:

**5. School Improvement and Support.** The commissioner may expend and disburse funds to support school improvement activities in accordance with chapter 222.

**Sec. C-12. 20-A MRSA 15688-A, sub-§6,** is enacted to read:

**6. National Industry Standards for Career and Technical Education.** The commissioner may expend and disburse funds to support enhancements to Career and Technical Education programs that align those programs with national industry standards, in accordance with Chapter 313.

**Sec. C-13. 20-A MRSA 15688-A, sub-§7,** is enacted to read:

**7. Educator Effectiveness.** The commissioner may expend and disburse funds to support the implementation of performance evaluation and professional growth systems in accordance with Chapter 508.

**Sec. C-14. 20-A MRSA 15689, sub-§2, ¶C** is enacted to read:

C. Beginning in fiscal year 2016-17, the debt service adjustment in this section shall be applied to each member municipality of a school administrative district, community school district and regional school unit instead of the total a school administrative district, community school district and regional school unit.

**Sec. C-15. 20-A MRSA §15689-A, sub-§18,** as amended by PL 2009, c. 213, Pt. C, §13, is further amended to read:

**18**. **Coordination of services for juvenile offenders.** The commissioner may pay certain costs attributed to staff support ~~consisting of 2 Education Specialist II positions and 2 Office Associate II positions~~ and associated operating costs for providing coordination of education, treatment and other services for juvenile offenders at youth development centers in Charleston and South Portland. A transfer of All Other funds from the General Purpose Aid for Local Schools account to ~~the All Other line category in the Special Services Team program General Fund account within the Department of Education sufficient to support the All Other costs in this~~

~~subsection~~ the Personal Services and All Other line categories in the Long Creek Youth Development Center General Fund account within the Department of Corrections, sufficient to support one Education Specialist II position and one Office Associate II position, and to the Mountain View Youth Development Center General Fund account within the Department of Corrections, sufficient to support one Education Specialist II position and one Office Associate II position, may occur annually by financial order upon recommendation of the State Budget Officer and approval of the Governor.

**Sec. C-16. 20-A MRSA §15905, sub-§1,** as amended by PL 2013, c. 44, §1, is further amended to read:

**1**. **Approval authority.** The state board must approve each school construction project, unless it is a small scale school construction project as defined in section 15901, subsection 4-A, a nonstate funded project as defined in section 15905-A or a permanent space lease-purchase project.

A. The state board may approve projects as long as no project approval will cause debt service costs, as defined in section 15672, subsection 2-A, paragraph A and pursuant to Resolve 2007, chapter 223, section 4, to exceed the maximum limits specified in Table 1 in subsequent fiscal years.

Table 1

| | Major Capital | Integrated, Consolidated Secondary and Postsecondary Project |
|---|---|---|
| Fiscal year | Maximum Debt Service Limit | Maximum Debt Service Limit |
| 1990 | $ 48,000,000 | |
| 1991 | $ 57,000,000 | |
| 1992 | $ 65,000,000 | |
| 1993 | $ 67,000,000 | |
| 1994 | $ 67,000,000 | |
| 1995 | $ 67,000,000 | |
| 1996 | $ 67,000,000 | |

| | | |
|---|---|---|
| 1997 | $ 67,000,000 | |
| 1998 | $ 67,000,000 | |
| 1999 | $ 69,000,000 | |
| 2000 | $ 72,000,000 | |
| 2001 | $ 74,000,000 | |
| 2002 | $ 74,000,000 | |
| 2003 | $ 80,000,000 | |
| 2004 | $ 80,000,000 | |
| 2005 | $ 84,000,000 | |
| 2006 | $ 90,000,000 | |
| 2007 | $ 96,000,000 | |
| 2008 | $100,000,000 | |
| 2009 | $104,000,000 | |
| 2010 | $108,000,000 | |
| 2011 | $126,000,000 | |
| 2012 | $116,000,000 | |
| 2013 | $116,000,000 | |
| 2014 | $126,000,000 | $10,000,000 |
| 2015 | $126,000,000 | $10,000,000 |
| 2016 | $126,000,000 | $10,000,000 |
| 2017 | $126,000,000 | $10,000,000 |

A-1. Beginning with the second regular session of the Legislature in fiscal year 1990 and every other year thereafter, on or before March 1st, the commissioner shall recommend to

the Legislature and the Legislature shall establish maximum debt service limits for the next 2 biennia for which debt service limits have not been set for major capital and integrated, consolidated secondary and postsecondary projects.

B. Nonstate funded projects, such as school construction projects or portions of projects financed by proceeds from insured losses, money from federal sources, other noneducational funds or local funds that are not eligible for inclusion in an administrative unit's state-local allocation, are outside the total cost limitations set by the Legislature.

**Sec. C-17. Mill expectation.** The mill expectation pursuant to the Maine Revised Statutes, Title 20-A, section 15671-A for fiscal year 2015-16 is 8.48.

**Sec. C-18. 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 2015-16 is as follows:

| | **2015-16 TOTAL** |
|---|---|
| **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 | $1,872,709,385 |
| **Total Debt Service Allocation** | |
| Total debt service allocation pursuant to the Maine | $87,869,709 |

| | |
|---|---|
| Revised Statutes, Title 20-A, section 15683-A | |
| **Enhancing Student Performance and Opportunity** | $8,022,105 |
| **Total Adjustments and Miscellaneous Costs** | |
| Total adjustments and miscellaneous costs pursuant to the Maine Revised Statutes, Title 20-A, sections 15689 and 15689-A | $68,563,541 |
| **Total Normal Cost of Teacher Retirement** | $37,291,090 |
| **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 2015-16 pursuant to the Maine Revised Statutes, Title 20-A, chapter 606-B | $2,074,455,830 |
| Total cost of the state contribution to teacher retirement, teacher retirement health insurance and teacher retirement life insurance for fiscal year 2015-16 pursuant to the Maine Revised Statutes, Title 5, chapters 421 and 423 excluding the normal cost of teacher retirement | $147,838,154 |

| | |
|---|---|
| Adjustment pursuant to the Maine Revised Statutes, Title 20-A, section 15683, subsection 2 | $42,586,047 |
| Total cost of funding public education from kindergarten to grade 12 | $2,264,880,031 |

**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, 2015 and ending June 30, 2016 is calculated as follows:

| | **2015-16 LOCAL** | **2015-16 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 | $1,110,308,635 | $964,147,195 |

| | |
|---|---|
| State contribution to the total cost of teacher retirement, teacher retirement health insurance and teacher retirement life insurance for fiscal year 2015-16 pursuant to the Maine Revised Statutes, Title 5, chapters 421 and 423 | $147,838,154 |
| State contribution to the total cost of funding public education from kindergarten to grade 12 | $1,111,985,349 |

**Sec. C-20. Limit of State's obligation.** If the State's continued obligation for any individual component contained in those sections of this Part that set the total cost of funding public education from kindergarten to grade 12 and the local and state contributions for that purpose exceeds the level of funding provided for that component, any unexpended balances occurring in other programs may be applied to avoid proration of payments for any individual component. Any unexpended balances from this Part may not lapse but must be carried forward for the same purpose.

**Sec. C-21. Authorization of payments.** Those sections of this Part that set the total cost of funding public education from kindergarten to grade 12 and the local and state contributions for that purpose may not be construed to require the State to provide payments that exceed the appropriation of funds for general purpose aid for local schools for the fiscal year beginning July 1, 2015 and ending June 30, 2016.

**Sec. C-22. Annual components review restructuring.** Beginning in 2015-16, the annual review of essential programs and services components shall be in accordance with 20-A MRSA Section 15686-A subsection 2, in 2016-17 the components reviewed shall be the components in subsection 3 and in 2017-18 the components reviewed shall be the components in subsection 1.

**SUMMARY**

**PART C**

This Part establishes the Total Cost of Education from Kindergarten to Grade 12 for fiscal year

2015-16, the state contribution and the annual target state share percentage.

**Amend LD 1019 Part H by deleting the current Part and replacing with the following:**

## PART H

**Sec. H-1. 5 MRSA § 13090-K, sub-§ 2,** as amended in PL 2013, c. 368, Pt. M, §1, is further amended to read:

**2. Source of fund.** Beginning July 1, 2003 and every July 1st thereafter, the State Controller shall transfer to the Tourism Marketing Promotion Fund an amount, as certified by the State Tax Assessor, that is equivalent to 5% of the 7% tax imposed on tangible personal property and taxable services pursuant to Title 36, section 1811, for the first 6 months of the prior fiscal year after the reduction for the transfer to the Local Government Fund as described by Title 30-A, section 5681, subsection 5, except that, from October 1, 2013 to ~~June 30~~ December 31, 2015, the amount is equivalent to 5% of the 8% tax imposed on tangible personal property and taxable services pursuant to Title 36, section 1811~~.~~ and except that, effective July 1, 2017, the amount is equivalent to 17% of the 8% tax imposed pursuant to Title 36, section 1811 on the value of rental of living quarters in any hotel, rooming house or tourist or trailer camp. Beginning on October 1, 2003 and every October 1st thereafter, the State Controller shall transfer to the Tourism Marketing Promotion Fund an amount, as certified by the State Tax Assessor, that is equivalent to 5% of the 7% tax imposed on tangible personal property and taxable services pursuant to Title 36, section 1811, for the last 6 months of the prior fiscal year after the reduction for the transfer to the Local Government Fund, except that, from October 1, 2013 to ~~June 30~~ December 31, 2015, the amount is equivalent to 5% of the 8% tax imposed on tangible personal property and taxable services pursuant to Title 36, section 1811~~.~~ And except that, effective October 1, 2016, the amount is equivalent to 17% of the 8% tax imposed pursuant to Title 36, section 1811 on the value of rental of living quarters in any hotel, rooming house or tourist or trailer camp. The tax amount must be based on actual sales for that fiscal year and may not consider any accruals that may be required by law. The amount transferred from General Fund sales and use tax revenues does not affect the calculation for the transfer to the Local Government Fund.

**Sec. H-2. 36 MRSA § 1752, sub-§ 1-C,** as amended in PL 2011, c. 240, §16, is further amended to read:

**1-C. Business.** "Business" means a commercial activity engaged in as a means of livelihood or profit, or an entity which engages in such activities.

**Sec. H-3. 36 MRSA § 1752, sub-§ 1-D,** as amended by PL 2005, c 218, §12, is further amended to read:

**1-D. Casual sale.** "Casual sale" means an isolated transaction in which tangible personal property or a taxable service is sold other than in the ordinary course of repeated and

successive transactions of like character by the person making the sale. "Casual sale" includes transactions at a bazaar, fair, rummage sale, picnic or similar event by a civic, religious or fraternal organization that is not a registered retailer. The sale by a registered retailer of tangible personal property that that retailer has used in the course of the retailer's business is not a casual sale if that property is of like character to that sold, leased or rented by the retailer in the ordinary course of repeated and successive transactions. "Casual sale" does not include any transaction in which a retailer sells tangible personal property or a taxable service on behalf of the owner of that property or the provider of that service.

**Sec. H-4. 36 MRSA § 1752, sub-§ 1-I is** enacted to read:

**1-I. Candy.** "Candy" means a preparation of sugar, honey or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops or pieces.

**Sec. H-5. 36 MRSA § 1752, sub-§ 2-F is** enacted to read:

**2-F. Domestic and household services.** "Domestic and household services" means the following services when provided to a homeowner or performed with regard to residential real property:

A. Interior home decorating, design, cleaning and organizing services;

B. Exterior home cleaning and maintenance services including but not limited to power washing and cleaning of drains, gutters, chimneys, swimming pools, and hot tubs.

C. Landscaping and horticultural services, including but not limited to gardening, garden design, tree trimming and tree removal;

D. Property maintenance services, including but not limited to lawn care, snow removal and monitoring services;

E. Insect and pest control services;

F. Home automation services, including but not limited to home electronic and audio-visual design and installation;

G. Locksmithing and alarm and home security systems, including design, installation, servicing and repair;

H. Private waste management and remediation services; and

I. Domestic staffing services such as cooks, maids, butlers, nannies, gardeners and caretakers, except in-home and community support services as defined in 22 MRSA Section 7302, subsection 5.

**Sec. H-6. 36 MRSA § 1752, sub-§ 4-A is** enacted to read:

**4-A. Installation, repair and maintenance services.** "Installation, repair and maintenance services" means all services involved in the installation, repair and maintenance of tangible personal property other than motor vehicles and aircraft, including service and maintenance contracts pertaining to such tangible personal property.

**Sec. H-7. 36 MRSA § 1752, sub-§ 5-A,** is repealed.

**Sec. H-8. 36 MRSA § 1752, sub-§ 5-D** is enacted to read:

**5-D. Lease or rental.** "Lease" or "rental" includes sublease or subrental and means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend. "Lease" or "rental" does not include:

A. Any transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

B. Any transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of $100 or 1% of the total required payments;

C. Providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this paragraph, an operator must do more than maintain, inspect or set up the tangible personal property; or

D. Agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).

**Sec. H-9. 36 MRSA § 1752, sub-§ 7-F is** enacted to read:

**7-F. Personal services.** "Personal services" means:

A. Hair, nail and skin care services including, but not limited to, services provided by hair, nail, and tanning salons, massage parlors, spas, and body piercing and tattoo parlors.

B. Elective cosmetic medical procedures and electrolysis except medically necessary services ordered by a person authorized to prescribe medical treatment under Title 32.

C. Event planning services, including but not limited to all services related to weddings

and commitment ceremonies;

D. Dating, escort and social introduction services;

E. Diet and nonmedical weight-reducing services;

F. Flower, balloon and other personal delivery services;

G. Travel arrangement and reservation services; and

H. Psychic reading, tarot card reading, astrology, and palm reading services.

**Sec. H-10. 36 MRSA § 1752, sub-§ 7-G** is enacted to read:

**7-G. Personal property services.** "Personal property services" means services performed on tangible personal property, including but not limited to:

A. Dry cleaning, laundry and diaper services, not including self-service laundry services;

B. Embroidery, monogramming, silk screening and clothing alterations;

C. Vehicle cleaning and detailing services;

D. Pressure cleaning and washing;

E. Pet services including, but not limited to, exercising, sitting, training, grooming and boarding for nonmedical purposes;

F. Mounting and framing services;

G. Furniture and rug cleaning;

H. Meal and drink preparation;

I. Butchering;

J. Restoration services, including art restoration and conservation services and photographic restoration services;

K. Warehousing and storage, including, but not limited to, rental of storage units and warehouse space, watercraft slip and mooring fees and vehicle parking fees;

L. Moving services; and

M. Vehicle towing.

"Personal property services" does not include fabrication services or installation, repair and maintenance services.

**Sec. H-11. 36 MRSA § 1752, sub-§ 8-A** as repealed and replaced by PL 2001, c. 439, Pt. TTTT, §1, is further amended to read:

**8-A. Prepared food.** "Prepared food" means:

A. Meals served on or off the premises of the retailer; and

B. Food and drinks that are prepared by the retailer and ready for consumption without further preparation.

C. All food and drinks sold from an establishment whose sales of food and drinks that are prepared by the retailer account for more than 75% of the establishment's gross receipts.

D. The following food and drinks ordinarily sold for consumption without further preparation:

(1) Candy and confections, including, but not limited to, confectionery spreads;

(2) Soft drinks and powdered and liquid drink mixes except powdered milk, infant formula, coffee and tea;

(3) Sandwiches and salads;

(4) Supplemental meal items such as corn chips, potato chips and crisped vegetable or fruit chips, potato sticks, pork rinds, pretzels, crackers, popped popcorn, cheese sticks and cheese puffs and dips;

(5) Fruit bars, granola bars, trail mix, breakfast bars, rice cakes, popcorn cakes, bread sticks and dried sugared fruit;

(6) Nuts and seeds that have been processed or treated by salting, spicing, smoking, roasting or other means;

(7) Desserts and bakery items, including but not limited to doughnuts, cookies, muffins, dessert breads, pastries, croissants, cakes, pies, ice cream cones, ice cream, ice milk, frozen confections, frozen yogurt, sherbet, ready-to-eat pudding and gelatins and

dessert sauces; and

(8) Meat sticks, meat jerky and meat bars.

As used in this subsection, "without further preparation" does not include combining an item with a liquid or toasting, microwaving or otherwise heating or thawing a product for palatability rather than for the purpose of cooking the product.

"Prepared food" does not include bread and bread products, jam, jelly, pickles, honey, condiments, maple syrup, spaghetti sauce, or salad dressing when packaged as a separate item for retail sale.

**Sec. H-12. 36 MRSA § 1752, sub-§ 9-F** is enacted to read:

**9-F. Professional services.** "Professional services" means the following services:

A. Legal services;

B. Accounting, tax preparation and bookkeeping services;

C. Advertising, public relations and related services;

D. Architectural, engineering and related services;

E. Graphic design services;

F. Photographic services, including studio photography services;

G. Financial planning services;

H. Surveying and mapping services;

I. Private Investigation Services; and

J. Talent agency, artist agency and modeling agency services.

**Sec. H-13. 36 MRSA § 1752, sub-§ 9-G is** enacted to read:

**9-G. Recreation and amusement services.** "Recreation and amusement services" is defined pursuant to this subsection.

A. "Recreation and amusement services" means the following, unless excluded under paragraph B:

(1) Amusements, attractions, entertainment venues and performances, including but not limited to theaters, movies, lectures, concerts, festivals, amusement parks, water parks, fairs, race tracks, festivals, carnivals, circuses, sports activities, stadiums, amphitheaters, museums, planetariums, animal parks, petting zoos, aquariums, historical sites, and convention centers;

(2) Participation in or entry to sporting or recreational activities, including but not limited to golf, skiing, tennis, miniature golf courses, arcades, billiard parlors, disc golf, laser tag, bowling, go-cart courses, paintball and fitness and exercise centers;

(3) Exhibition shows including but not limited to auto, boat, camping, home, garden, trade, arts and crafts, animal, and antique shows;

(4) Scenic and sight-seeing excursions, including but not limited to aircraft, helicopter, balloon, blimp, watercraft, railroad, bus, trolley and wagon rides, whitewater rafting and guided recreation;

(5) Entertainment services, including but not limited to those provided by bands, orchestras, disc jockeys, comedians, clowns, jugglers, children's entertainers and ventriloquists; and

(6) Lessons or training in dance, music, theater, arts and gymnastics, martial arts and other athletic pursuits.

B. "Recreation and amusement services" does not include:

(1) Admission to a licensed agricultural fair or participation in any events or activities organized by a school or incorporated nonprofit organization occurring at such a fair if all the proceeds from the event or activity are used for the charitable purposes of the school or incorporated nonprofit organization;

(2) Scenic and sightseeing excursions on federal navigable waters; and

(3) Participation in or entry to casinos, lotteries and pari-mutual betting.

**Sec. H-14. 36 MRSA § 1752, sub-§ 11,** is repealed and replaced with the following:

**11. Retail sale.** "Retail sale" means any sale of tangible personal property or a taxable service in the ordinary course of business.

A. "Retail sale" includes:

(1) Conditional sales, installment lease sales and any other transfer of tangible personal property when the title is retained as security for the payment of the purchase price and is intended to be transferred later;

(2) A sale in the ordinary course of business by a retailer to a purchaser who is not engaged in selling that kind of tangible personal property or taxable service in the ordinary course of repeated and successive transactions of like character; and

(3) The sale or liquidation of a business or the sale of substantially all of the assets of a business, to the extent that the seller purchased the assets of the business for resale, lease or rental in the ordinary course of business, except when:

(a) The sale is to an affiliated entity and the transferee, or ultimate transferee in a series of transactions among affiliated entities, purchases the assets for resale, lease or rental in the ordinary course of business; or

(b) The sale is to a person that purchases the assets for resale, lease or rental in the ordinary course of business or that purchases the assets for transfer to an affiliate, directly or through a series of transactions among affiliated entities, for resale, lease or rental by the affiliate in the ordinary course of business.

For purposes of this subparagraph, "affiliate" or "affiliated" includes both direct and indirect affiliates.

B. "Retail sale" does not include:

(1) Any casual sale;

(2) Any sale by a personal representative in the settlement of an estate, unless the sale is made through a retailer or unless the sale is made in the continuation or operation of a business;

(3) The sale of loaner vehicles to a new vehicle dealer licensed as such pursuant to Title 29-A, section 953;

(4) The sale of labor and parts used in the performance of repair services under a service or maintenance contract sold on or after January 1, 2016;

(5) The sale, to a retailer that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C, of tangible personal property for resale in the form of tangible personal property, except resale as a casual sale;

(6) The sale, to a retailer that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C, of a taxable service for resale, except resale as a casual

sale;

(7) The sale, to a retailer that is not required to register under section 1754-B, of tangible personal property for resale outside the State in the form of tangible personal property, except resale as a casual sale;

(8) The sale, to a retailer that is not required to register under section 1754-B, of a taxable service for resale outside the State, except resale as a casual sale; or

(9) The sale, to a person engaged in the business of renting or leasing tangible personal property, of tangible personal property for lease or rental.

**Sec. H-15. 36 MRSA § 1752, sub-§ 13** as amended by PL 1981, c. 706, §20, is further amended to read:

**13. Sale.** "Sale" means any transfer, exchange or barter, in any manner or by any means whatsoever, for a consideration and includes leases and contracts payable by rental or license fees for the right of possession and use~~, but only when such leases and contracts are deemed by the State Tax Assessor to be in lieu of purchase~~.

**Sec. H-16. 36 MRSA § 1752, sub-§ 14, ¶ A, as amended by PL 2007, c. 627,** §43, **is further amended to read:**

**A. "Sale price" includes:**

**(1) Any consideration for services that are a part of a retail sale; ~~and~~**

**(2) All receipts, cash, credits and property of any kind or nature and any amount for which credit is allowed by the seller to the purchaser, without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, losses or any other expenses~~.~~; and**

**(3) In the case of the value of rental for a period of less than one year of an automobile or of a pickup truck or van with a gross vehicle weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles, all components of the total rental charged to the lessee, including but not limited to maintenance and service contracts, drop-off or pick-up fees, airport surcharges, mileage fees and any separately itemized charges included in the rental agreement in order to recover the owner's estimated costs of the charges imposed by government authority for title fees, inspection fees, local excise tax and agent fees on all vehicles in its rental fleet registered in the State.**

**Sec. H-17. 36 MRSA § 1752, sub-§ 14, ¶ B,** as amended by PL 2011, c. 211, §22, 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;

(12) The premium imposed on motor vehicle oil by Title 10, section 1020, subsection 6-A; or

(13) Any amount charged for the disposal of used tires.

**Sec. H-18. 36 MRSA § 1752, sub-§ 14-F** is enacted to read:

**14-F. Soft drinks. "**Soft drinks" means non-alcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" do not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume.

**Sec. H-19. 36 MRSA § 1752, sub-§ 17-B,** as amended by PL 2013, c. 156, §2, is further amended to read:

**17-B. Taxable service.** "Taxable service" means:

A. The rental of living quarters in a hotel, rooming house or tourist or trailer camp;

B. The transmission and distribution of electricity;

C. The lease or rental of tangible personal property;

D. The sale of an extended service contract on an automobile or truck that entitles the purchaser to specific benefits in the service of the automobile or truck for a specific duration.

E. Prepaid calling service;

F. Recreation and amusement services;

G. Installation, repair and maintenance services;

H. Personal services;

I. Domestic and household services;

J. Personal property services; and

K. Professional services.

**Sec. H-20. 36 MRSA § 1752, sub-§ 21 as amended by PL 2005, c.215,** §17, is further amended to read**:**

**21. Use.** "Use" includes the exercise in this State of any right or power over tangible personal property by the person who owns the property or leases or rents it from another ~~incident to its ownership, including the derivation of income, whether received in money or in the form of other benefits, by a lessor from the rental of tangible personal property located in this State~~.

**Sec. H-21. 36 MRSA § 1754-B, sub-§ 1, ¶¶ A through C and G,** as amended by PL 2013, c. 200, §§1-3, is further amended to read:

A. Every person that makes sales ~~seller~~ of tangible personal property or taxable services, whether or not at retail, that maintains in this State any office, manufacturing facility, distribution facility, warehouse or storage facility, sales or sample room or other place of business;

B. Every person that makes sales ~~seller~~ of tangible personal property or taxable services that does not maintain a place of business in this State but makes retail sales in this State or solicits orders, by means of one or more salespeople within this State, for retail sales within this State;

C. Every ~~lessor~~ person engaged in the ~~leasing~~ lease or rental to another of tangible personal property located in this State ~~that does not maintain a place of business in this State but makes retail sales to purchasers from this State~~;

G. Every person that makes sales ~~seller~~ of tangible personal property or taxable services that has a substantial physical presence in this State sufficient to satisfy the requirements of the due process and commerce clauses of the United States Constitution.

**Sec. H-22. 36 MRSA § 1754-B, sub-§ 1-B** is enacted to read:

**1-B. Persons not required to register.** Except for persons engaged in casual rentals of living quarters taxable pursuant to section 1764, every person whose combined calendar year gross sales of tangible personal property and taxable services are less than $3,000 is not subject to the registration requirements of section 1.

**Sec. H-23. 36 MRSA § 1758** is repealed.

**Sec. H-24. 36 MRSA § 1760, sub-§ 34** is repealed.

**Sec. H-25. 36 MRSA § 1760, sub-§ 96** is enacted to read:

**96. Business purchases of certain taxable services. Sales of installation, repair and maintenance services, personal property services, and professional services to a business for use directly by that business.**

**Sec. H-26. 36 MRSA § 1760, sub-§ 97 is** enacted to read:

**97. Repairs to telecommunications equipment.** Installation, repair and maintenance of telecommunications equipment subject to the service provider tax pursuant to chapter 358.

**Sec. H-27. 36 MRSA § 1760, sub-§ 98** is enacted to read:

**98. Certain veterans' support organizations.** Sales to incorporated nonprofit organizations organized for the purpose of providing direct supportive services in the State

to veterans and their families living with service-related post-traumatic stress disorder or traumatic brain injury.

**Sec. H-28. 36 MRSA § 1760, sub-§ 99** is enacted to read:

**99. Nonprofit library collaboratives**. Sales to nonprofit collaboratives of academic, public, school and special libraries that provide support for library resource sharing, promote quality library information services and support the cultural, educational and economic development of the State.

**Sec. H-29. 36 MRSA § 1761** as amended by PL 1979, c. 541, Pt. A, §221, is further amended to read:

It ~~shall be~~ is unlawful for any retailer to advertise or hold out or state to the public or to any consumer, directly or indirectly, that the tax or any part thereof imposed by chapters 211 to 225 will be assumed or absorbed by the retailer, or that it will not be added to or included in the ~~selling~~ sale price of the property or service sold, or if added or included that it or any part thereof will be refunded. Any person violating any part of this section ~~shall be~~ is guilty of a Class E crime.

**Sec. H-30. 36 MRSA § 1811, first ¶, as repealed and replaced by PL 2013, c. 588, Pt. E,** §11, is further amended to read:

A tax is imposed on the value of all tangible personal property, products transferred electronically and taxable services sold at retail in this State. The rate of tax is 7% on the value of liquor sold in licensed establishments as defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A, chapter 43; 7% on the value of rental of living quarters in any hotel, rooming house or tourist or trailer camp; 10% on the value of rental for a period of less than one year of an automobile, of a pickup truck or van with a gross vehicle weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles or of a loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty; 7% on the value of prepared food; and 5% on the value of all other tangible personal property and taxable services and products transferred electronically. Notwithstanding the other provisions of this section, from October 1, 2013 to ~~June 30~~ December 31, 2015, the rate of tax is 8% on the value of rental of living quarters in any hotel, rooming house or tourist or trailer camp; 8% on the value of prepared food; 8% on the value of liquor sold in licensed establishments as defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A, chapter 43; and 5.5% on the value of all other tangible personal property and taxable services and products transferred electronically. Effective January 1, 2016, the rate of tax is 8% on the value of rental of living quarters in any hotel, rooming house or tourist or trailer camp; 6.5% on the value of prepared food; 6.5% on the value of liquor sold in licensed establishments as

defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A, chapter 43; 8% on the value of rental for a period of less than one year of an automobile, of a pickup truck or van with a gross vehicle weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles or of a loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty; and 6.5% on the value of all other tangible personal property, products transferred electronically, and other taxable services. ~~Value~~ The value of tangible personal property and taxable services sold at retail is measured by the sale price, except as otherwise provided. ~~The value of rental for a period of less than one year of an automobile or of a pickup truck or van with a gross vehicle weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles is the total rental charged to the lessee and includes, but is not limited to, maintenance and service contracts, drop-off or pick-up fees, airport surcharges, mileage fees and any separately itemized charges on the rental agreement to recover the owner's estimated costs of the charges imposed by government authority for title fees, inspection fees, local excise tax and agent fees on all vehicles in its rental fleet registered in the State. All fees must be disclosed when an estimated quote is provided to the lessee.~~

**Sec. H-31. 36 MRSA § 1811, third ¶** is repealed.

**Sec. H-32. 36 MRSA § 1812, sub-§ 1** is repealed and replaced with the following:

**1. Computation**. Every retailer must add the sales tax imposed by section 1811 to the sale price on all sales of tangible personal property and taxable services that are subject to tax under this Part. The tax when so added is a debt of the purchaser to the retailer until it is paid and is recoverable at law by the retailer from the purchaser in the same manner as the sale price. When the sale price involves a fraction of a dollar, the tax computation must be carried to the 3rd decimal place, then rounded down to the next whole cent whenever the 3rd decimal place is one, 2, 3 or 4 and rounded up to the next whole cent whenever the 3rd decimal place is 5, 6, 7, 8 or 9.

**Sec. H-33. 36 MRSA § 1812, sub-§ 2** as amended by PL 1991, c. 846, §24, is further amended to read:

**2. Several items.** When several purchases are made together and at the same time, the tax ~~must~~ may be computed on each item individually or on the total amount of the several items, as the retailer may elect, except that purchases taxed at different rates must be separately totaled.

**Sec. H-34. 36 MRSA § 1812, sub-§ 3** is repealed.

**Sec. H-35. 36 MRSA § 1813** as amended by PL 1991, c. 546, §24, is further amended to read:

Any retailer who knowingly charges or collects as the sales tax due on the sale price of any tangible personal property or taxable service an amount in excess of that provided by section 1812 commits a Class E crime.

**Sec. H-36. 36 MRSA § 1816** as repealed by PL 2003, c. 673, Pt. V, §24, is replaced by:

**§1816. Sourcing rules for leases and rentals.**

The lease or rental of tangible personal property is sourced as follows:

A. For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced to this state provided the product is received in this state. Periodic payments made subsequent to the first payment are sourced in this state provided the primary property location for the period covered by each payment is in this state. The primary property location is an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The primary property location is not altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls.

B. For a lease or rental that does not require recurring periodic payments, the payment is sourced in this state provided the product is received in this state.

For purposes of this section, "received" means taking possession of the leased property.

**Sec. H-37. 36 MRSA § 1861,** as amended by PL 1995, c. 640, §6, is further amended to read:

A tax is imposed, at the respective rate provided in section 1811, on the storage, use or other consumption in this State of tangible personal property or a taxable service, the sale of which would be subject to tax under section 1764 or 1811. Every person so storing, using or otherwise consuming is liable for the tax until the person has paid the tax or has taken a receipt from the seller, as duly authorized by the assessor, showing that the seller has collected the sales or use tax, in which case the seller is liable for it. Retailers registered under section 1754-B or 1756 shall collect the tax and make remittance to the assessor. The amount of the tax payable by the purchaser is that provided in the case of sales taxes by section 1812. When tangible personal property purchased for resale or lease is withdrawn from inventory by the retailer for the retailer's own use, use tax liability accrues at the date of withdrawal.

**Sec. H-38. 36 MRSA § 1861-A** as amended by PL 2007, c. 240, Pt. W, §1, is further amended to read:

The assessor shall provide that individuals report use tax on items with a sale price of $5,000 or less on their Maine individual income tax returns. Taxpayers are required to attest to the amount of their use tax liability for the period of the tax return. Alternatively, they may elect to report an amount that is ~~.08%~~ .1% of their Maine adjusted gross income. A taxpayer electing to satisfy a use tax liability by estimating it shall calculate the liability in accordance with the use tax table. The estimated liability is applicable only to purchases of

any individual items each having a sale price no greater than $1,000. For each taxable item with a sale price greater than $1,000 but no more than $5,000, the actual use tax liability for each purchase must be added to the amount of the estimated liability derived from the use tax table. Upon subsequent review, if use tax liability for the period of the return exceeds the amount of use tax paid with the return, a credit of that amount paid relative to the item or items being supplementarily assessed is allowed. Use tax on any item with a sale price of more than $5,000 must be reported in accordance with section 1951-A.

**Sec. H-39. 36 MRSA § 1951-A, sub-§ 4** is enacted to read:

**4. Collection allowance. Every retailer may retain a portion of the tax properly reported and paid in a timely manner as required in this section as an** administration expense for **collecting, reporting and remitting the tax. The allowance is the greater of** 0.5 percent of the amount of tax shown as due on, and paid with, the return, or $10 but shall not exceed $1,000. The allowance shall not be greater than the amount of the taxes payable for that return. For purposes of calculating the retailer's allowance under this paragraph, the retailer shall exclude from the administrative expense computation the use tax imposed pursuant to section 1861, the recycling assistance fee imposed pursuant to chapter 719, the prepaid wireless telecommunications service fee imposed pursuant to Title 35-A section 7104, and the motor vehicle oil premium imposed pursuant to Title 10 section 1020.

**Sec. H-40. 36 MRSA § 1952,** is repealed and replaced:

The tax imposed by section 1811 on a sale of tangible personal property or the sale of a taxable service is due and payable at the time of the sale. The tax imposed by section 1811 on the lease or rental of tangible personal property is due and payable at the time each periodic payment under the lease or rental agreement is made, or the time each periodic payment is required to be made, whichever occurs first. The tax imposed by section 1861 on the use of tangible personal property is due and payable at the time the property is first used in this State. Upon such terms and conditions as the State Tax Assessor may prescribe, the assessor may permit a postponement of payment to a date not later than the date on which the sales so taxed are required to be reported.

**Sec. H-41. 36 MRSA § 2015** as enacted by PL 1993, c. 701, §8, is amended to read:

**1. Report.** ~~Annually, on or before September 1st,~~ On or before March 1, 2016, a vehicle owner or rental company engaged in the business of renting automobiles for a period of less than one year, in order to claim an excise tax reimbursement, shall file a report with the State Tax Assessor. The report must include the information required by the State Tax Assessor to determine the taxpayer's excise tax reimbursement entitlement. ~~The State Tax Assessor may extend the September 1st filing deadline for a period not to exceed one year for good cause.~~

**2. Reimbursement.** The State Tax Assessor shall determine the reimbursement to be paid to a taxpayer filing a return pursuant to subsection 1. The reimbursement is the amount that

is the smaller of:

A. The amount determined by computing the total excise tax credit entitlement during the ~~most recently completed~~ period from ~~July 1~~st July 1, 2015 to ~~June 30th~~ December 31, 2015 for which a taxpayer has filed a return pursuant to subsection 1. An excise tax credit accrues for each vehicle excise tax paid ~~in the prior completed~~ during this period for which the associated Maine registration was surrendered prior to the expiration of the associated 12-month excise tax period, unless the excise tax was credited to another registration, in which case the 12-month period continues to run in association with the replacement registration. The amount of the credit is equal to the amount of the excise tax paid in order to register the original vehicle multiplied by a fraction, the numerator of which is the number of complete months short of 12 months during which the registration was surrendered and the denominator is 12; or

B. Three-tenths of the amount of tax paid to the State by the taxpayer resulting from the tax on the rental of automobiles for a period of less than one year during the ~~most recently completed~~ period from ~~July 1st to June 30th~~ July 1, 2015 to December 31, 2015.

**3. Treasurer of State; notification.** Upon the determination of the reimbursement amount to be paid to a vehicle owner or rental company, the State Tax Assessor shall inform the Treasurer of State of the determination and the Treasurer of State shall make the reimbursement. These reimbursements must be accounted for and paid as sales and use tax refunds. Unless the reimbursement is paid before ~~November 1st of the year in which the report required in subsection 1 is filed~~ May 1, 2016 ~~or within 60 days of the filing of that report, whichever is later,~~ interest at the rate provided in section 186 must be paid for the period of time that transpires after the deadline before payment is made.

**Sec. H-42. 36 MRSA §2557, sub-§35,** as enacted by PL 2009, c. 434, §34, is amended to read:

**35. Certain fabrication services.** The production of tangible personal property if a sale to the consumer of that tangible personal property would be exempt or otherwise not subject to tax under Part 3; ~~and~~

**Sec. H-43. 36 MRSA §2557, sub-§36,** as enacted by PL 2009, c. 434, §35, is amended to read:

**36. Fuel used at a manufacturing facility.** Ninety-five percent of the sale price of fabrication services for the production of fuel for use at a manufacturing facility as defined in section 1752, subsection 6-A~~.~~; and

**Sec. H-44. 36 MRSA §2557, sub-§37** is enacted to read:

**37. Nonprofit library collaboratives.** Sales to nonprofit collaboratives of academic, public, school and special libraries that provide support for library resource sharing, promote quality library information services and support the cultural, educational and economic development of the State.

**Sec. H-45. Effective date.** This Part takes effect January 1, 2016 except that the section of this Part that amends the Maine Revised Statutes, Title 36, section 1811, first paragraph, and the section of this Part that amends the Maine Revised Statutes, Title 36, section 1752, subsection 14, paragraph A, take effect on July 1, 2015 and the sections that enacts Title 36, section 1760, subsection 99 and Title 36, section 2557, subsection 37, take effect on October 1, 2015.

**SUMMARY**
**PART H**

This Part does the following:

1. It extends the current tax rates past the current sunset date of June 30, 2015 to December 31, 2015, and sets new rates effective January 1, 2016.

2. It extends the sales and use tax to consumer purchases of various new services effective January 1, 2016.

3. It changes the sales and use tax law as it applies to leases so that the tax must be collected on the "lease stream" effective January 1, 2016.

4. It enacts a collection allowance in order to compensate retailers for the administrative costs involved in charging, collecting and remitting the sales tax.

5. It makes various other related changes.

6. This bill provides an exemption from sales tax and service provider tax for certain nonprofit library collaboratives.

**Amend LD 1019 Part M by deleting the current Part and replacing with the following:**

## PART M

**Sec. M-1. 5 MRSA §1519, sub-§6,** is enacted to read:

**6. Additional Transfers to the Fund.** The State Controller may, at the close of each fiscal year, as the next priority after the transfers authorized pursuant to section 1507, section 1511, and section 1536, subsection 1, transfer from the Unappropriated Surplus of the General Fund to the Retiree Health Internal Service Fund amounts as may be available from time to time, up to an amount of $4,000,000 in fiscal year 2015-16, $4,000,000 in fiscal year 2016-17 and beginning in fiscal year 2017-18, $2,000,000 to be used solely for the purpose of amortizing the unfunded liability. Transfers to the fund may also include appropriations and allocations of the Legislature and direct billing rates charged to state departments and agencies and other participating jurisdictions to be used solely for the purpose of amortizing the unfunded liability.

**Section M-2. 5 MRSA, §1531,** as amended by PL 2013, c. 368, Pt. Q, §2 is further amended to read:

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

~~**1. Average population growth.** "Average population growth" means the average for the prior 10 calendar years, ending with the most recent calendar year for which data is available, of the percent change in population from July 1st of each year and estimated by the United States Department of Commerce, Bureau of Census as adjusted by the Governor's Office of Policy and Management.~~

**2. Average ~~real~~ personal income growth.** "Average ~~real~~ personal income growth" means the average for the prior 10 calendar years, ending with the most recent calendar year for which data is available, of the percent change in personal income in this State, as estimated by the United States Department of Commerce, Bureau of Economic Analysis~~, less the percent change in the Consumer Price Index for the calendar year~~. The average ~~real~~ personal income growth is determined by October 1st, annually, by the Governor's Office of Policy and Management.

**3. Baseline General Fund revenue.** "Baseline General Fund revenue" means the recommended General Fund revenue forecast reported by the Revenue Forecasting Committee in its December 1st report of even-numbered years, increased by the net reduction of General Fund revenue, if any, for all enacted changes affecting state and local tax burden since the previous December 1st report of even-numbered years of the Revenue Forecasting Committee.

**4. Biennial base year appropriation.** "Biennial base year appropriation" means:

A. For the ~~2006-2007~~ 2018-2019 biennium, the General Fund appropriation enacted for

fiscal year ~~2004-05~~ 2016-17 as of December 1, ~~2004~~ 2016; and

B. For subsequent fiscal years, the amount of the General Fund appropriation limitation for the current year as of December 1st of even-numbered years.

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

**6**. ~~**Forecasted inflation.** "Forecasted inflation" means the average amount of change of the Consumer Price Index for the calendar years that are part of the ensuing biennium forecasted by the Consensus Economic Forecasting Commission in its November 1st report of even-numbered years.~~

**7**. **General Fund revenue shortfall.** "General Fund revenue shortfall" means the amount by which the General Fund appropriation limitation established by section 1534 exceeds baseline General Fund revenue and other available resources in each state fiscal year.

**8**. **Stabilization fund.** "Stabilization fund" means the Maine Budget Stabilization Fund established in this chapter.

~~**9. State and local tax burden.** "State and local tax burden" means the total amount of state and local taxes paid by Maine residents, per $1,000 of income, as determined annually by the State Tax Assessor based on data from the United States Department of Commerce, Bureau of Census and Bureau of Economic Analysis.~~

**Section M-3. 5 MRSA, §1532, sub-§§1 and 5,** as enacted by PL 2005, c. 2, Pt. A, §5 is amended to read:

**1**. **Generally; stabilization fund established.** The Maine Budget Stabilization Fund is hereby established. Amounts in the stabilization fund may not exceed ~~12%~~ 18% of total General Fund revenues in the immediately preceding state fiscal year and, except as provided by section 1533, may not be reduced below 1% of total General Fund revenue in the immediately preceding state fiscal year. For the purposes of this subsection, at the close of a fiscal year, "immediately preceding state fiscal year" means the fiscal year that is being closed.

**5**. **Investment proceeds; exception.** At the close of every month during which the stabilization fund is at the ~~12%~~ 18% limitation described in subsection 1, the State Controller shall transfer from the General Fund to the Retirement Allowance Fund established in section 17251 an amount equal to the investment earnings that otherwise would have been credited to the stabilization fund.

**Section M-4. 5 MRSA, §1534, sub-§1,** as amended by PL 2005, c. 683, Pt. M, §1 is further amended to read:

**1**. **Establishment of General Fund appropriation limitation.** As of December 1st of each even-numbered year, there must be established a General Fund appropriation limitation for the

ensuing biennium. The General Fund appropriation limitation applies to all General Fund appropriations~~, except that the additional cost for essential programs and services for kindergarten to grade 12 education under Title 20-A, chapter 606-B over the fiscal year 2004-05 appropriation for general purpose aid for local schools is excluded from the General Fund appropriation limitation until the state share of that cost reaches 55% of the total state and local cost.~~

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

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

**Section M-5. 5 MRSA, §1534, sub-§2,** as enacted by PL 2005, c. 2, Pt. A, §5 is amended to read:

**2**. **Growth limitation factor.** The growth limitation factor is calculated as follows.

~~A. For fiscal years when the State Tax Assessor has determined that the state and local tax burden ranks in the highest 1/3 of all states, the growth limitation factor is average real personal income growth, but no more than 2.75%, plus average population growth.~~

~~B. For fiscal years when the state and local tax burden ranks in the middle 1/3 of all states, as determined by the State Tax Assessor, the growth limitation factor is~~ average ~~real~~ personal income growth ~~plus forecasted inflation plus average population growth.~~

**Section M-6. 5 MRSA, §1535,** as amended by PL 2005, c. 621, §4 is further amended to read:

Baseline General Fund revenue, as recommended by the Revenue Forecasting Committee and authorized in accordance with chapter 151-B, and other available budgeted General Fund resources that exceed the General Fund appropriation limitation established by section 1534 ~~plus the additional cost for essential programs and services for kindergarten to grade 12 education under Title 20-A, chapter 606-B over the fiscal year 2004-05 appropriation for general purpose aid for local schools until the state share of that cost reaches 55% of the total state and local cost~~ must be transferred to the stabilization fund.

**Section M-7. 5 MRSA, §1536,** as amended by PL 2013, c. 1, Pt, §2 is further amended to read:

**1**. **Final priority reserves.** After the transfers to the State Contingent Account pursuant to section 1507, the transfers to the Loan Insurance Reserve pursuant to section 1511 ~~and~~, the transfers pursuant to section 1522, $2,500,000 for the Reserve for General Fund Operating Capital, and the transfers to the Retiree Health Internal Service Fund pursuant to section 1519, the State Controller shall transfer at the close of each fiscal year from the unappropriated surplus of the General Fund an amount equal to the amount available from the unappropriated surplus after all required deductions of appropriations, budgeted financial commitments and adjustments

considered necessary by the State Controller have been made as follows:

A. ~~Forty-eight~~ Eighty percent to the stabilization fund;

~~B.~~

~~C. Thirteen percent to the Reserve for General Fund Operating Capital;~~

~~D. Nine percent to the Retiree Health Insurance Internal Service Fund established in section 1519 to be used solely for the purpose of amortizing the unfunded actuarial liability associated with future health benefits;~~

~~E. Ten percent to the Capital Construction and Improvements Reserve Fund established in section 1516-A; and~~

F. Twenty percent to the Tax Relief Fund for Maine Residents established in section 1518-A.

**2**. **Additional transfer.** At the close of each fiscal year, the State Controller shall transfer from the unappropriated surplus of the General Fund to the stabilization fund an amount equal to the balance remaining of the excess of total General Fund revenue received over accepted estimates in that fiscal year that would have been transferred to the Reserve for General Fund Operating Capital pursuant to subsection 1, paragraph C had the Reserve for General Fund Operating Capital not been at its statutory limit of $50,000,000.

**3**. **Exceptions; stabilization fund at limit.** If the stabilization fund is at its limit of ~~12%~~ 18% of General Fund revenue of the immediately preceding year, then amounts that would otherwise have been transferred to the stabilization fund pursuant to subsections 1and 2 must be transferred to the Tax Relief Fund for Maine Residents established in section 1518-A.

**Section M-8. 5 MRSA, §1665, sub-§1,** as amended by PL 2009, c. 636, Pt. C, section 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. M-9. 20-A MRSA, §15671, sub-§1,** as amended by PL 2005, c. 2, Pt. D, section 32 is further amended to read:

1. **State and local partnership.** The State and each local school administrative unit are jointly responsible for contributing to the cost of the components of essential programs and services described in this chapter. Except as otherwise provided in this subsection, for each fiscal year, the total cost of the components of essential programs and services may not exceed the prior fiscal year's costs multiplied by one plus the average ~~real~~ personal income growth rate as defined in Title 5, section 1665, subsection 1, ~~except that in no case may that rate exceed 2.75%. For fiscal years commencing after the state tax burden ranks in the middle 1/3 of all states, as calculated and certified by the State Tax Assessor, the total cost of the components of essential programs and services may not exceed the prior fiscal year's costs multiplied by one plus the average real personal income growth rate as defined in Title 5, section 1665, subsection 1.~~ The Legislature, by an affirmative vote of each House, may exceed the limitations on increases in the total cost of the components of essential programs and services provided in this subsection, as long as that vote is taken upon legislation stating that it is the Legislature's intent to override the limitation for that fiscal year. The state contribution to 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, must be made in accordance with this subsection:

A. The level of the state share of funding attributable to the cost of the components of essential programs and services must be at least 50% of eligible state and local General Fund education costs statewide, no later than fiscal year 2006-07; and

B. By fiscal year 2008-09 the state share of the total cost of funding public education from kindergarten to grade 12, as described by essential programs and services, must be 55%. Beginning in fiscal year 2005-06 and in each fiscal year until fiscal year 2008-09, the state share of essential programs and services described costs must increase toward the 55% level required in fiscal year 2008-09.

Beginning in fiscal year 2005-06 and in each fiscal year thereafter, the commissioner shall use the funding level determined in accordance with this section as the basis for a recommended funding level for the state share of the cost of the components of essential programs and services.

**Section M-10. 30-A MRSA, §706-A, sub-§1,** as amended by PL 2007, c. 653, Pt. A, §10, 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. "Average ~~real~~ personal income growth" has the same meaning as under Title 5, section 1531, subsection 2.

B. "County assessment" means:
(1) For the tax year of any county that began prior to January 1, 2009, total annual county appropriations reduced by all resources available to fund those appropriations other than the county tax; or

(2) For the tax year of any county that begins on or after January 1, 2009, total annual county appropriations for noncorrectional-related services as established in section 701, reduced by all resources available to fund those appropriations other than the county tax.

C. ~~"Forecasted inflation" has the same meaning as under Title 5, section 1531, subsection 6.~~

D. "Property growth factor" means the percentage equivalent to a fraction, whose denominator is the total valuation of all municipalities, plantations and unorganized territory in the county, and whose numerator is the amount of increase in the assessed valuation of any real or personal property in those jurisdictions 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. The State Tax Assessor shall provide to the counties forms and a methodology for the calculation of the property growth factor, and the counties shall use those forms and the methodology to establish the property growth factor.

E. ~~"State and local tax burden" has the same meaning as under Title 5, section 1531, subsection 9.~~

**Section M-11. 30-A MRSA, §706-A, sub-§3,** as enacted by PL 2005, c. 2, Pt. B, §1, and affected by PL 2005, c. 2, Pt. B, §§2, 4 and PL 2005, c. 12, Pt. WW, §14, is further amended to read:

**3. Growth limitation factor.** The growth limitation factor is calculated as follows.

~~A. For fiscal years when the State Tax Assessor has determined that the state and local tax burden ranks in the highest 1/3 of all states, the growth limitation factor is average real personal income growth but no more than 2.75%, plus the property growth factor.~~

B. ~~For fiscal years when the state and local tax burden ranks in the middle 1/3 of all states, as determined by the State Tax Assessor, the growth limitation factor is the~~ aAverage ~~real~~ personal income growth ~~plus forecasted inflation~~ plus the property growth factor.

**Section M-12. 30-A MRSA, §5721-A,** as amended by PL 2009, c.545, §1, 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. "Average ~~real~~ personal income growth" has the same meaning as in Title 5, section 1531, subsection 2.

~~B. "Forecasted inflation" has the same meaning as in Title 5, section 1531, subsection 6.~~

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.

D. "Property tax levy" means the total annual municipal appropriations, excluding assessments properly issued by a county of which the municipality is a member and amounts governed by and appropriated in accordance with Title 20-A, chapter 606-B, and amounts appropriated to pay assessments properly issued by a school administrative unit or tuition for students or amounts attributable to a tax increment financing district agreement or similar special tax district, reduced by all resources available to fund those appropriations other than the property tax.

~~E. "State and local tax burden" has the same meaning as in Title 5, section 1531, subsection 9.~~

**2. Property tax levy limit.** Except as otherwise provided in this section, a municipality may not in any year adopt a property tax levy that exceeds the property tax levy limit established in this subsection.

A. The property tax levy limit for the first fiscal year for which this section is effective is the property tax levy for the municipality for the immediately preceding fiscal year multiplied by one plus the growth limitation factor pursuant to subsection 3.

B. The property tax levy limit for subsequent fiscal years is the property tax levy limit for the preceding year multiplied by one plus the growth limitation factor pursuant to subsection 3.

C. If a previous year's property tax levy reflects the effect of extraordinary, nonrecurring events, the municipality may submit a written notice to the State Tax Assessor requesting an adjustment in its property tax levy limit.

**Section M-13. 30-A MRSA, §5721-A, sub-§3,** as enacted by PL 2005, c. 2, Pt. C, §1, and

affected by PL 2005, c. 2, Pt. C, §§3, 5 and PL 2005, c. 12, Pt. WW, §16, is further amended to read:

**3. Growth limitation factor.** The growth limitation factor is calculated as follows.

~~A. For fiscal years when the State Tax Assessor has determined that the state and local tax burden ranks in the highest 1/3 of all states, the growth limitation factor is average real personal income growth but no more than 2.75%, plus the property growth factor.~~

B. ~~For fiscal years when the state and local tax burden ranks in the middle 1/3 of all states, as determined by the State Tax Assessor, the growth limitation factor is the a~~Average ~~real~~ personal income growth ~~plus forecasted inflation~~ plus the property growth factor.

**Sec. M-14. 36 MRSA, §7301,** as enacted by PL 2005, c. 2, Pt. H, section 2 is further amended to read:

~~It is the goal and policy of the State that by 2015 the State's total state and local tax burden be ranked in the middle 1/3 of all states, as determined by the United States Census Bureau's most recent tax burden analysis, adjusted by the assessor to reflect the State's unique expenditure tax relief programs.~~

It is the goal and policy of the State that additional state funds provided to municipalities through increases in the state share of education funding under the essential programs and services funding model must, to the greatest possible extent, be available for statewide property tax reduction

**SUMMARY**
**PART M**

This Part does the following:

1. Revises the distribution of available balances in the unappropriated surplus of the General Fund. In addition to the fixed transfer replenishing the Contingent Account up to $350,000 and the fixed transfer for the Loan Insurance Reserve up to an amount of $1,000,000, this part establishes a fixed transfer for the General Fund Operating Reserve to an amount up to $2,500,000 and the Retiree Health Internal Service Fund up to an amount of $4,000,000 over the 2016-2017 biennium and up to an amount of $2,000,000 thereafter.
2. Revises the growth limitation factor to the 10 year average of nominal personal income growth plus 1. This eliminates the need for calculating the 10 year average of population growth and inflation.
3. Sets the "biennial base year appropriation" to the appropriation enacted for Fiscal Year 2016-17 as of Dec. 1, 2016.
4. Eliminates all language dealing with the calculation of the state tax burden and how the growth limitation factor changes depending on our ranking.

5. Revises the appropriation limitation to be based on all General Funding spending and removes language for the additional GPA outside the cap until the State share reaches 55%.

**Amend LD 1019 Part N by deleting the current Part and replacing with the following:**

**PART N**

**Sec. N-1. 4 MRSA §1610-H** is enacted to read:

**§1610-H. Additional securities**

Notwithstanding any limitation on the amount of securities that may be issued pursuant to section 1606, subsection 2, the authority may issue additional securities in an amount not to exceed $23,000,000 outstanding at any one time for capital repairs and improvements to state-owned facilities and hazardous waste clean-up on state-owned properties.

**Sec. N-2. Maine Governmental Facilities Authority; issuance of securities.** Pursuant to the Maine Revised Statutes, Title 4, section 1606, subsection 2 and section 1610-H, and notwithstanding the limitation contained in Title 4, section 1606, subsection 2 regarding the amount of securities that may be issued, the Maine Governmental Facilities Authority is authorized to issue securities in its own name in an amount up to $23,000,000. Proceeds must be used for the purpose of paying the costs, including preliminary planning costs, including but not limited to needs assessments and space planning, master planning, capital asset assessments, concept design, design development and final design including construction drawings, associated with capital repairs and improvements to and construction of state-owned facilities and hazardous waste clean-up on state-owned properties as designated by the Commissioner of Administrative and Financial Services.

**SUMMARY**
**PART N**

This Part authorizes new Maine Governmental Facilities Authority borrowing of $23,000,000 to provide funding for capital repairs and improvements to state facilities.

**Amend LD 1019 Part O by deleting the current Part and replacing with the following:**

## PART O

**Sec. O-1. 36 MRSA §4641-B, sub-§4-B, ¶E,** as amended by PL 2011, c. 453, §6, is further amended to read:

E. In fiscal year 2015-16 ~~and each fiscal year thereafter~~, the Treasurer of State shall credit the revenues derived from the tax imposed pursuant to section 4641-A, subsection 1 in accordance with this paragraph.

(1) At the beginning of the fiscal year, the Maine State Housing Authority shall certify to the Treasurer of State the amount that is necessary and sufficient to meet the authority's obligations relating to bonds issued or planned to be issued by the authority under Title 30-A, section 4864.

(2) On a monthly basis the Treasurer of State shall apply 50% of the revenues in accordance with this subparagraph. The Treasurer of State shall first pay revenues available under this subparagraph to the Maine State Housing Authority, which shall deposit the funds in the Maine Energy, Housing and Economic Recovery Fund established in Title 30-A, section 4863, until the amount paid equals the amount certified by the Maine State Housing Authority under subparagraph (1), after which the Treasurer of State shall credit any remaining revenues available under this subparagraph to the General Fund.

(3) On a monthly basis, the Treasurer of State shall ~~credit~~ apply 50% of the revenues in accordance with this subparagraph. The Treasurer of State shall first credit $6,291,740 of the revenues available under this subparagraph to the General Fund, after which the Treasurer of State shall pay any remaining revenues available under this subparagraph to the Maine State Housing Authority, which shall deposit the funds in the Housing Opportunities for Maine Fund created in Title 30-A, section 4853.

**Sec. O-2. 36 MRSA §4641-B, sub-§4-B, ¶E-1,** is enacted to read:

E-1. In fiscal year 2016-17, the Treasurer of State shall credit the revenues derived from the tax imposed pursuant to section 4641-A, subsection 1 in accordance with this paragraph.

(1) At the beginning of the fiscal year, the Maine State Housing Authority shall certify to the Treasurer of State the amount that is necessary and sufficient to meet the authority's obligations relating to bonds issued or planned to be issued by the authority under Title 30-A, section 4864.

(2) On a monthly basis the Treasurer of State shall apply 50% of the revenues in

accordance with this subparagraph. The Treasurer of State shall first pay revenues available under this subparagraph to the Maine State Housing Authority, which shall deposit the funds in the Maine Energy, Housing and Economic Recovery Fund established in Title 30-A, section 4863, until the amount paid equals the amount certified by the Maine State Housing Authority under subparagraph (1), after which the Treasurer of State shall credit any remaining revenues available under this subparagraph to the General Fund.

(3) On a monthly basis the Treasurer of State shall apply 50% of the revenues in accordance with this subparagraph. The Treasurer of State shall first credit $6,090,367 of the revenues available under this subparagraph to the General Fund, after which the Treasurer of State shall pay any remaining revenues available under this subparagraph to the Maine State Housing Authority, which shall deposit the funds in the Housing Opportunities for Maine Fund created in Title 30-A, section 4853.

**Sec. O-3. 36 MRSA §4641-B, sub-§4-B, ¶E-2,** is enacted to read:

E-2. In fiscal year 2017-18 and each fiscal year thereafter, the Treasurer of State shall credit the revenues derived from the tax imposed pursuant to section 4641-A, subsection 1 in accordance with this paragraph.

(1) At the beginning of the fiscal year, the Maine State Housing Authority shall certify to the Treasurer of State the amount that is necessary and sufficient to meet the authority's obligations relating to bonds issued or planned to be issued by the authority under Title 30-A, section 4864.

(2) On a monthly basis the Treasurer of State shall apply 50% of the revenues in accordance with this subparagraph. The Treasurer of State shall first pay revenues available under this subparagraph to the Maine State Housing Authority, which shall deposit the funds in the Maine Energy, Housing and Economic Recovery Fund established in Title 30-A, section 4863, until the amount paid equals the amount certified by the Maine State Housing Authority under subparagraph (1), after which the Treasurer of State shall credit any remaining revenues available under this subparagraph to the General Fund.

(3) On a monthly basis, the Treasurer of State shall credit 50% of the revenues to the Maine State Housing Authority, which shall deposit the funds in the Housing Opportunities for Maine Fund created in Title 30-A, section 4853.

F. Neither the Governor nor the Legislature may divert the revenues payable to the Housing Opportunities for Maine Fund to any other fund or for any other use. Any proposal to enact or amend a law to allow distribution of less than 1/2 of the revenues derived from the tax imposed by section 4641-A, subsection 1 to the Housing Opportunities for Maine Fund established in Title 30-A, section 4853, as adjusted under this subsection, must be submitted to the Legislative Council and to the joint standing committee of the Legislature having jurisdiction over affordable housing matters at least 30 days prior to any vote or public hearing on the proposal.

G. The Treasurer of State shall credit to the General Fund all of the revenues derived from the tax imposed by section 4641-A, subsection 2.

**SUMMARY**

**PART O**

This Part reduces the amount of funding transferred from the real estate transfer tax to the Maine State Housing Authority by increasing the amount transferred to the General Fund of $6,291,740 in fiscal year 2015-16, $6,090,367 in fiscal year 2016-17 and outlines how the revenues are to be credited starting in fiscal year 2017-18 and each year thereafter.

Amend a section in LD 1019 Part Q as follows:

**PART Q**

**Current**

**Sec. Q-1. Attrition savings.** Notwithstanding any other provision of law, the attrition rate for the 2016-2017 biennium is increased from 1.6% to 3% for judicial branch and executive branch departments and agencies only. The attrition rate for subsequent biennia is 1.6%.

**Revised**

**Sec. Q-1. Attrition savings.** Notwithstanding any other provision of law, the attrition rate for the 2016-2017 biennium is increased from 1.6% to 3% for judicial branch and executive branch departments and agencies only with the exception of the District Attorneys Salaries program within the Department of the Attorney General. The attrition rate for subsequent biennia is 1.6% with the exception of the District Attorneys Salaries program within the Department of the Attorney General.

**SUMMARY**
**PART Q**

This Part recognizes an increase in the attrition rate to 3% for the 2016-2017 Biennium for judicial branch and executive branch departments and agencies. This also exemptions the District Attorneys Salaries program within the Department of the Attorney General from attrition.

**Amend LD 1019 Part BB by deleting the current Part and replacing with the following:**

## PART BB

**Sec. BB-1. 36 MRSA, §573, sub-§3-A,** as amended PL 1995, c.236, §2 is further amended to read:

**3-A**. **Forest management and harvest plan.** "Forest management and harvest plan" means a written document that ~~outlines~~ recommends activities to regenerate, improve and harvest a standing crop of timber over a ten-year period. The plan must state clearly the type, nature, and timing of any recommended activities and the reasoning justifying the recommendation. The plan must include the location of water bodies and wildlife habitat identified by the Department of Inland Fisheries and Wildlife. If such features are not found on a parcel, the plan must state this. A plan may include, but is not limited to, schedules and recommendations for timber stand improvement, harvesting plans and recommendations for regeneration activities. The plan must be prepared by a licensed ~~professional~~ forester or a landowner and be reviewed and certified by a licensed ~~professional~~ forester as consistent with this subsection and with sound silvicultural practices.

**Sec. BB-2. 36 MRSA, §574-B, sub-§1,** as amended PL 2009, c.434, §15 is further amended to read:

**1**. **Forest management and harvest plan.** A forest management and harvest plan must be prepared for each parcel and updated every 10 years. The landowner shall file a sworn statement with the municipal assessor for a parcel in a municipality or with the State Tax Assessor for a parcel in the unorganized territory that a forest management and harvest plan has been prepared for the parcel. The landowner must have access to a copy of the plan to facilitate review by the municipal assessor, the State Tax Assessor, or the Bureau of Forestry;

A.

B.

C.

**Sec. BB-3. 36 MRSA, §574-B, sub-§2,** as amended PL 2011, c.618, §2 is further amended to read:

**2**. **Evidence of compliance with plan.** The landowner must make reasonable efforts to comply with the plan developed under subsection 1, and must submit, every 10 years to the municipal assessor in a municipality or the State Tax Assessor for parcels in the unorganized territory, a sworn statement from a licensed ~~professional~~ forester that the landowner is ~~managing~~ making a reasonable effort to manage the parcel according to schedules in the plan required under subsection 1;

**Sec. BB-4. 36 MRSA, §574-B, sub-§§2-A and 2-B,** is enacted to read:

**2-A. Noncompliance. Probationary period**. If the assessor finds that a landowner has a plan that does not comply with the requirements of this subchapter or is not making a reasonable effort to manage the parcel according to schedules in the plan required under subsection 1, the landowner must be placed on a probationary status for a period of up to one year. During the probationary period, the landowner must work with the Bureau of Forestry to come into compliance. The bureau may extend the probationary period by up to one year at the discretion of the bureau. If the landowner fails to come into compliance by the end of the probationary period, the assessor must withdraw the land from taxation pursuant to section 581.

**2-B. Retention of expired plan.** The landowner must have access to a copy of an expired plan for a minimum of two years following the expiration of the plan to facilitate review by the municipal assessor, the State Tax Assessor, or the Bureau of Forestry.

**Sec. BB-5. 36 MRSA, §574-B, sub-§3,** as amended PL 2011, c.618, §2 is further amended by:

**3**. **Transfer of ownership.** When land taxed under this subchapter is transferred to a new owner, within one year of the date of transfer, the new landowner must file with the municipal assessor or the State Tax Assessor for land in the unorganized territory one of the following:

A. A sworn statement indicating that a new forest management and harvest plan has been prepared; or

B. A sworn statement ~~from a licensed professional forester~~ indicating that the land is being managed in accordance with the plan prepared for the previous landowner.

The new landowner may not harvest or authorize the harvest of forest products for commercial use until a statement described in paragraph A or B is filed with the assessor. A person owning timber rights on land taxed under this subchapter may not harvest or authorize the harvest of forest products for commercial use until a statement described in paragraph A or B is filed with the assessor.

Parcels of land subject to section 573, subsection 3, paragraph B or C are exempt from the requirements under this subsection.

For the purposes of this subsection, "transferred to a new owner" means the transfer of the controlling interest in the fee ownership of the land or the controlling interest in the timber rights on the land; and

**Sec. BB-6. 36 MRSA, §575-A, sub-§2,** as enacted by PL 2011, c.619, §1 is repealed and replaced by:

**2**. **Random sampling and report.** The Director of the Bureau of Forestry within the Department of Agriculture, Conservation and Forestry is authorized to conduct random sampling of land enrolled under this subchapter to identify any differences in compliance with forest management and harvest plans based on location or type of parcel and to assess individual landowner and overall compliance with the requirements of this subchapter. For the purposes of

this subsection, the Director of the Bureau of Forestry or the director's designee may:

A. With appropriate notification to the landowner, enter and examine forest land for the purpose of determining compliance with the forest management and harvest plan pursuant to section 574-B;

B. Request and review a forest management and harvest plan required under section 574-B, which must be provided by a landowner or the landowner's agent upon request; and

C. Request and review an expired forest management and harvest plan, which must be provided by a landowner or the landowner's agent upon request, if the expired plan is in the possession of the landowner or the landowner's agent.

A forest management and harvest plan provided to the Director of the Bureau of Forestry or the director's designee under this subsection is confidential. Information collected pursuant to this subsection is confidential and is not a public record as defined in Title 1, section 402, subsection 3, except that the director may publish summary reports, which may not reveal the activities of any person and that is available as a public record. This subsection is repealed on December 31, 2018.

**Sec. BB-7. 36 MRSA, §578, sub-§1, ¶¶ D and E,** are enacted to read:

**1. Organized areas.** The municipal assessors or chief assessor of a primary assessing area shall adjust the State Tax Assessor's 100% valuation per acre for each forest type of their county by whatever ratio, or percentage of current just value, is applied to other property within the municipality to obtain the assessed values. Forest land in the organized areas, subject to taxation under this subchapter, must be taxed at the property tax rate applicable to other property in the municipality.

The State Tax Assessor shall determine annually the amount of acreage in each municipality that is classified and taxed in accordance with this subchapter. Each municipality is entitled to annual payments distributed in accordance with this section from money appropriated by the Legislature if it submits an annual return in accordance with section 383 and if it achieves the minimum assessment ratio established in section 327. The State Tax Assessor shall pay any municipal claim found to be in satisfactory form by August 1st of the year following the submission of the annual return. The municipal reimbursement appropriation is calculated on the basis of 90% of the per acre tax revenue lost as a result of this subchapter. For property tax years based on the status of property on April 1, 2008 and April 1, 2009, municipal reimbursement under this section is further limited to the amount appropriated by the Legislature and distributed on a pro rata basis by the State Tax Assessor for all timely filed claims. For purposes of this section, "classified forest lands" means forest lands classified pursuant to this subchapter as well as all areas identified as forested land within farmland parcels that are transferred from tree growth classification pursuant to section 1112 on or after October 1, 2011. For the purposes of this section, the tax lost is the tax that would have been assessed, but for this subchapter, on the classified forest lands if they were assessed according to the undeveloped acreage valuations used in the state valuation then in effect, or according to the current local valuation on undeveloped acreage, whichever is less, minus the tax that was actually assessed on the same lands in accordance with this subchapter, and adjusted for the aggregate municipal savings in

required educational costs attributable to reduced state valuation. A municipality that fails to achieve the minimum assessment ratio established in section 327 loses 10% of the reimbursement provided by this section for each one percentage point the minimum assessment ratio falls below the ratio established in section 327.

The State Tax Assessor shall adopt rules necessary to implement the provisions of this section. Rules adopted pursuant to this subsection are routine technical rules for the purposes of Title 5, chapter 375, subchapter 2-A.

A.

B.

C. The State Tax Assessor shall distribute reimbursement under this section to each municipality in proportion to the product of the reduced tree growth valuation of the municipality multiplied by the property tax burden of the municipality. For purposes of this paragraph, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Property tax burden" means the total real and personal property taxes assessed in the most recently completed municipal fiscal year, except the taxes assessed on captured value within a tax increment financing district, divided by the latest state valuation certified to the Secretary of State.

(2) "Undeveloped land" means rear acreage and unimproved nonwaterfront acreage that is not:

(a) Classified under the laws governing current use valuation set forth in chapter 105, subchapter 2-A, 10 or 10-A;

(b) A base lot; or

(c) Waste land.

(3) "Average value of undeveloped land" means the per acre undeveloped land valuations used in the state valuation then in effect, or according to the current local valuation on undeveloped land as determined for state valuation purposes, whichever is less.

(4) "Reduced tree growth valuation" means the difference between the average value of undeveloped land and the average value of tree growth land times the total number of acres classified as forest land under this subchapter plus the total number of acres of forest land that is transferred from tree growth classification to farmland classification pursuant to section 1112 on or after October 1, 2011.

D. The State Tax Assessor shall reduce reimbursement for one year to a municipality that fails to file a timely report to the Bureau of Forestry as required pursuant to section 581-G. The amount of reduction shall be equal to $5,000 or 10% of the reimbursement, whichever is greater.

E. The State Tax Assessor shall reduce reimbursement for one year to a municipality that fails to act in a timely manner upon a determination provided by the Bureau of Forestry pursuant to section 581. The amount of reduction shall be equal to $5,000 or 10% of the reimbursement, whichever is greater.

**Sec. BB-8. 36 MRSA, §1102, sub-§4-A,** as enacted by PL 2011, c.618, §5 is further amended to read:

**4-A**. **Forest management and harvest plan.** "Forest management and harvest plan" means a written document that ~~outlines~~ recommends activities to regenerate, improve and harvest a standing crop of timber over a ten-year period. The plan must state clearly the type, nature, and timing of any recommended activities and the reasoning justifying the recommendation. ~~A~~ The plan must include the location of water bodies and wildlife habitat identified by the Department of Inland Fisheries and Wildlife. If such features are not found on a parcel, the plan must state this. A plan may include, but is not limited to, schedules and recommendations for timber stand improvement, harvesting plans and recommendations for regeneration activities. ~~A~~ The plan must be prepared by a licensed ~~professional~~ forester or a landowner and be reviewed and certified by a licensed ~~professional~~ forester as consistent with this subsection and with sound silvicultural practices.

## SUMMARY

## PART BB

This Part does the following:

1. Amends the definition of forest management and harvest plan as proposed in the Maine Forest Service 2014 report to the Taxation Committee (both Tree Growth and Open Space Laws).
2. Requires landowners to have access to their forest management and harvest plans as proposed in the Maine Forest Service 2014 report to the Taxation Committee.
3. Requires a sworn statement from a licensed forester that the landowner is following their plan and requires the landowner to swear that they are following their plan if they choose the option to harvest within one year of purchase. Currently, landowner is required to swear; the forester is not. This will improve forester compliance.
4. Amends the Maine Forest Service audit sunset date to December 31, 2018.
5. Authorizes the State Tax Assessor to reduce a municipality's Tree Growth reimbursement for one year if: (1) the town fails to timely file its Tree Growth information with the Maine Forest Service as required by law; and, (2) the town fails to timely act upon recommendations by the Maine Forest Service regarding a landowner's compliance with the law's requirements.
6. Provides for a probationary period of one year, with one year extension at discretion of Maine Forest Service, if landowner is found in noncompliance with the requirements of Tree Growth

**Amend LD 1019 Part DD by deleting the current Part and replacing with the following:**

## PART DD

**Sec. DD-1. 25 MRSA §2801-B, sub-§1, ¶C,** as revised by PL 2013, c. 405, Part A, §23, is amended to read:

C. An agent or a representative of the Department of Agriculture, Conservation and Forestry, Bureau of Forestry whose law enforcement powers are limited to those specified by Title 12, section 8901, subsection 3 and who does not carry a gun;

## SUMMARY
## PART DD

This Part limits the training and policy exemption to agents or representative of the Bureau of Forestry within the Department of Agriculture, Conservation and Forestry who do not carry a gun.

**Amend LD 1019 Part OO by deleting the current Part and replacing with the following:**

## PART OO

**Sec. OO-1. 5 MRSA §937, sub-§**1, as amended by PL 2013, c. 1, Pt. S, §1, is further amended to read:

**1. Major policy-influencing positions.** The following positions are major policy-influencing positions within the Department of Education. Notwithstanding any other provision of law, these positions and their successor positions are subject to this chapter:

A. Deputy Commissioner;

F. Director, Policy and Programs; and

~~K. Chief Academic Officer;~~

~~L. Director, Special Services Team; and~~

M. Director, Communications.

**Sec. OO-2. 20-A MRSA §203, sub-§1,** as amended by PL 2013, c. 368, Pt. II is further amended to read:

1. Commissioner's appointments. The following officials are appointed by and serve at the pleasure of the commissioner:

A. Deputy Commissioner;

F. Director, Policy and Programs; and

~~K. Chief Academic Officer;~~

~~L. Director, Special Services Team;~~

M. Director, Communications; and.

N. ~~Deputy Chief of Staff~~ STEM/Workforce Coordinator.

## SUMMARY
## PART OO

This Part does the following:

1. It amends the Maine Revised Statutes, Title 5 to remove the Chief Academic Officer and Director, Special Services Team positions from the list of major policy-influencing positions

within the Department of Education. These unclassified positions will be reclassified in Part A, each to a Public Service Executive II position, classified positions within the department. These reclassifications will reflect the level of responsibility and function of similar classifications within the department.

2. It amends Title 20-A to remove the Chief Academic Officer and Director, Special Services Team positions in the list of the Commissioner of Education's appointments within the department. This also changes the Deputy Chief of Staff position to a STEM/ Workforce Coordinator position in the list of the Commissioner of Education's appointments within the department.

**Amend a section in LD 1019 Part TTT as follows:**

**Current**

**Sec. TTT-4. 25 MRSA §1541, sub-§6**, as amended by PL 2013, c. 267, Pt. B, §22, is further amended to read:

**6. Establishment of fees.** The State Bureau of Identification may charge a fee to individuals, nongovernmental organizations, governmental organizations that are engaged in licensing and governmental organizations that are not a governmental entity of the State, a county of the State or a municipality of the State for each criminal history record check requested for noncriminal justice purposes pursuant to Title 16, chapter 7. The requestor shall provide a name and date of birth for each record being requested. A request made pursuant to 5 United States Code, Section 9101 must be accompanied by fingerprints. A governmental organization that is engaged in licensing may charge an applicant for the cost of the criminal history record check. The commissioner shall establish a schedule of fees that covers the cost of providing these services. One dollar of each fee generated under this subsection must be deposited to the Other Special Revenue Funds account within the Bureau of State Police to offset the cost of maintenance and replacement of both hardware and software associated with the criminal history record check system. The remaining revenues generated from these fees must be credited to the General Fund.

Notwithstanding any other provision of law, for fingerprint-supported criminal history record checks fees as collected pursuant to Title 20-A, section 6103, subsection 3-A, the full fee charged must be deposited in State Police program, Other Special Revenue Funds account for the purpose of funding the costs of the Department of Public Safety to administer the criminal history record check program.

**Revised**

**Sec. TTT-4. 25 MRSA §1541, sub-§6**, as amended by PL 2013, c. 267, Pt. B, §22, is further amended to read:

**6. Establishment of fees.** The State Bureau of Identification may charge a fee to individuals, nongovernmental organizations, governmental organizations that are engaged in licensing and governmental organizations that are not a governmental entity of the State, a county of the State or a municipality of the State for each criminal history record check requested for noncriminal justice purposes pursuant to Title 16, chapter 7. The requestor shall provide a name and date of birth for each record being requested. A request made pursuant to 5 United States Code, Section 9101 must be accompanied by fingerprints. A governmental organization that is engaged in licensing may charge an applicant for the cost of the criminal history record check. The commissioner shall establish a schedule of fees that covers the cost of providing these services. One dollar of each fee generated under this subsection must be deposited to the Other Special Revenue Funds account within the Bureau of State Police to offset the cost of maintenance and replacement of both hardware and software associated with the criminal history record check system. The remaining revenues generated from these fees must be credited to the General Fund.

Notwithstanding any other provision of law, for fingerprint-supported criminal history record checks fees as collected pursuant to Title 20-A, section 6103, subsection 3-A, the full fee charged must be deposited in State Police program, Other Special Revenue Funds account, for the purpose of funding the costs of the Department of Public Safety to administer the criminal history record check program. As of July 1, 2015 all fees associated with any newly established criminal history check requirements must be deposited in a dedicated revenue account for the purposes of paying costs incurred by the Department of Public Safety, State Bureau of Identification to conduct such checks.

**SUMMARY**
**PART TTT**

Section TTT-4 is adding language about the use of the fees collected as of July 1, 2015 in the Department of Public Safety.

**Amend LD1019 by adding a new part YYY**

## PART YYY

**Sec. YYY-1. Transfer to General Fund; Bureau of Revenue Services Fund program, Bureau of Revenue Services Fund account.** Notwithstanding any other provision of law, the State Controller shall transfer $100,000 no later than June 30, 2016 from the Bureau of Revenue Services Fund program, Bureau of Revenue Service Fund account in the Department of Administrative and Financial Services to the General Fund unappropriated surplus.

**Sec. YYY-2. Transfer to General Fund; Bureau of Revenue Services Fund program, Bureau of Revenue Services Fund account.** Notwithstanding any other provision of law, the State Controller shall transfer $100,000 no later than June 30, 2017 from the Bureau of Revenue Services Fund program, Bureau of Revenue Service Fund account in the Department of Administrative and Financial Services to the General Fund unappropriated surplus.

## SUMMARY
## PART YYY

This Part requires the State Controller to transfer $100,000 no later than June 30th in each fiscal year of the 2016-2017 biennium from the Bureau of Revenue Services Fund program, Bureau of Revenue Service Fund account in the Department of Administrative and Financial Services to the General Fund unappropriated surplus.

**Amend LD 1019 by adding a new Part ZZZ**

## PART ZZZ

**Sec. ZZZ-1. 5 MRSA §2002, sub-§11**, as enacted by PL 2005, c. 12, Pt. SS, §16, is amended to read:

**11. State funds.** "State funds" means bond revenues and General Fund money appropriated or allocated by the Legislature for purposes of this Chapter.

**Sec. ZZZ-2. 5 MRSA §2006, sub-§4,** as enacted by PL 2013, c. 122, §1, is amended to read:

**4. Matching funds**. ~~Money in the accounts~~ State funds used to purchase geospatial data must be matched by funding from other sources at at least a one-to-one ratio. Other funds received from participating users of the data will not require match.

## SUMMARY
## PART ZZZ

This Part clarifies the language that only General Fund appropriations or bond proceeds are subject to the one-to-one match. Funds contributed otherwise do not require a match.

**Amend LD 1019 by adding a new Part AAAA**

## PART AAAA

**Sec. AAAA-1. 5 MRSA §1591, sub-§1,** as enacted by PL 2005, c. 12, Pt. GGGG, §2, is amended to read:

**1. Department of Administrative and Financial Services.** The Department of Administrative and Financial Services must apply:

A. Any balance remaining in the Salary Plan program in the Department of Administrative and Financial Services at the end of any fiscal year to be carried forward for the next fiscal year; ~~and~~

B. Any balance remaining in the General Fund Capital, Construction, Repairs, Improvements - Administrative program in the Department of Administrative and Financial Services at the end of any fiscal year to be carried forward for the next fiscal year~~.~~, and

C. Any balance remaining in the General Fund Information Services program in the Department of Administrative and Financial Services at the end of any fiscal year to be carried forward for the next fiscal year.

## SUMMARY
## PART AAAA

This Part allows the General Funds appropriated in the Information Services program for the support of state-wide systems, such as the Advantage accounting system and the Budget and Financial Management System, to carry forward in each fiscal year to fund ongoing system enhancements and minor upgrades.

**Amend LD 1019 by adding a new Part BBBB**

**PART BBBB**

**Sec. BBBB-1. 5 MRSA, §1742, sub-§26,** as amended by PL 2009, c.1, Part CC, §2, is repealed.

**SUMMARY**
**PART BBBB**

This Part repeals the provisions that require the rent paid by the Maine Military Authority facilities in Limestone to the Bureau of General Services, in the Department of Administrative and Financial Services. Rent of the facilities will be paid directly by the Maine Military Authority to the lessor. In addition, the provisions in this section of Title 5 also provided the option for the funds to be used for the following purposes: general fund undedicated revenue, Maine National Guard Education Assistance Pilot Program, repair of National Guard armories, and disaster assistance, which is also repealed.

**Amend LD 1019 by adding a new Part CCCC**

## PART CCCC

**Sec. CCCC-1. 29-A MRSA §501, sub-§3,** as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

**3. Passenger vehicles for hire.** The fee for a passenger vehicle used for hire is double the fee provided in subsection 1, except that for a passenger vehicle used for hire that is equipped with adaptive equipment to make that vehicle accessible by a person with a disability the fee is the same fee provided in subsection 1. The Secretary of State may issue a 2nd registration for the same vehicle at no additional fee.

**Sec. CCCC-2. 36 MRSA §1483, sub-§15,** as amended by PL 2007, c. 404, §2 and affected by §4, is further amended to read:

**15. Adaptive equipment.** Adaptive equipment installed on a motor vehicle owned by a disabled person or the family of a disabled person or by a carrier engaged in furnishing passenger service for hire to make that vehicle operable or accessible by a disabled person; and

## SUMMARY
## PART CCCC

This Part exempts from the motor vehicle excise tax adaptive equipment installed on a motor vehicle owned by a carrier engaged in furnishing passenger service for hire. It also reduces by half the motor vehicle registration fee of a passenger vehicle used for hire that is equipped with adaptive equipment to make that vehicle operable or accessible by a person with a disability.

**Amend LD 1019 by adding a new Part DDDD**

## PART DDDD

**Sec. DDDD-1. Department of Agriculture, Conservation and Forestry; Transfer of funds for forest protection expenses.** Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, the Department of Agriculture, Conservation and Forestry, upon the recommendation of the State Budget Officer and approval of the Governor, is authorized to transfer, by financial order, available appropriation balances by line category between the Division of Forest Protection program and Forest Health and Monitoring program accounts in fiscal years 2015-16 and 2016-17 for the purpose of properly accounting for forest protection expenses. These transfers are not considered adjustments to appropriations.

## SUMMARY
## PART DDDD

This Part authorizes the Department of Agriculture, Conservation and Forestry to transfer by financial order available appropriation balances by line categories between Division of Forest Protection program and Forest Health and Monitoring program accounts for the purpose of paying forest protection expenses in fiscal years 2015-16 and 2016-17. In Part GG of this bill Division of Forest Protection program is renamed to the Forest Fire Control program and Forest Health and Monitoring program is renamed to Forest Resources Management program.

**Amend LD 1019 by adding a new Part EEEE**

**PART EEEE**

**Sec. EEEE-1. Establishes Departmentwide - Parity program**. Notwithstanding any other provision of law, the Departmentwide – Parity program is established within the Department of Corrections for fiscal year 2015-16 and fiscal year 2016-17.

**Sec. EEEE-2. Department of Corrections: Transfer of funds for adjustments to salary expenses**. Notwithstanding any other provisions of law, the Department of Corrections shall calculate adjustments to personal services costs up to $6,500,000 in each fiscal year to provide parity between State correctional employees and the county jails employees who perform similar direct supervision. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provisions of law, upon the recommendation of the State Budget Officer and approval of the Governor, the Department of Corrections is authorized to transfer up to $6,500,000 in each fiscal year from the General Fund, Departmentwide - Parity program, by financial order, Personal Services expenditures funding to other General Fund programs for the purposes of paying salary adjustments in fiscal years 2015-16 and 2016-17. These transfers are considered adjustments to appropriations in fiscal years 2015-16 and 2016-17.

**SUMMARY**
**PART EEEE**

This Part establishes a Departmentwide – Parity program in the Department of Corrections and authorizes transfers of Personal Services funding by financial order from the General Fund Departmentwide – Parity program to other General Fund programs within the Department of Corrections to fund Personal Services adjustments to provide parity between State correctional employees and the county jails employees who perform similar direct supervision.

**Amend LD 1019 by adding a new Part FFFF**

**PART FFFF**

**Sec. FFFF-1. 34-A MRSA §4117** as enacted by PL 2013, c. 28, §12 is amended to read:

**§4117. ~~Young~~ a<u>A</u>dult offenders**

The commissioner may confine adults sentenced and committed to the custody of the department ~~who have not attained 26 years of age~~ in the Mountain View Youth Development Center as long as the housing facilities for adult offenders are fully separated from the housing facilities for juvenile clients and the commissioner maintains at all times full compliance with mandatory sight and sound separation standards established by federal law. All provisions of this Title that are applicable to prisoners apply to adult offenders confined in the Mountain View Youth Development Center as if they were confined in a correctional facility housing only adults.

**SUMMARY**
**PART FFFF**

This Part would permit adult offenders who have attained 26 years of age as well as juvenile offenders to be housed at the Mountain View Youth Development Center.

**Amend LD 1019 by adding a new Part GGGG**

## PART GGGG

**Sec. GGGG-1. 37-B MRSA §3, sub-§1** as amended by PL 2013, c. 569, §2, is further amended to read:

**1**. **Adjutant General.** The Adjutant General shall be the Commissioner of Defense, Veterans and Emergency Management and shall:

A. Be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over veterans' affairs and confirmation by the Legislature and serve at the pleasure of the Governor;

B. Not hold a grade above major general;

C. Satisfy the requirements of section 107; and

D. Have the following powers and duties.

(1) The Adjutant General shall administer the department subordinate only to the Governor.

(2) The Adjutant General shall establish methods of administration consistent with the law necessary for the efficient operation of the department.

(3) The Adjutant General may prepare a budget for the department.

(4) The Adjutant General may transfer personnel from one bureau to another within the department.

(5) The Adjutant General shall supervise the preparation of all state informational reports required by the federal military establishment.

(6) The Adjutant General shall keep an accurate account of expenses incurred and, in accordance with Title 5, sections 43 to 46, make a full report to the Governor as to the condition of the military forces, and as to all business transactions of the Military Bureau, including detailed statements of expenditures for military purposes.

(7) The Adjutant General is responsible for the custody, care and repair of all military property belonging to or issued to the State for the military forces and shall dispose of military property belonging to the State that is unserviceable. The Adjutant General shall account for and deposit the proceeds from that disposal with the Treasurer of State, who shall credit them to the Capital Repair, Maintenance, Construction and Acquisition Account of the Military Bureau.

(8) The Adjutant General may sell for cash to officers of the state military forces, for their official use, and to organizations of the state military forces, any military or naval property that is the property of the State. The Adjutant General shall, with an annual report, render to the Governor an accurate account of the sales and deposit the proceeds of the sales with the Treasurer of State, who shall credit them to the General Fund.

(9) The Adjutant General shall represent the state military forces for the purpose of establishing the relationship between the federal military establishment and the various state military staff departments.

(10) The Adjutant General shall accept, receive and administer federal funds for and on behalf of the State that are available for military purposes or that would further the intent and specific purposes of this chapter and chapter 3. The Adjutant General shall provide the personnel, supplies, services and matching funds required by a federal cost-sharing arrangement pursuant to 31 United States Code, Chapters 63 and 65 (2013); 32 United States Code (2013); and National Guard Regulation 5-1 (2010). The Adjutant General shall receive funds and property and an accounting for all expenditures and property acquired through such a federal cost-sharing arrangement and make returns and reports concerning those expenditures and that property as required by such a federal cost-sharing arrangement.

(11) The Adjutant General shall acquire, construct, operate and maintain military facilities necessary to comply with this Title and Title 32 of the United States Code and shall operate and maintain facilities now within or hereafter coming within the jurisdiction of the Military Bureau.

(12) The Adjutant General may adopt rules pertaining to compliance with state and federal contracting requirements, subject to Title 5, chapter 375. Those rules must provide for approval of contracts by the appropriate state agency.

(13) The Adjutant General shall allocate and supervise any funds made available by the Legislature to the Civil Air Patrol.

(14) The Adjutant General shall report at the beginning of each biennium to the joint standing committee of the Legislature having jurisdiction over veterans' affairs on any recommended changes or modifications to the laws governing veterans' affairs, particularly as those changes or modifications relate to changes in federal veterans' laws. The report must include information on the status of communications with the United States Department of Veterans Affairs regarding the potential health risks to and the potential disabilities of veterans who as members of the Maine National Guard were exposed to environmental hazards at the Canadian military support base in Gagetown, New Brunswick, Canada.

(15) The Adjutant General may receive personal property from the United States Department of Defense that the Secretary of Defense has determined is suitable for use by agencies in law enforcement activities, including counter-drug activities, and in excess of the needs of the Department of Defense pursuant to 10 United States Code, Section 2576a, and transfer ownership of that personal property to state, county and municipal law enforcement agencies notwithstanding any other provision of law. The Adjutant General may receive excess personal property from the United States Department of Defense for use by the department, notwithstanding any other provision of law.

(16) The Adjutant General may establish a science, mathematics and technology education improvement program for schoolchildren known as the STARBASE Program. The Adjutant General may accept financial assistance and in-kind assistance, advances,

grants, gifts, contributions and other forms of financial assistance from the Federal Government or other public body or from other sources, public or private, to implement the STARBASE Program. The Adjutant General may employ a director and other employees, permanent or temporary, to operate the STARBASE Program.

(17) The Adjutant General shall establish a system, to be administered by the Director of the Bureau of Maine Veterans' Services, to express formally condolence and appreciation to the closest surviving family members of members of the United States Armed Forces who, since September 11, 2001, are killed in action or die as a consequence of injuries that result in the award of a Purple Heart medal. In accordance with the existing criteria of the department for the awarding of gold star medals, this system must provide for the Adjutant General to issue up to 3 gold star medals to family members who reside in the State, one to the spouse of the deceased service member and one to the parents of the service member. If the parents of the service member are divorced, the Adjutant General may issue one medal to each parent. If the service member has no surviving spouse or parents or if they live outside of the State, the Adjutant General may issue a gold star medal to the service member's next of kin, as reported to the department, who resides in the State.

(18) The Adjutant General may establish a National Guard Youth Challenge Program consistent with 32 United States Code, Section 509 (1990). The Adjutant General may accept financial assistance from the Federal Government or other public body or from other sources, public and private, to implement the National Guard Youth Challenge Program. The Adjutant General may employ a director and other employees, permanent or temporary, to operate the program.

(19) The Adjutant General may execute cooperative agreements for purposes described or defined by this Title and other arrangements necessary to operate the department.

(20) The Adjutant General shall act as the Governor's homeland security advisor.

(21) Notwithstanding any other provision of law, the maximum hourly base rate of pay, overtime rate of pay, or total compensation shall not exceed any salary caps established by section 2405 Authorized Activities/Charges, of Appendix 24, to the Master Cooperative Agreement between the United States Department of Defense, National Guard Bureau and the State of Maine, or any modification to the salary cap pursuant to any subsequent Appendix to the Master Cooperative Agreement. This limitation applies to Military Firefighters, Military Firefighter Supervisors, Assistant Military Fire Chief, and any other state employee performing fire protection activities pursuant to the Master Cooperative Agreement.

(22) Notwithstanding any other provision of law, the maximum hourly base rate of pay, overtime rate of pay, or total compensation shall not exceed any salary caps, Authorized Activities/Charges, or Federal funding programs established within the Master Cooperative Agreement and its Appendices between the United States Department of Defense National Guard Bureau and the State of Maine.

**SUMMARY**
**PART GGGG**

This Part adds language that limits salaries to the thresholds allowed by the Federal authority for all of the positions within the Cooperative Agreement funded by the Federal authority. Salaries for the Firefighters supporting the Air National Guard Base and the Bangor International Airport are paid with federal dollars through the Cooperative Agreement between the Maine National Guard and the National Guard Bureau. Pursuant to a new Cooperative Agreement between those parties a Salary Cap has been imposed by the Federal authority. Current salaries exceed the cap.

**Amend LD 1019 by adding a new Part HHHH**

## PART HHHH

**Sec. HHHH-1. 37-B MRSA §357** as enacted by PL 2003, c. 488 §4, is amended to read:

Regardless of the state of residence, a member who has met the requirements of this subchapter and is attending a state postsecondary education institution qualifies for instate tuition rates.

The Maine National Guard Postsecondary Fund is established in the Maine Military Bureau as a non-lapsing account in the General Fund to provide tuition benefits for eligible Maine National Guard members to state postsecondary education institutions. The Adjutant General shall be responsible for overseeing and allocating these funds. The Adjutant General shall provide a report to the Commissioner of Education on the first day of January of each calendar year accounting for the use of all funds therein.

## SUMMARY
## PART HHHH

This Part creates a non-lapsing account in the General Fund for the purpose of providing tuition benefits for eligible Maine National Guard members.

**Amend LD 1019 by adding a new Part IIII**

## PART IIII

**Sec. IIII-1. Rename Land and Water Quality program.** Notwithstanding any other provision of law, the Land and Water Quality program within the Department of Environmental Protection is renamed Water Quality program.

**Sec. IIII-2. Establishes Land Resources program**. Notwithstanding any other provision of law, the Land Resources program is established within the Department of Environmental Protection.

## SUMMARY
## PART IIII

This Part renames the Land and Water Quality program to Water Quality program and establishes the Land Resources program within the Department of Environmental Protection.

**Amend LD 1019 by adding a new Part JJJJ**

## PART JJJJ

**Sec. JJJJ-1. 2 MRSA §6, sub-§4**, as affected by PL 2007, c. 695, Pt. A, § 47 and repealed and replaced by § 5 and revised by PL 2011, c. 286, Pt. B, § 5, is amended to read:

Range 88. The salaries of the following state officials and employees are within salary range 88:
Director, Bureau of Air Quality;
Director, ~~Bureau of Land and Water Quality;~~ Bureau of Water Quality;
Director, Bureau of Land Resources;
Director, Bureau of Remediation and Waste Management;
Deputy Commissioner, Environmental Protection;
Director, Office of Professional and Occupational Regulation;
Administrator, Office of Securities; and
Deputy Chief of the State Police.

## SUMMARY
## PART JJJJ

This Part changes the Director, Bureau of Land and Water Quality to Director, Bureau of Water Quality and adds Director, Bureau of Land Resources.

**Amend LD 1019 by adding a new Part KKKK**

**PART KKKK**

**Sec. KKKK-1. PL 2013, c. 595, Pt. H, §1** is amended to read:

**Personal Services balances; Maine Health Data Organization; transfers authorized.** Notwithstanding any other provision of law, in the 2014-2015 and 2016-2017 bienniums, the Maine Health Data Organization upon recommendation of the State Budget Officer and approval of the Governor is authorized to transfer by financial order, up to $265,450 in each fiscal year of the 2014-2015 biennium and $286,000 in each fiscal year of the 2016-2017 biennium, in available balances of Personal Services allocations, after all salary, benefit and other obligations are met, to the All Other line category in the Maine Health Data Organization, Other Special Revenue Funds account.

**SUMMARY**
**PART KKKK**

This Part continues the authorization for the Maine Health Data Organization to transfer available Personal Services balances up to a specified amount to All Other by financial order in the Maine Health Data Organization, Other Special Revenue Funds account during the 2016-2017 biennium. The adjustments to the language above are technical in nature to clarify the original intent, that the transfer is authorized in each fiscal year of the biennium, update the amount of the transfer that applies to the upcoming biennium and that there is no 30-day wait required.

**Amend LD 1019 by adding a new Part LLLL**

**PART LLLL**

**Sec. LLLL-1. 22 MRSA §3174-A,** as amended by PL 2001, c.559, §X5 is further amended to read:

**§3174-A. Medical coverage program for certain boarding home residents**

The department shall administer a program of state-funded medical coverage for persons residing in cost reimbursement boarding homes who, but for their income, would be eligible for supplemental security income benefits on account of blindness, disability or age, and who do not have countable income greater than 175% of the Federal Poverty Level.~~sufficient income to meet the per resident payment rate for boarding home care, including~~ The Department shall allow an amount for personal needs of at least $30 a month. Notwithstanding supplemental security income eligibility regulations, the department may impose a penalty for certain transfers of assets. Notwithstanding any other provision of law, the department may provide state-funded medical coverage to a person who previously received such coverage or had an application for the coverage pending on July 1, 2015 and may continue to provide the coverage to the person only as long as the person remains eligible for the coverage. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter II-A

**SUMMARY**
**PART LLLL**

This Part establishes the upper income limit for state-funded medical coverage for persons residing in cost reimbursement boarding homes. The Part also grandfathers current recipients and those with pending applications as of July 1, 2015.

**Amend LD 1019 by adding a new Part MMMM**

## PART MMMM

**Sec. MMMM-1. 14 MRSA §6030-D** as amended by PL 2013, c. 324, §2, is further amended to read:

**§6030-D. Radon testing**

**1. Testing.** By March 1, 2014, and, unless a mitigation system has been installed in that residential building, every 10 years thereafter when requested by a tenant, a landlord or other 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. For a residential building constructed or that begins operation after March 1, 2014, a landlord or other person acting on behalf of a landlord shall have the air of the residential building tested for the presence of radon within 12 months of the occupancy of the building by a tenant. Except as provided in subsection 5, a test required to be performed under this section must be conducted by a person registered with the Department of ~~Health and Human Services~~ Environmental Protection pursuant to Title ~~22~~ 38, chapter ~~165~~ 35.

**1-A. Short-term rentals.** As used in this section, "residential building" does not include a building used exclusively for rental under short-term leases of 100 days or less where no lease renewal or extension can occur.

**2. Notification.** Within 30 days of receiving results of a test with respect to existing tenants or before a tenant enters into a lease or tenancy at will agreement or pays a deposit to rent or lease a property, a landlord or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for a residential building shall provide written notice, as prescribed by the Department of ~~Health and Human Services~~ Environmental Protection, to a tenant regarding the presence of radon in the building, including the date and results of the most recent test conducted under subsection 1, 5 or 6, whether mitigation has been performed to reduce the level of radon, notice that the tenant has the right to conduct a test and the risk associated with radon. Upon request by a prospective tenant, a landlord or other person acting on behalf of a landlord shall provide oral notice regarding the presence of radon in a residential building as required by this subsection. The Department of ~~Health and Human Services~~ Environmental Protection shall prepare a standard disclosure statement form for a landlord or other 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 information concerning radon. The form must include an acknowledgment that the 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.**

**4. Penalty; breach of implied warranty.** A person who violates this section commits a civil violation for which a fine of not more than $250 per violation may be assessed. The failure of a landlord or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for a residential building to provide the notice required under subsection 2 or the falsification of a test or test results by the landlord or other person is a breach of the implied warranty of fitness for human habitation in accordance with section 6021.

**5. Testing by landlords.** A landlord or other person acting on behalf of a landlord may conduct a test required to be performed under this section on a residential building that, at a minimum, does not include an elevator shaft, an unsealed utility chase or open pathway, a forced hot air or central air system or private well water unless the water has been tested for radon by a person registered under Title ~~22~~ 38, chapter ~~165~~35 and the results show a radon level acceptable to the Department of ~~Health and Human Services~~ Environmental Protection, or on a building otherwise defined in rules adopted by the Department of ~~Health and Human Services~~ Environmental Protection. A test or testing equipment used as permitted under this subsection must conform to any protocols identified in rules adopted by the Department of ~~Health and Human Services~~ Environmental Protection.

**6. Testing by tenants; disputed test results.** A tenant may conduct a test for the presence of radon in the tenant's dwelling unit in a residential building in conformity with rules adopted by the Department of ~~Health and Human Services~~ Environmental Protection or have a test conducted by a person registered with the Department of ~~Health and Human Services~~ Environmental Protection pursuant to Title ~~22~~ 38, chapter ~~165~~ 35. After receiving notice of a radon test from a tenant indicating the presence of radon at or in excess of 4.0 picocuries per liter of air, either the landlord shall disclose those results as required by subsection 2 or the landlord or other person acting on behalf of the landlord shall have a test conducted by a person registered with the Department of ~~Health and Human Services~~ Environmental Protection pursuant to Title ~~22~~ 38, chapter ~~165~~ 35 and shall disclose the results of that test to the tenant as required by subsection 2.

**7. Reporting of test results.** A landlord or a person registered with the Department of ~~Health and Human Services~~ Environmental Protection pursuant to Title ~~22~~ 38, chapter ~~165~~ 35 who has conducted a test of a residential building as required by this section or accepted the results of a tenant-initiated test as set forth in subsection 6 shall report the results of the test to the Department of ~~Health and Human Services~~ Environmental Protection within 30 days of receipt of the results in a form and manner required by the department.

**8. Termination of lease or tenancy at will.** If a test of a residential building under this section reveals a level of radon of 4.0 picocuries per liter of air or above, then either the landlord or the tenant may terminate the lease or tenancy at will with a minimum of 30 days' notice. Except as provided in section 6033, a landlord may not retain a security deposit or a portion of a security deposit for a lease or tenancy at will terminated as a result of a radon test in accordance with this subsection.

**Sec. MMMM-2. 22 MRSA §42, sub-§ 3,** as amended in PL 1997, c. 727, Pt. C, §4 is repealed.

**Sec. MMMM-3. 22 MRSA §42, sub-§ 3-A,** as amended in PL 1999, c. 547, Pt. B, §78 is repealed.

**Sec. MMMM-4. 22 MRSA §42, sub-§ 3-B,** as amended in PL 1991, c. 824, Pt. A, §39 is repealed.

**Sec. MMMM-5. 22 MRSA Ch. 159-A** is repealed.

**Sec. MMMM-6. 22 MRSA Ch. 160** is repealed.

**Sec. MMMM-7. 22 MRSA Ch. 163** is repealed.

**Sec. MMMM-8. 22 MRSA Ch. 165** is repealed.

**Sec. MMMM-9. 22 MRSA Ch. 601** is repealed.

**Sec. MMMM-10. 22 MRSA §2664** as amended by PL 2007, c.631 §6, is further amended to read**:**

The department and the Department of Environmental Protection may jointly adopt and enforce rules necessary to protect public health and safety and carry out the provisions of this chapter relating directly to the safe and sanitary design, construction and operation of public pools and spas.

**Sec. MMMM-11. 22 MRSA §2665** as amended by PL 2007, c.631 §7, is further amended to read**:**

A person may not begin construction of a public pool or spa or substantially alter or reconstruct any public pool or spa without first having submitted plans and specifications to the ~~department~~ Department of Environmental Protection for review and approval. ~~The department review~~ This review by the Department of Environmental Protection is limited to matters relating directly to safety and sanitation.
The design criteria to be followed by the ~~department~~ Department of Environmental Protection in the review and approval is the minimum standard for all pools and the minimum standard for all spas published by the American National Standards Institute and the Association of Pool and Spa Professionals or successor organizations.
The design criteria standards that the ~~department~~ Department of Environmental Protection is using to review and approve pools and spas must be posted annually on the department's publicly accessible website.

**Sec. MMMM-12. 30-A MRSA §2001, sub-§ 20-A** as revised by PL 2003, c.689, Pt. B, §6 is amended to read**:**

**20-A. Source water protection area**. "Source water protection area" means an area that contributes recharge water to a surface water intake or public water supply well for a public drinking water supply. In order to qualify as a "source water protection area," the area must be identified and mapped by the Department of ~~Health and Human Services~~ Environmental Protection, and that information must be given to the municipality in which the source water protection area is located.

**Sec. MMMM-13. 30-A MRSA §4201, sub-§1** as revised by PL 2003, c.689, Pt. B, §6 is amended to read:

**1**. **Commissioner.** "Commissioner" means the Commissioner of ~~Health and Human Services~~ Environmental Protection.

**Sec. MMMM-14. 30-A MRSA §4201, sub-§ 2** as revised by PL 2003, c.689, Pt. B, §6 is amended to read:

**2**. **Department.** "Department" means the Department of ~~Health and Human Services~~ Environmental Protection.

**Sec. MMMM-15. 30-A MRSA §4211, sub-§1** as revised by PL 2003, c.689, Pt. B, §6 is amended to read:

**1**. **Municipal ordinances.** Municipalities may enact ordinances under their home rule authority that are more restrictive than rules governing plumbing or subsurface wastewater disposal systems adopted by the Department of Professional and Financial Regulation and the Department of ~~Health and Human Services~~ Environmental Protection, respectively. Either department may provide technical assistance to municipalities in the development of ordinances under this subchapter, pertaining to their respective rules. The municipality shall enforce any such ordinance.

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**Sec. MMMM-16. 30-A MRSA §4211, sub-§2** as amended by PL 1999, c.228, §2 is further amended to read:

**2**. **State rules.** A municipal ordinance may not be less restrictive than the rules of the department relating to subsurface wastewater disposal systems as adopted under Title ~~22~~ 38, section ~~42~~ 349-C. The rules of the department relating to all subsurface wastewater disposal systems have full force and effect, provided that, to the extent that a municipality has enacted more restrictive ordinances, the provisions of those ordinances prevail.

**Sec. MMMM-17. 30-A MRSA §4211, sub-§3** as amended by PL 1999, c.761, §6 is further amended to read:

**3**. **Subsurface waste water disposal system.** No person may erect a structure that requires a subsurface waste water disposal system until documentation has been provided to the municipal

officers that the disposal system can be constructed in compliance with rules adopted under Title ~~22~~ 38, section ~~42~~ 349-C and this section.
A. For the purposes of this section, "expansion" means the enlargement or change in use of a structure using an existing subsurface waste water disposal system that brings the total structure into a classification that requires larger subsurface waste water disposal system components under rules adopted pursuant to Title ~~22~~ 38, section ~~42~~ 349-C and this section.
B. No person may expand a structure using a subsurface waste water disposal system until documentation is provided to the municipal officers and a notice of the documentation is recorded in the appropriate registry of deeds that, in the event of a future malfunction of the system, the disposal system can be replaced and enlarged to comply with the rules adopted under Title ~~22~~ 38, section ~~42~~ 349-C and any municipal ordinances governing subsurface waste water disposal systems. No requirement of these rules and ordinances may be waived for an expanded structure.
(1) The department shall prescribe the form of the notice to be recorded in the registry of deeds. The notice must include a site plan showing:
(a) The exact location of the replacement system;
(b) The approximate location of lot lines; and
(c) The exact location of existing wells serving the lot on which the replacement system will be located and those located on abutting lots.
(2) The person seeking to expand a structure shall send copies of the notice by certified mail, return receipt requested, to all owners of abutting lots and to a public drinking water supplier if the lot with the structure that is being expanded is within its source water protection area.

(3) After the notice required by this paragraph is recorded, no abutting landowner may install a well on that landowner's property in a location which would prevent the installation of the replacement septic system. The owner of the lot on which the replacement system will be installed may not erect any structure on the proposed site of the replacement system or conduct any other activity which would prevent the use of the designated site for the replacement system.

**Sec. MMMM-18. 30-A MRSA §4212** as revised by PL 2003, c.689, Part B, §6 is amended to read:

**§4212. Department of ~~Health and Human Services~~ Environmental Protection; responsibilities**

**1. Administration of rules.** The department is responsible for ensuring the proper administration of the subsurface wastewater disposal rules and permitting processes by municipalities. The department shall assist municipalities in complying with this subchapter and with section 3428.

**2. Review.** The department shall review the administration of subsurface wastewater disposal rules and laws in each municipality for compliance with this subchapter and with section 3428. This review must be made on a regular basis and may be made in response to a written complaint from any person as necessary. The department shall inspect the municipality's records and discuss the administration of the program with the local plumbing inspector. The local plumbing inspector shall be available during the department's review and shall cooperate in providing all necessary information. The department shall report the results of its review in writing to the

municipality and, when applicable, to the complainant. The written notice must set forth the department's findings of whether the municipality is in compliance with this subchapter and section 3428.

**3. Violation; penalty.** If after review the department finds any violation of this subchapter or section 3428, it shall notify the municipality that it has 30 days in which to take enforcement action and shall specify what action must be taken in order to achieve compliance. The municipality shall file a plan acceptable to the department setting forth how it will attain compliance. The department shall notify the municipality that it will review the municipality for compliance within 60 days of accepting the plan and shall conduct that review. Any municipality which fails to file an acceptable plan with the department or which remains in violation at the expiration of the 60-day period is subject to a civil penalty of at least $500. The department shall enforce this section in any court of competent jurisdiction. Every 30-day period that a municipality remains in violation after review and notification constitutes a separate offense.

**Sec. MMMM-19. 30-A MRSA §4216, sub-§2, ¶B** as enacted by PL 2007, c.568, §2 is amended to read:

B. A subsurface waste water disposal system that has been installed pursuant to section 4211 and rules adopted under Title ~~22~~ 38, section ~~42~~ 349-C within 3 years prior to the closing date of the transfer of property is not subject to the inspection requirements of paragraph A.

**Sec. MMMM-20. 30-A MRSA §6006-B, sub-§1, ¶C** as repealed and replaced by PL 1997, c.705, §16 is amended to read:

C. For the purposes of this section, the term "public water system" is the same as defined in Title ~~22~~ 38, section ~~2601~~ 3301, subsection 8 and "community water system" and "noncommunity water system" are the same as defined in Title ~~22~~ 38, section ~~2660-B~~ 3360-B.

**Sec. MMMM-21. 30-A MRSA §6006-B, sub-§2, ¶G** as amended by PL 1997, c.705, §17 is further amended to read:

G. To pay the costs of the bank and the Department of ~~Human Services~~ Environmental Protection associated with the administration of the revolving loan fund and projects financed by it, as long as such costs are paid from a separate, dedicated and identifiable administrative account into which not more than 4% or such greater amount as may be permitted under federal law as part of the federal Safe Drinking Water Act of 1996 of each capitalization grant allotment provided by the Federal Government, and other amounts, must be deposited;

**Sec. MMMM-22. 30-A MRSA §6006-B, sub-§2, ¶I** as revised by PL 2003, c.689, Pt. B, §6 is amended to read:

I. To provide training and technical assistance to public water systems serving a population of 10,000 or fewer through the statewide rural water association. The statewide rural water association may use an amount equal to 1% of the federal capitalization grant. Training and

technical assistance must be consistent with the annual Department of ~~Health and Human Services~~ Environmental Protection public water system supervision, or "PWSS," work plan.

**Sec. MMMM-23. 30-A MRSA §6006-B, sub-§4** as revised by PL 2003, c.689, Pt. B, §6 is amended to read:

**4**. **Priorities for financial assistance.** At least annually, the Department of ~~Health and Human Services~~ Environmental Protection shall prepare and certify to the bank a project priority list of those community and nonprofit noncommunity public water system projects eligible for financing or assistance under this section. The factors to be considered in developing the priority list must include, but are not limited to:
A. Projects that address serious risk to human health;
B. Projects necessary to ensure compliance with the federal Safe Drinking Water Act of 1996;
C. Projects to assist public water systems in need on a per household basis according to the State's affordability criteria; and
D. Projects that meet factors used in developing the priority list and that are prepared to proceed to construction.

**Sec. MMMM-24. 30-A MRSA §6006-B, sub-§5** as revised by PL 2003, c.689, Pt. B, §6 is amended to read:

**5**. **Eligibility for financial assistance.** Financial assistance for a project may not be granted under this section until the Department of ~~Health and Human Services~~ Environmental Protection has certified to the bank that the project is eligible for immediate financing under this section and is on the priority list under subsection 4.

**Sec. MMMM-25. 32 MRSA §1405** as amended by PL 2007, c.225, §1 is further amended to read:

A person, firm or corporation within the State, after obtaining a license from and paying a license fee to the Department of ~~Health and Human Services~~ Environmental Protection may establish and maintain suitable buildings and appliances for the cremation of bodies of the dead and, subject to the rules of the department, may cremate such bodies and dispose of the ashes of the same. The department shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.
The body of a deceased person may not be cremated within 48 hours after death unless the person died of a contagious or infectious disease, and in no event may the body of a deceased person be cremated, buried at sea, used by medical science or removed from the State until the person, firm or corporation in charge of the disposition has received a certificate from a duly appointed medical examiner that the medical examiner has made personal inquiry into the cause and manner of death and is satisfied that further examination or judicial inquiry concerning the cause and manner of death is not necessary. This certificate, a certified copy of the death certificate and a burial transit permit when presented by the authorized person as defined in Title 22, section 2846 is sufficient authority for cremation, burial at sea, use by medical science or removal from the State, and the person, firm or corporation in charge of the disposition may not

refuse to cremate or otherwise dispose of the body solely because these documents are presented by such an authorized person. The certificate must be retained by the person, firm or corporation in charge of the cremation or disposition for a period of 15 years. For the certificate, the medical examiner must receive a fee of $15 payable by the person requesting the certificate.

Human remains may not be removed, transported or shipped to a crematory unless encased in a casket or other suitable container.

**Sec. MMMM-26. 32 MRSA §4700-E, sub-§3** as revised by PL 2003, c.689, Pt. B, §6 is amended to read:

**3**. **Department.** "Department" means the Department of ~~Health and Human Services~~ Environmental Protection.

**Sec. MMMM-27. 32 MRSA §4700-G, sub-§2** as amended by PL 2013, c.405, Pt. C, §15 is further amended to read:

**2. Membership.** The commission consists of the ~~director of the division of environmental health within the~~ Commissioner of the Department of ~~Health and Human Services~~ Environmental Protection or the ~~director's~~ commissioner's designee; the Director of the Division of Geology, Natural Areas and Coastal Resources within the Department of Agriculture, Conservation and Forestry or the director's designee; the Commissioner of Transportation or the commissioner's designee; and 4 public members, 3 of whom must be well drillers.

**Sec. MMMM-28. 38 MRSA §349-C** is enacted:

**§349-C. Subsurface Wastewater and Sewage Rules and Regulations**

**1. Subsurface sewage disposal.** The department shall adopt minimum rules relating to subsurface sewage disposal systems. All rules, including installation and inspection rules, must be consistent with Title 30-A, chapter 185, subchapter III and Title 32, chapter 49, but this does not preempt the authority of municipalities under Title 30-A, section 3001 to adopt more restrictive ordinances. These rules may regulate the location of water supply wells to provide minimum separation distances from subsurface sewage disposal systems. The department may require a deed covenant or deed restriction when determined necessary.

loAny person who violates the rules adopted under this subsection, or who violates a municipal ordinance adopted pursuant to Title 30-A, sections 4201 and 4211 or uses a subsurface waste water disposal system not in compliance with rules applicable at the time of installation or modification must be penalized in accordance with Title 30-A, section 4452. Enforcement of the rules is the responsibility of the municipalities rather than the department. The department or a municipality may seek to enjoin violations of the rules or municipal ordinances. In the prosecution of a violation by a municipality, the court shall award reasonable attorney's fees to a municipality if that municipality is the prevailing party, unless the court finds that special circumstances make the award of these fees unjust.

**2. Licensing of persons to evaluate soils for subsurface wastewater disposal systems.** The department shall adopt rules providing for professional qualification and competence, ethical standards, licensing and relicensing and revocation of licenses of persons to evaluate soils for the purpose of designing subsurface wastewater disposal systems. The hearings provided for in subsection 3 must include consideration of the adoption or change of those rules.

The department shall investigate or cause to be investigated all cases or complaints of noncompliance with or violations of this section and the rules adopted pursuant to this section. The department has the authority to grant or amend, modify or refuse to issue or renew a license in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter V. The District Court has the exclusive jurisdiction to suspend or revoke the license of any person who is found guilty of noncompliance with or violation of the rules adopted pursuant to this subsection or subsection 3.

The department may charge applicants no more than $100 for examination to become a licensed site evaluator. The department shall by rule charge a biennial site evaluator license fee of not more than $150. A licensed site evaluator who is employed by the department to administer this section and does not practice for the public is exempt from the licensee fee requirement. Appropriate rules must be adopted by the department defining the appropriate financial procedure. The fees are paid to the Treasurer of State to be maintained as a permanent fund and used by the department for carrying out its plumbing and subsurface wastewater disposal rules and site evaluation program.

**3. Inspection of plumbing and subsurface waste water disposal systems.** The department shall adopt rules providing for the inspection of plumbing and subsurface waste water disposal systems. In municipalities, the municipal officers shall provide for the appointment of one or more plumbing inspectors. In plantations, the assessors shall appoint plumbing inspectors in accordance with Title 30-A, section 4221. In the unorganized areas of the State, the department shall appoint plumbing inspectors or act in the capacity of a plumbing inspector until a person is appointed.

**Sec. MMMM-29. 38 MRSA Ch. 32** is enacted:

## Chapter 32: STATE NUCLEAR SAFETY PROGRAM

### §3061. Public Policy

In the interests of the public health and welfare of the people of this State, it is the declared public policy of this State that a facility licensed by the United States Nuclear Regulatory Commission and situated in the State must be accomplished in a manner consistent with protection of the public health and safety and in compliance with the environmental protection policies of this State. It is the purpose of this chapter, in conjunction with Title 38, sections 3071 to 3090; Title 25, section 51; and Title 35-A, sections 4351 to 4393, to exercise the jurisdiction of the State to the maximum extent permitted by the United States Constitution and federal law and to establish in cooperation with the Federal Government a state nuclear safety inspector program for the on-site monitoring, regulatory review and oversight of a facility within the State

that holds a license issued by the United States Nuclear Regulatory Commission. Nothing in this chapter may be construed as an attempt by the State to regulate radiological health and safety reserved to the Federal Government by reason of the United States Atomic Energy Act of 1954, as amended.

**§3062. Definitions**

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

**1**. **Facility.** A "facility" means a production or utilization facility situated in this State that holds an operating permit or license issued by the United States Nuclear Regulatory Commission. It also means a power reactor licensee situated in the State, whether decommissioned or not, with a possession-only license issued by the United States Nuclear Regulatory Commission for special nuclear material, by-product material and source material. It also includes spent fuel or high-level waste storage facilities.

**§3063-A. State Nuclear Safety Inspector**

There is established within the department the State Nuclear Safety Inspector Office administered by the State Nuclear Safety Inspector. The State Nuclear Safety Inspector is a classified employee, subject to the Civil Service Law.

**1**. **Qualifications.** The State Nuclear Safety Inspector must be an individual knowledgeable in the field of commercial nuclear power production and possess, at a minimum, a master's degree with major work in nuclear, mechanical, electrical or chemical engineering and have at least 3 years' experience in nuclear operations.

**2**. **Duties.** The State Nuclear Safety Inspector shall serve as an on-site nuclear safety inspector of a facility and of the on-site storage and transportation of high-level and low-level nuclear waste.

**3**. **Staff.** The State Nuclear Safety Inspector may employ other personnel as necessary to carry out the purposes of this chapter.

**§3064. Responsibility of Facility Licensees**

The responsibility of facility licensees is as follows.

**1**. **Records.** Each facility licensee shall permit the inspection and copying, for the purposes of this chapter, of its books and records, maintained in any form, except that books and records that are privileged as a matter of law, proprietary, security-related or restricted by federal law, are not open to inspection. Subject to the approval of the United States Nuclear Regulatory Commission and of the facility licensee, access to books and records that are proprietary, security-related or restricted by federal law may be granted if the State Nuclear Safety Inspector, on behalf of the State, enters into a nondisclosure agreement. For purposes of this section, proprietary information includes personnel records, manufacturers' proprietary information, licensee proprietary information and trade secrets. For purposes of this subsection, "trade secrets" means any confidential formula, pattern, process, device, information or compilation of information, including chemical name, that is used in any employer's business that gives the employer an opportunity to obtain any advantage over competitors who do not know or use it.

**2**. **Monitoring.** Each facility licensee shall permit monitoring, for the purposes of this chapter, of the premises, equipment and materials, including source, special nuclear and by-product

materials, in its possession or use, or subject to its control and any vehicle or means of transportation used to remove materials or equipment from the site, including, but not limited to, by rail, water, roadway or air. Monitoring of vehicles or other means of transportation used to remove materials or equipment from the site must be undertaken in a manner that is safe, that employs properly calibrated instruments and that does not result in unreasonable delays in the removal of materials or equipment from the site.

For the purposes of this subsection, "monitoring" means any one or combination of the following:

A. Observing the conduct of operations, including maintenance, quality assurance activities, the preparation, transportation and handling of radioactive waste, emissions monitoring, radiation protection and the observation of emergency preparedness tests and drills;

B. Taking analytical radiological measurements using properly calibrated instruments to confirm:

(1) The results of quality assurance activities undertaken by or on behalf of the facility licensee;

(2) That the preparation, transportation and handling of radioactive waste is undertaken in accordance with applicable standards;

(3) The results of emissions monitoring undertaken by or on behalf of the facility licensee; or

(4) That adequate radiation protection measures are in place; and

C. Taking radiological measurements for the purpose of verifying compliance with applicable state laws, including, but not limited to, Title 38, section 1455, and confirming and verifying compliance with the standards of the United States Nuclear Regulatory Commission for unrestricted license termination, provided that the taking of such measurements employs techniques, protocols, instruments and quality assurance practices in accordance with generally accepted scientific or industry practices, including, but not limited to, those described in the federal Multi-Agency Radiation Survey and Site Investigation Manual.

The licensee shall, upon request, provide split samples to the State Nuclear Safety Inspector. All analytical measurements taken pursuant to this subsection must be shared with the licensee. The licensee may provide data to explain any conflicts between measurements taken by the licensee and measurements taken pursuant to this subsection.

**§3066. Responsibilities of the State Nuclear Safety Inspector**

The responsibilities of the State Nuclear Safety Inspector are as follows.

**1**. **Damages to public health and safety.** If the State Nuclear Safety Inspector has reason to believe that any activity poses a danger to public health and safety, and after notifying the facility licensee and the United States Nuclear Regulatory Commission, the inspector shall immediately notify the Governor and the Commissioner of Environmental Protection. This subsection may not be construed as precluding the State Nuclear Safety Inspector from discussing the safety inspector's concerns with the United States Nuclear Regulatory Commission or others before making a determination that any activity poses a danger to public health and safety.

**2**. **Reports.** The State Nuclear Safety Inspector, upon consultation with the Commissioner of Environmental Protection, shall prepare a report of the safety inspector's activities under this chapter to be submitted July 1st of each year to the Governor's Energy Office and the Legislature. The State Nuclear Safety Inspector shall prepare monthly reports for the Governor's

Energy Office, the President of the Senate and the Speaker of the House, with copies to the United States Nuclear Regulatory Commission and the facility licensee.

**3. Confidential and privileged information.** The State Nuclear Safety Inspector shall keep confidential and privileged the identity of any person providing communications that, in the opinion of the State Nuclear Safety Inspector, support a presumption of unsafe activities, conduct or operation of a facility or that indicate any violation of the facility licensee's license issued by the United States Nuclear Regulatory Commission, unless the request for confidentiality is waived or withdrawn by such person. The safety inspector shall make all prudent efforts to investigate the basis for any related allegation of unsafe or improper activities and shall cooperate to the extent feasible with the United States Nuclear Regulatory Commission personnel in this effort. Any information brought to the attention of the safety inspector that involves the safety of the plant or a possible violation of United States Nuclear Regulatory Commission regulations must be immediately brought to the attention of the United States Nuclear Regulatory Commission and the facility licensee.

**§3068. Interim Spent Fuel Storage Facility Oversight Fund**

The Interim Spent Fuel Storage Facility Oversight Fund, referred to in this section as "the fund," is established as a nonlapsing fund within the radiation control program in the department. All fees paid under this subchapter are collected by the department for deposit in the fund. The Radiation Control Program shall oversee the fund and may disburse amounts in the fund to agencies or to other appropriate state funds in order to pay or contribute to the payment of costs incurred by agencies with respect to federal or state proceedings; safety, radiation and environmental monitoring; and security or other oversight-related activities related to the decommissioning of a nuclear power plant or the development or operation of an interim spent fuel storage facility in this State. The State Nuclear Safety Inspector shall keep an annual accounting of all funds received by the fund and all disbursements from the fund and shall make a report of this accounting to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters by the first Monday in February of each year.

**§3069. State Assessment**

**1. Annual fee.** Any licensee operating an interim spent fuel storage facility in this State shall pay a fixed annual fee to cover all present and reasonably foreseeable future state fees, costs and assessments with respect to the licensee, including, but not limited to, the costs of any commission investigation; the commission's participation in wholesale rate proceedings; safety, radiation and environmental monitoring; and security oversight-related costs. This annual fee consolidates the various fees and assessments imposed by the State on the licensee.

**2. Amount.** The amount of the fixed payment is as follows:

A. Calendar year 2008, $296,667; and

B. Calendar years 2009 to the 12th month of the year following the year the spent nuclear fuel is removed from the site, $220,000 per year.

**3. Compliance costs.** The fees paid under this section are independent of and in addition to any compliance costs incurred either by the licensee or by any contractor hired by the Department of Environmental Protection to oversee, monitor or implement measures necessary to ensure compliance pursuant to the federal Resource Conservation and Recovery Act of 1976, as amended.

**§3070. Review of Oversight Activities and Funding; Report**

**1. Review.** Representatives of the Office of the Public Advocate, the Department of Public Safety, the radiation control program of the department; an independent expert in radiological and nuclear engineering selected by the radiation control program in the department; and a licensee operating an interim spent fuel storage facility in this State, referred to in this section as "the licensee," shall meet on a regular basis and no fewer than 4 times per calendar year:

A. To review activities being undertaken by the licensee, the radiation control program in the department, the Department of Public Safety and other agencies of State Government, with respect to ensuring:

(1) The protection of public health and safety at the site of the interim spent fuel storage facility; and

(2) Timely contract performance by the United States Department of Energy regarding the removal of spent nuclear fuel from the site;

B. To identify necessary activities to be undertaken by the parties in paragraph A for the next calendar year to ensure the protection of public health and safety at the site of the interim spent fuel storage facility and timely contract performance by the United States Department of Energy regarding the removal of spent nuclear fuel from the site; and

C. To develop recommendations regarding funding requirements to carry out the activities identified in paragraph B.

**2. Report.** Based on the activities conducted under subsection 1, the radiation control program in the department, in consultation with the Office of the Public Advocate, the Department of Public Safety, the independent expert in radiological and nuclear engineering selected under subsection 1 and the licensee, referred to in this subsection as "the consulting parties," shall prepare and submit an annual report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters no later than February 15th of each year. The report must provide a summary of the review conducted pursuant to subsection 1 and include specific recommendations regarding funding requirements for the next calendar year pursuant to subsection 1, paragraph C. If the radiation control program in the department and the consulting parties are unable to agree on recommendations regarding funding requirements, the consulting parties shall submit their individual recommendations in writing to the radiation control program in the department and the department shall include the individual recommendations of the consulting parties in the report. The radiation control program in the department, with input from the consulting parties, shall determine the format of the report. To assist in the preparation of the report, the Department of Public Safety and the Office of the Public Advocate shall submit to the department no later than December 15th of each year an annual accounting of expenditures of funds from the Interim Spent Fuel Storage Facility Oversight Fund established pursuant to section 3068.

**3. Authority for legislation; annual fee.** The joint standing committee of the Legislature having jurisdiction over utilities and energy matters shall review the report submitted under subsection 2, including, but not limited to, the recommendations regarding funding requirements. On the basis of its review, the committee may submit legislation to amend the level of the annual fee required of the licensee under section 3069.

**Sec. MMMM-30. 38 MRSA Ch. 33** is enacted:

## Chapter 33: RADIATION PROTECTION ACT

### §3071. Declaration of Policy

It is the policy of this State in furtherance of its responsibility to protect the public health, safety and the environment:

**1**. **Compatible regulatory program.** To institute and maintain a regulatory program for sources of ionizing and nonionizing radiation so as to provide for compatibility and equivalency with the standards and regulatory programs of the Federal Government; an integrated effective system of regulation within the State and a system consonant insofar as possible with those of other states;

**2**. **Safe use of sources.** To institute and maintain a program to permit development and utilization of sources of radiation for peaceful purposes consistent with the health and safety of the public; and

**3**. **State authority.** Nothing in this Act may be construed to limit the authority of the State to regulate radioactive materials, or the facilities in which they are used or stored, to the fullest extent consistent with federal law.

### §3072. Purpose

It is the purpose of this Act to effectuate the policies set forth in section 3071 by providing for:

**1**. **Public health and safety.** A program of effective regulation of sources of radiation for the protection of the public health, safety and the environment.

**2**. **Orderly regulatory program.** A program to promote an orderly regulatory pattern within the State, among the states and between the Federal Government and the State, and facilitate intergovernmental cooperation with respect to use and regulation of sources of radiation so that duplication of regulation may be minimized;

**3**. **Assumption of responsibilities.** A program to establish procedures for assumption and performance of certain regulatory responsibilities with respect to by-product, source and special nuclear materials and radiation-generating equipment; and

**4**. **Use of sources.** A program to permit utilization of sources of radiation consistent with the health and safety of the public.

### §3073. Definitions

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

**1**. **By-product material.** "By-product material" means:

A. Any radioactive material except special nuclear material yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material; and

B. The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

**2**. **Civil penalty.** "Civil penalty" means any monetary penalty levied on a licensee or registrant because of violations of statutes, regulations, licenses or registration certificates, but does not include criminal penalties.

**3**. **Closure or site closure.** "Closure or site closure" means all activities performed at a waste disposal site, such as stabilization and contouring, to assure that the site is in a stable condition

so that only minor custodial care, surveillance and monitoring are necessary at the site following termination of licensed operation.

**3-A**. **Facility.** A "facility" means a production or utilization facility situated in this State that holds an operating permit or license issued by the United States Nuclear Regulatory Commission. It also means a power reactor licensee situated in the State, whether decommissioned or not, with a possession-only license issued by the United States Nuclear Regulatory Commission for special nuclear material, by-product material and source material. It also includes spent fuel or high-level waste storage facilities.

**4**. **Decommissioning.** "Decommissioning" means the series of activities undertaken beginning at the time of closing of a nuclear power plant or other facility licensed by the United States Nuclear Regulatory Commission or the department to ensure that the final disposition of the site or any radioactive components or material, but not including spent fuel, associated with the plant is accomplished safely in compliance with all applicable state and federal laws. Decommissioning includes activities undertaken to prepare a nuclear power plant or other facility for final disposition, to monitor and maintain it after closing and to effect final disposition of any radioactive components of the nuclear power plant or facility.

**5**. **Disposal of low-level radioactive waste.** "Disposal of low-level radioactive waste" means the isolation of low-level waste from the biosphere inhabited by people and their food chains.

**6**. **High-level radioactive waste.** "High-level radioactive waste" means the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from that liquid waste that contains fission products in sufficient concentrations; and other highly radioactive material that the United States Nuclear Regulatory Commission, consistent with existing law, determines by rule to require permanent isolation.

**7**. **License.** "License" means a license, issued to a named person upon application filed pursuant to the regulations promulgated pursuant to this Act, to use, manufacture, produce, transfer, receive, acquire or possess quantities of, or devices or equipment utilizing, radioactive material.

**8**. **Low-level radioactive waste.** "Low-level radioactive waste" means radioactive material that:

A. Is not high-level radioactive waste, spent nuclear fuel, transuranic waste or by-product material as defined in the United States Code, Title 42, Section 2014(e)(2), the Atomic Energy Act of 1954, Section 11e(2); and

B. The United States Nuclear Regulatory Commission, consistent with existing law and in accordance with paragraph A, classifies as low-level radioactive waste.

**8-A**. **Person.** "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency of this State, political subdivision of this State, any other state or political subdivision or agency of a state or political subdivision and any legal successor, representative, agent or agency of the state or political subdivision or agency, but not including Federal Government agencies.

**9**. **Radiation.** "Radiation" means ionizing radiation and nonionizing radiation.

A. "Ionizing radiation" means gamma rays and x rays; alpha and beta particles, high-speed electrons, neutrons, protons and other nuclear particles; but not sound or radio waves, or visible, infrared or ultraviolet light.

B. "Nonionizing radiation" means any electromagnetic radiation, other than ionizing electromagnetic radiation, and any sonic, ultrasonic or infrasonic wave.

**10**. **Radiation generating equipment.** "Radiation generating equipment" means any manufactured product or device, or component part of such a product or device, or any machine or system which during operation can generate or emit radiation, except those which emit radiation, only from radioactive material.

**11**. **Radioactive material.** "Radioactive material" means any material which emits ionizing radiation spontaneously. It includes accelerator-produced, by-product, naturally occurring, source and special nuclear materials.

**12**. **Registration.** "Registration" means registration with the department in accordance with rules adopted pursuant to this Act.

**13**. **Source material.** "Source material" means:

A. Uranium or thorium, or any combination thereof, in any physical or chemical form; or

B. Ores which contain by weight 1/20th of 1%, 0.05%, or more of uranium, thorium or any combination thereof. Source material does not include special nuclear material.

**14**. **Source material mill tailings.** "Source material mill tailings" means the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from underground solution extraction processes, but not including underground ore bodies depleted by those solution extraction processes.

**15**. **Source material milling.** "Source material milling" means any processing of ore, primarily for the purpose of extracting or concentrating uranium or thorium therefrom and which results in the production of source material mill tailings.

**16**. **Sources of radiation.** "Sources of radiation" means, collectively, radioactive material and radiation generating equipment.

**17**. **Special nuclear material.** "Special nuclear material" means:

A. Plutonium, uranium 233 and uranium enriched in the isotope 233 or in the isotope 235, but does not include source material; or

B. Any material artificially enriched by any of the material listed in paragraph A, but does not include source material.

**18**. **Spent nuclear fuel.** "Spent nuclear fuel" means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

**19**. **Transuranic waste.** "Transuranic waste" means radioactive waste containing alpha emitting transuranic elements, with radioactive half-lives greater than 5 years, in excess of 10 nanocuries per gram.

**§3074. State Radiation Control Agency**

**1**. **Designated.** The Department of Environmental Protection, in this chapter referred to as the "department," is designated as the State Radiation Control Agency.

**2**. **Commissioner.** The Commissioner of Environmental Protection shall be referred to as the "commissioner," who shall perform the functions vested in the department pursuant to this Act.

**3**. **Employees.** In accordance with the laws of this State, the department may employ, compensate and prescribe the powers and duties of such individuals as may be necessary to carry out the provisions of this Act.

**4**. **Authority.** The department, for the protection of the public health and safety:

A. Shall develop programs for the evaluation and control of hazards associated with use of sources of radiation;
B. Shall develop programs with due regard for compatibility with federal programs for regulation of by-product, source and special nuclear materials
C. Shall develop programs with due regard for consistency with federal programs for regulation of radiation generating equipment;
D. Shall formulate, adopt, promulgate and repeal codes and rules, which may provide for licensing or registration, relating to control of sources of radiation with due regard for compatibility with the regulatory programs of the Federal Government.
Promulgate such rules in addition to the rule specified in this paragraph as are appropriate to carry out the purposes of this Act, including, but not limited to, rules concerning acquisition, ownership, possession and use of radioactive materials or devices or equipment utilizing radioactive material;
E. Shall issue such orders or modifications thereof as may be necessary in connection with proceedings under section 3077;
F. Shall advise, consult and cooperate with other agencies of the State, Federal Government, other states and interstate agencies, political subdivisions and other organizations concerned with control of sources of radiation;
G. May accept and administer loans, grants or other funds or gifts, conditional or otherwise, in furtherance of its functions, from the Federal Government and from other sources, public or private;
H. Shall encourage, participate in, or conduct studies, investigations, training, research and demonstrations relating to control of sources of radiation;
I. Shall collect and disseminate information relating to control of sources of radiation, including:
(1) Maintenance of a file of all license applications, issuances, denials, amendments, transfers, renewals, modifications, suspensions and revocations;
(2) Maintenance of a file of registrants possessing sources of radiation requiring registration under this Act and any administrative or judicial action pertaining to this Act; and
(3) Maintenance of a file of all of the department's rules relating to regulation of sources of radiation, pending or promulgated, and any connected proceedings;
J. May investigate and sample sites where radioactive substances or devices are stored or handled to identify uncontrolled radioactive substance sites;
K. May take whatever action is deemed necessary to abate, clean up or mitigate the threats or hazards posed or potentially posed by radioactive material or radiation-generating equipment to protect the public health, safety or welfare or the environment, including administering or carrying out measures to abate, clean up or mitigate the threats or hazards and implementing remedies to remove, store, treat, dispose of or otherwise handle radioactive material, including soil and water contaminated by the material;
L. Shall establish and maintain a continuous radiation monitoring system to record the radioactive levels of gaseous and liquid discharges from any commercial nuclear power facility operating in the State;
M. Shall establish and maintain an off-site monitoring network to provide continuous monitoring of gamma radiation levels within the vicinity of any commercial nuclear power facility operating in the State. Portable off-site monitoring devices must be made available to members of the public to establish a network of volunteer monitors who shall report to the department their

findings. For this purpose, the department shall make Geiger Rate meters available to 50 volunteer monitors. In addition to the placement of Geiger Rate meters, the department shall procure 20 Gamma Scintillation Detection Devices and place 16 of them in homes of members of the public who volunteer to participate in the program. The 4 additional devices must be maintained by the department in reserve. The volunteers with Gamma Scintillation Detection Devices must also be provided with 2-way radios so they can report their findings in the case of emergency. All volunteers shall assist the department in its continuous monitoring network. All off-site monitoring devices must be geographically distributed throughout the surveillance area to provide the most effective monitoring network. The department shall adopt rules to provide for the selecting of the volunteers, the appropriate and accurate use of the meters and devices and the method and frequency of reporting to the department and other procedures necessary to implement the program; and

N. Shall provide 24-hour-per-day coverage of existing radiation monitors through the use of a dialer-server computer system and the use of pagers.

**5**. **Coordination.** The commissioner shall serve as the coordinator of radiation activities among the Maine Emergency Management Agency, Department of Public Safety, Department of Health and Human Services and Department of Environmental Protection. The commissioner shall:

A. Consult with and review regulations and procedures of the agencies and federal law to assure consistency and to prevent unnecessary duplication, inconsistencies or gaps in regulatory requirements; and

B. Review, prior to adoption, the proposed rules of all agencies of the State relating to use of control of radiation, to assure that these rules are consistent with Title 5, chapter 375, and rules of other agencies of the State. The review must be completed within 15 days.

If the commissioner determines that proposed rules are inconsistent with rules of other agencies of the State or federal law, the commissioner shall consult with the agencies involved in an effort to resolve these inconsistencies. In the event no inconsistency is reported within 15 days, the proposed rules are presumed consistent for the purposes of this subsection. Upon notification by the commissioner that the inconsistency has not been resolved, the Governor may find that the proposed rules or parts of rules are inconsistent with rules of other agencies of the State or the Federal Government and may issue an order to that effect, in which event the proposed rules or parts of rules do not become effective. The Governor may direct, in the alternative, upon a similar determination, the appropriate agency or agencies to amend or repeal existing rules to achieve consistency with the proposed rules.

**6**. **Information.** The several agencies of the State shall keep the commissioner fully and currently informed as to their activities relating to regulation of sources of radiation.

**7**. **Report.** The commissioner shall report prior to January 31, 1984, to the joint standing committee of the Legislature having jurisdiction over natural resources on the need for regulation of nonionizing radiation.

**§3075-A. Advisory Committee on Radiation**

**1**. **Appointment.** The Governor shall appoint an Advisory Committee on Radiation consisting of 7 members. One member must be a physician and one member must be a dentist, both of whom must be regularly involved in the medical use of radiation; one member must represent the general public and the remaining 4 members must have training and experience in the various fields in which sources of radiation are used. Members of the committee serve 5-year staggered

terms and are not compensated for their services, but may be reimbursed for actual expenses to attend committee meetings or for authorized business of the committee.

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

**§3076. Coordination and Liaison with Federal Agencies**

The following agencies shall serve as liaison with federal agencies and coordinate administration of the issues indicated.

**1. Health and safety.** The Department of Environmental Protection shall coordinate monitoring of radiation and health and safety in medical and industrial use of radiation, and shall serve as liaison with the United States Food and Drug Administration and the United States Nuclear Regulatory Commission.

**2. Emergency procedures.** The Maine Emergency Management Agency shall coordinate off-site emergency procedures for nuclear facilities, and shall serve as liaison with the federal agencies with jurisdiction over defense activities and emergency response management.

**3. Transportation.** The Department of Public Safety shall coordinate transportation of radioactive materials.

**4. Radioactive waste.** The Department of Environmental Protection shall coordinate management of and shall serve as point of contact with the United States Nuclear Regulatory Commission for high-level and low-level radioactive wastes, in consultation with the State Nuclear Safety Inspector in fulfillment of the State Nuclear Safety Inspector's duties pursuant to section 3066.

**5. Geology.** The Division of Geology, Natural Areas and Coastal Resources, Maine Geological Survey within the Department of Agriculture, Conservation and Forestry shall provide technical assistance for waste management.

**6. Energy.** The Governor's Energy Office shall serve as liaison with the United States Department of Energy.

**7. Environment.** The Department of Environmental Protection shall serve as liaison with the United States Environmental Protection Agency.

**§3077. Licensing and Registration of Sources of Radiation**

**1. Radioactive material, devices or equipment.** The department shall provide by rule for licensing of radioactive material or devices or equipment utilizing those materials except where prohibited by federal law. That rule shall provide for amendment, suspension or revocation of licenses.

**2. Other sources.** The department may require registration or licensing of other sources of radiation.

**3. Exemptions.** The department may exempt certain sources of radiation or kinds of uses or users from the licensing or registration requirements set forth in this section when the department makes a finding that the exemption of these sources of radiation or kinds of uses or users will not constitute a significant risk to the health and safety of the public.

**4**. **Recognition of other licenses.** Rules promulgated pursuant to this Act may provide for recognition of other state or federal licenses as the department may deem desirable, subject to such registration requirements as the department may prescribe.

**5**. **Federal license or permit required.** No person may manufacture, construct, produce, transfer, acquire or possess any special nuclear material, source material, by-product material, production facility or utilization facility, or act as an operator of a production or utilization facility wholly within this State, unless he has first obtained a license or permit for the activity in which he proposes to engage from the United States Nuclear Regulatory Commission if, pursuant to federal law, the commission requires a license or permit to be obtained by persons proposing to engage in activities of the same type over which it has jurisdiction.

**§3078. Source Material Processing and Related Material**

State regulation of source material processing shall be subject to the primary jurisdiction of the Department of Environmental Protection, as specified in Title 38.

**§3079. Low-Level Radioactive Waste Disposal**

State regulation of low-level radioactive waste disposal is subject to the primary jurisdiction of the Department of Environmental Protection, as specified in section 3076.

**§3079-A. Low-Level Radioactive Waste Management**

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

**2**. **Duties of the department.** The department shall:

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

B. Provide for the disbursement of funds from the Radioactive Waste Fund to fulfill the requirements of Article IV, Section 4.05, subsection (6) of the compact and to compensate the state commission member.

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

**§3079-B. Radioactive Waste Fund**

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

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

other purpose. The service fee must be based 50% on the volume and 50% on the radioactivity of the waste disposed in a disposal facility in the previous calendar year or placed in storage in the previous calendar year if the State did not have access to a disposal facility for that year, but each generator must be assessed a minimum of $100 annually. Each generator must pay this service fee within 30 days, except that any generator may choose to make quarterly payments instead. Any radioactive waste for which a service fee was assessed and collected under this section cannot be reassessed for the purposes of this section. The department shall adopt rules in accordance with the Maine Administrative Procedure Act concerning the calculation of the fee and the exemptions to the fee, consistent with this section.

**3. Compact fee assessment; ceiling.** In addition to the service fee assessed under subsection 2, the commissioner shall annually by September 1st, beginning in 1994, assess any amount necessary to fulfill the payment requirements to the Texas Low-Level Radioactive Waste Disposal Compact Commission pursuant to section 3079-A, subsection 2, paragraph B less any balance carried forward under subsection 6. The commissioner shall assess each generator such a fee using the same method for computing individual assessments as set out in subsection 2. Each generator must pay the fee within 30 days, except that any generator may choose to make quarterly payments instead.

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

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

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

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

**5. Allocation from fund.** Money in the Radioactive Waste Fund established by this section must be allocated from time to time by the Legislature to the department for administrative and regulatory activities as described in this section. These amounts become available in accordance with Title 5, chapters 141 to 155.

The department may receive and expend federal grants and payments for the purpose of carrying out its duties set out in section 3079-A, subsection 2.

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

**8. Transfer of funds.** Notwithstanding Title 5, section 1585, funds allocated under this section must be transferred as necessary to accomplish the purposes of this section and Title 38, chapter 14-A from the department to other agencies, including the Division of Geology, Natural Areas and Coastal Resources, Maine Geological Survey within the Department of Agriculture, Conservation and Forestry and the Maine Land Use Planning Commission.

**§3080. Radiation User Fees**

**1. Facilities.** The registration fee for a facility for:

A. Fiscal year 1997-98 is $100,000; and

B. Fiscal year 1998-99 is $25,000.

**2**. **Radiation protection services.** The department shall prescribe and collect such fees as may be established by regulation for radiation protection services provided under this Act. Services for which fees may be established include, but are not limited to:

A. Registration of radiation generating equipment and other sources of radiation;

B. Issuance, amendment and renewal of licenses for radioactive materials;

C. Inspections of registrants or licensees;

D. Environmental surveillance activities to assess the radiological impact of activities conducted by licensees; and

E. Off-site monitoring network activities of licensed nuclear power production facilities conducted pursuant to section 3074, subsection 4, paragraph M.

**3**. **Fees.** In determining rates of these fees, the department shall, as an objective, obtain sufficient funds therefrom to reimburse the State for the direct and indirect costs of the radiation protection services specified in subsection 2. The department shall take into account any special arrangements between the State and a registrant, licensee, another state or a federal agency whereby the cost of the service is otherwise partially or fully recovered.

**4**. **Exemptions.** The department may, upon application by an interested person, or on its own initiative, grant such exemptions from the requirements of this section as it determines are in the public interest. Applications for exemption under this subsection may include activities such as, but not limited to, the use of licensed materials for educational or noncommercial displays or scientific collections.

5. **Penalties.** When a registrant or licensee fails to pay the applicable fee, the department may take action in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

6. **Permanent fund.** All fees shall be paid to the Treasurer of State to be maintained in a permanent fund and used to carry out the purposes of this chapter and chapter 32.

**§3081. Surety Requirements**

Licensees shall pay to the department for deposit by the Treasurer of State, into a fund called the Radiation Materials Recovery Fund, adequate funds to permit the department to complete the requirements established by the department for the decontamination, decommissioning, closure and reclamation of sites, structures and equipment used in conjunction with the licensed activity. In lieu of the deposit of funds, the licensee may provide an adequate surety. The condition of the surety shall be to account for the completion of the requirements according to standards established by the department by rule. All sureties forfeited shall be paid to the department for deposit by the Treasurer of State to the aforementioned fund. Money in the fund shall not be used for normal operations of the department. The department shall adopt by rule the standards for determining the amount of financial responsibility required by each licensee and the procedures for the payment of funds or provision of surety.

The funds or sureties required in this section shall be in amounts necessary to comply with standards established by the United States Nuclear Regulatory Commission or the State.

The department may accept gifts or transfers from another agency or individual of land or appurtenances necessary to fulfill the purposes of this section.

**§3082. Inspections**

**1**. **Authorized.** The department or its duly authorized representatives may enter at all reasonable times upon any private or public property for the purpose of determining whether there is

compliance with or violation of the provisions of this Act and the rules issued thereunder, except that entry into areas under the jurisdiction of the Federal Government or its duly designated representative shall be effected only with the concurrence of the Federal Government or its duly designated representative.

**2. Equipment inspection.** The department shall promulgate rules requiring periodic inspection, certification and calibration of equipment, capable of emitting ionizing radiation, by certified technicians.

**3. Technician certification.** The department shall promulgate rules providing for the qualifications and certification of technicians to inspect, certify and calibrate equipment capable of emitting ionizing radiation. The rules must also provide for the standardization of calibration equipment, inspection and calibration methodology and reporting procedures. The department may grant, modify or refuse to issue a certification in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375 subchapter 5. The District Court has exclusive jurisdiction to suspend or revoke a certification of any person found guilty of noncompliance with the rules pertaining to inspection, certification and reporting procedures or misrepresentation of inspection findings.

**4. Failure to comply.** Persons failing to have their equipment inspected, certified and calibrated, as required in subsection 2, shall be subject to the penalties of section 3090.

**§3083. Records**

The department may require by rule, or order, the keeping of such records with respect to activities under licenses and registration certificates issued pursuant to this Act as may be necessary to effectuate the purposes of this Act. These records shall be made available for inspection by, or copies thereof shall be submitted to, the department.

**§3084. Federal - State Agreements**

**1. General agreements and contracts.** The Governor, on behalf of this State, may enter into agreements with the United States Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, Section 274b, as amended, providing for discontinuance of certain of the commission's licensing and related regulatory authority with respect to by-product, source and special nuclear materials and the assumption of regulatory authority therefor by this State.

**2. Limited agreements.** The Governor, on behalf of this State, may enter into an agreement with the United States Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, Section 274i, as amended, other federal government agencies, where authorized by law, or other states or interstate agencies, whereby this State will perform on a cooperative basis inspections or other functions relating to control of sources of radiation.

**3. Contracts with federal agencies.** The Governor may, subject to the conditions of Title 5, section 1669 and any other provision of law, execute contracts with appropriate federal officers or agencies relating to radiation hazards.

**§3085. Training Programs**

The department may institute training programs for the purpose of qualifying personnel to carry out the provisions of this Act, and may make the personnel available for participation in any program or programs of the Federal Government, other states or interstate agencies in furtherance of the purposes of this Act.

**§3086. Conflicting Laws**

Ordinances, resolutions or regulations, now or hereafter in effect, of the governing body of a municipality or county or of state agencies other than the Department of Environmental Protection relating to by-product, source and special nuclear materials shall not be superseded by this Act, provided that the ordinances or regulations are and continue to be consistent with this Act, amendments thereto and rules thereunder.

**§3087. Administrative Procedure and Judicial Review**

Administrative procedure and judicial review shall be in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

**§3088. Injunction Proceedings; Impounding**

**1. Injunctions.** Whenever, in the judgment of the department, any person has engaged in or is about to engage in any acts or practices which constitute or will constitute a violation of this Act, or any rule or order issued thereunder, and at the request of the department, the Attorney General may make application to the Superior Court for an order enjoining those acts or practices, or for an order directing compliance, and, upon a showing by the department that the person has engaged or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order or other order may be granted.

**2. Impounding.** In accordance with all applicable statutes and regulations, the department may, in the event of an emergency, impound or order the impounding of sources of radiation in the possession of any person who is not equipped to observe or fails to observe the provisions of this Act or any rules issued under this Act.

**§3089. Prohibited Uses**

Except for consumer products, it is unlawful for any person to use, manufacture, produce, distribute, sell, transport, transfer, install, repair, receive, acquire, own or possess any source of radiation, unless licensed by or registered with the department in conformance with rules, if any, promulgated in accordance with this Act. Notwithstanding this paragraph, licensing or registration of specific consumer products may be required by the department by rule in specified circumstances.

**§3090. Penalties**

**1. Criminal penalties.** A person who intentionally or knowingly:

A. Violates a provision of this Act, or a rule or order of the department in effect pursuant to this Act, commits a Class D crime; or

B. Violates a term, condition or limitation of a license or registration certificate issued under this Act, or commits a violation for which a license or registration certificate may be revoked under rules issued pursuant to this Act, commits a Class D crime.

**2. Civil penalties.** Civil penalties shall be assessed and enforced as follows.

A. Any person who violates any licensing or registration provision of this Act or any rule or order issued under this Act, any term, condition or limitation of any license or registration certificate issued under this Act, or any person who commits any violation for which a license or registration certificate may be revoked, suspended or modified under rules issued pursuant to this

Act is subject to a civil penalty, to be imposed by the department, not to exceed $10,000 for each violation or $100,000 for any willful and wanton violation. If any violation is a continuing violation, each day of the violation shall constitute a separate violation for the purpose of computing the applicable civil penalty. The department may compromise, mitigate or remit the penalties.

B. When the department has reason to believe that a person has become subject to the imposition of a civil penalty under the provisions of this section, the department may notify the Attorney General or hold a public hearing. If a hearing is scheduled, the commissioner shall give at least 30 days' written notice to the alleged violator of the date, time and place of that hearing. The notice shall specify the act done or omitted to be done which is claimed to be in violation of law; identify the particular provisions of the section, rule, order or license involved in the violation; and advising of each penalty which the department proposes to impose and its amount. The notice shall be sent by registered or certified mail by the department to the last known address of the person.

Any hearing conducted under the authority of this subsection shall be in accordance with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375.

At the hearing, the alleged violator may appear in person or by attorney and answer the allegations of violation and file a statement of the facts, including the methods, practices and procedures, if any, adopted or used by him to comply with this chapter and present such evidence as may be pertinent and relevant to the alleged violation.

C. On the request of the department, the Attorney General may institute a civil action to collect a penalty imposed pursuant to this subsection. Only the Attorney General may compromise, mitigate or remit such civil penalties as are referred to him for collection.

D. All money collected from civil penalties shall be paid to the Treasurer of State for deposit in the General Fund. Money collected from civil penalties shall not be used for normal operating expenses of the department, except as appropriations made from the General Fund in the normal budgetary process.

**Sec. MMMM-31. 38 MRSA Ch. 34** is enacted:

## Chapter 34: NEW ENGLAND COMPACT ON RADIOLOGICAL HEALTH PROTECTION

SUBCHAPTER 1: COMPACT

### §3151. Purposes -- Article I

The purposes of this compact are to:

**1**. **Promote protection.** Promote the radiological health protection of the public and individuals within the party states;

**2**. **Mutual aid.** Provide mutual aid and assistance in radiological health matters including, but not limited to, radiation incidents;

**3**. **Personnel and equipment.** Encourage and facilitate the efficient use of personnel and equipment by furthering the orderly acquisition and sharing of resources useful for programs of radiation protection.

**§3152. Enactment -- Article II**

This compact shall become effective when enacted into law by any 2 or more of the states of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont. Thereafter it shall become effective with respect to any other aforementioned state upon its enacting this compact into law. Any state not mentioned in this Article which is contiguous to any party state may become a party to this compact by enacting the same.

**§3153. Duties of States -- Article III**

**1**. **Plan.** It shall be the duty of each party state to formulate and put into effect an intrastate radiation incident plan which is compatible with the interstate radiation incident plan formulated pursuant to this compact.

**2**. **Aid.** Whenever the compact administrator of a party state requests aid from the compact administrator of any other party state pursuant to this compact, it shall be the duty of the requested state to render all possible aid to the requesting state which is consonant with the maintenance of protection of its own people. The compact administrator of a party state may delegate any or all of his authority to request aid or respond to requests for aid pursuant to this compact to one or more subordinates, in order that requests for aid and responses thereto shall not be impeded by reason of the absence of unavailability of the compact administrator. Any compact administrator making such a delegation shall inform all the other compact administrators thereof, and shall inform them of the identity of the subordinate or subordinates to whom the delegation has been made.

**3**. **Personnel and equipment.** Each party state shall maintain adequate radiation protection personnel and equipment to meet normal demands for radiation protection within its borders.

**§3154. Liability – Article IV**

Whenever the officers or employees of any party state are rendering outside aid pursuant to the request of another party state under this compact, the officers or employees of such state shall, under the direction of the authorities of the state to which they are rendering aid, have the same powers, duties, rights, privileges and immunities as comparable officers and employees of the state to which they are rendering aid.

No party state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on their part while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

All liability that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a 3rd state, on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

Any party state rendering outside aid to cope with a radiation incident shall be reimbursed by the party state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation and maintenance of officers, employees and equipment incurred in connection with such request, provided that nothing herein contained shall prevent any assisting party state from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such services to the receiving party state without charge or cost.

Each party state shall provide for the payment of compensation and death benefits to injured officers and employees and the representatives of deceased officers and employees in case

officers or employees sustain injuries or are killed while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within the state for or in which the officer or employee was regularly employed.

**§3155. Facilities, Equipment and Personnel – Article V**

Whenever a department, agency or officer of a party state responsible for and having control of facilities or equipment designed for or useful in radiation control, radiation research, or any other phase of a radiological health program or programs, determines that such a facility or item of equipment is not being used to its full capacity by such party state, or that temporarily it is not needed for current use by such state, a department, agency or officer may, upon request of an appropriate department, agency or officer of another party state, make such facility or item of equipment available for use by such requesting department, agency or officer. Unless otherwise required by law, the availability and use resulting therefrom may be with or without charge, at the discretion of the lending department, agency or officer.

Any personal property made available pursuant to this section may be removed to the requesting state, but no such property shall be made available, except for a specified period and pursuant to written agreement. Except when necessary to meet an emergency, no supplies or materials intended to be consumed prior to return shall be made available pursuant to this section.

In recognition of the mutual benefits, in addition to those resulting from Article IV, accruing to the party states from the existence and flexible use of professional or technical personnel having special skills or training related to radiation protection, such personnel may be made available to a party state by appropriate departments, agencies and officers of other party states, provided that the borrower reimburses such party state regularly employing the personnel in question for any cost of making such personnel available, including a prorated share of the salary or other compensation of the personnel involved.

Nothing in this Article shall be construed to limit or to modify in any way Article IV of this compact.

**§3156. Compact Administrators – Article VI**

Each party state shall have a compact administrator who shall be the head of the state agency having principal responsibility for radiation protection, and who:

**1**. **Coordinate activities.** Shall coordinate activities pursuant to this compact in and on behalf of his state.

**2**. **Incident plan.** Serving jointly with the compact administrators of the other party states, shall develop and keep current an interstate radiation incident plan, consider such other matters as may be appropriate in connection with programs of cooperation in the field of radiation protection and allied areas of common interest, and formulate procedures for claims and reimbursement under Article IV.

**§3157. Other Responsibilities and Activities – Article VII**

Nothing in this compact shall be construed to:

**1**. **Protection program.** Authorize or permit any party state to curtail or diminish its radiation protection program, equipment, services or facilities.

**2**. **Health protection.** Limit or restrict the powers of any state ratifying the same to provide for the radiological health protection of the public and individuals, or to prohibit the enactment or

enforcement of state laws, rules or regulations intended to provide for such radiological health protection.

**3. Existing arrangements.** Affect any existing or future cooperative relationship or arrangement between Federal, State or local governments and a party state or states.

**§3158. Withdrawal – Article VIII**

Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

**§3159. Construction and Severability – Article IX**

It is the legislative intent that the provisions of this compact be reasonably and liberally construed. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be unconstitutional or the applicability thereof, to any state, agency, person or circumstance is held invalid, the constitutionality of the remainder of this compact and the applicability thereof, to any other state, agency, person or circumstance shall not be affected thereby.

SUBCHAPTER 2: PROVISIONS RELATING TO THE COMPACT

**§3160. Radiation Incident Plan**

The Commissioner of Environmental Protection shall formulate and keep current a radiation incident plan for this State, in accordance with the duty assumed pursuant to Article III, subsection 1 of the compact.

**§3161. Compact Administrator for Maine**

The compact administrator for this State, as required by Article VI of the compact, shall be the Commissioner of Environmental Protection.

**Sec. MMMM-32. 38 MRSA Ch. 35 is enacted:**

## Chapter 35: RADON REGISTRATION ACT

**§3271. Short Title**

This chapter may be known and cited as the "Radon Registration Act."

**§3272. Definitions**

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

**1. Associated radiological concerns.** "Associated radiological concerns" means radioactive elements other than radon, including, but not limited to, radium, thorium, uranium and their respective decay products.

**2**. **Authorized radon testing device.** "Authorized radon testing device" means a device that:
A. Collects radon or its decay products;
B. Requires analysis by an independent measuring facility or is a continuous monitoring device; and
C. Has been determined to meet the proficiency requirements as determined by the department through rule. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.
**3**. **Department.** "Department" means the Department of Environmental Protection.
**4**. **Listed facility.** "Listed facility" means a radon testing facility that is designated as providing radon analysis services and that has proven its proficiency to the department.
**5**. **Radon.** "Radon" means the radioactive gaseous element and its decay products produced by the disintegration of the element radium in air, water, soil or other media.
**6**. **Radon testing services.** "Radon testing services" means providing, for remuneration, determination of radon levels or analysis of an authorized radon testing device. This term includes those services provided by listed facilities.

**§3273. Lead Agency**
The department is the lead agency having primary responsibility for programs related to radon and associated radiological concerns. The department shall register firms, including listed facilities, and individuals who test for the presence of radon or associated radiological concerns or who provide consulting, construction or other remedial services for reducing the levels of radon or associated radiological concerns. The department may facilitate functions including, but not limited to, education, funding, liaison, technology transfer and training with the United States Environmental Protection Agency or other federal or state agencies. The department also serves as an information clearinghouse for radon and associated radiological concerns by maintaining records and disseminating information to educate the public about radon, describing technical assistance programs and interpreting test results as appropriate.

**§3274. Radon Testing; Registration Required**
A person may not perform, evaluate or advertise to perform or evaluate tests for the presence of radon in buildings or on building lots unless registered with the department. This registration requirement includes without limitation a person whose place of business is located in the State, or in another state, who offers radon testing services to residents of the State either directly or through the mail.

**§3275. Radon Mitigation; Registration**
A person may not offer advice or plans to reduce the level of radon in new or existing structures or contract to modify an existing structure in a manner intended to reduce the level of radon unless registered with the department.

**§3276. Exemptions**
The requirements of sections 3274 and 3275 do not apply to any of the following:
**1**. **Personal use.** A person performing testing or mitigation on a building owned or inhabited by that person but not for sale at the time that person performs testing or mitigation on that building;

**2**. **New construction.** A builder utilizing preventive or safeguarding measures in new construction as specified in the Maine Uniform Building and Energy Code, adopted pursuant to Title 10, chapter 1103;

**3**. **Department employees.** Employees of the department in the course of their assigned duties; or

**4**. **Authorized personnel.** A person performing testing with the written approval of the department. Registration under section 3274 or 3275 does not constitute written approval for the purposes of this subsection.

**§3277. Use of Listed Facilities**

Any person who is required to register under section 3274 or 3275 shall use only authorized radon testing devices and shall have these devices analyzed by a listed facility. When disclosing test results, any person registered under section 3274 or 3275 shall provide in writing the name and address of the listed facility that performed the analysis.

**§3278. Reports**

A person registered under section 3274 or 3275 shall, within 45 days of the date the services are provided, notify the department in writing of the street address and zip code of the client and the results of any tests performed. The department may, by rule, specify an alternative notification procedure and notification period and any additional data required in the report.

**§3279. Advertising**

A person may not advertise any radon testing device as "State-approved," "approved by the State of Maine" or by use of any phrases with similar meaning or content. This restriction also applies to any reference denoting municipal approval.

**§3280. Fees**

The department shall determine a schedule of fees to defray the costs of the registration programs established in sections 3274 and 3275. Fees may not exceed $150 for registrants under section 3274 or $75 for registrants under section 3275. The fees collected must be placed in the Radon Relief Fund established in section 3284. The fee schedule must provide for initial registration and biennial registration fees.

**§3281. Rules**

The department shall adopt rules, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, necessary to administer and enforce this chapter. Rules must address, but are not limited to, minimal training requirements for registration, periodic reregistration, performance standards, reports, truth-in-advertising requirements and criteria and procedures for revoking registrations.

**§3282. Penalties**

Any person failing to register pursuant to section 3274 or 3275, commits a civil violation for which a forfeiture not to exceed $500 may be adjudged. Any person in violation of section 3277, 3278 or 3279 commits a civil violation for which a forfeiture not to exceed $250 per violation

may be adjudged. Any person who engages in radon testing, advertising or mitigation in violation of this chapter is also in violation of Title 5, chapter 10.

**§3283. Registration Revoked**

The department may revoke, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, the registration of any person found in violation of this chapter.

**§3284. Radon Relief Fund**

The Radon Relief Fund is established as a nonlapsing fund to support the radon-related research, testing, educational and mitigation activities of the division. Funds received from registrations under sections 3274 and 3275 and any other miscellaneous sources of income are deposited in the fund. The department shall administer the fund. Funds in the Radon Relief 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 these investments must be credited to the fund.

**Sec. MMMM-33. 38 MRSA Ch. 36** is enacted:

**Chapter 36: WATER FOR HUMAN CONSUMPTION**

Subchapter 1: GENERAL PROVISIONS

**§3301. DEFINITIONS**

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

**1. Contaminant.** "Contaminant" means any physical, chemical, biological or radiological substance or matter in water.

**1-A. Administrative compliance order.** "Administrative compliance order" means an administrative order that is issued by the commissioner against a public water system in violation of state drinking water laws, regulations or rules.

**1-B. Administrative consent order.** "Administrative consent order" means an order issued by the commissioner pursuant to a bilateral agreement between the commissioner and a public water system in violation of state drinking water laws, regulations or rules.

**1-C. Administrative penalty.** "Administrative penalty" means a fine imposed by the commissioner against a public water system in violation of state drinking water laws, regulations or rules.

**1-D. Administrative remedy.** "Administrative remedy" means an administrative compliance order, an administrative consent order or an administrative penalty.

**2. Feasible.** "Feasible" means capable of being done within the current limitation of economics and technology, as determined by the commissioner.

**3. Maximum contaminant level.** "Maximum contaminant level" means the maximum concentration of a contaminant allowed under the State Primary Drinking Water Regulations in water supplied for human consumption.

**4. National Drinking Water Regulations.** "National Drinking Water Regulations" means the drinking water regulations promulgated by the Administrator of the U.S. Environmental Protection Agency under the authority of the Safe Drinking Water Act, P.L. 93-523.

**4-A**. **Notice of noncompliance.** "Notice of noncompliance" means a formal written complaint or a notice of violation of state drinking water laws, regulations or rules.

**5**. **Operator.** "Operator" means an individual either employed or retained by a public water system who, as part of the individual's job duties, is assigned the responsibilities for operational activities that will have a direct impact on the quality or quantity of water provided to consumers.

**6**. **Person.** "Person" means any individual, partnership, company, public or private corporation, political subdivision or agency of the State, department, agency or instrumentality of the United States or any other legal entity.

**7**. **Political subdivision.** "Political subdivision" means any municipality, county, district or any portion or combination of 2 or more thereof.

**8**. **Public water system.** "Public water system" means any publicly or privately owned system of pipes or other constructed conveyances, structures and facilities through which water is obtained for or sold, furnished or distributed to the public for human consumption if such a system has at least 15 service connections, regularly serves an average of at least 25 individuals daily at least 60 days out of the year or bottles water for sale. Any publicly or privately owned system that only stores and distributes water without treating or collecting it; obtains all its water from, but is not owned or operated by, a public water system; and does not sell water or bottled water to any person is not a "public water system." The term "public water system" includes any collection, treatment, storage or distribution pipes or other constructed conveyances, structures or facilities under the control of the supplier of water and used primarily in connection with such a system, and any collection or pretreatment storage facilities not under that control that are used primarily in connection with such a system. The system does not include the portion of service pipe owned and maintained by a customer of the public water system.

For purposes of this subsection, a connection to a system that delivers water by a constructed conveyance other than a pipe is not considered a connection if:

A. The water is used exclusively for purposes other than residential uses. For the purposes of this subsection, the term "residential uses" includes drinking, bathing, cooking and other similar uses; and

B. The commissioner determines that alternative water to achieve the equivalent level of public health protection provided by the applicable state primary drinking water regulation is provided for residential or similar uses; or

C. The commissioner determines that the water provided for residential or similar uses is centrally treated or treated at the point of entry by the provider, a pass-through entity or the user to achieve the equivalent level of protection provided by the applicable state primary drinking water regulation.

**8-A**. **Roadside spring.** "Roadside spring" means any spring, well or other water diverted by pipes for the use of the public to obtain water by using containers or other methods, including but not limited to water being diverted and collected by a landowner by tiles, pipes, catch basins, buildings or other appurtenances.

**9**. **Supplier of water.** "Supplier of water" means any person who controls, owns or generally manages a public water system.

**9-A**. **Violation.** "Violation" means noncompliance with state drinking water laws, regulations and rules regardless of whether that noncompliance is intentional, negligent or otherwise.

**10**. **Water treatment plant.** "Water treatment plant" means that portion of the public water system which is designed to alter the physical, chemical, biological or radiological quality of the water or to remove any contaminants.

**11**. **Commissioner.** "Commissioner" means the Commissioner of the Department of Environmental Protection.

**12**. **Department.** "Department" means the Department of Environmental Protection.

**§3301-A. SCOPE**

This chapter establishes a system designed to help ensure public health; to allow the State, municipalities and public water systems to identify significant public water supplies and strive for a higher degree of protection around source water areas or areas that are used as public drinking water supplies; and to allow the State, municipalities and water systems to pursue watershed or wellhead protection activities around significant public water supplies.

**§3302. FEES FOR TESTING**

The Department of Health and Human Services shall charge the average cost of the analysis for any examination, testing or analysis required under this chapter and performed in the Health and Environmental Testing Laboratory, established pursuant to Title 22, section 565. The fees must be recalculated and deposited according to Title 22, section 565, subsection 3 and section 568.

**§ 3302-A. Fees for testing private water supplies**

**1. Purpose.** The Legislature finds that there is a growing threat to the state's drinking water from a variety of contaminants and that testing of private residential water supplies may be necessary under certain circumstances to protect the public health. The Legislature recognizes that certain testing may be prohibitively expensive and accordingly provides for state-funded testing as set forth in this section.

**2. Fees.** The Department of Health and Human Services shall charge the average cost of the analysis for an examination, testing or analysis of private residential water supplies requested under this chapter and performed in the Health and Environmental Testing Laboratory, established pursuant to Title 22, section 565. These fees must be recalculated and deposited according to Title 22, section 565, subsection 3 and section 568, provided that the fee charged for testing a private residential water supply may not exceed $150 when:

A. In the opinion of the department, initial testing or screening performed at the expense of the owner indicates the need for additional testing at a cost in excess of $150 to determine whether that water supply contains contaminants potentially hazardous to human health and that additional testing is essential to the maintenance of public health; or

B. In the opinion of the department, there is reason to suspect that a private residential water supply may be affected by contamination potentially hazardous to human health and that additional testing is essential to the maintenance of public health. In making such a determination, the department shall consider the following:

(1) The proximity of the private residential water supply to a known or suspected source of contamination;

(2) The proximity of the private residential water supply to another private well or water supply known to be contaminated;

(3) Information provided in writing to the department by a physician who has seen or treated a person and who has identified contaminated drinking water as a possible cause of the person's condition or symptoms; or
(4) Information provided by the owner or a user of the private residential water supply voluntarily or in response to questions asked by personnel of the department.
Upon consultation with the Health and Environmental Testing Laboratory, The ~~department~~ Department of Health and Human Services may waive all fees incurred in connection with the testing of a private residential water supply upon a showing of indigency.

**§ 3303. Shipping costs**
Any person required under this chapter to submit samples of water to the Health and Environmental Testing Laboratory for analysis shall pay the shipping charges thereon.

**§ 3304. Schools, sampling and examination of water**
Any school, which takes water from a source other than a public water system and uses such water for drinking or culinary purposes, shall submit samples of such water to the department for analysis at least once during each school year. Such samples shall be analyzed by the Health and Environmental Testing Laboratory, established pursuant to Title 22, section 565. If the water is found to violate the state primary drinking water regulations, the department shall issue an order prohibiting the use of the water for drinking or culinary purposes by the school, which order shall remain in force until the water conforms to the state primary drinking water regulations.

Violation of this section shall, on conviction, be punishable by a fine of not more than $500.

**§ 3304-A. Roadside springs**
A roadside spring is not a public water system if the owner of the roadside spring does not collect, charge or accept donations, fees or money for the water or for testing or maintenance of the water and does not post signs or construct other structures that invite persons to use the spring.

**§3305. ADMINISTRATION**
To carry out this chapter, the commissioner is authorized and empowered to:
**1**. **Agreements.** Enter into agreements, contracts or cooperative arrangements under such terms and conditions as he deems appropriate with other state, federal or interstate agencies, municipalities, education institutions, local health departments or other organizations or individuals;
**2**. **Assistance.** Receive financial and technical assistance from the Federal Government and other public or private agencies;
**3**. **Program participation.** Participate in related programs of the Federal Government, other states, interstate agencies or other public agencies or organizations;
**4**. **Fiscal control and accounting.** Establish adequate fiscal controls and accounting procedures to assure proper disbursement of and accounting for funds;
**5**. **Procedures.** Adopt and implement adequate procedures to insure compliance with this chapter and rules and regulations promulgated hereunder, including procedures for the monitoring and inspection of public water systems; and

**6**. **Advising other agencies.** Advise other regulatory agencies of the department's rules, regulations and orders promulgated under this chapter.

Except as otherwise specifically provided by law, the commissioner may impose no standard, method or procedure upon any water utility, as defined in Title 35-A, section 102, that is more stringent than required under the federal Safe Drinking Water Act, as amended, or rules promulgated under that Act by the Administrator of the United States Environmental Protection Agency, unless the particular standard, method or procedure has been adopted in a rule adopted according to the Maine Administrative Procedure Act and the rule specifies in detail the scientific basis justifying the more stringent standard, method or procedure and the precise criteria for when the standard, method or procedure applies to a water utility.

## §3306. EMERGENCY PLANNING

The department shall develop plans, with the advice and assistance of the Bureau of Emergency Preparedness and of the public water systems of the State, for emergency conditions and situations that may endanger the public health or welfare by contamination of drinking water. Such plans shall include potential sources of contaminants and situations or conditions that could place them in the sources of public drinking water, techniques and methods to be used by public water systems to reduce or eliminate the dangers to public health caused thereby, methods and times for analysis or testing during such emergency conditions or situations, alternate sources of water available to public water systems and methods of supplying drinking water to consumers if a public water system cannot supply such water.

## §3307. APPROVED LABORATORIES

The department shall approve the facilities, techniques, testing methods and training of personnel of any laboratories that analyze water samples to determine compliance with State Primary Drinking Water Regulations. Such approval shall be based on the capability of the laboratory to accurately and reliably analyze samples to determine their contaminant levels under the State Primary Drinking Water Regulations, and may be limited to approval of only certain tests or contaminant level determinations. Any sample analysis performed by a laboratory not approved by the department shall not be considered in determining the compliance of a public water system with the State Primary Drinking Water Regulations.

## §3308. INFORMATION ON PRIVATE WATER SUPPLY CONTAMINATION

**1**. **Information on private water supply contamination.** The department shall provide information and consultation to citizens who:

A. Make reports of potential contamination of private water supplies; and

B. Request information on potential ground water contamination at or near the site of a private water supply.

## § 3309. Recovery of testing costs

Whenever the cost of testing a private residential water supply exceeds $150 and that testing is conducted pursuant to section 3302-A in the Health and Environmental Testing Laboratory, the Department of Health and Human Services shall seek to recover the costs of the testing above $150 from the person responsible for contaminating the water supply, or from the recipient of

any compensation for the contamination of the well. These costs must be recalculated and deposited according to Title 22, section 565, subsection 3 and section 568.

**§3310. MAINE DRINKING WATER FUND**

**1. Establishment; administration.** The Maine Drinking Water Fund, referred to in this section as "the fund," is established as provided in this section.

A. The fund is established as a nonlapsing fund to provide financial assistance, in accordance with subsection 2, for the acquisition, planning, design, construction, reconstruction, enlargement, repair, protection and improvement of public water systems, drinking water supplies and water treatment facilities.

B. The department shall administer the fund. The fund must be invested in the same manner as permitted for investment of funds belonging to the State or held in the State Treasury. The fund must be established and held separate from any other funds and used and administered exclusively for the purpose of this section. The fund consists of the following:

(1) Sums that are appropriated by the Legislature or transferred to the fund from time to time from the State Water and Wastewater Infrastructure Fund, pursuant to Title 30-A, section 6006-H;

(2) Interest earned from the investment of fund balances; and

(3) Other funds from any public or private source received for use for any of the purposes for which the fund has been established.

**2. Uses.** The fund may be used for one or more of the following purposes:

A. To make grants to public water systems, pursuant to this section, for the acquisition, planning, design, construction, reconstruction, enlargement, repair, protection or improvement of public water systems, drinking water supplies or water treatment facilities;

B. To forgive loans held by public water systems for the acquisition, planning, design, construction, reconstruction, enlargement, repair, protection or improvement of public water systems, drinking water supplies or water treatment facilities;

C. To provide a state match for federal funds provided to the Safe Drinking Water Revolving Loan Fund, pursuant to Title 30-A, section 6006-B;

D. To invest available fund balances and to credit the net interest income on those balances to the fund; and

E. To pay the costs of the department associated with the administration of the fund, as long as no more than 5% of the aggregate of the highest fund balance in any fiscal year is used for these purposes.

**3. Rules.** The department shall adopt rules necessary to implement this section, including rules to establish one or more grant programs in accordance with subsection 2, paragraph A. Rules adopted by the department pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Subchapter 2: SAFE DRINKING WATER ACT

**§3311. DRINKING WATER REGULATIONS**

**1. State primary drinking water regulations.** The commissioner shall promulgate and enforce primary drinking water regulations which are necessary to protect the public health and which shall apply to all public water systems. Such regulations shall include:

A. Identification of contaminants which may have an adverse effect on the health of persons;
B. Specifies for each contaminant either:
(1) A maximum contaminant level that is acceptable in water for human consumption, if it is feasible to ascertain the level of such contaminant in water in public water systems; or
(2) One or more treatment techniques or methods which lead to a reduction of the level of such contaminant sufficient to protect the public health, if it is not feasible to ascertain the level of such contaminant in water in the public water system; and
C. Criteria and procedures to assure compliance with the levels or methods determined under paragraph B, including quality control and testing procedures to insure compliance with such levels or methods and to insure proper operation and maintenance of the system, and requirements as to the minimum quality of water which may be taken into the system and the siting for new facilities.
Such regulations shall be no less stringent than the most recent National Primary Drinking Water Regulations in effect, as issued or promulgated by the United States Environmental Protection Agency. Regulations under this subsection may be amended from time to time, as necessary.
**2. State secondary drinking water regulations or guidelines.** The commissioner shall adopt secondary drinking water regulations or guidelines which are necessary to protect the public welfare. Such regulations or guidelines may apply to any contaminant in drinking water which may adversely affect the color, odor or appearance of the water and consequently may cause a substantial number of persons to discontinue using a public water system, or which may otherwise adversely affect the public welfare. Such regulations or guidelines may vary according to geographic, economic, technical or other relevant circumstances. Such regulations or guidelines shall reasonably assure the protection of the public welfare and the supply of aesthetically adequate drinking water; and shall be based upon the National Secondary Drinking Water Regulations promulgated by the United States Environmental Protection Agency. Regulations or guidelines under this subsection may be amended from time to time, as necessary.

## §3312. APPROVAL OF CONSTRUCTION OR ALTERATION, TRAINING, INSPECTION, REGULATIONS AND RECORDS

**1. Construction or alteration of public water systems.** New construction, additions or alterations involving the source, treatment or storage of water in any public water system may not commence until the plans and specifications have been submitted to and approved by the department.
A. The commissioner may exempt the construction, addition or alteration from submission and approval if it will have no effect on public health or welfare.
B. The department must consult with and advise persons planning or operating a public water system as to the most appropriate source of supply and the best methods of ensuring its purity. The department must consider any existing potential sources of contamination in the vicinity of the proposed source of supply when reviewing whether to approve a new source of supply and may deny approval based on those existing potential sources of contamination.
C. In granting approval of plans and specifications, the department may require modifications, conditions or procedures to ensure, as far as feasible, the protection of the public health. The department may adopt and enforce rules governing the construction or alteration of public water systems to ensure the protection of the public health and may require the submission of water samples for analysis to determine the extent of treatment required.

Records of construction, including, when feasible, plans and descriptions of existing public water systems, must be maintained by public water systems and made promptly available to the department upon request.

**2**. **Operation and maintenance of public water systems.** The department shall monitor the operation and maintenance of any public water system in the State. Such monitoring shall include all aspects of operation and maintenance which may affect the quality of the water supply. The department may adopt rules and regulations relating to operation and maintenance of public water systems to insure the purity of water and the protection of public health. Such rules and regulations may apply to all aspects of operation and maintenance which may affect the quality of water supplied to the public, including feasible purification methods, equipment and systems. The department may require, by rule or regulation, any public water system to submit water samples for analysis on a regular basis, as often as necessary to insure the public health. Records of operation and maintenance of public water systems shall be kept on forms approved or specified by the department and this data shall be submitted to the department at the times and in the manner as the department directs. The supplier of water shall promptly comply with such department directions.

**3**. **Inspection.** Any officer or employee duly designated by the commissioner, upon presenting appropriate credentials and a written notice of his authority to inspect, signed by the commissioner, is authorized to enter any part of a public water system in order to determine whether such supplier is complying with this chapter and any departmental rules, regulations or orders issued hereunder. The inspection may include any portion of a public water system, including the sources of supply, treatment facilities and materials, pumping facilities, distribution and storage facilities, records, files and reports on operation. The inspection may also include the testing of any portion of a public water system affecting water quality, including raw and processed water, and the taking of any samples necessary to insure compliance with this chapter and the rules, regulations or orders issued hereunder. Each inspection shall take place at a reasonable time and be commenced and completed with reasonable promptness. The supplier shall be promptly notified of the results of the inspection.

**4**. **Engineering studies.** The commissioner may order a public water supplier to carry out an engineering study of the water works system or any portion thereof, if such study is required to identify potential threats to the public health and remedies that will remove such threats. The purpose of such study shall be to ascertain the best methods of complying with this chapter and departmental rules and regulations. The department may further order a public water system to implement the feasible recommendations of the study required to protect the public health. Prior to issuing any order under this subsection, this commissioner shall provide written notice to the public water system and public notice in a newspaper of general circulation in the area served by the public water system, and shall also provide the opportunity for a public hearing on the proposed order.

**5**. **Cross connections.** The department may adopt and enforce regulations governing the connection of any public water systems to any pipes, facilities or structures that carry, store or distribute water that has not been analyzed for compliance or cannot comply with the State Primary Drinking Water Standards, or any connection that may introduce contamination into the system, in order to protect the system from contamination.

**6**. **Training.** The department may provide training in operations and maintenance of public water systems, techniques and methods of testing and analysis of water, and the requirements of

this chapter and departmental rules and regulations, for suppliers of water and operators and employees of public water systems.

**§3312-A. CAPACITY DEVELOPMENT**

**1. Authority.** The commissioner is authorized to ensure that all new community water systems and new nontransient, noncommunity systems commencing operation after October 1, 1999 demonstrate technical, managerial and financial capacity with respect to each state primary drinking water regulation in effect, or likely to be in effect, on the date of commencement of operations.

**2. Rulemaking.** The commissioner shall adopt rules to ensure that all new community water systems and new nontransient, noncommunity systems commencing operation after October 1, 1999 demonstrate technical, managerial and financial capacity with respect to each state primary drinking water regulation in effect, or likely to be in effect, on the date of commencement of operations. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**§3313. VARIANCES AND EXEMPTIONS**

**1. Variances.** The commissioner may grant one or more variances from an applicable state primary drinking water regulation to a public water system if the variance will not result in an unreasonable risk to the public health and if:

A. Because of the characteristics of the raw water sources reasonably available to the systems, the system cannot meet the maximum contaminant levels of the drinking water regulation despite application of the best technology, treatment techniques or other means; or

B. Where a specified treatment technique for a contaminant is required by the state primary drinking water regulation, the system demonstrates to the commissioner's satisfaction that the treatment technique is not required to protect the public health because of the nature of the raw water source.

Prior to granting a variance, the commissioner shall provide an opportunity for public hearing pursuant to the Maine Administrative Procedure Act on the proposed variance. Variances may be conditioned on monitoring, testing, analyzing or other requirements to ensure the protection of the public health; and variances granted under paragraph A must include a compliance schedule under which the public water system will meet each contaminant level for which a variance is granted as expeditiously as is feasible.

A variance may be issued to a system on the condition that the system install the best technology, treatment techniques or other means that are available, taking costs into consideration, according to the United States Environmental Protection Agency and based upon an evaluation satisfactory to the commissioner that indicates that alternative sources of water are not reasonably available to the system.

**1-A. Small system variances.** The commissioner may grant a variance for compliance with a requirement specifying a maximum contaminant level or treatment technique contained in a state primary drinking water regulation to public water systems serving 3,300 or fewer persons. With the approval of the Administrator of the United States Environmental Protection Agency, the commissioner may grant a variance under this subsection to a public water system serving more than 3,300 persons but fewer than 10,000 persons.

The commissioner shall adopt rules for variances to be granted under this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**2. Exemptions.** The commissioner may grant one or more exemptions from an applicable state primary drinking water regulation to a public water system, if:

A. The exemption will not result in an unreasonable risk to the public health;

B. The public water system is unable to comply with the regulation or to implement measures to develop an alternative source of water supply due to compelling factors, which may include economic factors such as qualification of the public water system serving a disadvantaged community. For purposes of this paragraph "disadvantaged community" means the service area of a public water system that meets affordability criteria established by the department after public review and comment;

C. The public water system was in operation on the earliest effective date under present or prior law of the contaminant level or treatment technique requirement; and

D. Management or restructuring changes cannot reasonably be made that will result in compliance with this chapter or, if compliance cannot be achieved, improve the quality of the drinking water.

Prior to implementation of a schedule for compliance with contaminant level or treatment technique requirements and for implementation of control measures, the commissioner shall provide notice and opportunity for public hearing pursuant to the requirements of the Maine Administrative Procedure Act. Each exemption must also be conditioned on monitoring, testing, analyzing or other requirements to ensure the protection of the public health and must include a compliance schedule, including increments of progress or measures to develop an alternative source of water supply, under which the public water system will meet each contaminant level for which an exemption is granted as expeditiously as is feasible.

**3. Exemption for water distillers in retail stores.** A retail store that distills and bottles water from a public water system and sells the water on the premises is exempt from state water rules except:

A. The distiller must be inspected annually by the Department of Agriculture, Conservation and Forestry; and

B. A bacteriological sample of the distilled water must be submitted to the Department of Health and Human Services at least every 3 months. If the distiller has a one-year history of no coliform bacteria contamination, the Department of Health and Human Services may reduce the frequency of sampling to one sample per year.

**3-A. Exemption criteria.** An exemption described in subsection 2 may not be granted unless:

A. The public water system cannot meet the standards without capital improvements that cannot be completed within the period of the exemption;

B. In the case of a public water system that needs financial assistance for the necessary improvements, the system has entered into an agreement to obtain such financial assistance or assistance pursuant to the state revolving loan fund program or any other federal or state program that is reasonably likely to be available within the period of the exemption; or

C. The public water system has entered into an enforceable agreement to become part of a regional public water system and the system is taking practicable steps to meet the standards.

**4. Exemption; extended.** The exemption described in subsection 2 is effective for up to one year after the date of the issuance of the exemption.

A. The final date for compliance provided in any schedule in an exemption may be extended for a period not to exceed 3 years after the date of the issuance of the exemption.
B. In the case of a system that does not serve more than 3,300 people and that needs financial assistance for the necessary improvements, an exemption granted may be renewed for one to 3 additional 2-year periods, but may not exceed a total of 6 additional years, if the system establishes that it is taking all practicable steps to meet the requirements established in the exemption.
A public water system may not receive an exemption under this section if the system was granted a variance under subsection 1-A.

**§3314. IMMINENT HAZARDS TO PUBLIC HEALTH**

**1. Determination of imminent hazard.** An imminent hazard shall be considered to exist when there is a violation of the state primary drinking water regulations, or when, in the judgment of the commissioner, a condition exists in a public water system or water supply which will cause a violation and will result in a serious risk to public health.

**2. Elimination of imminent hazard.** In order to eliminate an imminent hazard, the commissioner may, without a prior hearing, issue an emergency order requiring the supplier of water to immediately take such action as is required under the circumstances to protect the public health. Actions required under the emergency order may include:
A. The prohibition of transportation, sale, distribution or supplying of water;
B. The repair, installation or operation of feasible purification equipment or methods;
C. The notification of all potential users of the system, including travelers, of the nature, extent and possible health effects of the imminent hazard and precautions to be taken by users; or
D. The testing, sampling or other analytical operations required to determine the nature, extent, duration or termination of the imminent hazard.
A copy of the emergency order shall be served in the same manner as the service of notice of the commencement of a civil action in Superior Court. An emergency order issued by the commissioner shall be effective immediately and shall be binding for no more than 90 days unless sooner revoked, reviewed by the department at a public hearing or modified or rescinded by a Superior Court. At the written request of the supplier of water, a public hearing shall be held on the emergency order within 15 days of receipt of such request.

**3. Boil-water order.** For the purposes of this section and section 3315, "boil-water order" means an order issued by the commissioner to protect the health of persons consuming water from a public water system that may be contaminated by pathogenic microorganisms.
The boil-water order may immediately require the supplier of water to complete public notification of the threat to public health pursuant to section 3315.
A boil-water order may be issued when, in the judgment of the commissioner, a threat to the public health may exist from the presence of pathogenic microorganisms in a public water system. A boil-water order may be issued without a prior public hearing and served on the supplier of water by personal service, certified mail or by any other method if receipt is acknowledged by the supplier of water. At the written request of a supplier of water, a public hearing must be held on the boil-water order within 15 days of the receipt of the request.

## §3315. NOTIFICATION OF NONCOMPLIANCE TO REGULATORY AGENCIES AND USERS

**1. Notification.** A public water system shall notify the public of the nature and extent of possible health effects as soon as practicable, but not later than the time period established under subsection 4, if the system:

A. Is not in compliance with a state drinking water rule;

B. Fails to perform monitoring, testing or analyzing or fails to provide samples as required by departmental rules;

C. Is subject to a variance or an exemption granted under section 3313; or

D. Is not in compliance with the terms of a variance or an exemption granted under section 3313.

Public notification under this section must be provided concurrently to the system's local health officer and to the department. When required by law, the department shall forward a copy of the notification to the Administrator of the United States Environmental Protection Agency. The department may require notification to a public water system's individual customers by mail delivery or by hand delivery within a reasonable time, but not earlier than required under federal laws.

**2. Certain uses of notification prohibited.** Notification received pursuant to this section or information obtained by the exploitation of such notification shall not be used against any person or system providing such notice in any criminal case, except for prosecutions for perjury or the giving of a false statement.

**3. Form of notification.** In addition to the notification required under subsection 1, a public water system shall provide public notification pursuant to the requirements in 40 Code of Federal Regulations, Parts 141 to 143 (2001).

**4. Additional time of notification.** A public water system shall provide public notification pursuant to subsection 3:

A. When a boil-water order is properly issued to a public water system under section 3314, subsection 3, within 24 hours.

**5. Rulemaking.** The commissioner shall adopt rules establishing the procedures for the provision of public notification as required to comply with state and federal laws. Rules adopted pursuant to this section are minor technical rules as defined in Title 5, chapter 375, subchapter II-A.

## §3315-A. CONSUMER CONFIDENCE REPORTS

**1. Annual reports to customers.** The commissioner shall require each community water system, as defined in section 3360-B, subsection 2, to prepare and provide to each customer of the system at least once annually a consumer confidence report, which must include, but is not limited to, the source of drinking water and potential contamination sources, the level of detected regulated contaminants and detected unregulated contaminants for which monitoring is required by the primacy agency, the health risks associated with detected contaminants, the status and notice of public input in the renewal of variances or exemptions, the nature of applicable compliance violations, including remedial action, and access to additional information from the community water system and the United States Environmental Protection Agency's safe drinking water hotline.

**2**. **Reports to State.** Each community water system shall mail to the department a copy of the consumer confidence report and a signed certification that the report is accurate and was delivered to each customer of the system.

**3**. **Delivery to customers.** Each community water system shall mail a copy of the consumer confidence report to each customer of the system. The Governor may waive the mailing requirement for community water systems serving fewer than 10,000 persons and require those systems to publish the consumer confidence report in a newspaper of general circulation to inform customers that the report will not be mailed and to make the report available upon request. If the Governor waives the mailing requirement for systems serving fewer than 10,000 persons, community water systems serving 500 or fewer persons have the option of posting the consumer confidence report in an appropriate public location.

Each community water system serving 100,000 or more persons shall also post its current year's report to a publicly accessible site on the Internet.

**4**. **Rulemaking.** The commissioner shall adopt rules establishing the requirements with respect to the form, content and delivery of consumer confidence reports under this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**§3316. PROHIBITED ACTS**

The following acts and the causing thereof are prohibited:

**1**. **Failure to comply with section 3315 or dissemination of certain misleading information.** Failure by a supplier of water to comply with the requirements of section 3315, or dissemination by such supplier of any false or misleading information with respect to remedial actions being undertaken to achieve compliance with state primary drinking water regulations;

**2**. **Failure to comply with regulations and actions under sections 3311, 3312, 3313 and 3314.** Failure by a supplier of water to comply with the regulations for water quality, monitoring, maintenance, operations, reporting and corrective actions pursuant to sections 3311, 3312, 3313 and 3314; and

**3**. **Refusal to allow entry under section 3312.** The refusal of a supplier of water to allow entry and inspection of establishments, facilities or other property pursuant to section 3312.

**§3317. PENALTIES AND REMEDIES**

**1**. **Violation of section 3316 or subchapter VII.** A person that violates section 3316 or subchapter VII commits a civil violation for which a penalty not to exceed $5,000 may be adjudged. Each day of operation in violation of section 3316 or subchapter VII constitutes a separate violation. The District Court or the Superior Court has jurisdiction over violations of section 3316 or subchapter VII.

**2**. **Injunctive relief.** The commissioner may commence or cause to be instituted a civil action in the Superior Court of either Kennebec County or of the county in which the principal place of business of the supplier of water is located, to convict and punish a person under subsection 1, to seek injunctive relief to prevent the violation of any rule or regulation issued pursuant to this chapter, to prevent the violation of any order issued pursuant to sections 3312, 3313 or 3314, or to require a public water system or supplier of water to take other action necessary to protect the public health, with or without a prior order from the commissioner or department.

**3**. **Administrative remedies.** The commissioner may seek and impose administrative remedies as provided in subchapter II-A for a violation of state drinking water laws, regulations and rules.

Subchapter 2-A: SAFE DRINKING WATER ADMINISTRATIVE ENFORCEMENT

**§3318. GENERAL AUTHORIZATION**

In accordance with the process outlined in section 3319, the commissioner may impose one or more of the administrative remedies provided in this subchapter when a violation of this chapter, or rules adopted pursuant to this chapter, occurs or if the commissioner determines that administrative remedies are necessary and appropriate to ensure compliance with state drinking water laws, regulations and rules.

**§3319. ADMINISTRATIVE REMEDY PROCESS**

**1**. **Notice of noncompliance.** Except as otherwise provided in this subchapter, the commissioner shall issue a notice of noncompliance to a public water system within 30 days after the commissioner has determined that the public water system has committed a violation. The notice of noncompliance must contain the following information:

A. Identification of the violation;

B. A compliance deadline; and

C. The possible consequences of noncompliance if the requirements of the notice are not met by the specified date.

**2**. **Administrative consent order.** If the public water system has failed to correct the violation as specified in the notice of noncompliance by the date specified in the notice, the commissioner and the public water system shall make a good faith effort to agree upon a settlement and, if agreement is reached, the commissioner shall issue an administrative consent order. An administrative consent order may not be changed without written consent by all parties to the agreement. An administrative consent order must include, but is not limited to, compliance schedules and milestones. If the public water system and the commissioner fail to reach an agreement, the commissioner may issue an administrative compliance order under subsection 3 or may refer the case to the Attorney General for relief under section 3317.

**3**. **Administrative compliance order.** If the public water system and the commissioner fail to reach an agreement under subsection 2, the commissioner may issue an administrative compliance order to the public water system to correct the violation in a manner and within a time frame that the commissioner determines appropriate. The administrative compliance order must contain a schedule that the public water system must follow to bring it into compliance. An administrative compliance order may include an administrative penalty that takes effect as early as the day that the parties ceased negotiating in good faith under subsection 2. The administrative compliance order must specify an administrative penalty that takes effect if the public water system fails to comply with the administrative compliance order.

**4**. **Administrative penalty.** If the public water system and the commissioner fail to reach an agreement under subsection 2, the commissioner may impose an administrative penalty that takes effect as early as the day that the parties ceased negotiating in good faith under subsection 2. If the public water system fails to comply with an administrative compliance order by the deadline in the compliance schedule, an administrative penalty may be assessed. A notice of

penalty assessment may be issued in conjunction with or separate from an administrative compliance order, and must contain the following:
A. Identification of the violation for which it is issued;
B. A citation of the law, rule or order being violated;
C. The amount of the penalty;
D. Notice of the right to an adjudicatory hearing pursuant to the Maine Administrative Procedure Act; and
E. The procedure for paying the penalty.

**§3320. PROVISIONS GOVERNING ADMINISTRATIVE PENALTIES**

Administrative penalties imposed under this subchapter are governed by the following provisions.

**1**. **Maximum penalty.** An administrative penalty may not be greater than $750 for each violation, except that for public water systems serving more than 10,000 people, an administrative penalty may not be less than $1,000 for each violation. Each day that a violation remains uncorrected may be counted as a separate violation.

**2**. **Schedule of penalties.** The commissioner shall adopt rules in accordance with Title 5, chapter 375 establishing a schedule of administrative penalties. Factors that may be considered include but are not limited to:
A. The nature and duration of the violation;
B. The level of assessment necessary to ensure immediate and continued compliance;
C. Whether steps were taken by the public water system to prevent the violation;
D. Whether steps were taken by the public water system to remediate or mitigate damage resulting from the violation;
E. Whether the public water system has a history of violations;
F. The financial condition of the public water system;
G. Whether or not compliance is less costly than committing the violation;
H. Deterrence of future noncompliance; and
I. The best interest of the public.

**3**. **Payment of penalty.** Administrative penalties must be paid within 30 days of the issuance of notice of administrative penalty or, if appealed, within 30 days of the appeal decision. The commissioner shall deposit administrative penalties received into the Public Drinking Water Fund established in section 3360-F.

**4**. **Enforcement.** Further prosecution of a person who fails to pay the full penalty imposed pursuant to this chapter must be referred to the Attorney General for appropriate action. A person who fails to pay the full penalty imposed pursuant to this chapter is liable for all fines and penalties allowed under this subchapter and all costs, interest and fees incurred by the State, including attorney's fees.

**§3320-A. APPEALS**

Appeal of actions authorized under this section is governed by the following.

**1**. **Due process generally.** The commissioner shall comply with the Maine Administrative Procedure Act when imposing administrative penalties and issuing administrative compliance orders. A public water system against which an administrative penalty is assessed or an administrative compliance order is issued has a right to a hearing as provided under the Maine

Administrative Procedure Act. The decision of a hearing officer is a final agency action subject to review in the Superior Court, as provided in Title 5, chapter 375, subchapter VII.

**2. Effect on penalties.** A public water system has 30 days from the date an administrative penalty is issued against it to pay the full amount of the penalty or to file a request for a hearing with the commissioner. If the public water system waives the right to or fails to request a hearing within 30 days, the administrative penalty is considered final. If a request for a hearing is filed within the 30 days, the following provisions apply.

A. Violations or penalties do not accrue from the date that the public water system files the request for a hearing to the date the hearing officer renders a decision.

B. Notwithstanding paragraph A, if the hearing officer finds that the appeal is frivolous, the violations or penalties accrue throughout the appeal period.

C. If an administrative hearing is held and a penalty is assessed at the conclusion of that hearing, the penalty becomes final 30 days after the decision.

**§3320-B. EXCEPTION**

Notwithstanding section 3319, if a violation poses a serious risk to public health, the commissioner may issue an administrative compliance order immediately without having issued a notice of noncompliance or having attempted to negotiate an administrative consent order.

**§3320-C. RULES**

The commissioner shall adopt rules establishing procedures regarding notice and the issuance, amendment and withdrawal of administrative compliance orders and administrative consent orders.

The commissioner may adopt rules establishing a permitting process for public water systems. Rules adopted pursuant to this paragraph are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

Subchapter 3: LICENSURE OF OPERATORS

**§3321. DEFINITIONS**

As used in this subchapter, unless the context otherwise indicates, the following words have the following

**1. Board.** "Board" means the Board of Licensure of Water System Operators.

**2. License.** "License" means a license issued by the board stating that the applicant has met the requirements for the specified operator classification.

**§3322. CLASSIFICATION OF PUBLIC WATER SYSTEMS AND PARTS THEREOF**

The board, with the advice of the department, shall classify all community public water systems, all nontransient, noncommunity public water systems, all public water systems utilizing surface water and the water treatment plants or collection, treatment, distribution or storage facilities or structures that are part of a system with due regard to the size and type of facilities, the character of water to be treated and any other physical conditions affecting such system or part thereof and specify the qualifications the operator of the system or of a part of a system must have to supervise successfully the operation of the system or parts thereof so as to protect the public health or prevent nuisance conditions.

The board, with the advice of the department, shall establish the criteria and conditions for the classification of public water systems and water treatment plants or collection, treatment or storage facilities or structures that are part of a system.
The commissioner, with the advice of the board, may establish classes of public water supply systems that do not require licensed individuals as operators.

**§3323. APPLICABILITY**
It is unlawful for any person to perform the duties of an operator, as defined, without being duly licensed under this subchapter, except as provided in section 3330.

**§3324. BOARD OF LICENSURE OF WATER SYSTEM OPERATORS**
The Board of Licensure of Water System Operators, referred to in this section as the "board," is established within the department pursuant to Title 5, chapter 379.
**1**. **Membership; general qualifications.** The board consists of 9 members appointed by the Governor as follows: 3 water treatment or water distribution system operators, one holding a Class II license, one holding a Class III license and one holding a Class IV license; one member of the public who is a registered professional engineer; one person who is an educator in the field of water supply or service; one person who is a water management representative; one person who represents a "very small water system," as that term is defined in rules of the board; one person who is an owner or manager of a nontransient, noncommunity public water system; and one person from the department, as the commissioner may recommend, subject to appointment by the Governor.
**2**. **Terms.** Each member of the board is appointed for a 3-year term. The appointee from the department serves at the pleasure of the Governor. The commissioner may recommend to the Governor at any time that the appointee from the department be replaced. Vacancies must be filled by appointment of the Governor for all unexpired terms.
**3**. **Chair; secretary.** Members of the board shall elect from among the members a chair at the first meeting of each year. Members shall also elect from among the members a secretary who is responsible for maintaining records and providing administrative support.
**4**. **Call of meetings.** Meetings of the board may be called by the chair, or by the chair at the request of any other 2 members, as necessary to carry out this chapter.
**5**. **Conduct of meetings.** A majority of the members of the board constitutes a quorum for the purpose of conducting the business of the board and exercising all the powers of the board. A vote of the majority of members present is sufficient for all actions of the board.
**6**. **Powers and duties.** The powers and duties of the board are as follows.
A. The board shall license persons to serve as operators of all or part of any public water system in the State.
B. The board shall design or approve and hold at least one examination each year at a time and place designated for the purpose of examining candidates for licensure. The board may accept results of examinations approved by the board administered by a 3rd party, whose fees are not governed by section 3329.
C. The board may enter into contracts or agreements to carry out its responsibilities under this section.
**7**. **Fund.** The Board of Licensure of Water System Operators Fund is established and is governed by the following provisions.

A. All money collected by the board in the form of application fees, reinstatement and renewal fees, expense reimbursements ordered by the board or payment for services such as reproduction and distribution of copies of board decisions and photocopying or for the use of facilities must be deposited with the Treasurer of State in a separate account to be known as the Board of Licensure of Water System Operators Fund.

B. The board may use the fund to defray the reasonable costs incurred by the board in carrying out its duties.

C. Except as specified in this paragraph, any amount within the fund that is not expended at the end of a fiscal year does not lapse, but is carried forward to be expended by the board in carrying out its duties in succeeding fiscal years. Upon certification of the board that certain amounts in the fund are not required by the board, the Treasurer of State shall transfer the amounts to the General Fund.

**8**. **Records.** The board shall keep all records and minutes necessary to the ordinary dispatch of its functions. The board shall keep a register of all applicants for licensure and a register of all licensees.

**9**. **Reports.** No later than August 1st of each year, the board shall submit to the commissioner a report of its transactions in the preceding fiscal year ending June 30th and shall transmit to the commissioner a complete statement of all the receipts and expenditures of the board, attested by affidavits of the board's chair and secretary.

**10**. **Staff.** The commissioner, to the extent possible and reasonable, shall make available to the board such staff, facilities, equipment, supplies, information and other assistance as the board may reasonably require to carry out its activities. The commissioner may also appoint, subject to the Civil Service Law, the employees necessary to carry out this section. Any person so employed must be located in the department and under the administrative and supervisory direction of the commissioner.

**11**. **Compensation of members.** Members of the board are entitled to reimbursement for expenses only pursuant to Title 5, section 12004-A, subsection 46.

**§3325. LICENSES**

The Board of Licensure of Water System Operators shall issue biennial licenses to individuals to act as operators. The license must indicate the classification level of the systems or parts of systems for the operation of which the individual is qualified to act as an operator.

The board may suspend or revoke a license of a certified operator when it is determined that the operator has practiced fraud or deception; that the operator has been negligent in that reasonable care, judgment or the application of knowledge or ability was not used in the performance of the operator's duties; or that the operator is incompetent or unable to perform the operator's duties properly.

This chapter shall not be construed to effect or prevent the practices of any other legally recognized profession.

When the unexpired term of license of an applicant is or will be more than one year at the time of licensure, the commissioner may require the applicant to pay an additional fee not to exceed 1/2 the biennial license fee.

**§3325-A. RENEWALS**

All licenses expire on December 31st of each biennial period and may be renewed thereafter for 2-year periods without further examination, upon the payment of the proper renewal fee as set forth in the rules. A person who fails to renew that person's license within 2 years following the expiration of the license must take an examination as a condition of licensure.

The Board of Licensure of Water System Operators shall notify a person registered under this subchapter of the date of expiration of that person's license and the fee required for its renewal for a 2-year period. The notice must be mailed to the person's last-known address at least 30 days in advance of the expiration date of that person's license.

**§3326. LICENSE FROM OUTSIDE THE STATE**

The Board of Licensure of Water System Operators, upon application for licensure, may issue a license without examination, in a comparable classification, to any person who holds a license in any state, territory or possession of the United States or any country, providing the requirements for licensure of operators under which the person's license was issued does not conflict with this chapter and, in the opinion of the board, are of a standard not lower than that specified by rules adopted under this chapter.

**§3328. RULES**

The Board of Licensure of Water System Operators, in accordance with any other appropriate state laws, shall make such rules as are reasonably necessary to carry out the intent of this subchapter. The rules must include, but are not limited to, provisions establishing requirements for licensure and procedures for examination of candidates and such other provisions as are necessary for the administration of this subchapter. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**§3329. FEES**

The Board of Licensure of Water System Operators shall establish by rule fees authorized pursuant to this subchapter. These fees may include examination, licensure, biennial renewal and reinstatement fees in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed $95. Revenues derived from applicants failing the examination must be retained.

**§3330. LICENSURE**

If a public water system loses its licensed operator, it shall secure a new licensed operator or enter into a contractual agreement with a licensed operator of proper classification until a new operator has been employed for that public water system.

**§3331. VIOLATIONS**

**1. Violation.** Any person violating any provision of this subchapter or the rules and regulations adopted under this subchapter, commits a civil violation for which a forfeiture of not more than $500 may be adjudged. Each day of operation in violation of this subchapter or any rules and regulations adopted under this subchapter shall constitute a separate violation.

**2. Injunctive relief.** The commissioner may commence or cause to be instituted a civil action in the Superior Court under subsection 1, to seek injunctive relief to prevent the violation of this

subchapter, to prevent the violation of any rule or regulation issued pursuant to this subchapter or to require a public water system or supplier of water to take other action necessary to comply with this subchapter, with or without a prior order from the commissioner or department. In addition to the county in which the principal place of business of the supplier of water is located, the action may be instituted in the Superior Court of Kennebec County.

## Subchapter 4: PUBLIC WATER SUPPLIES
## Article 1: MUNICIPAL REGULATIONS

### §3341. SOURCE OF PUBLIC WATER SUPPLY DEFINED

As used in this subchapter, unless the context otherwise indicates, "public water source" means any natural or man-made impoundment, pond or lake or ground water aquifer whose waters are transported or delivered by a public water system, as defined in section 3301, subsection 8. Where the intake of a public water supply is on the outlet of any impoundment, pond or lake, the source of such public water supply shall be considered to be the impoundment, pond or lake itself.

### §3342. MUNICIPAL REGULATION AUTHORIZED; PENALTY

**1. Municipal regulations authorized.** The municipal officers of each municipality, after notice and public hearing, may adopt regulations governing the surface uses of sources of public water supply, portions thereof or land overlying ground water aquifers and their recharge areas used as sources of public water supply that are located within that municipality in order to protect the quality of such sources of public water supply and the health, safety and welfare of persons dependent upon such supplies.

At least 15 days prior to public hearings held under this section, notice of the hearing must be published in a newspaper of general circulation in the county in which the municipality is located and mailed by certified mail to each owner of land bordering the source of public water supply within that municipality. Regulations adopted pursuant to this section become void upon the expiration of one year from the date of the adoption unless sooner ratified by vote of the legislative body of the municipality.

**2. Penalty.** Whoever willfully violates any regulation established under the authority of this section must, upon conviction, be penalized in accordance with Title 30-A, section 4452.

## Article 2: PROTECTION OF WATER SOURCES

### §3346. PROTECTION OF PUBLIC WATER SOURCE

Any water utility or municipality and the department are authorized to take reasonable steps to protect a public water source from pollution consistent with section 2642.

**1. Right of entry for water utility.** Employees or agents of a water utility may enter upon land within 1,000 feet of a public water source or upon land used for commercial or industrial purposes having a facility, structure or system draining into or suspected of flowing or seeping into a public water source and inspect the facility, structure or system, including any building or structure on that land. Entry onto property under this subsection is not a trespass. The power of entry and inspection may be exercised only after the water utility has made a reasonable effort to obtain permission from the landowner for the inspection.

**2**. **Right of entry for department and consumer-owned water utility.** Employees or agents of the department or of a consumer-owned water utility as defined in Title 35-A, section 6101 may enter any property at reasonable hours or enter any building with the consent of the owner, occupant or agent to inspect a wastewater disposal system draining into or suspected of flowing or seeping into a public water source. Entry onto property under this subsection is not a trespass. An employee or agent of the department or consumer-owned utility may seek an administrative inspection warrant pursuant to the Maine Rules of Civil Procedure, Rule 80E to carry out the purposes of this subsection.

**3**. **Remedy.** In addition to rights granted to municipal officers under Title 30-A, section 3428, any local or state health inspector or officer may order the owner of any facility, structure or system flowing or seeping into and contaminating a public water source, if the contamination may result in risk to the public health, to remedy the situation. The order must be served in writing and state a time in which the order must be complied with. An order made pursuant to this subsection is not considered an adjudicatory proceeding within the meaning of the Maine Administrative Procedure Act. Any person aggrieved by an order may appeal to the Superior Court within 30 days.

**4**. **Court-ordered remedies.** The water utility, municipality or department may petition the Superior Court upon failure of the person named in an order served under subsection 3 to comply with that order. The court, after hearing, may order that appropriate measures be taken.

**5**. **Remedy ordered by water district or consumer-owned utility.** If the municipal officers have failed to act on a malfunctioning wastewater disposal unit under Title 30-A, section 3428 and have notified a consumer-owned water utility as defined in Title 35-A, section 6101 in writing of their failure to do so, the consumer-owned water utility may assume the rights of municipal officers under Title 30-A, section 3428, except that it may not assess a special tax under Title 30-A, section 3428, subsection 4, paragraph B.

**6**. **Effect on other law.** Nothing in this section may be construed to limit in any way any private and special or other law granting a water utility or municipality greater controls for protecting its public water source than those set forth in this section.

## §3347. PROTECTION OF INTAKE OF PUBLIC WATER SUPPLY

Any water utility or municipality is authorized, after consultation with the Commissioner of Inland Fisheries and Wildlife, the department and the Department of Agriculture, Conservation and Forestry and after conducting a public hearing in the affected town, to designate by buoys in water or markers on the ice in an area on a lake or pond from which water is taken, with a radius commencing at its point of intake. The radius may not exceed 400 feet and within that area a person may not anchor or moor a boat or carry on ice fishing or carry on any other activity designated by the water utility or municipality when such restriction is necessary to comply with primary or secondary drinking water regulations applicable to public water systems. Any such buoys placed in the water must be plainly marked as required by the Director of the Bureau of Parks and Lands under Title 12, section 1894. Any person violating this section must, on conviction, be penalized in accordance with Title 30-A, section 4452.

Nothing in this section shall be construed to limit in any way any private and special law granting a water utility or municipality greater controls for protecting the intake of its public water supply than those set forth in this section.

**§3348. PROTECTION OF PUBLIC WATER SUPPLIES OVER WINTER**

**1. Petition for rules.** Any water utility, water district or municipality which relies on surface water for its water supply may petition the Commissioner of Inland Fisheries and Wildlife to promulgate rules to regulate the size and range of motor vehicles which may be permitted on the ice of any reservoir or surface water which is used as a public water supply. The petitioner must supply the technical information in support of the decision. The commissioner shall promulgate only such rules as are reasonable and necessary to protect the public water supply. These rules shall be promulgated in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, after a public hearing in the affected area.

**2. Existing rules.** Any rules that are adopted must be at least as strict as those already in existence for that body of water. Nothing in this section may be construed to limit in any way the authority of the municipal officers to enact ordinances under Title 30-A, section 3009, subsection 1, paragraph E, or any private and special law granting a water utility or municipality greater control for protecting its public water supply than those set forth in this section.

**3. Violation.** Any violation of the rules promulgated under this section is a civil violation for which a forfeiture of not more than $100 may be adjudged for each violation.

**§3348-A. STATE'S IMPACT ON PUBLIC WATER SUPPLY PROTECTION**

When undertaking actions that have a negative impact on a public water supply, a state agency shall consider the impact and evaluate alternatives to avoid and minimize the impact.

**§3349. SOURCE WATER QUALITY ASSESSMENT PROGRAM**

**1. General authorization.** The commissioner is authorized to implement and carry out a source water quality assessment program.

**2. Rulemaking.** The commissioner shall adopt rules establishing the procedures for implementation and enforcement of the source water quality assessment program to comply with state and federal laws. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Subchapter 5: FLUORIDATION

**§3351. DEFINITIONS**

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

**1. Multiservice municipality.** "Multiservice municipality" means any municipality served in whole or in part by more than one public water system.

**2. Multiple community water district.** "Multiple community water district" means that area comprising all municipalities served in whole or part by a single public water system plus those public water system zones within multiservice municipalities served by the same public water system.

**3. Multiple community water system district-wide election.** "Multiple community water system district-wide election" means an election held in each municipality within a multiple community water district to determine whether or not to fluoridate the water supply of that system.

**4. Municipality.** "Municipality" means a city, town or plantation.

**5**. **Public water system.** "Public water system" means the public water agency, company, utility, district or other entity serving one or more municipalities in whole or in part.
**6**. **Public water system zone.** "Public water system zone" means any one of the 2 or more areas of a multiservice municipality served by a single public water system, as further defined in section 3356.
**7**. **Registered petitioners.** "Registered petitioners" means those registered voters residing in a single community water district or, in the case of a multiple community water system district-wide election, those registered voters residing in the multiple community water district who have accepted the responsibility of receiving notice concerning the filing of petitions pursuant to section 3354, subsection 3.
**8**. **Single community water district.** "Single community water district" means a municipality served in whole or in part by a water system which serves no other municipalities.
**9**. **Single-service municipality.** "Single-service municipality" means any municipality served in whole or in part by a single public water system.

**§3351-A. FLUORIDATION**
No public water system may add any fluoride to its water supply without written approval of the department.

**§3353. AUTHORIZATION OF FLUORIDATION; GENERAL PROVISIONS**
**1**. **Requirement for authorization.** No public water system may add any fluoride to any water supply without first having been authorized to do so by the affected single or multiple community water district served by it. Any public water system duly authorized to add fluoride to any water supply shall do so within 9 months after being notified in accordance with this section. The municipal clerk shall, within 10 days after the vote, notify the public water system of the vote favoring or not favoring the addition of fluoride to the public water supply.
**2**. **Form of question.** Any time the issue of whether to fluoridate a public water supply is submitted to voters, the question shall be phrased as follows: "Shall fluoride be added to the public water supply for the intended purpose of reducing tooth decay?"
**3**. **Prohibition.** Whenever a single community water district has approved fluoridation, it may not again vote on the matter for a minimum period of 2 years from the date of installation of fluoride. Whenever a single community water district has disapproved fluoride, it may not vote again on the matter for a minimum period of 2 years. Whenever a multiple community water district has approved fluoridation, it may not vote again on the matter until the first general election after 2 years from the date of installation of fluoride. Whenever a multiple community water district disapproves fluoride, it may not vote again on the matter until the next general election.
**4**. **Authorization not required.** The authorization required by subsection 1 shall not apply to any public water supply which receives or purchases less than 50% of its total annual water supply from another public water supply authorized to add fluoride to its water supply.

**§3354. PROCEDURE FOR ELECTIONS**
**1**. **Single community water districts.** In a single community water district, the vote on the issue of fluoridation must be called by a majority vote of the municipal officers acting on their own initiative or pursuant to a petition meeting the requirements established for a referendum vote by

the municipality's home rule charter or, if the municipality has no home rule charter, as provided by Title 30-A, section 2522.

**2. Multiple community water districts.** In the case of a multiple community water district, authorization shall be by a majority vote of those voting at a multiple community water system district-wide election. A valid request for an election on whether or not to authorize the addition of fluoride may be made in either of the following ways.

A. A valid request for an election shall have been made when a majority of municipal officers, in a majority of municipalities within a multiple community water system district, vote to call an election. All such votes must be taken at least 90 days before the general election. Each voting municipality shall certify within 5 days to all other municipalities within the public water system district the results of its vote.

A multiple community water system district-wide election shall take place in each municipality within the district if, on the basis of the certificates, a majority of municipal officers within a majority of the municipalities in the district have called for an election.

B. A valid request for election shall have been made when a number of registered voters within a multiple community water district equal to at least 10% of the total number of votes cast for Governor at the last gubernatorial election in all municipalities, wholly or partially within the multiple community water district, file a petition in accordance with section 3354.

**§3355. PETITIONS IN MULTIPLE COMMUNITY WATER DISTRICTS**

Petitions for an election shall be governed by the following provisions.

**1. Circulation.** Any time the issue of whether to fluoridate a public water supply is submitted to the voters in multiple community water districts pursuant to petition, the petition or petitions shall be circulated and signed in the manner prescribed by Title 30-A, section 2503, subsection 3, paragraph B, subparagraphs (2) and (3), and shall be dated and gathered within the time frame prescribed by the Constitution of Maine, Article IV, Part Third, Section 18, Subsection 2.

**2. Forms; instructions.** On request of a voter, the Secretary of State shall furnish petition forms to that voter within 10 days of the request. The Secretary of State may charge a reasonable fee for the petitions.

If a voter, at his own expense, wishes to have the forms printed and furnished by himself rather than by the Secretary of State, he may do so provided that these petition blanks are first approved by the Secretary of State as to form and content. The Secretary of State shall have 10 days in which to approve the forms. If the forms are found to be unsatisfactory, the Secretary of State shall indicate the manner in which the forms are deficient. Corrected petition forms may be submitted in accordance with the terms in this paragraph.

The Secretary of State shall prepare complete instructions to advise the signers, circulators, registered petitioners, municipal clerks and election officials as to any statutory and constitutional requirements. The instructions must specify the conditions which have been held to invalidate either individual signatures or complete petitions. The instructions must be printed in bold type or capital letters on the petition.

**3. Signing; filing.** Petitions may be signed and filed as follows. In multiservice municipalities, petitions may be signed by any registered voter residing within the affected public water system zone of the municipality. All such petitions shall be filed with the appropriate municipality at least 120 days before the next general election. In each municipality in which petitions are filed, the petition or petitions shall be accompanied with the name and address of at least one, but not

more than 5, registered voters who shall be the registered petitioners for the purpose of subsection 4. The registered petitioners must reside in the multiple community water district, but need not reside in the municipality in which a petition is filed.

**4. Certification.** Within 20 days after a petition is filed, the municipal clerk shall complete a certificate which states the number of valid signatures on the petition and identifies the relevant multiple community water district or districts involved. The certificate shall be sent by registered mail to the registered petitioners, who shall be responsible for transmitting them to the Secretary of State.

The Secretary of State shall total the number of valid signatures as certified by the municipal clerk. As soon as the total number of certified valid signatures is found to be equal to at least 10% of the total number of votes cast for Governor at the last gubernatorial election in all municipalities which are wholly or partially within the multiple community water district, the Secretary of State shall certify that fact to each municipality which is wholly or partially in the multiple community water district within 48 hours.

## §3356. ELECTIONS IN MULTIPLE COMMUNITY WATER DISTRICTS

**1. Multiple community water system district-wide elections.** In the case of public systems serving more than one municipality, in whole or in part, elections shall be held simultaneously in all municipalities served by the water system at the first general election following the certification of a request for an election on the issue of whether or not to fluoridate the water supply. Those eligible to vote shall be all registered voters within affected single-service municipalities and all registered voters within the affected public water system zone of multiservice municipalities. The following provisions apply to all multiple community water system district-wide elections.

A. Each municipality shall be responsible for posting a warrant according to the following requirements.

(1) It shall specify the voting place and the time of opening and closing of polls.

(2) It shall specify that the purpose of the election is to determine the following question: "Shall fluoride be added to the public water supply for the intended purpose of reducing tooth decay?"

(3) It shall specify that a public hearing will be held by the municipal officers of each municipality at least 10 days before the election date.

(4) It shall be signed by a majority of the municipal officers of the municipality and directed personally to a constable or any resident ordering him to announce the election.

(5) The person to whom the warrant is directed shall post an attested copy of it in a conspicuous public place in each voting district of the municipality at least 7 days immediately before the date of the public hearing. He shall make a return on the warrant stating the manner of announcement and the time it was given and return the warrant to the municipal officers.

(6) The municipal officers shall then deliver the warrant to the clerk who shall record it.

B. Elections shall be held by secret preprinted ballots.

C. Each municipality shall provide for absentee ballots in a manner which substantially complies with Title 21-A, chapter 9, subchapter IV.

**1-A. Elections in single community water districts.** Elections in single community water districts shall be conducted in the same manner as other municipal elections.

**2. Reporting election results.** Each municipal clerk shall certify in writing the results of the election within 72 hours of the vote to the Secretary of State. The results shall be certified as to

the number of eligible voters voting in favor of fluoridation and the number of eligible voters voting in opposition to fluoridation. The municipality shall also certify to the Secretary of State the identity of the relevant public water district or districts involved.

**3. Vote tabulation.** The Secretary of State shall, within 48 hours of receiving the last written certification, tabulate the votes from each municipality and immediately make public the results of the multiple community water system district-wide election by mailing to each affected municipality and public water system the results of the election, including the submitted votes from that municipality and public water system zone and the total multiple community water system district-wide vote.

**§3357. ESTABLISHMENT OF PUBLIC WATER SYSTEM ZONES**

**1. Division into zones.** In order to facilitate elections in multiservice municipalities, each municipality shall divide itself into as many zones as there are public water services supplying the municipality. The zones shall be so structured as to insure that:

A. All residents served by a given public water service fall within the same zone;

B. Each registered voter within the municipality is within one of the zones; and

C. The size of the zone bears a rational relationship to the area of the municipality being served by a given public water system.

**2. Map.** Upon request by a municipality, a public water system shall provide to the municipality within 14 days a map which clearly delineates the boundaries of the service area of the public water system and any other requested information reasonably necessary to enable the municipality to determine the precise area of service in the municipality of the public water system.

**3. Description; map; files.** Each multiservice municipality shall keep on file, as a public document, a precise description and accompanying map of its public water system zones.

**§3358. ALLOCATION OF COSTS**

The Public Utilities Commission, upon application, shall determine and allocate the cost of fluoridation among the customers of a public water system and shall from time to time review that determination and allocation as required. In the event that a community water district which has approved fluoridation votes to discontinue fluoridation, the public water system may amortize the remaining cost of its investment in these facilities and allocate the cost of that amortization among its customers, over such period of time as is approved by the Public Utilities Commission.

**§3359. RULES**

The Department shall promulgate such rules, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, as it deems necessary to carry out the purposes of this subchapter, including, but not limited to, rules regarding the time and manner in which municipalities shall establish public water system zones.

Subchapter 6: TRANSPORT OF WATER

**§3360-A. RESTRICTIONS ON TRANSPORT OF WATER**

**1. Prohibition.** Except as otherwise provided in this section, a person may not transport water for commercial purposes by pipeline or other conduit or by tank vehicle or in a container, greater in size than 10 gallons, beyond the boundaries of the municipality or township in which water is naturally located or any bordering municipality or township.

**2. Exceptions.** The prohibition in this section does not apply to:

A. Any water utility as defined in Title 35-A;

B. Water transported for use in well drilling, construction activities, concrete mixing, swimming pool filling, servicing portable toilets, firefighting, hospital operations, aquaculture, agricultural applications or civil emergencies;

C. Water distilled as a by-product of a manufacturing process;

D. Water transported from a water source that, before July 1, 1987, was used to supply water for bottling and sale and that is used exclusively for bottling and is sold in its pure form or as a carbonated or flavored beverage product; and

E. Water withdrawn pursuant to a permit issued by the Department of Environmental Protection or the Maine Land Use Planning Commission.

**3. Appeal.** The commissioner, after consultation with the Public Utilities Commission, the Department of Environmental Protection and the State Geologist, may authorize transport of water for commercial purposes if the commissioner finds that:

A. Transport of the water will not constitute a threat to public health, safety or welfare; and

B. For a source not otherwise permitted by the Department of Environmental Protection or the Maine Land Use Planning Commission, the water withdrawal will not have an undue adverse effect 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 commissioner shall consider both the direct effects of the proposed water withdrawal and its effects in combination with existing water withdrawals.

Any authorization under this subsection is for a period not to exceed 3 years but may be renewed subject to the same criteria. The department may adopt rules necessary for the implementation of this subsection. The rules may include imposition of a fee to cover the costs of providing permits, including any impact studies required by the department. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**3-A. Conditions of authorization.** Notwithstanding Title 1, section 302, the exceptions authorized in subsection 2 and any authorization granted under subsection 3 shall be subject to future legislative limitations of the right to transport water.

**4. Emergencies.** In case of an emergency, any person may transport water as necessary for the duration of the emergency, but the person transporting the water must inform the commissioner within 3 days and the commissioner may determine when the emergency is over.

**5. Penalty.** Any person who transports water in violation of this section is guilty of illegal transport of water. Illegal transport of water is a Class D crime. Each shipment or day of transport, if by pipeline, is a separate offense.

Subchapter 7: MAINE PUBLIC DRINKING WATER COMMISSION

**§3360-B. DEFINITIONS**

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

**1**. **Commission.** "Commission" means the Maine Public Drinking Water Commission.

**2**. **Community water system.** "Community water system" means a public water system that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

**3**. **Division.** "Division" means the Department of Environmental Protection.

**4**. **Fund.** "Fund" means the Public Drinking Water Fund.

**5**. **Noncommunity water system.** "Noncommunity water system" means a public water system that is not a community water system. A noncommunity water system is either nontransient or transient, as follows.

A. A nontransient, noncommunity water system serves at least 25 of the same persons for 6 months or more per year and may include, but is not limited to, a school, factory, industrial park or office building.

B. A transient, noncommunity water system serves at least 25 persons, but not necessarily the same persons, for at least 60 days per year and may include, but is not limited to, a highway rest stop, seasonal restaurant, seasonal motel, golf course, park or campground. A bottled water company is a transient, noncommunity water system.

**6**. **Program.** "Program" means the Maine Public Drinking Water Control Program.

**7**. **Primacy.** "Primacy" means the federally delegated primary enforcement authority to adopt, implement and enforce federally mandated drinking water standards promulgated pursuant to the federal Safe Drinking Water Act as amended.

**§3360-C. MAINE PUBLIC DRINKING WATER COMMISSION**

The Maine Public Drinking Water Commission as established by Title 5, section 12004-I, subsection 47-C, is created within the department.

**1**. **Membership.** The commission consists of the commissioner or the commissioner's designee and 8 other members appointed by the Governor in accordance with the following provisions.

A.

A-1. Three of the members must represent the water purveying community and must be associated with public water systems. One of the 3 must be associated with a public water system serving a population of not more than 1,000 people, one must be associated with a public water system serving a population of at least 1,001 but not more than 10,000 people and one must be associated with a public water system serving a population greater than 10,000.

A-2. Two members must be users of noncommunity water systems. One of the 2 must be a user of a transient noncommunity water system and one must be a user of a nontransient, noncommunity water system.

B. Three of the members must represent the drinking water public.

C. All members appointed by the Governor must have demonstrated interest, knowledge, experience and expertise regarding public drinking water concerns. The Governor shall seek to appoint members who, to the greatest extent possible, are qualified by interest, education, training or experience to provide, assess and evaluate scientific and technical information regarding public drinking water concerns, financial and staffing requirements and the adoption of policies, standards and rules.

D. The term of office for members appointed by the Governor is 4 years except that, of the original members appointed, 4 must be appointed for 2 years and 4 must be appointed for 4 years. The Governor shall make all original appointments within 60 days of the effective date of this section. Members may remain in office until their successors are appointed. If a vacancy occurs, the Governor shall appoint a replacement to fill the remaining portion of the unexpired term created by the vacancy.

**2**. **Chair; vice-chair.** At the first meeting of the commission, the members shall elect from among themselves a chair and a vice-chair. The chair and vice-chair serve for one-year terms. The chair and vice-chair may continue to hold those offices until their successors are elected. The chair calls meetings of the commission and presides over meetings. The vice-chair serves as the chair in the absence of the chair. The commissioner shall call the first meeting of the commission as soon as all initial appointments to the commission have been made.

**3**. **Meetings.** The commission shall hold at least 2 regular meetings each year and may hold additional regular meetings. Special meetings may be called by the chair, by the commissioner or the commissioner's designee or by at least 3 members of the commission. Five members constitute a quorum.

**4**. **Duties.** The commission shall:

A. Evaluate the proportion of program effort dedicated to each type of public water system served by the program;

B. Evaluate existing and projected program workloads;

C. Evaluate existing program resources and project future staffing and resource requirements;

D. Determine funding requirements necessary to meet projected workloads and staffing and resource requirements;

E. Determine an equitable program funding share for each type of public water system that recognizes the level of program effort required for that public water system;

F. Determine fee formulas and collection and transfer schedules for each type of public water system; and

H. Submit to the commissioner annually by August 1st a report that must include, but is not limited to, a performance evaluation of the program, including the implementation of administrative remedies, and commission recommendations regarding, but not limited to, administrative remedies, program operations, funding and staffing requirements, funding formulas and fee collection and transfer schedules.

**5**. **Compensation.** Members of the commission are entitled to reimbursement by the department for expenses as authorized by Title 5, chapter 379.

**6**. **Annual accounting.** Within 60 days of the conclusion of the fiscal year for the program, the manager of the program shall submit to the commission an accounting of all of the funds expended by the program during the fiscal year.

## §3360-D. ANNUAL WORK PLAN ON PRIMACY

Annually, by January 1st, the commissioner shall submit to the commission a work plan and budget, listing all funding sources including but not limited to appropriations from the General Fund and allocations from the United States Environmental Protection Agency that are used for the purpose of complying with federal requirements for maintaining primacy. The work plan must include goals and objectives relating to the use of administrative remedies that are consistent with other parts of the work plan.

**§3360-E. FEES RELATED TO PRIMACY**

In addition to fees authorized under section 9, the commissioner may impose an annual operation fee upon each public water system in the State.

**1. Rules.** The department shall establish fee formulas by rules adopted in accordance with the Maine Administrative Procedure Act. The department must consult with and consider the advice of the commission in preparing the rules. Proposed rules issued by the department under this section must include the fee formulas and collection and transfer schedules developed by the commission. Fee formulas adopted under this section must be equitable. Fees may be based on, but are not limited to, the population served, service connections, volume of water pumped or available seats, campsites, rooms or lots, and may include fixed or graduated fee formulas or combinations of the fee formulas. The base fee may be no more than $75 per year per public water system.

**2. Collection and disposition of fees.** Fees adopted under this section cover the period beginning July 1, 1993 and must be collected by each public water system in monthly, quarterly or annual increments. Fees collected by public water systems under this section are state fees. The department shall establish schedules for the collection and transfer of fees to the State with the advice of the commission.

**3. Suspension and reinstatement of fees.** Fees imposed under this section are suspended on the first day of the calendar quarter following any calendar quarter in which primacy is withdrawn by the Federal Government. Fees suspended under this subsection may be reinstated on the first day of the calendar quarter following the quarter in which the State regains primacy.

**§3360-F. PUBLIC DRINKING WATER FUND**

The Public Drinking Water Fund is established as an interest-bearing dedicated revenue account. All interest earned by the account becomes part of the fund. All fees collected by the commissioner under this subchapter must be deposited into the fund. Any balance remaining in the fund at the end of the fiscal year does not lapse but is carried forward into subsequent fiscal years. The commissioner may use the fund only to support the program, including the cost of salaries, benefits, travel, education, technical assistance, capital equipment and other allowable expenses incurred by the program.

**§3360-G. ENFORCEMENT**

This subchapter must be enforced by the department in accordance with section 3317.

**Sec. MMMM-34. Transition Provisions**

The following provisions govern the transfer from the Department of Health and Human Services to the Department of Environmental Protection of the administration of the provisions under Title 14, section 6030-D; Title 22, section 42, subsections 3, 3-A, and 3-B; Title 22, chapters 159-A, 160, 163, 165 and 601; Title 30-A, sections 4201, 4211, 4212 and section 6006-B; and Title 32, sections 1405, 4700-E and 4700-G.

1. The Department of Environmental Protection is the successor in every way to the powers, duties and functions of the Department of Health and Human Services under Title 14, section 6030-D; Title 22, section 42, subsections 3, 3-A, and 3-B; Title 22, chapters 159-A, 160, 163,

165 and 601; Title 30-A, sections 4201, 4211, 4212 and section 6006-B; and Title 32, sections 1405, 4700-E and 4700-G.

2. All existing rules, regulations and procedures in effect, in operation or adopted by the Department of Health and Human Services or any of its administrative units or officers pursuant to Title 14, section 6030-D; Title 22, section 42, subsections 3, 3-A, or 3-B; Title 22, chapters 159-A, 160, 163, 165 and 601; Title 30-A, sections 4201, 4211, 4212 or 6006-B; or Title 32, sections 1405. 4700-E or 4700-G are hereby declared in effect and will continue in effect until rescinded, revised or amended by the proper authority. All rules, regulations and procedures administered pursuant to Title 14, section 6030-D; Title 22, section 42, subsections 3, 3-A, or 3-B; Title 22, chapters 159-A, 160, 163, 165, 601 or 602; Title 30-A, sections 4201, 4211, 4212 or 6006-B; or Title 32, sections 1405, 4700-E or 4700-G will be administered by the Department of Environmental Protection.

3. All existing contracts, agreements and compacts currently in effect under the authority of the Department of Health and Human Services under Title 14, section 6030-D; Title 22, section 42, subsections 3, 3-A, or 3-B; Title 22, chapters 159-A, 160, 163, 165, and 601; Title 30-A, sections 4201, 4211, 4212 or 6006-B; or Title 32, sections 1405, 4700-E or 4700-G will continue in effect under the authority of the Department of Environmental Protection.

4. All records, property and equipment belonging to or allocated for the use of the Department of Health and Human Services for the purposes Title 14, section 6030-D; Title 22, section 42, subsections 3, 3-A, or 3-B; Title 22, chapters 159-A, 160, 163, 165, and 601; Title 30-A, sections 4201, 4211, 4212 or 6006-B; or Title 32, sections 1405, 4700-E or 4700-G will, on the effective date of this Act, become the property of or allocated for the use of the Department of Environmental Protection.

5. All existing forms, licenses, letterheads and similar items bearing the name of or referring to the Department of Health and Human Services used for the purposes of Title 14, section 6030-D; Title 22, section 42, subsections 3, 3-A, or 3-B; Title 22, chapters 159-A, 160, 163, 165, and 601; Title 30-A, sections 4201, 4211, 4212 or 6006-B; or Title 32, sections 1405, 4700-E or 4700-G may be used by the Department of Environmental Protection until existing supplies of those items are exhausted.

**Sec. MMMM-35. Effective date.** This Part that amends the Maine Revised Statutes, Title 14, section 6030-D; Title 22, section 42, subsections 3, 3-A, and 3-B; Title 22, chapters 159-A,160, 163, 165, and 601; Title 22, sections 2664 and 2665; Title 30-A, sections 2001,4201, 4211, 4212, 4216 and 6006-B; Title 32, sections 1405, 4700-E and 4700-G; Title 38, section 349-C; and Title 38 chapters 32, 33, 34, 35 and 36 takes effect October 17, 2015.

**PART MMMM**

## SUMMARY

This Part transfers the Drinking Water, Subsurface Waste, and Radiation Control activities from the Department of Health and Human Services to the Department of Environmental Protection.

**Amend LD 1019 by adding a new Part NNNN**

**PART NNNN**

**Sec. NNNN-1. Transfer of fund; Department of Inland Fisheries and Wildlife carrying account.** On or before June 30, 2015, the State Controller shall transfer $125,000 from the Inland Fisheries and Wildlife Carrying Balances - General Fund account to the Enforcement Operations - Inland Fisheries and Wildlife program, General Fund account to provide supplemental funding of Personal Services costs in fiscal year 2014-15.

**SUMMARY**
**PART NNNN**

This Part transfers funds from the Inland Fisheries and Wildlife Carrying Balances - General Fund account to the Enforcement Operations - Inland Fisheries and Wildlife program, General Fund account to cover Personal Services costs in fiscal year 2014-15.

**Amend LD 1019 by adding a new Part OOOO**

**PART OOOO**

**Sec. OOOO-1. 38 MRSA §341-G, sub-§1,** as amended by PL 1991, c. 817, §8, is further amended to read:

1. **Transfer funds.** The amount transferred from each fund must be proportional to that fund's contribution to the total special revenues received by the department under chapter 2, subchapter 2; sections 551, 569-A and 569-B; ~~and~~ chapter 13, subchapter 4; and chapter 13-B, section 1364. Any funds received by the board from the General Fund must be credited towards the amount owed by the Maine Environmental Protection Fund, chapter 2, subchapter 2.

**SUMMARY**
**PART OOOO**

This Part would more equitably distribute the funding for the Board's work to more accurately reflect the funding sources of the subject matter actually covered by the Board.