Maine Revised Statutes

Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES

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Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES

Part 1: STATE DEPARTMENTS

Chapter 1: STATE OFFICERS AND EMPLOYEES GENERALLY

Subchapter 1: GENERAL PROVISIONS

§1. APPOINTMENT OF TEMPORARY OFFICIALS; REMOVAL; SALARY

In order to provide for the uninterrupted and orderly functioning of any agency, board, commission or department of the State Government during a vacancy in the office of the appointive or elective head thereof and whenever there is no state official, deputy, assistant or other state employee duly authorized by law to exercise the powers and perform the duties of such appointive or elective head during such vacancy, the Governor is empowered to appoint a temporary deputy commissioner to exercise the powers and perform the duties of the appointive or elective head of such office during such vacancy. The term of office of such temporary deputy commissioner so appointed shall be at the pleasure of the Governor and shall not extend beyond the date of qualification of a successor to the office of appointive or elective head of such agency, board, commission or department or 60 days from the date of his appointment, whichever shall first occur. The term of office of such a temporary deputy commissioner so appointed to an office to which appointments are by law subject to confirmation by the Legislature shall be at the pleasure of the Governor and shall not extend beyond the date of qualification of a successor appointed to such office or 6 months from the date of appointment, whichever shall first occur. Such temporary deputy commissioner shall not be eligible for reappointment. Such temporary deputy commissioner shall be appointed from the personnel of the agency, board, commission or department in which such vacancy occurs. [1975, c. 771, §23 (AMD).]

During the term of such appointment, the temporary deputy commissioner shall be paid a salary to be determined by the Governor but not to exceed that received by the appointive or elective head at the termination of his services with the State Government.

In the event an employee in the classified service of the State Government is appointed as a temporary deputy commissioner he shall, during the term of his appointment as temporary deputy commissioner, retain all of the rights and all of the retirement benefits to which he may be entitled as a classified employee of the State Government.

SECTION HISTORY
1975, c. 771, §23 (AMD).

§2. TENURE OF OFFICE; CITIZENSHIP

All civil officers, appointed in accordance with law, whose tenure of office is not fixed by law or limited by the Constitution of Maine, otherwise than during the pleasure of the Governor, except persons appointed to qualify civil officers, shall hold their respective offices for 4 years and no longer, unless reappointed, and shall be subject to removal at any time within that term by the Governor for cause. [1981, c. 456, Pt. A, §13 (AMD).]

All such officers so appointed shall be citizens of the United States of America.

SECTION HISTORY
1975, c. 771, §24 (AMD). 1981, c. 456, §A13 (AMD).

§3. CIVIL OFFICERS SERVE UNTIL SUCCESSORS QUALIFY

All civil officers, other than judicial officers, appointed in accordance with law and whose terms of office are fixed by law, shall hold office during the term for which they were appointed and until their successors in office have been appointed and qualified, unless sooner removed in accordance with law. [1975, c. 771, §25 (RPR).]

SECTION HISTORY
1975, c. 771, §25 (RPR).

§4. DEDIMUS JUSTICES; APPOINTMENT

The Governor may appoint in every county persons who shall be designated as dedimus justices, before whom the oath required by the Constitution to qualify civil officers may be taken and subscribed. Such persons shall exercise their powers and duties, and shall be commissioned to act within and for every county. [1975, c. 771, §26 (AMD).]

SECTION HISTORY
1975, c. 771, §26 (AMD).

§5. OATH OF OFFICE; BEFORE WHOM TAKEN

The Justices of the Supreme Judicial Court and of the Superior Court, the Judges of the District Court and all state officials elected by the Legislature shall take and subscribe the oath or affirmation required by the Constitution, before the Governor. Every other person elected or appointed to any civil office shall take and subscribe the oath before any dedimus justice commissioned by the Governor for that purpose, except when the Constitution otherwise provides. A newly appointed notary public shall take and subscribe the oath or affirmation before a dedimus justice as required by section 82, subsection 3-A. [2009, c. 74, §2 (AMD).]

SECTION HISTORY
1975, c. 771, §27 (RPR). 1987, c. 736, §4 (AMD). 2001, c. 667, §C1 (AMD). 2009, c. 74, §2 (AMD).

§6. OFFICIALS HAVE 30 DAYS TO QUALIFY

All public officers appointed or renewed in accordance with law shall, within 30 days after being commissioned, qualify to perform the duties of their office and the certificate of qualification must be filed in the office of the Secretary of State. Any officer who fails to qualify within 30 days and file a certificate of qualification in the office of the Secretary of State within 45 days must be suspended by the Secretary of State until the defect is corrected. During this suspension, the officer may be deemed to have forfeited the appointment and the office may be declared vacant by the appointing authority and a new appointment made. [1991, c. 837, Pt. A, §7 (AMD).]

SECTION HISTORY
1975, c. 87, §1 (AMD). 1975, c. 771, §28 (AMD). 1981, c. 456, §A14 (AMD). 1991, c. 837, §A7 (AMD).

§7. STATE-OWNED MOTOR VEHICLES

The State may provide motor vehicles for the travel of state employees in a number to be determined by the Legislature. Each state department or commission head shall promulgate written policy concerning the use of state-owned motor vehicles, assigned to his department or commission, which shall include, but not be limited to, a definition of the use of state-owned motor vehicles which constitute use in the conduct of state business and which distinguishes such use from private use. [1969, c. 544, §1 (RPR).]

The Legislature finds that the energy crisis requires State Government to act as a leader in the conservation of energy. In order to achieve that end, it is necessary for the State to consume less energy, particularly in the area of transportation. The Legislature, therefore, declares it to be in the public interest that the fleet of new motor vehicles purchased for the travel of state employees meet the federal fleet mileage standards. [1977, c. 376, §1 (NEW).]

Any state employee or official who misuses a state-owned motor vehicle shall be liable for the actual costs of such use and in addition may be subjected to appropriate disciplinary action, including suspension from employment. [1969, c. 544, §1 (RPR).]

All state-owned vehicles, except as otherwise provided, shall display special registration plates, approved by the Secretary of State, plainly designating them as state-owned motor vehicles. They may in addition display a marker or insignia, approved by the Secretary of State, plainly designating them as state-owned. Motor vehicles used by departments, commissions or agencies charged by law with law enforcement or investigatory functions, if used for those purposes by personnel who have full-time law enforcement or investigatory duties, shall not be required to display a special registration plate. [1969, c. 544, §1 (RPR).]

The Legislative Council shall biennially study and review state motor vehicle needs and uses and shall report its findings to the Legislature. Department and agency heads shall justify the purchase of motor vehicles as part of request for appropriations before the Joint Standing Committee on Appropriations and Financial Affairs. [1973, c. 788, §10 (AMD).]

SECTION HISTORY
1969, c. 544, §1 (RPR). 1973, c. 788, §10 (AMD). 1977, c. 376, §1 (AMD).

§7-A. ASSIGNMENT OF VEHICLES

Notwithstanding any other provision of law, all assignments of state-owned vehicles to individual employees will terminate effective August 1, 1983. The Governor may establish such criteria as the Governor deems appropriate relative to the assignment of all state-owned vehicles. It is the intent of the Legislature that no state-owned vehicle may be assigned to or used exclusively by any individual employee other than those instances where the Governor deems such assignment and use to be clearly necessary in order to carry out programs that have been approved by the Legislature. [1989, c. 501, Pt. P, §6 (RPR).]

1. **Garaging vehicles off state grounds.** Under no circumstances may any state employee garage a state vehicle at the individual's residence, except as provided:

A. A vehicle may be temporarily garaged off state grounds when it is being used to transport state employees while on overnight travel; [1989, c. 501, Pt. P, §6 (NEW).]

B. State vehicles may be temporarily garaged off state grounds after the late conclusion of a day's work; [1989, c. 501, Pt. P, §6 (NEW).]

C. State vehicles may be temporarily garaged off state grounds in order to allow an employee to take a vehicle home when the next day's assignment will require the use of the vehicle for travel beyond and in the same general direction as the employee's residence; [1989, c. 501, Pt. P, §6 (NEW).]

D. A vehicle may be temporarily garaged off state grounds when certified by the Bureau of General Services that there is no space available on state grounds or certified by the Department of Public Safety that the space available does not provide adequate protection for the vehicle; or [2011, c. 691, Pt. B, §5 (AMD).]

[2011, c. 691, Pt. B, §5 (AMD) .]

2. **Individual assignment of vehicles.** Assignment of a state vehicle to an individual employee will be made only when that assignment is clearly necessary and meets one or more of the following criteria:

A. Sworn law enforcement personnel with powers of arrest regularly assigned to field duty; [1989, c. 501, Pt. P, §6 (NEW).]

B. Field personnel directly concerned with the maintenance and operation of highway facilities who are frequently called for emergency duty at other than regular working hours; [1989, c. 501, Pt. P, §6 (NEW).]

C. Employees identified by the Governor, the Commissioner of Public Safety, the Commissioner of Defense, Veterans and Emergency Management or the Commissioner of Transportation to be available for call beyond the normal workday on a regular basis to protect the public safety; [1989, c. 501, Pt. P, §6 (NEW); 1997, c. 455, §32 (AMD).]

D. Employees who are officially headquartered at their residences and carry unusual materials or equipment which make up an integral part of the employee's ability to perform the employee's job function on a regular basis and would be dangerous, unsanitary or too large to carry in that employee's personal vehicle; or [1989, c. 501, Pt. P, §6 (NEW).]

E. Employees who are officially headquartered at their residences provided the department head determines annually that the assignment is more effective than reimbursement for mileage. [1989, c. 501, Pt. P, §6 (NEW).]

[1989, c. 501, Pt. P, §6 (NEW); 1997, c. 455, §32 (AMD) .]

3. **Annual report.** Every department or agency in State Government that has state-owned vehicles must file a report with the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs no later than January 15th of every year that provides detailed information on state-owned vehicles. This report must include, but is not limited to, the following information: the total number of state vehicles within that department or agency; the individual employees to whom a state vehicle is assigned; and the purpose or function to which all other vehicles are assigned.

[1991, c. 9, Pt. Y, §1 (NEW) .]

The Governor may also establish criteria for the transfer of vehicles from department to department in order to meet priority operational needs. [1989, c. 501, Pt. P, §6 (NEW).]

SECTION HISTORY
1983, c. 477, Pt. E, Subpt. 20, (NEW). 1989, c. 501, §P6 (RPR). 1991, c. 9, §Y1 (AMD). 1997, c. 455, §32 (AMD). 2011, c. 691, Pt. B, §5 (AMD).

§7-B. USE OF STATE VEHICLES FOR COMMUTING

A state-owned or state-leased vehicle may not be used by any employee to commute between home and work, except for those vehicles authorized and assigned to employees of the Baxter State Park Authority and to law enforcement officials within the following organizational units: Bureau of State Police; Maine Drug Enforcement Agency; Office of the State Fire Marshal; the division within the Department of Public Safety designated by the Commissioner of Public Safety to enforce the law relating to the manufacture, importation, storage, transportation and sale of all liquor and to administer those laws relating to licensing and collection of taxes on malt liquor and wine; Bureau of Motor Vehicles; Bureau of Marine Patrol; the forest protection unit within the Bureau of Forestry; Bureau of Warden Service; and Bureau of Parks and Lands. [2011, c. 657, Pt. X, §1 (AMD); 2013, c. 405, Pt. A, §§23, 24 (REV).]

SECTION HISTORY
1991, c. 528, §III1 (NEW). 1991, c. 528, §RRR (AFF). 1991, c. 591, §III1 (NEW). 1991, c. 618, §1 (AMD). 1991, c. 618, §7 (AFF). 1991, c. 780, §JJ1 (AMD). 1991, c. 837, §B2 (AMD). 1991, c. 841, §2 (AMD).

1993, c. 349, §4 (RPR). 1995, c. 502, §E30 (AMD). 1999, c. 155, §A1 (AMD). 2003, c. 688, §A1 (AMD). 2011, c. 657, Pt. X, §1 (AMD). 2013, c. 405, Pt. A, §§23, 24 (REV).

§8. MILEAGE ALLOWANCE

The State shall pay for the use of privately owned automobiles for travel by employees of the State in the business of the State such reimbursement as agreed to between the State and their certified or recognized bargaining agent. For employees and state officers and officials not subject to any such agreement, the State shall pay 36¢ per mile effective January 1, 2006, 38¢ per mile effective January 1, 2007, 40¢ per mile effective July 1, 2007, 42¢ per mile effective July 1, 2008 and 44¢ per mile effective January 1, 2009, or the federal rate of reimbursement, whichever is lower, for miles actually traveled on state business. The Governor may suspend the operation of this section and require state officials and employees to travel in automobiles owned or controlled by the State, if such automobiles are available. [2007, c. 240, Pt. SSS, §1 (AMD); 2007, c. 240, Pt. SSS, §16 (AFF).]

SECTION HISTORY
1969, c. 468, (AMD). 1973, c. 765, §1 (AMD). P&SL 1975, c. 147, §C5 (AMD). 1975, c. 771, §29 (AMD). 1979, c. 269, §8 (AMD). 1979, c. 739, §1 (AMD). 1981, c. 710, §B (AMD). 1997, c. 3, §D1 (AMD). 1999, c. 454, §E1 (AMD). 2001, c. 438, §D1 (AMD). 2005, c. 12, §RRR1 (AMD). 2005, c. 12, §RRR2 (AFF). 2007, c. 240, Pt. SSS, §1 (AMD). 2007, c. 240, Pt. SSS, §16 (AFF).

§8-A. DECLARATION OF PURPOSE

For the benefit of the people of the State, it is essential that certain activities of the State Government be constantly reviewed in order to provide essential state services more efficiently and economically. To aid in accomplishing this purpose and due to improved travel conditions and communications, housing for state employees at state institutions and other areas of State Government and commissaries operated by state departments for the sale of food and food supplies to state employees shall be controlled as set forth in sections 8-B and 8-C respectively. [1971, c. 588, (NEW).]

SECTION HISTORY
1971, c. 588, (NEW).

§8-B. HOUSING

It is the intent of the Legislature to discourage the construction, reconstruction and equipping of new housing facilities for state employees at state institutions and all other areas of State Government and to cause the termination of existing provision of housing facilities to state employees whenever other housing facilities are reasonably available to such employees and their residence elsewhere will not substantially impair the effective management and operation of the state department or institution by which such persons are employed. The housing facilities of each state department shall be reviewed periodically by the state department involved, and the provision of any such housing facilities shall be terminated whenever the above stated criteria are met. Except as otherwise provided, in each instance of the provision of housing facilities by the State, a rental charge shall be made to cover the total operating cost of any such facility. These costs shall include, but not be limited to, rates charged to the State, in operating such facility, for water, electricity, heat, telephone and furnishings and any other maintenance costs. Such costs shall not include charges for telephones used primarily for state business. In determining the feasibility of any such facility, the department shall consider the availability of living facilities for its employees, particularly in the unorganized territory and rural areas of the State. Any facility used on a seasonal basis shall be partially exempt from rental charges, at the discretion of the department. No charge shall be made for the provision of housing facilities when the state employee involved is required as a condition of his employment to reside in such housing

facilities and when the state employee involved receives a salary less than the salary received by an employee at pay range 23, merit service step E of the compensation plan for classified employees. [1977, c. 78, §3-A (AMD).]

SECTION HISTORY
1971, c. 588, (NEW). 1973, c. 603, §§1,2 (AMD). 1977, c. 78, §§3-A (AMD).

§8-C. FOOD AND FOOD SUPPLIES

All commissary-type facilities operated by state departments for the sale of food and food supplies to any person must be eliminated. Purchasing of food and food supplies for any person by requisition or otherwise is prohibited, except that the Department of Inland Fisheries and Wildlife and Bureau of Forestry may requisition food supplies for emergency use or special duty assignments. Meals purchased and prepared for institutional or school use may be sold to employees or to visitors based on the actual total cost of purchasing, preparing and serving such food or food supplies. In the case of institutions and schools operated by the Department of Health and Human Services, income derived from the sale of meals accrues to the General Fund. With the approval of the Commissioner of Health and Human Services and the head of the institution involved, no charge may be made for the provision of meals to any state employee who eats such meals within the scope of employment and in doing so serves a function of that employment. If such approval is given, the Commissioner of Health and Human Services shall establish standards that must be applied uniformly at all institutions within the department. [1995, c. 2, §1 (COR); 2001, c. 354, §3 (AMD); 2003, c. 689, Pt. B, §§6, 7 (REV); 2011, c. 657, Pt. W, §7 (REV); 2013, c. 405, Pt. A, §23 (REV).]

No charge shall be made for the provision of meals to any state employee who eats such meals within the scope of his employment and in so doing serves a function of his employment. [1973, c. 603, §3 (NEW).]

SECTION HISTORY
1971, c. 588, (NEW). 1973, c. 460, §18 (AMD). 1973, c. 603, §3 (AMD). 1975, c. 497, §3 (AMD). 1975, c. 777, §4 (AMD). 1977, c. 190, (AMD). RR 1995, c. 2, §1 (COR). 1995, c. 560, Pt. K, §82 (AMD). 1995, c. 560, Pt. K, §83 (AFF). 2001, c. 354, §3 (AMD). 2003, c. 689, Pt. B, §§6, 7 (REV). 2011, c. 657, Pt. W, §7 (REV). 2013, c. 405, Pt. A, §23 (REV).

§8-D. INCOME

Any income derived from the operation of housing or food facilities, or both, under sections 8-B and 8-C, shall accrue to whatever fund pays for such facilities, unless otherwise provided for by statute; if it is a General Fund account, the income shall accrue to General Fund; if it is a special revenue account, the income shall accrue to that account. [1975, c. 777, §5 (AMD).]

SECTION HISTORY
1971, c. 588, (NEW). 1975, c. 777, §5 (AMD).

§8-E. DOMESTIC SERVICE

No employee of the State of Maine shall be assigned to perform routine housekeeping, food preparation or other chores for employees assigned to and living in housing facilities owned by the State of Maine. This is not intended, however, to prevent bona fide domestic training programs wherein various patients and others in state institutions of Maine are trained for increased employment opportunities. [1971, c. 588, (NEW).]

SECTION HISTORY

1971, c. 588, (NEW).

§8-F. RULES AND REGULATIONS; REVIEW

Each department shall establish and promulgate, subject to the approval of the State Budget Officer, rules and regulations to carry out the purposes of sections 8-B to 8-C. Such rules and regulations shall be transmitted to the Legislative Council for its review biennially. [1979, c. 541, Pt. A, §16 (AMD).]

SECTION HISTORY
1971, c. 588, (NEW). 1973, c. 625, §15 (AMD). 1973, c. 788, §11 (AMD). 1979, c. 541, §A16 (AMD).

§8-G. EXEMPTION

Sections 8-A to 8-H shall not apply to the Baxter State Park Authority. [1979, c. 541, Pt. A, §17 (AMD).]

SECTION HISTORY
1971, c. 588, (NEW). 1979, c. 541, §A17 (AMD).

§8-H. CIVIL VIOLATION

Any violation of sections 8-A to 8-F is a civil violation for which a forfeiture not to exceed $1,000 may be adjudged and any person violating any of those sections shall be dismissed from state service. [1977, c. 696, §30 (RPR).]

SECTION HISTORY
1971, c. 588, (NEW). 1977, c. 696, §30 (RPR).

§8-I. FEES AND RECEIPTS

All fees, charges, emoluments and other receipts of whatever nature, which may be payable to any state official or employee, excepting their lawful salaries and expenses properly payable to them, shall be credited to the General Fund or special revenue accounts as appropriate and no state official or employee shall directly or indirectly receive a private benefit or gain from the sale or distribution of any material, information or reports from state records. This section shall not apply to the sale of transcripts to the public by hearings reporters and official court reporters. [1973, c. 427, (NEW).]

This section does not apply to the compensation of state employees appointed to boards and commissions in this State. State employees and other members of state boards and commissions shall be governed by chapter 379. [1985, c. 295, §1 (NEW).]

SECTION HISTORY
1973, c. 427, (NEW). 1985, c. 295, §1 (AMD).

§9. BONDS; PREMIUMS; NOTICE OF CANCELLATION

(REPEALED)

SECTION HISTORY
1969, c. 504, §§3-C (RP).

§10. PAYMENT OF WAGES

All state officers and employees, except temporary and seasonal employees, shall be paid their salaries or wages biweekly, the dates of payment to be determined by the State Controller. Any state officer, whose salary is established at an annual rate, shall receive biweekly a sum which will, in the year's aggregate, most nearly equal the annual rate. Payment may be made once in each calendar month to such state officers and employees as consent to such time of payment. Temporary and seasonal employees of the State shall be paid at such times as the State Controller shall specify. [1981, c. 470, Pt. A, §6 (AMD).]

SECTION HISTORY
P&SL 1975, c. 147, §C6 (AMD). 1975, c. 147, §C6 (AMD). 1981, c. 470, §A6 (AMD).

§11. CERTIFICATION OF PAYROLLS

A fiscal officer of the State may not draw, sign or issue, or authorize the drawing, signing or issuing, of any warrant or check upon the Treasurer of State or other disbursing officer of the State for the payment of a salary or other compensation for personal services, nor may the Treasurer of State or other disbursing officer of the State pay any salary or other compensation for personal services in the Executive or Legislative Departments, unless a payroll or account for such salary or other compensation, containing the names of all persons to be paid and the amounts to be paid them, has been certified by the State Controller or a person designated by the State Controller. In the case of all unclassified employees, certification must be by their appointing authority. [2009, c. 213, Pt. BBB, §1 (AMD).]

Any payment made in violation of the compensation plan or the rules pertaining thereto or made to a person appointed or established in a position in a manner contrary to chapters 56-A, 65, 67, 71 and 372 may be recovered from the appointing authority or the State Controller, whoever is culpable, or from the sureties on the official bond of such officer or person. Action for recovery may be maintained by the State Civil Service Appeals Board or any member thereof, any officer or employee of the state service or any citizen of the State. All money recovered under this section must be paid into the State Treasury and credited to the General Fund. [2009, c. 213, Pt. BBB, §1 (AMD).]

SECTION HISTORY
1973, c. 375, (AMD). 1975, c. 766, §4 (AMD). 1979, c. 127, §17 (AMD). 1979, c. 138, (AMD). 1979, c. 541, §A18 (AMD). 1985, c. 785, §B7 (AMD). 1991, c. 824, §A3 (AMD). RR 2001, c. 2, §A3 (COR). 2009, c. 213, Pt. BBB, §1 (AMD).

§12. LONGEVITY PAY FOR CERTAIN DEPARTMENT OFFICERS

(REPEALED)

SECTION HISTORY
1965, c. 483, (NEW). 1979, c. 127, §18 (RP).

§13. TRAVEL EXPENSES OF MEMBERS OF BOARDS AND COMMISSIONS

Notwithstanding any other provision of law or regulation, members of any board or commission who are authorized by law to receive travel expenses shall receive necessary expenses for travel only from their place of residence within the State to and from meetings of such board or commission and for any other travel only from their place of residence within the State to and from another location in connection with the official business of and under the specific authority of such board or commission. [1975, c. 290, (NEW).]

§13. Payroll deduction for Maine Warden Service Relief Association

(As enacted by PL 1975, c. 623, §3-1 was repealed by PL 1975, c. 771, §15)

SECTION HISTORY
1975, c. 290, (NEW). 1975, c. 623, §3-I (NEW). 1975, c. 770, §15 (RP).

§14. PARTICIPATION IN NONPARTISAN AFFAIRS

(REPEALED)

SECTION HISTORY
1975, c. 597, (NEW). 1997, c. 498, §1 (RP).

§15. DISQUALIFICATION OF FORMER STATE EMPLOYEES AND THE FORMER PARTNERS OF PRESENT STATE EMPLOYEES FROM PARTICIPATION IN CERTAIN MATTERS

(REPEALED)

SECTION HISTORY
1975, c. 539, (NEW). 1975, c. 770, §§16-18 (AMD). 1977, c. 696, §§31,32 (AMD). 1979, c. 734, §1 (RP).

§16. VACATION AND SICK LEAVE ACCUMULATION

1. **Vacation time.** Classified and unclassified state employees shall be permitted to accumulate at least the vacation time listed under the following schedule:

Longevity of employee	Rate of accumulation
0-5 years	1 day per month of employment
6-10 years	1 1/4 days per month of employment
11-15 years	1 1/2 days per month of employment
16-20 years	1 3/4 days per month of employment
20 years or more	2 days per month of employment

Classified and unclassified employees accumulating vacation time under this subsection shall be permitted to accumulate at least the number of vacation days set out under the following schedule:

Longevity of employee	Number of Accumulated Days Permitted at Any One Time
1-14 years	24 days
15 years or more	30 days

[1975, c. 147, §E (NEW) .]

1-A. **Advancement of vacation time.** A state employee who has vacation time credited in advance and who uses some or all of that advanced vacation time and subsequently leaves state service is responsible for reimbursing the State for the dollar value at that state employee's current wage for all advanced but unearned vacation time. A state employee who leaves state service may be paid only for vacation time earned and may not be paid for vacation time credited in advance.

[1991, c. 9, Pt. E, §3 (NEW); 1991, c. 9, Pt. E, §4 (AFF) .]

2. **Sick leave.** Classified and unclassified employees shall earn at least one day of sick leave per month of employment and shall be permitted to accumulate days of sick leave up to at least 90 days at any one time.

[1975, c. 147, §E (NEW) .]

3. **Regulations.** The Director of Human Resources shall, acting under section 631, prescribe or amend rules and regulations to assure that state personnel policy conforms to the minimums set out in this section. The minimum limits contained in this section shall not be construed to be maximum limits, and the Director of Human Resources may prescribe or amend rules permitting accumulation of vacation leave and sick leave beyond the limits set forth here for limited categories of state employees for state employees in special situations, or for all classified or unclassified state employees.

[1985, c. 785, Pt. B, §8 (AMD) .]

SECTION HISTORY
P&SL 1975, c. 147, §E (NEW). 1975, c. 770, §19 (NEW). 1977, c. 78, §5 (RP). 1981, c. 28, §1 (AMD). 1985, c. 785, §B8 (AMD). 1991, c. 9, §E3 (AMD). 1991, c. 9, §E4 (AFF).

§17. PAYROLL DEDUCTION FOR MAINE WARDEN SERVICE RELIEF ASSOCIATION

The Commissioner of Administrative and Financial Services is authorized to permit payroll deductions from the salaries of state employees for membership dues for the Maine Warden Service Relief Association and to transmit the funds so collected to the Maine Warden Service Relief Association under the appropriate departmental rules concerning payroll deductions. [1991, c. 780, Pt. Y, §7 (AMD).]

SECTION HISTORY
1977, c. 78, §6 (NEW). 1985, c. 785, §A5 (AMD). 1991, c. 780, §Y7 (AMD).

§18. DISQUALIFICATION OF EXECUTIVE EMPLOYEES FROM PARTICIPATION IN CERTAIN MATTERS

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

A. "Constitutional officers" means the Attorney General, Secretary of State and Treasurer of State. [1979, c. 734, §2 (NEW).]

B. "Executive employee" means the constitutional officers, the State Auditor, members of the state boards and commissions as defined in chapter 379 and compensated members of the classified or unclassified service employed by the Executive Branch, but it shall not include:

(1) The Governor;

(2) Employees of and members serving with the National Guard;

(3) Employees of the University of Maine System, the Maine Maritime Academy and state community colleges;

(4) Employees who are employees solely by their appointment to an advisory body;

(5) Members of boards listed in chapter 379, who are required by law to represent a specific interest, except as otherwise provided by law; and

(6) Members of advisory boards as listed in chapter 379. [1989, c. 443, §5 (RPR); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF).]

C. "Participate in his official capacity" means to take part in reaching a decision or recommendation in a proceeding that is within the authority of the position he holds. [1979, c. 734, §2 (NEW).]

D. "Proceeding" means a proceeding, application, request, ruling, determination, award, contract, claim, controversy, charge, accusation, arrest or other matter relating to governmental action or inaction. [1979, c. 734, §2 (NEW).]

E. "Participates in the legislative process" means to provide any information concerning pending legislation to a legislative committee, subcommittee or study or working group, whether orally or in writing. [1999, c. 242, §1 (NEW).]

[1999, c. 242, §1 (AMD); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF) .]

2. **Executive employee.** An executive employee commits a civil violation if he personally and substantially participates in his official capacity in any proceeding in which, to his knowledge, any of the following have a direct and substantial financial interest:

A. Himself, his spouse or his dependent children; [1979, c. 734, §2 (NEW).]

B. His partners; [1979, c. 734, §2 (NEW).]

C. A person or organization with whom he is negotiating or has agreed to an arrangement concerning prospective employment; [1979, c. 734, §2 (NEW).]

D. An organization in which he has a direct and substantial financial interest; or [1979, c. 734, §2 (NEW).]

E. Any person with whom the executive employee has been associated as a partner or a fellow shareholder in a professional service corporation pursuant to Title 13, chapter 22-A, during the preceding year. [2001, c. 2, Pt. C, §7 (AFF); 2001, c. 2, Pt. C, §1 (COR).]

[2001, c. 2, Pt. C, §7 (AFF); 2001, c. 2, Pt. C, §1 (COR) .]

2-A. **Participation in legislative process.** An executive employee commits a civil violation if the employee participates in the legislative process in the employee's official capacity concerning any legislation in which any person described in subsection 2, paragraphs A to E has any direct and substantial financial interest unless the employee discloses that interest at the time of the employee's participation.

[1999, c. 242, §2 (NEW) .]

3. **Former executive employee.** Former executive employees shall be subject to the provisions in this subsection with respect to proceedings in which the State is a party or has a direct and substantial interest.

A. No former executive employee may knowingly act as an agent or attorney for, or appear personally before, a state or quasi-state agency for anyone other than the State for a one-year period following termination of the employee's employment with the agency or quasi-state agency in connection with a proceeding in which the specific issue was pending before the executive employee's agency and was directly within the responsibilities of the employee during a period terminating at least 12 months prior to the termination of that employee's employment. [1987, c. 784, §2 (RPR).]

B. No former executive employee may knowingly act as an agent or attorney for, or appear personally before, a state or quasi-state agency for anyone other than the State at any time following termination of the employee's employment with the agency or quasi-state agency in connection with a proceeding in which the specific issue was pending before the executive employee's agency and was directly within the responsibilities of the executive employee during the 12-month period immediately preceding the termination of the employee's employment. [1987, c. 784, §2 (RPR).]

[1987, c. 784, §2 (RPR) .]

4. **Construction of section.** This section may not be construed to prohibit former state employees from doing personal business with the State. This section shall not limit the application of any provisions of Title 17-A, chapter 25.

[1979, c. 734, §2 (NEW) .]

5. **Penalty.** A violation of this section is a civil violation for which a forfeiture of not more than $1,000 may be adjudged.

[1979, c. 734, §2 (NEW) .]

6. **Application of more stringent statutory provisions.** If other statutory conflict of interest provisions pertaining to any state agency, quasi-state agency or state board are more stringent than the provisions in this section, the more stringent provisions shall apply.

[1987, c. 784, §3 (NEW) .]

7. **Avoidance of appearance of conflict of interest.** Every executive employee shall endeavor to avoid the appearance of a conflict of interest by disclosure or by abstention. For the purposes of this subsection and subsection 8, "conflict of interest" includes receiving remuneration, other than reimbursement for reasonable travel expenses, for performing functions that a reasonable person would expect to perform as part of that person's official responsibility as an executive employee.

[2001, c. 203, §1 (AMD) .]

8. **Disclosure of conflict of interest.** An executive employee shall disclose immediately to that employee's direct supervisor any conflict of interest within the meaning of this section.

[1999, c. 242, §3 (NEW) .]

SECTION HISTORY
1979, c. 734, §2 (NEW). 1985, c. 779, §7 (AMD). 1987, c. 735, §4 (AMD). 1987, c. 784, §§1-3 (AMD). 1989, c. 443, §5 (AMD). 1999, c. 242, §§1-3 (AMD). RR 2001, c. 2, §C7 (AFF). RR 2001, c. 2, §C1 (COR). 2001, c. 203, §1 (AMD). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF).

§18-A. CONFLICT OF INTEREST; CONTRACT WITH THE STATE

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

A. "State entity" means any office, department, agency, authority, commission, board, institution, hospital or other instrumentality of the State. [2001, c. 203, §2 (NEW).]

B. "Executive employee" has the same meaning as set forth in section 19, subsection 1, paragraph D except that "executive employee" includes employees of and members serving with the National Guard and employees of the University of Maine System, the Maine Maritime Academy and the state community colleges. [2001, c. 203, §2 (NEW); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF).]

[2001, c. 203, §2 (NEW); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF) .]

2. **Prohibition.** An executive employee may not have any direct or indirect pecuniary interest in or receive or be eligible to receive, directly or indirectly, any benefit that may arise from any contract made on behalf of the State when the state entity that employs the executive employee is a party to the contract.

[2001, c. 203, §2 (NEW) .]

3. **Violative contract void.** Any contract made in violation of this section is void.

[2001, c. 203, §2 (NEW) .]

4. **Exemptions.** This section does not apply:

A. To purchases by the Governor under authority of Title 1, section 814; [2001, c. 203, §2 (NEW).]

B. To contracts made with a corporation that has issued shares to the public for the general benefit of that corporation; or [2001, c. 203, §2 (NEW).]

C. If an exemption is approved by the Director of the Bureau of General Services within the Department of Administrative and Financial Services or the director's designee based upon one of the following and if the director gives notice of the granting of this exemption to all parties bidding on the contract in question with a statement of the reason for the exemption and if an opportunity is provided for any party to appeal the granting of the exemption:

(1) When the private entity or party that proposes to contract with the State and that employs the executive employee, based upon all relevant facts, is the only reasonably available source to provide the service or product to the State, as determined by the director; or

(2) When the director determines that the amount of compensation to be paid to the private entity or party providing the service or product to the State is de minimis. [2001, c. 203, §2 (NEW).]

[2001, c. 203, §2 (NEW) .]

SECTION HISTORY
2001, c. 203, §2 (NEW). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF).

§19. FINANCIAL DISCLOSURE BY EXECUTIVE EMPLOYEES

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

A. "Appointed executive employee" means a compensated member of the classified or unclassified service employed by the Executive Branch, who is appointed by the Governor and confirmed by the Legislature, or who serves in a major policy-influencing position, except assistant attorneys general, as set forth in chapter 71. [1987, c. 784, §4 (AMD).]

A-1. "Associated organization" means any organization in which an executive employee or a member of the executive employee's immediate family is a managerial employee, director, officer or trustee or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10% of the outstanding equity. [2011, c. 634, §15 (NEW).]

B. "Constitutional officers" means the Governor, Attorney General, Secretary of State and Treasurer of State. [1979, c. 734, §2 (NEW).]

B-1. "Domestic partner" means the partner of an executive employee who:

(1) Has been legally domiciled with the executive employee for at least 12 months;

(2) Is not legally married to or legally separated from an individual;

(3) Is the sole partner of the executive employee and expects to remain so; and

(4) Is jointly responsible with the executive employee for each other's common welfare as evidenced by joint living arrangements, joint financial arrangements or joint ownership of real or personal property. [2011, c. 634, §15 (NEW).]

C. "Elected executive employee" means the constitutional officers and the State Auditor. [1979, c. 734, §2 (NEW).]

D. "Executive employee" means an appointed executive employee or an elected executive employee. [1979, c. 734, §2 (NEW).]

E. "Gift" means anything of value, including forgiveness of an obligation or debt, given to a person without that person providing equal or greater consideration to the giver. "Gift" does not include:

(1) Gifts received from a single source during the reporting period with an aggregate value of $300 or less;

(2) A bequest or other form of inheritance; and

(3) A gift received from a relative or from an individual on the basis of a personal friendship as long as that individual is not a registered lobbyist or lobbyist associate under Title 3, section 313, unless the employee has reason to believe that the gift was provided because of the employee’s official position and not because of a personal friendship. [2009, c. 524, §1 (AMD).]

F. "Honorarium" means a payment of money or anything with a monetary resale value to a person for an appearance or a speech by the person. "Honorarium" does not include reimbursement for actual and necessary travel expenses for an appearance or speech. "Honorarium" does not include a payment for an appearance or a speech that is unrelated to the person's official capacity or duties. [1989, c. 561, §14 (NEW).]

G. "Immediate family" means a person's spouse, domestic partner or dependent children. [2011, c. 634, §16 (AMD).]

H. "Income" means economic gain to a person from any source, including, but not limited to, compensation for services, including fees, commissions and payments in-kind; gross income derived from business; gross income derived from dealings in property, rents and royalties; gross income from investments including interest, capital gains and dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributions from a partnership or limited liability company; gross income from an interest in an estate or trust; prizes; and grants, but does not include gifts or honoraria. Income received in-kind includes, but is not limited to, the transfer of property and options to buy or lease and stock certificates. "Income" does not include alimony and separate maintenance payments, child support payments or campaign contributions accepted for state or federal office or funds or other property held in trust for another, including but not limited to fees paid in advance or money to be spent on behalf of a client for payment of a licensing or filing fee. [2011, c. 634, §17 (AMD).]

H-1. "Managerial employee" means an employee of an organization whose position requires substantial control over the organization's decision making, business operations, financial management or contracting and procurement activities. For the purposes of this subsection, financial management does not include tasks that are considered clerical in nature. [2011, c. 634, §18 (NEW).]

I. "Relative" means an individual who is related to the executive employee or the executive employee's spouse as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister, and shall be deemed to include the fiance or fiancee of the executive employee. [1989, c. 561, §14 (NEW).]

I-1. "Reportable liabilities" means any unsecured loan, except a loan made as a campaign contribution recorded as required by law, of $3,000 or more received from a person not a relative. Reportable liabilities do not include:

(1) A credit card liability;

(2) An educational loan made or guaranteed by a governmental entity, educational institution or nonprofit organization; or

(3) A loan made from a state or federally regulated financial institution for business purposes. [1991, c. 331, §2 (NEW).]

J. "Self-employed" means that the person qualifies as an independent contractor under Title 39-A, section 102, subsection 13-A. [2011, c. 643, §2 (AMD); 2011, c. 643, §14 (AFF).]

[2011, c. 634, §§15-18 (AMD); 2011, c. 643, §2 (AMD); 2011, c. 643, §14 (AFF) .]

2. **Content of statement.** Each executive employee shall annually file with the Commission on Governmental Ethics and Election Practices a statement identifying the sources of income received, positions held and reportable liabilities incurred during the preceding calendar year by the executive employee or members of the executive employee's immediate family. The name and, where applicable, the job title of the individual earning or receiving the income must be disclosed, unless otherwise noted. Each source of income must be identified by name, address and principal type of economic or business activity. If disclosure of this type is prohibited by statute, rule or an established code of professional ethics, it is sufficient for the executive employee to specify the principal type of economic or business activity from which the income is derived.

The statement must identify:

A. If the executive employee is an employee of another person, firm, corporation, association or organization that has provided the executive employee with compensation of $2,000 or more, the name and address of the employer; [2011, c. 634, §19 (RPR).]

B. If the executive employee is self-employed, the name and address of the executive employee's business and each source of income derived from self-employment that represents more than 10% of the employee's gross income from self-employment or $2,000, whichever is greater; [2011, c. 634, §19 (RPR).]

C. [2011, c. 634, §19 (RP).]

D. [2011, c. 634, §19 (RP).]

E. [2011, c. 634, §19 (RP).]

F. [2011, c. 634, §19 (RP).]

G. [2011, c. 634, §19 (RP).]

H. The name, address and principal economic or business activity of any corporation, partnership, limited liability company or other business in which the executive employee or members of the employee's immediate family own or control, directly or indirectly, more than 5% of the outstanding equity, whether individually or in the aggregate, that has received revenue of $2,000 or more; [2013, c. 401, §3 (AMD).]

I. Each source of income of $2,000 or more the executive employee derived from providing services as an attorney, the major areas of law practiced by the executive employee and, if associated with a law firm, the major areas of practice of the firm; [2011, c. 634, §19 (NEW).]

J. Each additional source of income of $2,000 or more received by the executive employee and a description of the nature of the income, such as rental income, dividend income and capital gains; [2013, c. 401, §3 (AMD).]

K. The specific source of each gift received by the executive employee; [2011, c. 634, §19 (NEW).]

L. Each source of income of $2,000 or more received by any member of the immediate family of the executive employee, except that the employee is not required to identify the names of dependent children. If the member of the executive employee's immediate family received income of $2,000 or more in compensation, the executive employee shall identify the source of the compensation, the type of the economic activity and the title of the position held by the immediate family member; [2011, c. 634, §19 (NEW).]

M. Each source of honoraria of $2,000 or more that the executive employee accepted; [2011, c. 634, §19 (NEW).]

N. Each executive branch agency before which the executive employee or a member of the employee's immediate family has represented or assisted others for compensation; [2011, c. 634, §19 (NEW).]

O. Each state governmental agency, board or commission to which the executive employee, a member of the employee's immediate family or an associated organization has sold, rented or leased goods or services with a value of $10,000 or more during the preceding calendar year and a description of the goods or services sold, rented or leased; [2011, c. 634, §19 (NEW).]

P. Each party as defined in Title 21-A, section 1, subsection 28, including a party committee, and each organization that is required under Title 21-A, chapter 13 to register with the commission as a political action committee or ballot question committee for which the executive employee or a member of the executive employee's immediate family is a treasurer, principal officer or principal fund-raiser or decision maker of the organization; [2013, c. 401, §3 (AMD).]

Q. Any offices, trusteeships, directorships or positions of any nature, whether compensated or uncompensated, held by the executive employee or a member of the employee's immediate family with any for-profit or nonprofit firm, corporation, association, limited liability company, partnership or business. For the purposes of this paragraph, service as a clerk of a corporation or as a registered agent authorized to receive service of any process, notice or other demand for a business entity is not considered a position with the corporation or business entity; and [2011, c. 634, §19 (NEW).]

R. All reportable liabilities incurred by the executive employee or members of the employee's immediate family during the reporting period. [2011, c. 634, §19 (NEW).]

[2013, c. 401, §3 (AMD) .]

2-A. **Statement of interests.** Beginning in 2010, each executive employee shall annually file with the Commission on Governmental Ethics and Election Practices a statement of those positions set forth in this subsection for the preceding calendar year. The statement must include:

A. Any offices, trusteeships, directorships or positions of any nature, whether compensated or uncompensated, held by the executive employee with any for-profit or nonprofit firm, corporation, association, partnership or business; and [2007, c. 704, §6 (NEW).]

B. Any offices, trusteeships, directorships or positions of any nature, whether compensated or uncompensated, held by a member of the immediate family of the executive employee with any for-profit or nonprofit firm, corporation, association, partnership or business and the name of that member of the executive employee's immediate family. [2007, c. 704, §6 (NEW).]

[2009, c. 524, §3 (AMD) .]

3. **Time for filing.**

A. An elected executive employee shall file an initial report within 30 days of his election. An appointed executive employee shall file an initial report prior to confirmation by the Legislature. [1979, c. 734, §2 (NEW).]

B. Each executive employee shall file the annual report by 5:00 p.m. on April 15th of each year, unless that employee has filed an initial or updating report during the preceding 30 days or has already filed a report for the preceding calendar year pursuant to paragraph A. [2011, c. 634, §20 (AMD).]

C. An executive employee shall file an updated statement concerning the current calendar year if the income, reportable liabilities or positions of the executive employee or an immediate family member, excluding dependent children, substantially change from those disclosed in the employee's most recent statement. Substantial changes include, but are not limited to, a new employer that has paid the executive employee or immediate family member, excluding dependent children, $2,000 or more during the current year, another source that has provided the employee with income that totals $2,000 or more during the current year or the acceptance of a new position with a for-profit or nonprofit firm that is reportable under subsection 2, paragraph Q. The executive employee shall file the updated statement within 30 days of the substantial change in income, reportable liabilities or positions. [2011, c. 634, §21 (RPR).]

[2011, c. 634, §§20, 21 (AMD) .]

3-A. **Filing upon termination of employment.** An executive employee whose employment has terminated shall file a statement of finances as described in subsection 2 and a statement of positions as described in subsection 2-A within 45 days after the termination of employment relating to the final calendar year of the employment.

[2011, c. 634, §22 (NEW) .]

4. **Penalties.** Penalties for violation of this section are as follows.

A. Failing to file a statement within 15 days of having been notified by the Commission on Governmental Ethics and Election Practices is a civil violation for which a fine of not more than $100 may be adjudged. A statement is not considered filed unless it substantially conforms to the requirements of Title 1, chapter 25, subchapter 2 and is properly signed. The commission shall determine whether a statement substantially conforms to such requirements. [2011, c. 634, §23 (NEW).]

B. The intentional filing of a false statement is a Class E crime. If the Commission on Governmental Ethics and Election Practices concludes that it appears that an executive employee has willfully filed a false statement, it shall refer its findings of fact to the Attorney General. [2011, c. 634, §23 (NEW).]

[2011, c. 634, §23 (RPR) .]

5. **Rules.** The Commission on Governmental Ethics and Election Practices may adopt or amend rules to specify the reportable categories or types and the procedures and forms for reporting and to administer this section.

[2007, c. 704, §8 (AMD) .]

6. **Public record.** Statements filed under this section are public records. The Commission on Governmental Ethics and Election Practices shall provide a means for executive employees to file statements in an electronic format that must immediately place the statements on a publicly accessible website. Executive employees shall file statements required by this section using the electronic format prescribed by the

commission. If an executive employee can attest to an inability to access or use the electronic filing format, the commission may provide assistance to the employee to ensure proper and timely placement of the required statements on the publicly accessible website.

[2013, c. 401, §4 (AMD) .]

7. **Disclosure of reportable liabilities.**

[2011, c. 634, §24 (RP) .]

SECTION HISTORY
1979, c. 734, §2 (NEW). 1987, c. 784, §4 (AMD). 1989, c. 561, §§13-16 (AMD). 1989, c. 608, §3 (AMD). 1991, c. 331, §§2,3 (AMD). 1991, c. 885, §E6 (AMD). 1991, c. 885, §E47 (AFF). 2001, c. 75, §3 (AMD). 2007, c. 704, §§5-9 (AMD). 2009, c. 524, §§1-3 (AMD). 2011, c. 389, §1 (AMD). 2011, c. 634, §§15-24 (AMD). 2011, c. 643, §2 (AMD). 2011, c. 643, §14 (AFF). 2013, c. 401, §§3, 4 (AMD).

§19-A. PROTECTIVE EQUIPMENT TRAINING FOR STATE EMPLOYEES

If protective equipment, such as that issued to fire fighters in Title 26, section 2103, is issued or made available to any state employee, that employee must receive training in the use of the equipment before being required or asked to use it. Training must be provided on at least an annual basis and otherwise meet or exceed the requirements of the General Industry Standards of the Occupational Safety and Health Administration, 29 Code of Federal Regulations, Part 1910, Subpart L. [1991, c. 2, §5 (COR).]

SECTION HISTORY
1989, c. 606, (NEW). RR 1991, c. 2, §5 (COR).

§19-B. STATE EMPLOYEE PARTICIPATION IN DISASTER RELIEF

In order to participate in specialized disaster relief services for the American Red Cross, a state employee who is a certified disaster service volunteer of the American Red Cross, upon the request of the American Red Cross and with the approval of the employee's appointing authority, may: [1997, c. 600, §1 (NEW).]

1. **Paid leave.** Be granted a leave not to exceed 15 days in each year without loss of pay, vacation time, sick leave or earned overtime accumulation;

[1997, c. 600, §1 (NEW) .]

2. **Use of compensated time off.** Be granted a leave using that employee's compensated time off, with the consent of the employee; or

[1997, c. 600, §1 (NEW) .]

3. **Combination.** Be granted a leave using a combination of paid leave and compensated time off authorized in subsections 1 and 2.

[1997, c. 600, §1 (NEW) .]

This section applies only to relief services related to a disaster declared by the governor of a state or territory or by the President of the United States. [1997, c. 600, §1 (NEW).]

SECTION HISTORY

1997, c. 600, §1 (NEW).

Subchapter 2: STATE EMPLOYEES AND STATE PROPERTY

§20. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1985, c. 737, Pt. A, §15 (NEW).]

1. **Employee of this State.** "Employee of this State" means an employee in the classified or unclassified service as defined in chapters 71 and 372.

[1991, c. 824, Pt. B, §2 (AMD) .]

2. **State property.** "State property" means personal property, including, but not limited to, furnishings, supplies and equipment that is owned or leased by or in the control of the State or any department or agency of the State or independent state agency. "State property" includes property purchased with funds, such as fees for conferences and seminars conducted by a state agency, received by or on behalf of the State or any department or agency outside of the normal system of accounts and controls.

[1995, c. 280, §1 (AMD) .]

SECTION HISTORY
1985, c. 737, §A15 (NEW). 1991, c. 824, §B2 (AMD). 1995, c. 280, §1 (AMD).

§20-A. USE AND ACQUISITION OF STATE PROPERTY

1. **Use of state property.** An employee of the State may not take state property off the premises of the State for personal use or for the use of others without prior written approval of the head of the department for which that employee works.

[1995, c. 280, §2 (NEW) .]

2. **Acquisition of state property.** Within 3 months of leaving office or employment with the State, an employee of the State, in accordance with rules adopted by the Commissioner of Administrative and Financial Services and this chapter, may purchase at fair market value state property that was assigned to the employee or state property of which the employee was the principal user at the time of that employee's employment. The commissioner, by rule, shall determine state property that may be offered for sale under this chapter. State property may not be offered for sale under this chapter until the commissioner determines that the property is eligible for sale and that no state agency has any need or use for the property. This section may not be interpreted to prohibit an employee of the State or any other person from purchasing state property at fair market value in accordance with this chapter as a gift to an employee of this State upon that employee's retiring or leaving office.

[1995, c. 280, §2 (NEW) .]

3. **Return of state property.** If an employee or former employee of the State is in possession of state property in violation of subsection 1, the State may bring an action for injunctive relief seeking the return of the state property. The action may be brought in Superior Court in the county where the alleged violation

occurred, Kennebec County or the county where the person against whom the civil complaint is filed resides. If a violation of subsection 1 is established, the court may enjoin the violation and order the return of the state property.

[1995, c. 280, §2 (NEW) .]

SECTION HISTORY
1985, c. 737, §A15 (NEW). 1991, c. 780, §Y8 (AMD). 1995, c. 280, §2 (RPR).

Subchapter 2: STATE EMPLOYEES AND STATE PROPERTY (REPEALED)

Chapter 2: TESTIMONY PROVIDED BY STATE EMPLOYEES TO LEGISLATIVE COMMITTEES

§21. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1985, c. 167, (NEW).]

1. **Legislative committee.** "Legislative committee" means a joint standing committee of the Legislature, a joint select committee of the Legislature, a task force, commission or council or any other committee established by the Legislature and composed wholly or partly of Legislators for the purpose of conducting legislative business.

[1985, c. 167, (NEW) .]

2. **Nonpartisan staff.** "Nonpartisan staff" means the directors and staffs of the Office of Policy and Legal Analysis, the Office of Fiscal and Program Review, the Office of the Revisor of Statutes, the Legislative Information Office, the Law and Legislative Reference Library, the Office of Program Evaluation and Government Accountability, the Office of Legislative Information Technology and the Office of the Executive Director of the Legislative Council.

[2015, c. 102, §7 (AMD) .]

3. **Own time.** "Own time" means an employee's personal time or authorized leave time, earned as a condition of employment.

[1985, c. 167, (NEW) .]

4. **State employee.** "State employee" means any employee of an agency, independent agency or parts of agencies which receive support from the General Fund or that are established, created or incorporated by reference to the laws, except nonpartisan staff of the Legislature.

[1989, c. 483, Pt. A, §5 (AMD) .]

5. **Supervisor.** "Supervisor" means a commissioner, bureau chief, director, manager or any other person who oversees or supervises state employees in their employment.

[1985, c. 167, (NEW) .]

6. **Legislative inquiry.** "Legislative inquiry" means any request made by a legislative committee or individual Legislator to a state employee for public information or the state employee's personal opinion.

[1989, c. 483, Pt. A, §6 (NEW); 1989, c. 878, Pt. A, §8 (AMD) .]

SECTION HISTORY
1985, c. 167, (NEW). 1985, c. 737, §B5 (AMD). 1989, c. 483, §§A5,A6 (AMD). 1989, c. 878, §A8 (AMD). 2015, c. 102, §7 (AMD).

§22. RIGHT TO PROVIDE TESTIMONY

State employees have the right to represent themselves and testify before a legislative committee on their own time. State employees have the right to respond to any legislative inquiry. A state employee who complies with this chapter shall not be denied the right to testify before a legislative committee. [1989, c. 483, Pt. A, §7 (AMD).]

SECTION HISTORY
1985, c. 167, (NEW). 1989, c. 483, §A7 (AMD).

§23. DISCHARGE OF, THREATS TO OR DISCRIMINATION AGAINST STATE EMPLOYEES FOR TESTIMONY PRESENTED TO LEGISLATIVE COMMITTEES

A supervisor shall not discharge, threaten or otherwise discriminate against a state employee regarding the employee's compensation, terms, conditions, location or privileges of employment because the employee, in compliance with this chapter, testified before or provides information to a legislative committee. [1985, c. 167, (NEW).]

SECTION HISTORY
1985, c. 167, (NEW).

§24. PRESENTATION OF TESTIMONY AND INFORMATION

1. **Type of information.** This chapter protects any state employee who, in compliance with this chapter, presents testimony or information relating to departments or agencies of State Government and which testimony or information pertains to:

A. Successes, failures or problems of current programs; [1985, c. 167, (NEW).]

B. Advantages, disadvantages or other relevant information about proposed programs; and [1985, c. 167, (NEW).]

C. The means of improving existing programs and alternatives to existing programs. [1985, c. 167, (NEW).]

[1985, c. 167, (NEW) .]

SECTION HISTORY
1985, c. 167, (NEW).

§25. EXCLUSION OF TESTIMONY AND INFORMATION FROM PROTECTION

1. **Liability of state employees.** This chapter does not authorize the presentation to a legislative committee or protect any state employee who presents to a legislative committee the following:

A. Slander; and [1985, c. 167, (NEW).]

B. Libel. [1985, c. 167, (NEW).]

[1985, c. 167, (NEW) .]

SECTION HISTORY
1985, c. 167, (NEW).

§26. NONPARTISAN LEGISLATIVE STAFF

Nonpartisan staff of the Legislature shall be subject to the policies and rules of the Legislative Council as these policies and rules relate to testifying or providing information to legislative committees. [1985, c. 167, (NEW).]

SECTION HISTORY
1985, c. 167, (NEW).

§27. REPRESENTATIVES OF AGENCIES AND DEPARTMENTS

1. **Department testimony and information.** Nothing in this chapter may be construed to prohibit a state employee from testifying before or present information to a legislative committee as a representative of a department or agency of State Government and who has been authorized by the commissioner or director of that department or agency to act in this capacity.

[1985, c. 167, (NEW) .]

2. **Misrepresentations of state employees.** Any state employee who represents himself as a spokesman or representative of a department or agency without the authorization of the commissioner or director of that organization shall not be protected by the provisions of this chapter and shall be subject to the penalty in subsection 3.

[1985, c. 167, (NEW) .]

3. **Penalty.** Any person who violates this section is guilty of a Class E crime.

[1985, c. 167, (NEW) .]

SECTION HISTORY
1985, c. 167, (NEW).

§28. CIVIL ACTIONS FOR INJUNCTIVE RELIEF OR OTHER REMEDIES

A state employee who alleges a violation of his rights under this chapter may bring a civil action, including an action for injunctive relief, within 120 days after the occurrence of that alleged violation. The action may be brought in the Superior Court for the county where the alleged violation occurred, the county where the complainant resides or the county where the person against whom the civil complaint is filed resides. [1985, c. 167, (NEW).]

An employee shall establish each and every element of his case by a preponderance of the evidence. [1985, c. 167, (NEW).]

SECTION HISTORY
1985, c. 167, (NEW).

§29. REMEDIES ORDERED BY COURT

A court, in rendering a judgment in an action brought pursuant to this chapter, may order reinstatement of this employee, the payment of back wages, full reinstatement of fringe benefits and seniority rights or any combination of these remedies. A court may also award the prevailing party all or a portion of the costs of litigation, including reasonable attorneys' fees and witness fees, if the court determines that the award is appropriate. [1985, c. 167, (NEW).]

SECTION HISTORY
1985, c. 167, (NEW).

§30. PENALTIES FOR VIOLATIONS

A person who violates sections 22, 23 and 24 is liable for a civil fine of $10 for each day of willful violation, which shall not be suspended. Any civil fine imposed under this section shall be submitted to the Treasurer of State for deposit to the General Fund. [1985, c. 167, (NEW).]

SECTION HISTORY
1985, c. 167, (NEW).

§31. COLLECTIVE BARGAINING RIGHTS

This chapter shall not be construed to diminish or impair the rights of the State or respective bargaining agent under any collective bargaining agreement. [1985, c. 167, (NEW).]

SECTION HISTORY
1985, c. 167, (NEW). 1985, c. 378, §2 (NEW). 1985, c. 737, §A14 (RP).

§32. JURY TRIAL; COMMON-LAW RIGHTS

Any action brought under this chapter may be heard by a jury. Nothing in this chapter may be construed to derogate any common-law rights of an employee. [1985, c. 167, (NEW).]

SECTION HISTORY
1985, c. 167, (NEW). 1985, c. 378, §2 (NEW). 1985, c. 737, §A14 (RP).

§33. BUREAU OF HUMAN RESOURCES TO INFORM SUPERVISORS AND STATE EMPLOYEES

The Director of Human Resources is responsible for informing supervisors and state employees about the provisions of this chapter. The Director of Human Resources, at a minimum, shall distribute a sufficient number of copies of this chapter, which shall be visibly posted in all state buildings, in order to notify the greatest possible number of state employees about the provisions in this chapter. [1985, c. 785, Pt. B, §9 (AMD).]

The Director of Human Resources shall use the necessary means to instruct all supervisory personnel about the provisions in this chapter. [1985, c. 785, Pt. B, §9 (AMD).]

SECTION HISTORY
1985, c. 167, (NEW). 1985, c. 785, §B9 (AMD).

Chapter 3: ADMINISTRATIVE DEPARTMENTS, AGENCIES, BOARDS, ETC., GENERALLY

§41. EMPLOYMENT OF COUNSEL OR WITNESSES

No head of any department shall employ counsel or witnesses, at the expense of the State, to appear before any committee of the Legislature, without the consent of the Legislature.

§42. EXCHANGE OF INFORMATION AND RECORDS

No state agency, board, commission, department or institution shall be charged for information or copies of records furnished by another state agency, board, commission, department or institution.

§43. ANNUAL REPORTS OF STATE AGENCIES

As used in sections 43 through 46, the word "agency" shall mean a state department, agency, office, board, commission or quasi-independent agency, board, commission, authority or institution. [1975, c. 436, §3 (RPR).]

The administrative head or body of each agency shall, on or before September 1st, annually, deliver to the Governor a report of such agency during the preceding fiscal year ending June 30th. An agency using a fiscal year other than that used by the State may report on the basis of its preceding fiscal year. The Legislative branch, through the Legislative Council, and the Judicial branch, through the Chief Justice of the Supreme Judicial Court, the University of Maine System and the Maine Maritime Academy, may also submit reports of these branches of State Government for the previous fiscal year. [1985, c. 779, §8 (AMD).]

The Governor shall immediately cause such reports to be edited with regard to content, arrangement and brevity, except that the constitutional officers elected by the Legislature, the Legislative Council and the Chief Justice and the University of Maine System and the Maine Maritime Academy shall approve any editing of their respective reports. [1985, c. 779, §8 (AMD).]

The Governor shall consolidate such reports and shall cause them to be printed and published in convenient form for distribution and sale as a public document entitled "The Maine State Government Annual Report" no later than December 31st. [1975, c. 436, §3 (RPR).]

The State Purchasing Agent shall distribute a reasonable number of copies of the report to each reporting agency, to legislative staff agencies and to each member of the Legislature, or, in the even-numbered years, to each member-elect taking office the following January. Eighty copies of the report shall be delivered to the State Librarian for exchange and library use. The State Purchasing Agent shall prorate the cost of the report among the reporting agencies. He shall provide for the sale of additional copies of the report to state agencies and the public at a reasonable price sufficient to cover the cost of printing and distribution. The income received under this section shall be credited to an Intragovernmental Service Account which shall be carried forward and expended by the State Purchasing Agent for the purposes of sections 43 through 46. [1975, c. 436, §3 (RPR).]

SECTION HISTORY
1973, c. 612, (NEW). 1975, c. 436, §3 (RPR). 1985, c. 779, §8 (AMD).

§44. REPORT PROVISIONS

The report of each agency shall include in summary form but not be limited to: [1973, c. 612, §1 (NEW).]

1. **Date of establishment.** The date when the agency was established;

[1973, c. 612, §1 (NEW) .]

2. **Statutory authority.** The statutory authority of the agency;

[1973, c. 612, §1 (NEW) .]

3. **Agency address.** The address of the agency's central office;

[1973, c. 612, §1 (NEW) .]

4. **Administrative officers.** The names, titles and telephone numbers of the principal administrative officers;

[1973, c. 612, §1 (NEW) .]

5. **Agency chart.** An organizational chart of the agency;

[1973, c. 612, §1 (NEW) .]

6. **Number of employees.** The average number of full-time employees;

[1973, c. 612, §1 (NEW) .]

7. **Authorized employees.** The number of employees authorized by the previous Legislature and a summary by month of the actual number of employees;

[1973, c. 612, §1 (NEW) .]

8. **Recurring operating expenditures.** Recurring operating expenditures;

[1973, c. 612, §1 (NEW) .]

9. **Fund and account identification.** The identification of all funds and accounts relating to an agency, with their beginning and ending balances; this shall include all federal funds and all funds from any other source;

[1973, c. 612, §1 (NEW) .]

10. **Program description.** A description of each program shall be provided and shall include a summary of major expenditures, goals and objectives and future plans.

[1973, c. 612, §1 (NEW) .]

A department made up of several distinct units shall provide overall summary information for the department and summary information for each bureau, division, commission, agency and institutional unit, as appropriate. [1973, c. 612, §1 (NEW).]

SECTION HISTORY
1973, c. 612, §1 (NEW).

§44-A. OUT-OF-STATE TRAVEL REPORT

All state agencies shall, within 15 days after the end of each quarter, submit to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs a report of that quarter's out-of-state travel activity. For the purposes of this section, a state agency is any state department or agency, or any part of a state department or agency, that receives an appropriation or an allocation through the state budget process. The report must reflect, for each individual who has been authorized by the agency to travel, the destination, purpose and cost by funding source of each trip. [1991, c. 622, Pt. L, §7 (NEW).]

SECTION HISTORY

1991, c. 622, §L7 (NEW).

§45. DISCONTINUATION OF DUPLICATE REPORTS

Notwithstanding any other provision of law, the Governor may discontinue the publication of any other annual or biennial report which duplicates the report material provided for in section 43, except for reports of the constitutional officers elected by the Legislature, and reports of the legislative and judicial branches of government, the University of Maine System and the Maine Maritime Academy. He may order the publication of an expanded departmental report, in standard format, in a limited quantity for record purposes. [1985, c. 779, §9 (AMD).]

Notwithstanding any other provision of law, every annual or biennial report required by statute to be made by any agency other than constitutional officers elected by the Legislature, the legislative and judicial branches of government, the University of Maine System and the Maine Maritime Academy, to the Governor and the Legislature shall be made by inclusion of that report in the Maine State Government Annual Report. The Governor may authorize the publication of special expanded department reports in a limited quantity when justified. [1985, c. 779, §9 (AMD).]

SECTION HISTORY
1973, c. 612, §1 (NEW). 1975, c. 436, §4 (AMD). 1977, c. 370, (AMD).
1985, c. 779, §9 (AMD).

§46. DESCRIPTIONS OF EXPENDITURES

Descriptions of expenditures under all funds and accounts shall be made in using generally the following categories and subcategories: [1975, c. 436, §5 (AMD).]

1. **Personal services.** Personal services:

A. Wages and salaries; [1973, c. 612, §1 (NEW).]

B. Retirement. [1973, c. 612, §1 (NEW).]

[1973, c. 612, §1 (NEW) .]

2. **All other.** All other:

A. Commodities; [1973, c. 612, §1 (NEW).]

B. Grants, subsidies and pensions; [1973, c. 612, §1 (NEW).]

C. Transfers to other funds; [1973, c. 612, §1 (NEW).]

D. Computer services; [1973, c. 612, §1 (NEW).]

E. All other rents; [1973, c. 612, §1 (NEW).]

F. All other contractual services. [1973, c. 612, §1 (NEW).]

[1973, c. 612, §1 (NEW) .]

3. **Capital expenditures.** Capital expenditures:

A. Buildings and improvements; [1973, c. 612, §1 (NEW).]

B. Equipment; [1973, c. 612, §1 (NEW).]

C. Purchases of land. [1973, c. 612, §1 (NEW).]

[1973, c. 612, §1 (NEW) .]

SECTION HISTORY

1973, c. 612, (NEW). 1975, c. 436, §5 (AMD).

§47. PUBLIC HEARINGS ON APPOINTMENT OF DEPARTMENTAL COMMISSIONERS

(REPEALED)

SECTION HISTORY
1975, c. 524, (NEW). 1975, c. 771, §30 (RP).

§48. INTERPRETER SERVICE FOR THE DEAF AND HARD-OF-HEARING

(REPEALED)

SECTION HISTORY
1977, c. 704, §1 (NEW). 1979, c. 88, §§1-4 (AMD). 1983, c. 70, (AMD). 1989, c. 36, (AMD). 1991, c. 406, §§1,2 (AMD). 1993, c. 708, §J1 (AMD). RR 1995, c. 2, §§2,3 (COR). 1995, c. 426, §1 (AMD). 1995, c. 560, §F1 (AMD). 1997, c. 749, §1 (AMD). 1999, c. 399, §1 (AMD). 1999, c. 399, §20 (AFF). 2003, c. 685, §1 (RP).

§48-A. COMMUNICATION SERVICES FOR DEAF PERSONS, HARD-OF-HEARING PERSONS AND LATE-DEAFENED PERSONS IN COURT AND OTHER LEGAL SETTINGS

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

A. "Advocate" means a person who is not a lawyer and who provides to the public advice or other substantive legal work that is not prohibited by law or regulation. [2003, c. 685, §2 (NEW).]

B. "Agency" means any authority, board, bureau, commission, department or officer of State Government or of any county, municipality, school district or any other political or administrative subdivision. [2003, c. 685, §2 (NEW).]

C. "Bureau" means the Department of Labor, Bureau of Rehabilitation Services. [2003, c. 685, §2 (NEW).]

D. "CART" means computer-assisted real-time transcription using specialized equipment to transcribe real time word-for-word spoken English into written English that can be viewed on a computer screen or projected onto a large screen. [2003, c. 685, §2 (NEW).]

E. "CART provider" means a person who provides CART. [2003, c. 685, §2 (NEW).]

F. "Client" means a deaf person, a hard-of-hearing person, a late-deafened person or a hearing person who is provided interpreting services by a privileged interpreter. [2009, c. 174, §1 (AMD).]

G. "Confidential communication" means a communication that a client has a reasonable expectation is not being disclosed to persons other than a privileged interpreter and any client to whom the communication is intended to be made. [2003, c. 685, §2 (NEW).]

H. "Deaf interpreter" means a deaf person, hard-of-hearing person or late-deafened person with native or near-native fluency in American Sign Language who has training in interpreting and training or experience in the use of gesture, mime, props, drawings and other tools to enhance communication for deaf persons with minimal language skills. [2009, c. 174, §1 (AMD).]

I. "Deaf person" means a person whose sense of hearing is nonfunctional for the purpose of communication and who must depend primarily upon visual communication. [2003, c. 685, §2 (NEW).]

J. "Hard-of-hearing person" means a person who has a hearing loss resulting in a functional loss, but not to the extent that the person must depend primarily upon visual communication. [2003, c. 685, §2 (NEW).]

K. "Interpreting organization" means an organization whose function is to provide qualified legal interpreter services for a fee. [2003, c. 685, §2 (NEW).]

K-1. "Late deafened" means that the sense of hearing of an individual is nonfunctional for the purpose of communication and that the individual must depend primarily upon visual communication. The loss of the sense of hearing for a late-deafened individual occurs after the development of speech and language. [2009, c. 174, §1 (NEW).]

L. "Privileged interpreter" means a person identified by clients as necessary to facilitate accurate communication between the clients and who otherwise has no substantial personal or business interest in the communication. [2003, c. 685, §2 (NEW).]

M. "Qualified legal interpreter" means a person who is licensed under Title 32, chapter 22 as a certified interpreter, certified deaf interpreter or certified transliterator and who:

(1) Is a hearing person who:

(a) Holds a current Specialist Certificate: Legal from the Registry of Interpreters for the Deaf, Inc. or its successor;

(b) Satisfies the eligibility criteria for taking the exam for the specialist certificate described in division (a) as long as, by January 1, 2012, that person obtains the specialist certificate described in division (a); or

(c) Is included on the bureau's list of qualified interpreters on the effective date of this section, as long as that person, by January 1, 2006, meets the eligibility criteria for taking the exam for the specialist certificate described in division (a) and, by January 1, 2012, obtains the specialist certificate described in division (a); or

(2) Is a deaf interpreter who holds a current Certificate of Interpretation from the Registry of Interpreters for the Deaf, Inc. or its successor or a Reverse Skills Certificate from the Registry of Interpreters for the Deaf, Inc. or its successor. Beginning January 1, 2006, a deaf person, hard-of-hearing person or late-deafened person must also satisfy the eligibility criteria for taking the exam for the Specialist Certificate: Legal or its successor. [2009, c. 174, §1 (AMD).]

N. "Travel expenses" means actual expenses for transportation reimbursable at the usual state mileage rate, tolls, parking fees or other fees specified in an agreement between an interpreter or an interpreting organization and an agency or court retaining the services of the interpreter at a specific date, time and place. [2003, c. 685, §2 (NEW).]

[2009, c. 174, §1 (AMD) .]

2. **Interpreter services or CART required for agency or court proceedings.** When any personal or property interest of a deaf person, hard-of-hearing person or late-deafened person or of a minor whose parent or guardian is a deaf person, hard-of-hearing person or late-deafened person is the subject of a proceeding before any agency or court, the presiding officer of the proceeding shall appoint a qualified legal interpreter or CART provider.

A. A qualified legal interpreter or CART provider must be appointed under this subsection after consultation with, and giving primary consideration to the request of, the deaf person, hard-of-hearing person or late-deafened person. If the appointed qualified legal interpreter does not meet the needs of the deaf person, hard-of-hearing person or late-deafened person, the presiding officer shall, with the consent of the deaf person, hard-of-hearing person or late-deafened person, appoint another qualified legal interpreter. [2009, c. 174, §1 (AMD).]

B. If a qualified legal interpreter appointed under this subsection for the deaf person, hard-of-hearing person or late-deafened person states that the interpretation is not satisfactory and that a qualified legal interpreter who is a deaf person, a hard-of-hearing person or a late-deafened person will improve the quality of interpretation, the presiding officer shall appoint a qualified legal interpreter who is a deaf person, a hard-of-hearing person or a late-deafened person to assist the qualified legal interpreter. [2009, c. 174, §1 (AMD).]

C. The presiding officer shall appoint as many qualified legal interpreters under this subsection as are necessary to meet the needs of the deaf person, hard-of-hearing person or late-deafened person. [2009, c. 174, §1 (AMD).]

D. A qualified legal interpreter or CART provider appointed under this subsection must be reimbursed by the agency or court conducting the proceeding at a rate negotiated with the qualified legal interpreter or interpreting organization, plus travel expenses; except that employees of the State or any of its political subdivisions, public employees and public or private school, university and college teachers or administrators for interpreting services or anyone who receives a salary during regular work hours may not be reimbursed under this subsection or subsection 3 for interpreter services performed during their regular working hours. This paragraph does not prevent any agency or court from employing a qualified legal interpreter on a full-time basis or under contract at a mutually agreed-upon compensation rate. [2003, c. 685, §2 (NEW).]

E. It is the responsibility of the agency or court conducting the proceeding to ensure compliance with the provisions of this subsection. [2003, c. 685, §2 (NEW).]

[2009, c. 174, §1 (AMD) .]

3. **Interpreting services or CART for consultation with appointed attorneys.** When a court appoints an attorney to represent a deaf person, hard-of-hearing person or late-deafened person or to represent a juvenile whose parent or guardian is a deaf person, hard-of-hearing person or late-deafened person, the court shall provide interpreting services or CART in accordance with this subsection to allow for effective consultation between the attorney and client. Interpreting services or CART provided under this subsection must be paid for directly by the court and is not the responsibility of the attorney.

[2009, c. 174, §1 (AMD) .]

4. **Legal interpreting fund for services of attorneys and advocates, generally.** The bureau shall maintain a legal interpreting fund, which must be used to reimburse private attorneys and advocates for the cost of interpreting services or CART that assists the attorney or advocate in effectively representing deaf persons, hard-of-hearing persons or late-deafened persons in cases in which subsection 3 does not apply. This fund may not be used to cover interpreting services or CART for actual proceedings pursuant to subsection 2.

[2009, c. 174, §1 (AMD) .]

5. **Privileged communication.** Except when a court in the exercise of sound discretion determines the disclosure necessary to the proper administration of justice, a privileged interpreter may not disclose any aspect of a confidential communication facilitated by that privileged interpreter unless all clients of the privileged interpreter privy to that confidential communication consent to the disclosure.

[2003, c. 685, §2 (NEW) .]

6. **Oath.** Every qualified legal interpreter appointed under subsection 2 shall, before performing the qualified legal interpreter's duties, take an oath that the qualified legal interpreter will make a true interpretation in an understandable manner to the person for whom the qualified legal interpreter is appointed, and that the qualified legal interpreter will repeat the statements of the person in the English language to the best of the qualified legal interpreter's ability.

[2003, c. 685, §2 (NEW) .]

7. **Provide information.** With the cooperation of the Registry of Interpreters for the Deaf, Inc. or its successor, the bureau shall prepare and continually update a directory listing all qualified legal interpreters in the State. When requested by an agency or court, the bureau shall furnish the agency or court with the directory. The Division for the Deaf, Hard of Hearing and Late Deafened within the bureau shall also provide information to the public, including state agencies and individuals who work with interpreters, regarding the qualifications necessary to become a qualified legal interpreter.

[2009, c. 174, §1 (AMD) .]

SECTION HISTORY
2003, c. 685, §2 (NEW). 2009, c. 174, §1 (AMD).

§49. MAINE QUALITY MANAGEMENT COUNCIL

(REPEALED)

SECTION HISTORY
1993, c. 476, §1 (NEW). 1995, c. 368, §HH1 (AMD). 1999, c. 668, §1 (RP). MRSA T. 5, §49, sub-6, ¶J (AMD).

§50. EMPLOYMENT PROTECTION WITH IMPLEMENTATION OF TOTAL QUALITY MANAGEMENT

(REPEALED)

SECTION HISTORY
1993, c. 476, §1 (NEW). 1999, c. 668, §2 (RP).

§51. INTERPRETERS; PAYMENT

When personal or property interest of a person who does not speak English is the subject of a proceeding before an agency or a court, the presiding officer of the proceeding shall either appoint a qualified interpreter or utilize a professional telephone-based interpretation service. Payment by the State for an interpreter in civil matters is within the discretion of the agency or court to the extent that payment by the State is not already required by law. [1993, c. 675, Pt. A, §1 (NEW).]

SECTION HISTORY
RR 1993, c. 2, §2 (COR). 1993, c. 675, §A1 (NEW). 1993, c. 707, §BB1 (NEW).

§52. DEPARTMENTAL TOTAL QUALITY MANAGEMENT COORDINATOR; POSITIONS ESTABLISHED

(REPEALED)

SECTION HISTORY
RR 1993, c. 2, §2 (RNU). 1993, c. 707, §BB1 (NEW). 2001, c. 471, §D7 (RP).

§53. VALUE OF FRINGE BENEFITS

Every state agency, department, board, commission, institution, authority or public instrumentality shall include in every publication that states the salary of an employee or a position a statement of the dollar value of the fringe benefit package provided. For purposes of this section, "fringe benefits" includes an employer's cost of an employee's health insurance, dental insurance and retirement but does not include the amount paid to cover any unfunded liability. [1995, c. 37, §2 (NEW).]

SECTION HISTORY
1995, c. 37, §2 (NEW).

§54. ELECTRONIC FILING

Every state agency, department, board, commission, institution, authority or public instrumentality that requires filing of information by businesses or the public: [1999, c. 446, §1 (NEW).]

1. **Forms.** Shall have the filing forms available for downloading from the Internet. This subsection takes effect June 1, 2000; and

[1999, c. 790, Pt. A, §1 (AMD) .]

2. **Inventory.** Shall maintain an inventory of the forms available on the Internet.

[1999, c. 446, §1 (NEW) .]

SECTION HISTORY
1999, c. 446, §1 (NEW). 1999, c. 790, §A1 (AMD).

§55. ADVISORY COMMITTEE ON FAIR COMPETITION WITH PRIVATE ENTERPRISE

In recognition that the provision of goods or services by state governmental agencies or institutions to the public may result in unfair competition practices with private enterprise in Maine, the Advisory Committee on Fair Competition with Private Enterprise, as established in section 12004-I, subsection 2-E and referred to in this section as the "committee," is created to assist State Government in responding to concerns raised by the public regarding government competition with private enterprise. [1999, c. 566, §1 (NEW).]

1. **Membership.** The committee consists of 9 members as follows:

A. Three members representing State Government, including:

(1) The Commissioner of Administrative and Financial Services, or the commissioner's designee, who shall serve as the chair of the committee;

(2) The Commissioner of Economic and Community Development or the commissioner's designee; and

(3) One of the following 3 officials appointed by the Governor on a rotating basis in the following order:

(a) The Commissioner of Education or a designee;

(b) The President of the Maine Community College System or a designee; or

(c) The Chancellor of the University of Maine System or a designee; [1999, c. 566, §1 (NEW); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF).]

B. A member representing employees of State Government, appointed by the Governor; [1999, c. 566, §1 (NEW).]

C. Three members representing private enterprise, including at least 2 members who represent businesses with fewer than 100 employees, appointed by the Governor; and [1999, c. 566, §1 (NEW).]

D. Two members representing the public, appointed by the Governor. [1999, c. 566, §1 (NEW).]

[1999, c. 566, §1 (NEW); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF) .]

2. **Terms of appointment.** Terms of appointment are as follows:

A. The terms of appointment for the Commissioner of Administrative and Financial Services and the Commissioner of Economic and Community Development coincide with their terms of office; [1999, c. 566, §1 (NEW).]

B. The term of appointment for the Commissioner of Education, the President of the Maine Community College System or the Chancellor of the University of Maine System is one year; [1999, c. 566, §1 (NEW); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF).]

C. Of the members initially appointed pursuant to subsection 1, paragraphs B, C and D, the 2 members representing the public must be appointed for terms of 3 years, the 2 members representing businesses with fewer than 100 employees must be appointed for terms of 2 years, the remaining member representing private enterprise and the member representing employees of State Government must be appointed for terms of one year; and [1999, c. 566, §1 (NEW).]

D. After initial appointments, members appointed pursuant to subsection 1, paragraphs B, C and D serve 3-year terms. [1999, c. 566, §1 (NEW).]

[1999, c. 566, §1 (NEW); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF) .]

3. **Duties of committee.** The committee shall meet at least once annually to review complaints from private enterprise of potentially unfair competition practices by State Government and to make recommendations regarding the disposition of these complaints to the Governor and, when appropriate, to the Legislature.

[1999, c. 566, §1 (NEW) .]

4. **Staffing of committee.** The Department of Administrative and Financial Services shall provide administrative and staff support to the committee.

[1999, c. 566, §1 (NEW) .]

5. **Report of committee.** The committee shall report by January 15th of each year to the Governor and to the joint standing committee of the Legislature having jurisdiction over state and local government matters on its activities and shall recommend changes in policies or practices that assist in achieving the purposes of this section.

[1999, c. 566, §1 (NEW) .]

SECTION HISTORY
1999, c. 566, §1 (NEW). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF).

§55-A. UNFAIR COMPETITION

1. **Prohibition.** A state agency may not sell goods or services to the public in competition with private enterprise unless it complies with this section.

[2003, c. 238, §1 (NEW); 2003, c. 238, §2 (AFF) .]

2. **Prior approval required.** Unless otherwise provided by law, before a state agency may sell goods or services to the public, that agency must refer the matter for review and approval to the Advisory Committee on Fair Competition with Private Enterprise, established in section 12004-I, subsection 2-E. If the Advisory Committee on Fair Competition with Private Enterprise finds that the proposed activity is not specifically authorized by law and that activity will result in unfair competition, the state agency may not sell those goods or services.

[2003, c. 238, §1 (NEW); 2003, c. 238, §2 (AFF) .]

3. **Exceptions for emergencies.** A state agency may immediately sell goods or services to the public in the event of an emergency as determined by the agency head. The agency must refer the matter for review and approval to the Advisory Committee on Fair Competition with Private Enterprise as soon as possible. If the committee finds the activity results in unfair competition, the state agency must suspend sale of those goods or services within 30 days of the notification of the finding.

[2003, c. 238, §1 (NEW); 2003, c. 238, §2 (AFF) .]

4. **Exception for existing goods and services.** This section does not apply to goods or services that a state agency began selling to the public on or before January 15, 2004.

[2003, c. 238, §1 (NEW); 2003, c. 238, §2 (AFF) .]

SECTION HISTORY
2003, c. 238, §1 (NEW). 2003, c. 238, §2 (AFF).

§56. MAINE REGULATORY FAIRNESS BOARD ESTABLISHED

(REPEALED)

SECTION HISTORY
2001, c. 96, §1 (NEW). 2003, c. 681, §2 (AMD). 2005, c. 294, §2 (RP).

§57. MAINE REGULATORY FAIRNESS BOARD ESTABLISHED

(REPEALED)

SECTION HISTORY
2005, c. 458, §1 (NEW). 2007, c. 676, §1 (AMD). 2011, c. 304, Pt. D, §1 (RP).

§58. ACCESS TO FORMS

Every state agency, department, board, office, commission, institution, authority or public instrumentality that requires filing of information by the public shall make a paper copy of any required filing form available, upon request, by regular mail at no cost to the requestor. [2011, c. 33, §1 (NEW).]

SECTION HISTORY
2011, c. 33, §1 (NEW).

Chapter 5: SECRETARY OF STATE

Subchapter 1: GENERAL PROVISIONS

§81. OFFICE AND DUTIES; VACANCY; SALARY; EXPENSES; FEES

The Department of the Secretary of State, as heretofore established, shall consist of the Secretary of State, the State Archives and such other state departments and agencies as are by law subject to the direction of the Secretary of State. The secretary shall keep his office at the seat of government; have the custody of the state seal and preserve all records in such office, at the expense of the State. The Secretary of State may appoint deputy secretaries of state who shall serve at the pleasure of the Secretary of State. The secretary shall designate one of his deputies as first deputy secretary of state. When a vacancy happens in the office of Secretary of State during the recess of the Legislature, the first deputy secretary of state shall act as Secretary of State until a Secretary of State is elected by the Legislature. Such deputy shall take the oath required of the elected Secretary of State and have the same compensation while he performs the duties of the office. [1977, c. 674, §1 (AMD).]

The Secretary of State and his deputy shall receive such actual traveling expenses incident to the administration of his department as shall be necessary. [1969, c. 504, §4 (AMD).]

The Secretary of State shall collect the legal and usual fees payable to him by virtue of his office and shall pay them over forthwith to the Treasurer of State.

SECTION HISTORY
1965, c. 421, §1 (AMD). 1967, c. 383, (AMD). 1967, c. 476, §7 (AMD). 1969, c. 504, §4 (AMD). 1971, c. 494, §§1,3 (AMD). 1973, c. 537, §1 (AMD). 1975, c. 771, §31 (AMD). 1977, c. 674, §1 (AMD).

§81-A. TRANSITION PERIOD

In order to provide for an orderly transition following the biennial election of the Secretary of State, the Secretary of State-elect shall not take the oath of his office or otherwise qualify for the office for a period of no less than 30 days following that election. [1983, c. 65, §1 (NEW).]

SECTION HISTORY
1983, c. 65, §1 (NEW).

§82. APPOINTMENT OF NOTARIES PUBLIC; TERM OF APPOINTMENT; ADDITIONAL REQUIREMENTS FOR RESIDENT OF ADJOINING STATE; TERM RENEWAL OF COMMISSIONS

1. **Appointment and renewal.** The Secretary of State may appoint and renew a commission of a notary public who:

A. Is 18 years of age or older at the time of appointment; [2007, c. 285, §1 (NEW).]

B. Is a resident of this State at the time of appointment or is a resident of an adjacent state, is regularly employed or carries on a trade or business in this State at the time of appointment and submits an affidavit as described in subsection 2; [2007, c. 285, §1 (NEW).]

C. Demonstrates proficiency in the English language at the time of appointment; [2007, c. 285, §1 (NEW).]

D. Has not had a notary commission revoked or suspended for official misconduct in this State or any other jurisdiction during the 5-year period preceding the date of application; [2007, c. 285, §1 (NEW).]

E. Has not been convicted of a crime punishable by imprisonment for one year or more, or of a lesser offense incompatible with the duties of a notary public as defined by rule by the Secretary of State during the 10-year period preceding the date of application for a new or renewed commission; and [2007, c. 285, §1 (NEW).]

F. Has satisfactorily completed a written examination prescribed by the Secretary of State to determine the fitness of the person to exercise the functions of the office of notary public. [2007, c. 285, §1 (NEW).]

[2007, c. 285, §1 (NEW) .]

2. **Affidavit.** An applicant for appointment as a notary public who resides in an adjoining state must submit to the Secretary of State with the application an affidavit as follows:

A. If the applicant is not self-employed, an affidavit from the applicant's employer stating that:

(1) The employer is licensed, authorized or registered to do business in this State; and

(2) The employer regularly employs the applicant at an office, business or facility that is located in this State; or [2007, c. 285, §1 (NEW).]

B. If the applicant is self-employed, an affidavit from the applicant stating that:

(1) The applicant is licensed, authorized or registered to do business in this State; and

(2) The applicant has an office, business or facility that is located in this State. [2007, c. 285, §1 (NEW).]

The affidavit required by this subsection must be in a form and format as defined by rule by the Secretary of State.

[2007, c. 285, §1 (NEW) .]

3. **Written examination.** The Secretary of State shall:

A. Make the written examination required by subsection 1 a part of the application for a new commission or the renewal of a commission; and [2007, c. 285, §1 (NEW).]

B. Furnish study materials relating to the written examination to an applicant without charge upon request of the applicant. [2007, c. 285, §1 (NEW).]

[2007, c. 285, §1 (NEW) .]

3-A. **Oath.** A newly appointed notary public shall take and subscribe the following oath or affirmation before a dedimus justice:

"I, (name), do swear that I will support the Constitution of the United States and of this State, so help me God."

"I, (name), do swear that I will faithfully discharge, to the best of my abilities, the duties incumbent on me as a Notary Public according to the Constitution of Maine and laws of this State, so help me God."

When a person is conscientiously scrupulous of taking an oath, the word "affirm" may be substituted for the word "swear" and the words "this I do under penalty of perjury" may be substituted for the words "so help me God."

[2009, c. 74, §3 (NEW) .]

4. **Term.** A person appointed as a notary public serves the following term of office:

A. For a resident of this State, a term of 7 years; or [2007, c. 285, §1 (NEW).]

B. For a resident of an adjacent state, a term of 4 years. [2007, c. 285, §1 (NEW).]

[2007, c. 285, §1 (NEW) .]

5. **Power extends to all counties.** A person appointed as a notary public may exercise that person's power and duties in any and all counties in this State.

[2007, c. 285, §1 (NEW) .]

6. **Rules.** The Secretary of State shall adopt rules relating to the appointment and renewal of commissions of notaries public. The rules must include criteria and a procedure to be applied by the Secretary of State in appointment and renewal. The Secretary of State may not refuse to appoint or renew solely because the applicant lives or works in a specific geographic area or because of political party affiliation. Rules adopted pursuant to this subsection are routine technical rules as defined in chapter 375, subchapter 2-A.

[2007, c. 285, §1 (NEW) .]

7. **Notice of expiration of commission.** The Secretary of State shall provide notice of the expiration of a commission to a notary public 30 days prior to the expiration date. The notice must be in a form or format as determined by rule by the Secretary of State. Failure to receive a notice does not affect the expiration date of a commission.

[2007, c. 285, §1 (NEW) .]

8. **Investigation of complaints.**

[2009, c. 74, §4 (RP) .]

SECTION HISTORY
1975, c. 87, §2 (RPR). 1975, c. 771, §§31-A (RPR). 1979, c. 541, §A19 (AMD). 1981, c. 456, §A15 (RPR). 1987, c. 736, §5 (AMD). 1991, c. 465, §§6,7 (AMD). 1997, c. 712, §3 (AMD). 2007, c. 285, §1 (RPR). 2009, c. 74, §§3, 4 (AMD).

§82-A. PUBLICATIONS

1. **Informational publications.** The Secretary of State shall make available such informational publications as may be necessary to ensure that notaries public are knowledgeable in the performance of their duties. One copy of these publications must be made available with each appointment or renewal of a notary public commission. The printing and distribution costs of the first copy of publications sent to commissioned notaries public must be paid from the fees paid by the notaries public pursuant to section 87. The Secretary of State may establish by rule in accordance with the Maine Administrative Procedure Act the procedures for the sale of these publications and a fee schedule to cover the cost of printing and distribution for:

A. Additional copies of publications requested by commissioned notaries public; and [1991, c. 465, §8 (NEW).]

B. Copies of publications requested by noncommissioned individuals, corporations, agencies or other entities. [1991, c. 465, §8 (NEW).]

[1991, c. 465, §8 (NEW) .]

2. **Fund; fees deposited.** All fees collected pursuant to this section must be deposited in a fund for use by the Secretary of State for replacing and updating publications offered in accordance with this chapter and for funding new publications.

[1991, c. 465, §8 (NEW) .]

SECTION HISTORY
1991, c. 465, §8 (NEW).

§82-B. NOTARY PUBLIC REVIEW BOARD

(REPEALED)

SECTION HISTORY
2007, c. 285, §2 (NEW). 2009, c. 74, §§5-7 (AMD). 2011, c. 344, §1 (RP).

§83. CLERKS OF COURTS TO KEEP LISTS OF APPOINTMENTS; LISTS AND CERTIFICATES AS EVIDENCE

The clerks of the state courts shall make a memorandum on such lists of the fact and date of their reception, and either of such lists so attested, or the certificate of such clerk under the seal of his court, shall be legal but not conclusive evidence of the appointment and qualification of such officers. [1979, c. 13, §7 (AMD).]

SECTION HISTORY
1979, c. 13, §7 (AMD).

§84. PREPARATION OF COMMISSIONS AND RECORDING QUALIFICATIONS

The Secretary of State shall prepare and present to the Governor under the seal of the State, in order that the same may receive the signature of the Governor, a commission for every person appointed or a certificate of election to every person elected to any office for which a commission or certificate of election is required; record in a suitable manner the time when and the person by whom any commission or certificate of election is taken from that person's office, and the time when any certificate of the qualification of any officer is filed therein. When a duty must be paid as a prerequisite of holding the office, the Secretary of State shall notify every person appointed to such office of the fact and on receipt of evidence of its payment shall then, and no sooner, present the commission or certificate to the Governor. When the commission or certificate shall have been signed by the Governor, the Secretary of State shall deliver or forward the same to the person so appointed or elected. All bills passed by the Legislature shall be filed with the Secretary of State for the purpose of issuing certified copies thereof. [1987, c. 816, Pt. KK, §7 (RPR).]

SECTION HISTORY
1975, c. 771, §32 (AMD). 1979, c. 596, §1 (AMD). 1987, c. 816, §KK7 (RPR).

§85. DISTRIBUTE BLANKS FOR ELECTION RETURNS; PENALTY FOR NEGLECT

(REPEALED)

SECTION HISTORY
1969, c. 35, §9 (RP).

§86. FEES

The Secretary of State shall receive: [2001, c. 2, Pt. B, §58 (AFF); 2001, c. 2, Pt. B, §2 (COR).]

For a certificate under the seal of the State, $5 for a short form and $10 for a special detailed certificate. For all copies of corporate, limited partnership and mark documents, the rate of $2 per page; and for all other copies, the rate of 75¢ per page if such copies are prepared by the office of the Secretary of State. The Secretary of State may reduce or waive the fee for other governmental agencies and bodies; [1995, c. 373, §1 (AMD).]

For receiving, filing and recording certificate of organization of officers of a proposed insurance company, and issuing certificates of organization, $20; for receiving and filing certificate of increase of capital stock of an insurance company, $10; [2001, c. 2, Pt. B, §58 (AFF); 2001, c. 2, Pt. B, §2 (COR).]

For receiving, filing and recording certificate of officers of a proposed fraternal benefit society and issuing certificate of organization, $5; [2001, c. 2, Pt. B, §58 (AFF); 2001, c. 2, Pt. B, §2 (COR).]

For filing certificate of organization of a cooperative marketing association, $10; for filing an amendment thereto, $2.50; [2001, c. 2, Pt. B, §58 (AFF); 2001, c. 2, Pt. B, §2 (COR).]

For filing, copying, comparing or authenticating any document required or permitted to be filed under Title 13-C, that fee specified in Title 13-C, chapter 1, subchapter 2; [2001, c. 2, Pt. B, §58 (AFF); 2001, c. 2, Pt. B, §2 (COR).]

For filing, copying, comparing or authenticating any document required or permitted to be filed under Title 13-B, that fee specified in Title 13-B, chapter 14; and [2001, c. 2, Pt. B, §58 (AFF); 2001, c. 2, Pt. B, §2 (COR).]

For filing a federal tax lien or other federal liens, certificates or notices affecting the liens of which under any Act of Congress or any federal regulation are required or permitted to be filed under Title 33, chapter 39, that fee specified in Title 33, section 1906. [2003, c. 518, §1 (AMD).]

For filing and recording a designated office for service of trustee process under Title 14, section 2608-A, $25. [2003, c. 149, §1 (NEW).]

SECTION HISTORY
1969, c. 132, §2 (AMD). 1969, c. 225, §1 (AMD). 1969, c. 517, §§1,2 (AMD). 1971, c. 439, §§5,6 (AMD). 1973, c. 730, §1 (AMD). 1977, c. 525, §1 (AMD). 1979, c. 572, §1 (AMD). 1987, c. 645, §1 (AMD). 1989, c. 501, §L2 (AMD). 1991, c. 780, §U1 (AMD). 1993, c. 316, §1 (AMD). 1995, c. 373, §1 (AMD). RR 2001, c. 2, §B58 (AFF). RR 2001, c. 2, §B2 (COR). 2003, c. 149, §1 (AMD). 2003, c. 518, §1 (AMD).

§87. FEES PAYABLE BY PUBLIC OFFICERS

A fee of $50 must be paid to the Secretary of State by a person appointed to the office of notary public, commissioner to take depositions and disclosures, disclosure commissioner or commissioner appointed under Title 33, section 251, before the person enters upon the discharge of official duties. [2005, c. 12, Pt. FF, §1 (AMD).]

SECTION HISTORY
1969, c. 225, §2 (AMD). 1981, c. 456, §A16 (AMD). 1989, c. 501, §L3 (AMD). 2005, c. 12, §FF1 (AMD).

§88. FACSIMILE SIGNATURE OF SECRETARY OF STATE

A facsimile of the signature of the Secretary of State imprinted by or at his direction upon any renewal of commissions by him under authority of section 82, or upon any certificate of true copy, certificate of any record of the Secretary of State, or certificate of good standing, or upon any attestation required of him by law, shall have the same validity as his written signature. [1975, c. 273, (NEW).]

SECTION HISTORY
1975, c. 273, (NEW).

§88-A. STATE IDENTIFICATION CARDS; INFORMATION; FEE

(REPEALED)

SECTION HISTORY
1987, c. 45, §A1 (NEW). 1987, c. 342, §1 (AMD). 1991, c. 249, (AMD). 1991, c. 595, §§1,2 (AMD). 1991, c. 824, §B3 (AMD). 1993, c. 658, §1 (AMD). 1995, c. 65, §A7 (AMD). 1995, c. 65, §§A153,C15 (AFF). 1995, c. 645, §§B1,2 (AMD). 1995, c. 645, §B24 (AFF). 1997, c. 437, §1 (RP).

§89. COOPERATIVE DOCUMENT PRODUCTION CAPABILITY

1. **Purpose.** State motor vehicle operators' licenses and identification documents have an increasingly important role in our society. They serve not only to identify persons who have received permission to undertake a specific regulated activity, but also serve as identification in numerous public and private transactions.

It is becoming vitally important to insure that state motor vehicle operators' licenses be issued in a form that clearly identifies them as official state documents, that they positively and easily identify the holder and that they are extremely difficult to counterfeit or alter.

[1981, c. 506, §1 (NEW) .]

2. **Form.** An official state motor vehicle operator's license or identification card issued under this section shall be a one-piece document and shall:

A. Clearly indicate its nature as an official state document; [1981, c. 506, §1 (NEW).]

B. Contain a photograph of the person to whom issued; [1981, c. 506, §1 (NEW).]

C. Be manufactured in a manner to prohibit, as nearly as possible, the ability to reproduce, alter or counterfeit the document without ready detection; [1981, c. 506, §1 (NEW).]

D. Contain other information required or appropriate for that license or identification card; and [1981, c. 506, §1 (NEW).]

E. Provide that any license issued to persons under 21 years of age shall be distinguished by a different color or other means to make the distinction easily observable. [1985, c. 539, §1 (AMD).]

[1985, c. 539, §1 (AMD) .]

SECTION HISTORY
1981, c. 506, §1 (NEW). 1983, c. 480, §A2 (AMD). 1985, c. 539, §1 (AMD).

§90. CENTRAL FILING SYSTEM FOR SECURITY INTERESTS IN FARM PRODUCTS

(REPEALED)

SECTION HISTORY
1985, c. 824, §1 (NEW). MRSA T. 5, §90 (RP).

§90-A. CENTRAL FILING SYSTEM FOR SECURITY INTERESTS IN FARM PRODUCTS

The Secretary of State may establish and operate a central filing system to record and provide notice of financing statements evidencing security interests in farm products. For this purpose, the Secretary of State may adopt rules, in accordance with the Maine Administrative Procedure Act, chapter 375, subchapter II, establish procedures and adopt a schedule of fees in conjunction with filing, registering, providing notices and other services performed by the Secretary of State in carrying out this section. [1987, c. 27, §1 (NEW).]

Receipt of notice by a registered buyer entitled to receive a master list of notices of filed effective financing statements shall be considered to occur on the date that a master list was sent or delivered by the Secretary of State. [1987, c. 27, §1 (NEW).]

SECTION HISTORY
1987, c. 27, §1 (NEW).

§90-B. ADDRESS CONFIDENTIALITY PROGRAM

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

A. "Address" means a residential street, school or work address of an individual, including any geographically specific description or coordinate that identifies a residential address, as specified on the individual's application to be a program participant under this section. [2011, c. 195, §1 (AMD).]

B. "Application assistant" means an employee of a state or local agency, or of a nonprofit program that provides counseling, referral, shelter or other specialized service to victims of domestic abuse, rape, sexual assault or stalking and who has been designated by the respective agency, and trained, accepted and registered by the secretary to assist individuals in the completion of program participation applications. [2001, c. 539, §1 (NEW).]

C. "Designated address" means the address assigned to a program participant by the secretary pursuant to this section. [2001, c. 539, §1 (NEW).]

D. "Mailing address" means an address that is recognized for delivery by the United States Postal Service. [2001, c. 539, §1 (NEW).]

E. "Program" means the Address Confidentiality Program established in this section. [2001, c. 539, §1 (NEW).]

F. "Program participant" means a person certified by the Secretary of State to participate in the program. [2001, c. 539, §1 (NEW).]

G. "Secretary" means the Secretary of State. [2001, c. 539, §1 (NEW).]

[2011, c. 195, §1 (AMD) .]

2. **Program established.** The Address Confidentiality Program is established to protect victims of domestic violence, stalking or sexual assault by authorizing the use of designated addresses for such victims. The program is administered by the secretary under the following application and certification procedures.

A. Upon recommendation of an application assistant, an adult person, a parent or guardian acting on behalf of a minor or a guardian acting on behalf of an incapacitated person may apply to the secretary to have a designated address assigned by the secretary to serve as the person's address or the address of the minor or incapacitated person. [2001, c. 539, §1 (NEW).]

B. The secretary may approve an application only if it is filed with the office of the secretary in the manner established by rule and on a form prescribed by the secretary. A completed application must contain:

(1) The application preparation date, the applicant's signature and the signature and registration number of the application assistant who assisted the applicant in applying to be a program participant;

(2) A designation of the secretary as agent for purposes of service of process and for receipt of first-class mail;

(3) The mailing address where the applicant may be contacted by the secretary or a designee and the telephone number or numbers where the applicant may be called by the secretary or the secretary's designee; and

(4) One or more addresses that the applicant requests not be disclosed for the reason that disclosure will jeopardize the applicant's safety or increase the risk of violence to the applicant or members of the applicant's household. [2001, c. 539, §1 (NEW).]

C. Upon receipt of a properly completed application, the secretary may certify the applicant as a program participant. A program participant is certified for 4 years following the date of initial certification unless the certification is withdrawn or invalidated before that date. The secretary shall send notification of lapsing certification and a reapplication form to a program participant at least 4 weeks prior to the expiration of the program participant's certification. [2001, c. 539, §1 (NEW).]

D. The secretary shall forward first-class mail to the appropriate program participants. [2001, c. 539, §1 (NEW).]

E. A person who violates this paragraph commits a Class E crime.

(1) An applicant may not file an application knowing that it:

(a) Contains false or incorrect information; or

(b) Falsely claims that disclosure of the applicant's address or mailing address threatens the safety of the applicant or the applicant's children or the minor or incapacitated person on whose behalf the application is made.

(2) An application assistant may not assist or participate in the filing of an application that the application assistant knows:

(a) Contains false or incorrect information; or

(b) Falsely claims that disclosure of the applicant's address or mailing address threatens the safety of the applicant or the applicant's children or the minor or incapacitated person on whose behalf the application is made. [2001, c. 2, Pt. A, §4 (COR).]

[2001, c. 2, Pt. A, §4 (COR) .]

3. **Cancellation.** Certification for the program may be canceled if one or more of the following conditions apply:

A. If the program participant obtains a name change, unless the program participant provides the secretary with documentation of a legal name change within 10 business days of the name change; [2001, c. 539, §1 (NEW).]

B. If there is a change in the residential street address from the one listed on the application, unless the program participant provides the secretary with notice of the change in such manner as the secretary provides by rule; or [2001, c. 539, §1 (NEW).]

C. The applicant or program participant violates subsection 2, paragraph E, subparagraph (1). [2001, c. 539, §1 (NEW).]

[2001, c. 539, §1 (NEW) .]

4. **Use of designated address.** Upon demonstration of a program participant's certification in the program, state and local government agencies and the courts shall accept and use only the designated address as a program participant's address unless the secretary has approved an exemption pursuant to subsection 5-A.

A. [2015, c. 313, §1 (RP).]

B. [2015, c. 313, §1 (RP).]

[2015, c. 313, §1 (AMD) .]

5. **Disclosure to law enforcement and state agencies.**

[2015, c. 313, §2 (RP) .]

5-A. **Disclosure to law enforcement and to other state and local agencies.** If the secretary determines it appropriate, the secretary may make a program participant's address or mailing address available for use by granting an exemption under the following circumstances:

A. Upon request to the secretary by:

(1) A law enforcement agency in the manner provided for by rule; or

(2) A commissioner or other chief administrator of a state or local government agency or the commissioner's or administrator's designee in the manner provided for by rule; and [2015, c. 313, §3 (NEW).]

B. Upon a finding by the secretary that:

(1) An agency under paragraph A has a bona fide statutory, administrative or law enforcement requirement for use of the program participant's address or mailing address such that the agency is unable to fulfill its statutory duties and obligations without the address or mailing address; and

(2) The program participant's address or mailing address will be used only for those statutory, administrative or law enforcement purposes and otherwise will be kept under seal and excluded from public inspection. [2015, c. 313, §3 (NEW).]

[2015, c. 313, §3 (NEW) .]

6. **Disclosure pursuant to court order or canceled certification.** If the secretary determines appropriate, the secretary shall allow a program participant's address and mailing address to be made available for use under the following circumstances:

A. To a person identified in a court order, upon the secretary's receipt of that court order that specifically orders the disclosure of a particular program participant's address and mailing address and the reasons stated for the disclosure; or [2001, c. 539, §1 (NEW).]

B. If the certification has been canceled because the applicant or program participant violated subsection 2, paragraph E, subparagraph (1). [2001, c. 539, §1 (NEW).]

[2013, c. 478, §1 (AMD) .]

7. **Confidentiality.** The program participant's application, supporting materials and the program's state e-mail account are not a public record and must be kept confidential by the secretary.

[2011, c. 195, §2 (AMD) .]

8. **Rules.** The secretary shall adopt rules to carry out this section. These rules are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

[2001, c. 539, §1 (NEW) .]

SECTION HISTORY
RR 2001, c. 2, §A4 (COR). 2001, c. 539, §1 (NEW). 2011, c. 195, §§1, 2 (AMD). 2013, c. 478, §1 (AMD). 2015, c. 313, §§1-3 (AMD).

§90-C. VOLUNTARY FILING SYSTEM FOR DESIGNATION OF OFFICE FOR TRUSTEE PROCESS

The Secretary of State shall establish and operate a central filing system to record and provide notice of offices designated by financial institutions authorized to do business in this State and credit unions authorized to do business in this State for service of trustee process under Title 14, section 2608-A, subsection 1. For this purpose, the Secretary of State may adopt rules, establish procedures and adopt a schedule of fees in conjunction with filing, registering, providing notices and other services performed by the Secretary of State in carrying out this section. Rules adopted pursuant to this paragraph are routine technical rules as defined in chapter 375, subchapter 2-A. [2003, c. 149, §2 (NEW).]

SECTION HISTORY
2003, c. 149, §2 (NEW).

§90-D. PUBLIC COMMENT PUBLICATION FUND

The Public Comment Publication Fund, referred to in this section as "the fund," is established as a nonlapsing fund within the Department of the Secretary of State. The fund consists of fees for public comment on constitutional resolutions and statewide referenda received by the Secretary of State pursuant to Title 1, section 354. The money in the fund must be used for the purpose of publishing the informational pamphlet that includes the public comment, explanatory statement and fiscal estimate pursuant to Title 1, section 354. The unobligated and unencumbered balance of the fund in excess of $5,000 as of December 1st of each year must be transferred to the General Fund. [2005, c. 316, §3 (NEW).]

SECTION HISTORY
2005, c. 316, §3 (NEW).

§90-E. EXPEDITED REVIEW AND DETERMINATION OF THE AUTHORIZATION OF FINANCING STATEMENT RECORDS FILED UNDER THE UNIFORM COMMERCIAL CODE; CRIMINAL PENALTIES; CIVIL PENALTIES AND INJUNCTIVE RELIEF

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

A. “Authorized,” when used with reference to a financing statement record, means that the financing statement record was filed by a person authorized to do so as provided in Title 11, sections 9-1509 and 9-1708. [2007, c. 228, §1 (NEW).]

B. "Court" means the Kennebec County Superior Court. [2007, c. 228, §1 (NEW).]

C. “Debtor” means a natural person whose name was provided in a financing statement record as:

(1) An individual debtor; or

(2) One of the types of persons listed in Title 11, section 9-1505, subsection 1. [2007, c. 228, §1 (NEW).]

D. “Filing office” or “filing officer” means the appropriate office or officer where or to whom a financing statement record is to be filed as provided by Title 11, section 9-1501. [2007, c. 228, §1 (NEW).]

E. “Financing statement record” means:

(1) An initial financing statement;

(2) An amendment that adds collateral covered by a financing statement; or

(3) An amendment that adds a debtor to a financing statement.

For purposes of this paragraph, "collateral," "debtor" and "financing statement" have the same meanings as defined in Title 11, section 9-1102. [2007, c. 228, §1 (NEW).]

F. "Movant" means the person filing the motion. [2007, c. 228, §1 (NEW).]

[2007, c. 228, §1 (NEW) .]

2. **Expedited process to review and determine authorization of filing of financing statement records.** This subsection governs the procedure for disputing the authorization for a filing of a financing statement.

A. Any individual who asserts that the filing of a financing statement record that provides that individual’s name as a debtor is not an authorized filing may file, at any time, a motion for a judicial declaration that the financing statement record is not an authorized filing under Title 11, section 9-1509 and thus is not effective with respect to that individual under Title 11, section 9-1510. This motion must be filed with the Kennebec County Superior Court. The motion must be supported by the affidavit of the movant setting forth a concise statement of the facts upon which the claim for relief is based. The motion must be in the form that follows:

MISC. DOCKET No. .....

In Re: A Purported
Financing Statement In the Kennebec County Superior Court
Against.....In and For .....
(Name of Movant).....Kennebec County, State of Maine

Motion for Judicial Review of the Authorization of a Financing Statement Record Filed Under the Uniform Commercial Code, the Maine Revised Statutes, Title 11, Article 9-A

Now Comes

.....
(name)

(movant) and files this motion requesting a judicial determination of whether the financing statement record filed in the filing office, a copy of which is attached hereto, is not an authorized filing with respect to the movant under the Uniform Commercial Code, Title 11, section 9-1509 or 9-1708 and in support of the motion would show the court as follows:

I.

(Name), movant, herein is an individual whose name was provided as an individual debtor in a financing statement record filed under the Uniform Commercial Code, Title 11, Article 9-A, a copy of which is attached hereto.

II.

On (date), in the exercise of the filing officer's official duties as (Secretary of State or Register of Deeds), the filing officer received and indexed the financing statement providing the movant's name as an individual debtor and assigned the following file number, ... to the record, bearing the following date of filing, ...

III.

Movant alleges that the financing statement record is not an authorized filing with respect to movant and that this court should declare the financing statement record ineffective with respect to movant for that reason.

IV.

Movant attests that assertions herein are true and correct.

V.

Movant does not request the court to make a finding as to any underlying claim of any person and asserts that this motion does not seek review of an effective financing statement record. Movant acknowledges that movant may be subject to sanctions if this motion is determined to be frivolous or intentionally wrongful.

PRAYER

Movant requests the court to review the attached documentation and enter an order finding that said financing statement record was filed by a person not authorized to do so with respect to movant and is for that reason not an authorized filing with respect to movant and, therefore, has no effect with respect to movant, together with such other findings as the court deems appropriate.

Respectfully submitted,

.....

(Signature and typed name and address)

[2007, c. 228, §1 (NEW).]

B. The completed form for ordinary certificate of acknowledgment must be as follows:

AFFIDAVIT

STATE OF MAINE

COUNTY OF .....

BEFORE ME, the undersigned authority, personally appeared ..... who, being by me duly sworn, deposed as follows:

"My name is..... I am over 18 years of age, of sound mind, with personal knowledge of the following facts, and fully competent to testify. I further attest that the assertions contained in the accompanying motion are true and correct."

Further affiant sayeth not.

SUBSCRIBED and SWORN TO before me, this ..... day of ....., ...

NOTARY PUBLIC, State of Maine

Notary's signature: .....

Notary's printed name: .....

My commission expires: .....

[2007, c. 228, §1 (NEW).]

C. The clerk of the court may not collect a filing fee for filing a motion as provided in this subsection.
[2007, c. 228, §1 (NEW).]

D. The court's finding may be made solely on a review of the documentation attached to the motion and the responses, if any, of the person named as a secured party in the financing statement record and without hearing any oral testimony if none is offered by the secured party. The court's review may be

made only upon not less than 20 days' notice to each person named as a secured party in the financing statement record. Notice must be given to each secured party. Notice may be given to each secured party at the address given in the financing statement record as an address of that secured party by mail or personal service as provided in the Maine Rules of Civil Procedure. Each person named as a secured party in the financing statement record may respond to the motion based on pleadings, depositions, admissions and affidavits. The court's review of the pleadings, depositions, admissions and affidavits must be made on an expedited basis. [2007, c. 228, §1 (NEW).]

E. The court shall enter judgment in favor of the movant only if the pleadings, depositions, admissions and affidavits on file show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. [2007, c. 228, §1 (NEW).]

F. After review, the court shall enter an appropriate finding of fact and conclusion of law in a form as provided in paragraph G regarding the financing statement record, an attested copy of which must be filed and indexed under the movant's name in the filing office where the original financing statement record was filed. The filing office may not collect a filing fee for filing the court's finding of fact and conclusion of law as provided in this section. A copy of the finding of fact and conclusion of law must be sent by the court to the movant, to each person named as a secured party in the financing statement record at the address of each person set forth in the financing statement and to the filing office. The copy must be sent within 7 days following the date that the finding of fact and conclusion of law are issued by the court. The secured party may appeal the finding of fact and conclusion of law as provided in the Maine Rules of Appellate Procedure. In addition to the notice requirements of those rules, the secured party shall give notice of the appeal to the filing office. [2007, c. 228, §1 (NEW).]

G. The finding of fact and conclusion of law must be in substantially the following form:

MISC. DOCKET No. .....

In Re: A Purported
Financing Statement In the Kennebec County Superior Court
Against ..... In and For .....
(Name of Movant) .....
Kennebec County, State of Maine

Judicial Finding of Fact and Conclusion of Law Regarding the Authorization of a Financing Statement Record Filed Under the Uniform Commercial Code

On the (number) day of (month), (year), in the above entitled and numbered cause, this court reviewed a motion, verified by affidavit, of (name), the documentation attached thereto, and the pleadings, depositions, admissions and affidavits submitted by the secured party, if any. Notice was given to each person named as a secured party in the financing statement record as provided by law to the secured party's address as provided in the Uniform Commercial Code, the Maine Revised Statutes, Title 11, Article 9-A. No oral testimony was taken from any party, the court having made the determination that a decision could be made solely on review of the documentation provided hereunto.

The court finds as follows (only an item initialed is a valid court ruling):

.....The financing statement record providing movant's name as an individual debtor attached to the motion IS an authorized filing as to movant under the Uniform Commercial Code, Title 11, section 9-1509 or 9-1708.

.....The financing statement record providing movant's name as an individual debtor attached to the motion IS NOT an authorized filing as to movant under the Uniform Commercial Code, Title 11, section 9-1509 or 9-1708 and, therefore, is not effective with respect to movant.

This court makes no finding as to any underlying claims of the parties involved and expressly limits its finding of fact and conclusion of law to the review of whether authorization for the filing exists. Insofar as it affects movant, the filing officer shall remove the subject financing statement record from the index so that the record is not reflected in or obtained as a result of any search, standard or otherwise, conducted of the records of the filing office under the movant's name upon the occurrence of both of the following:

A. Receipt of a finding of fact and conclusion of law that the documentation attached to the motion IS NOT an authorized financing statement naming movant as an individual debtor under the Uniform Commercial Code, Title 11, section 9-1509 or 9-1708 and, therefore, is not effective with respect to movant; and

B. The earlier of:

(i) The lapse of any period for appeal without an appeal having been taken; and

(ii) The decision becoming final following any appeal.

The filing office shall retain the subject financing statement record and this finding of fact and conclusion of law in the filing office for the duration of the period for which they would have otherwise been retained. This finding of fact and conclusion of law, but not the financing statement record, shall be indexed under the movant's name.

SIGNED ON THIS THE .....DAY OF.....

.....Justice, Maine Superior Court

[2007, c. 228, §1 (NEW).]

H. This subsection is cumulative of other law under which a person may obtain judicial relief with respect to any filed or recorded document. [2007, c. 228, §1 (NEW).]

[2007, c. 228, §1 (NEW) .]

3. **Criminal penalty.** A violation of this section is governed by Title 17-A, section 706-A.

[2007, c. 228, §1 (NEW) .]

4. **Civil penalty and injunction.** A person who violates this subsection is subject to civil penalties and other relief as provided in this subsection.

A. A person may not knowingly cause to be presented for filing in a filing office or promote the filing in a filing office of a financing statement record that the person knows:

(1) Is not authorized under Title 11, section 9-1509 or 9-1708 by the natural person whose name was provided as an individual debtor in the financing statement record;

(2) Was filed or presented for filing with the intent that the financing statement record be used to harass or hinder the natural person whose name was provided as an individual debtor in the financing statement record without that person's authorization; or

(3) Was filed or presented for filing with the intent that the financing statement record be used to defraud any person. [2007, c. 228, §1 (NEW).]

B. A person who violates this subsection is liable to each debtor under paragraph A for:

(1) The greater of:

(a) $10,000; and

(b) The actual damages caused by the violation;

(2) Court costs;

(3) Reasonable attorney's fees;

(4) Related expenses of bringing the action, including investigative expenses; and

(5) Punitive damages in the amount determined by the court. [2007, c. 228, §1 (NEW).]

C. The following persons may bring an action to enjoin a violation of this subsection or to recover damages under this subsection:

(1) The natural person whose name was provided as an individual debtor in the financing statement record filed without that person's authorization under Title 11, section 9-1509 or 9-1708 or any guardian, conservator, executor, administrator or other legal representative of that person, a person who owns an interest in the collateral described or indicated in the financing statement record or a person directly harmed by the filing of the financing statement record; and

(2) The Attorney General. [2007, c. 1, §1 (COR).]

D. A filing officer may refer a matter to the Attorney General for filing the legal actions under this subsection. [2007, c. 228, §1 (NEW).]

E. An action under this subsection may be brought in any court in Kennebec County or in a county where any of the persons named in the cause of action under this subsection resides. [2007, c. 228, §1 (NEW).]

F. The fee for filing an action under this subsection is $25. The plaintiff must pay the fee to the clerk of the court in which the action is filed. The plaintiff may not be assessed any other fee, cost, charge or expense by the clerk of the court. [2007, c. 228, §1 (NEW).]

G. A plaintiff who is unable to pay the filing fee and fee for service of notice may follow the court procedures to waive such fees. [2007, c. 228, §1 (NEW).]

H. If the fee imposed under paragraph F is less than the filing fee the court imposes for filing other similar actions and the plaintiff prevails in the action, the court may order a defendant to pay to the court the difference between the fee paid under paragraph F and the filing fee the court imposes for filing other similar actions. [2007, c. 228, §1 (NEW).]

I. This subsection is cumulative of other law under which a person may obtain judicial relief with respect to any filed or recorded document. This subsection is not intended to be an exclusive remedy. [2007, c. 228, §1 (NEW).]

[2007, c. 1, §1 (COR) .]

SECTION HISTORY
RR 2007, c. 1, §1 (COR). 2007, c. 228, §1 (NEW).

§90-F. REFUSAL OF RECORDS FOR FILING OR RECORDING; REMOVAL OF FILED OR RECORDED RECORDS

1. **Refusal.** Notwithstanding any other provision of law, if a person presents a record to the Secretary of State for filing or recording, the Secretary of State may refuse to accept the record for filing or recording if the record is not required or authorized to be filed or recorded with the Secretary of State or the Secretary of State has reasonable cause to believe the record is materially false or fraudulent. This subsection does not create a duty upon the Secretary of State to inspect, evaluate or investigate a record that is presented for filing or recording.

[2015, c. 180, §1 (NEW) .]

2. **Removal.** The Secretary of State may remove a record that has been filed or recorded with the Secretary of State if the Secretary of State determines that the record was filed or recorded erroneously because the record was not required or authorized to be filed or recorded with the Secretary of State or the Secretary of State has reasonable cause to believe that the record is materially false or fraudulent. If the Secretary of State removes a record that was filed or recorded, the Secretary of State shall immediately notify the person who presented the record for filing or recording.

[2015, c. 180, §1 (NEW) .]

3. **Action after refusal or removal.** If the Secretary of State, pursuant to subsection 1, refuses to accept a record for filing or recording, the person who presented the record to the Secretary of State may commence an action in or apply for an order from the Superior Court to require the Secretary of State to accept the record for filing or recording. If the Secretary of State, pursuant to subsection 2, removes a record that was filed or recorded, the person who presented the record to the Secretary of State may commence an action in or apply for an order from the Superior Court to require the Secretary of State to reinstate the filing or recording from the original date of filing or recording. If the court determines that the record is appropriate for filing or recording, it shall order the Secretary of State to accept the record for that purpose or require the Secretary of State to reinstate the record from the original date of filing or recording.

[2015, c. 180, §1 (NEW) .]

SECTION HISTORY
2015, c. 180, §1 (NEW).

Subchapter 2: SPECIAL ADVOCATE

§90-N. BUREAU ESTABLISHED

The Bureau of the Special Advocate, referred to in this subchapter as "the bureau," is established within the Department of the Secretary of State to assist in resolving regulatory enforcement actions affecting small businesses that, if taken, are likely to result in significant economic hardship and to advocate for small business interests in other regulatory matters. [2011, c. 304, Pt. D, §2 (NEW).]

SECTION HISTORY
2011, c. 304, Pt. D, §2 (NEW).

§90-O. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [2011, c. 304, Pt. D, §2 (NEW).]

1. **Agency.** "Agency" has the same meaning as set out in section 8002, subsection 2.

[2011, c. 304, Pt. D, §2 (NEW) .]

2. **Agency enforcement action.** "Agency enforcement action" means an enforcement action initiated by an agency against a small business.

[2011, c. 304, Pt. D, §2 (NEW) .]

3. **Complaint.** "Complaint" means a request to the special advocate for assistance under section 90-Q.

[2011, c. 304, Pt. D, §2 (NEW) .]

4. **Regulatory impact notice.** "Regulatory impact notice" means a written notice from the Secretary of State to the Governor as provided in section 90-S.

[2011, c. 304, Pt. D, §2 (NEW) .]

5. **Significant economic hardship.** "Significant economic hardship" means a hardship created for a small business by a monetary penalty or license suspension or revocation imposed by an agency enforcement action that appears likely to result in the:

A. Temporary or permanent closure of the small business; or [2011, c. 304, Pt. D, §2 (NEW).]

B. Termination of employees of the small business. [2011, c. 304, Pt. D, §2 (NEW).]

[2011, c. 304, Pt. D, §2 (NEW) .]

6. **Small business.** "Small business" means a business having 50 or fewer employees in the State.

[2011, c. 304, Pt. D, §2 (NEW) .]

7. **Special advocate.** "Special advocate" means the person appointed pursuant to section 90-P.

[2011, c. 304, Pt. D, §2 (NEW) .]

SECTION HISTORY
2011, c. 304, Pt. D, §2 (NEW).

§90-P. SPECIAL ADVOCATE; APPOINTMENT AND QUALIFICATIONS

The Secretary of State shall appoint a special advocate to carry out the purposes of this subchapter. The special advocate shall serve at the pleasure of the Secretary of State. [2011, c. 304, Pt. D, §2 (NEW).]

SECTION HISTORY
2011, c. 304, Pt. D, §2 (NEW).

§90-Q. SMALL BUSINESS REQUESTS FOR ASSISTANCE

A small business may file a complaint requesting the assistance of the special advocate in any agency enforcement action initiated against that small business. The special advocate may provide assistance to the small business in accordance with section 90-R, subsection 2. The special advocate shall encourage small businesses to request the assistance of the special advocate as early in the regulatory proceeding as possible. Before providing any assistance, the special advocate shall provide a written disclaimer to the small business stating that the special advocate is not acting as an attorney representing the small business, that no attorney-client relationship is established and that no attorney-client privilege can be asserted by the small business as a result of the assistance provided by the special advocate under this subchapter. [2011, c. 304, Pt. D, §2 (NEW).]

SECTION HISTORY
2011, c. 304, Pt. D, §2 (NEW).

§90-R. POWERS AND DUTIES OF THE SPECIAL ADVOCATE

1. **General advocacy.** The special advocate may advocate generally on behalf of small business interests by commenting on rules proposed under chapter 375, testifying on legislation affecting the interests of small businesses, consulting with agencies having enforcement authority over business matters and promoting the services provided by the special advocate.

[2011, c. 304, Pt. D, §2 (NEW) .]

2. **Advocate on behalf of an aggrieved small business.** Upon receipt of a complaint requesting assistance under section 90-Q, the special advocate may:

A. Consult with the small business that filed the complaint and with the staff in the agency that initiated the agency enforcement action to determine the facts of the case; [2011, c. 304, Pt. D, §2 (NEW).]

B. After reviewing the complaint and discussing the complaint with the small business and the agency that initiated the agency enforcement action, determine whether, in the opinion of the special advocate, the complaint arises from an agency enforcement action that is likely to result in a significant economic hardship to the small business; [2011, c. 304, Pt. D, §2 (NEW).]

C. If the special advocate determines that an agency enforcement action is likely to result in a significant economic hardship to the small business, seek to resolve the complaint through consultation with the agency that initiated the agency enforcement action and the small business and participation in related regulatory proceedings in a manner allowed by applicable laws; and [2011, c. 304, Pt. D, §2 (NEW).]

D. If the special advocate determines that an agency enforcement action applies statutes or rules in a manner that is likely to result in a significant economic hardship to the small business, when an alternative means of effective enforcement is possible, recommend to the Secretary of State that the secretary issue a regulatory impact notice to the Governor. [2011, c. 304, Pt. D, §2 (NEW).]

[2011, c. 304, Pt. D, §2 (NEW) .]

SECTION HISTORY
2011, c. 304, Pt. D, §2 (NEW).

§90-S. REGULATORY IMPACT NOTICE

At the recommendation of the special advocate, the Secretary of State may issue a regulatory impact notice to the Governor informing the Governor that an agency has initiated an agency enforcement action that is likely to result in significant economic hardship to a small business, when an alternative means of enforcement was possible, and asking that the Governor take action, as appropriate and in a manner consistent with all applicable laws, to address the small business issues raised by that agency enforcement action. The regulatory impact notice may include, but is not limited to, a description of the role of the special advocate in attempting to resolve the issue with the agency, a description of how the agency enforcement action will affect the interests of the small business and a description of how an alternative enforcement action, when permitted by law, would relieve the small business of the significant economic hardship expected to result from the agency enforcement action. The Secretary of State shall provide a copy of the regulatory impact notice to the agency that initiated the agency enforcement action, the small business that made the complaint and the joint standing committee of the Legislature having jurisdiction over the agency. [2011, c. 304, Pt. D, §2 (NEW).]

SECTION HISTORY
2011, c. 304, Pt. D, §2 (NEW).

§90-T. REGULATORY FAIRNESS BOARD

The Regulatory Fairness Board, referred to in this section as "the board," is established within the Department of the Secretary of State to hear testimony and to report to the Legislature and the Governor at least annually on regulatory and statutory changes necessary to enhance the State's business climate. [2011, c. 304, Pt. D, §2 (NEW).]

1. **Membership.** The board consists of the Secretary of State, who shall serve as the chair of the board and 4 public members who are owners, operators or officers of businesses operating in different regions of the State, appointed as follows:

A. One public member appointed by the President of the Senate; [2011, c. 304, Pt. D, §2 (NEW).]

B. One public member appointed by the Speaker of the House; [2011, c. 304, Pt. D, §2 (NEW).]

C. Two public members appointed by the Governor, one of whom represents a business with fewer than 50 employees and one of whom represents a business with fewer than 20 employees. [2011, c. 304, Pt. D, §2 (NEW).]

The Secretary of State shall inform the joint standing committee of the Legislature having jurisdiction over business matters in writing upon the appointment of each member. Except for the Secretary of State, an officer or employee of State Government may not be a member of the board.

[2011, c. 304, Pt. D, §2 (NEW) .]

2. **Terms of appointment.** Each member appointed to the board must be appointed to serve a 3-year term. A member may not be appointed for more than 3 consecutive terms.

[2011, c. 304, Pt. D, §2 (NEW) .]

3. **Quorum.** A quorum for the purpose of conducting the board's business consists of 3 appointed members of the board.

[2011, c. 304, Pt. D, §2 (NEW) .]

4. **Duties of board.** The board shall:

A. Meet at least 3 times a year to review complaints submitted to the special advocate; [2011, c. 304, Pt. D, §2 (NEW).]

B. Review the status of complaints filed with the special advocate and regulatory impact notices issued by the Secretary of State; and [2011, c. 304, Pt. D, §2 (NEW).]

C. Report annually by February 1st to the Governor and the joint standing committee of the Legislature having jurisdiction over business matters on actions taken by the special advocate and the Secretary of State to resolve complaints concerning agency enforcement actions against small businesses. The report may also include recommendations for statutory changes that will bring more clarity, consistency and transparency in rules affecting the small business community. [2011, c. 304, Pt. D, §2 (NEW).]

[2011, c. 304, Pt. D, §2 (NEW) .]

5. **Compensation.** Board members are entitled to compensation only for expenses pursuant to section 12004-I, subsection 2-G.

[2011, c. 304, Pt. D, §2 (NEW) .]

6. **Staff.** The special advocate shall staff the board.

[2011, c. 304, Pt. D, §2 (NEW) .]

SECTION HISTORY
2011, c. 304, Pt. D, §2 (NEW).

Chapter 6: STATE ARCHIVIST

§91. SHORT TITLE

This chapter shall be known and may be cited as the "Archives and Records Management Law." [1973, c. 625, §16 (NEW).]

SECTION HISTORY
1973, c. 625, §16 (NEW).

§92. DECLARATION OF POLICY

The Legislature declares that it is the policy of the State to make the operations of State Government and local government more efficient, more effective and more economical through records management; and, to the end that the people may derive maximum benefit from a knowledge of state affairs, preserve its records of permanent value for study and research. [1997, c. 636, §1 (AMD).]

SECTION HISTORY
1973, c. 625, §16 (NEW). 1995, c. 148, §2 (AMD). 1997, c. 636, §1 (AMD).

§92-A. DEFINITIONS

The following definitions are established for terms used in this chapter. [1973, c. 625, §16 (NEW).]

1. **Agency records.** "Agency records" means records of government agencies to which they retain legal title, but that have been transferred to the custody of the Maine State Archives to effect economies and efficiency in their storage and use pending their ultimate disposition as authorized by law.

[1997, c. 636, §2 (AMD) .]

2. **Archives.** "Archives" means government records that have been determined by the State Archivist to have sufficient value to warrant their continued preservation and that are in the physical and legal custody of the Maine State Archives.

[1997, c. 636, §2 (AMD) .]

2-A. **Local government.** "Local government" means a municipality, county, school district or other special-purpose district or multi-purpose district.

[1999, c. 12, §1 (AMD) .]

3. **Record center.** "Record center" means facilities maintained by the State Archivist for the storage, security, servicing and other processing of agency records that must be preserved for varying periods of time and need not be retained in office equipment and space.

[1973, c. 625, §16 (NEW) .]

4. **State agency or agency.** "State agency" or "agency" means any unit of State Government or local government, including any state board or commission, except the Legislature and its committees and subcommittees, the Judicial Department, the University of Maine System, the Maine Community College System and the Maine Maritime Academy.

[1995, c. 148, §4 (AMD); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF) .]

5. **Record.** "Record" means all documentary material, regardless of media or characteristics and regardless of when it was created, made or received or maintained by an agency in accordance with law or rule or in the transaction of its official business. "Record" does not include extra copies of printed or processed material of which official or record copies have been retained, stocks of publications and processed documents intended for distribution or use or records relating to personal matters that may have been kept in an office for convenience.

"Record" includes records of historic and archival value to the State, regardless of the date of their generation, including all documents determined to have such value to the State by statute and, when appropriate, by the State Archivist.

[2009, c. 509, §1 (AMD) .]

6. **Electronic record.** "Electronic record" means a record whose content is not readable unless retrieved by means of an electronic device such as a computer or an audio or video player.

[1997, c. 636, §4 (NEW) .]

SECTION HISTORY
1973, c. 625, §16 (NEW). 1991, c. 837, §A8 (AMD). 1995, c. 148, §§3,4 (AMD). 1997, c. 636, §§2-4 (AMD). 1999, c. 12, §1 (AMD). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF). 2009, c. 509, §1 (AMD).

§93. STATE ARCHIVIST

The Secretary of State shall appoint a State Archivist subject to review by the joint standing committee of the Legislature having jurisdiction over state and local government and to confirmation by the Legislature. The State Archivist shall be chosen without reference to party affiliation and solely on the ground of professional competence to perform the duties of that office. The State Archivist shall hold office for a term of 6 years from the date of the appointment and until a successor has been appointed and qualified. The compensation of the State Archivist shall be fixed by the Governor. [1995, c. 148, §5 (AMD).]

This section shall not affect the term of the person holding office as State Archivist on October 1, 1977. [1977, c. 674, §2 (RPR).]

SECTION HISTORY
1973, c. 625, §16 (NEW). 1975, c. 771, §33 (AMD). 1977, c. 674, §2 (RPR). 1995, c. 148, §5 (AMD).

§94. MAINE STATE ARCHIVES

The office of the State Archivist is a bureau within the Department of the Secretary of State and consists of at least 2 organizational units as the State Archivist and the Secretary of State determine best suited to the accomplishment of the functions and purposes of this chapter. One organizational unit consists of the State Archivist and immediate support staff. The office is known as the Maine State Archives. The State Archivist is the official custodian of the archival resources of the State. [1989, c. 716, (AMD).]

SECTION HISTORY
1973, c. 625, §16 (NEW). 1989, c. 716, (AMD).

§95. POWERS AND DUTIES OF STATE ARCHIVIST

The State Archivist has, upon consent of the Secretary of State, the duties and powers established under the following provisions governing the creation, use, maintenance, retention, preservation and disposal of state records: [1991, c. 837, Pt. A, §9 (AMD).]

1. **Administration.** To administer the office of the State Archivist. In exercising the administration of the office, the State Archivist shall formulate policies, establish organizational and operational procedures and exercise general supervision. The State Archivist shall employ, with the approval of the Secretary of State subject to the Civil Service Law, such assistants as are necessary to carry out this chapter. The State Archivist shall adopt a seal for use in the official business of the office. The State Archivist has custody and control of the facilities provided for the administration of this chapter;

[1991, c. 837, Pt. A, §9 (AMD) .]

2. **Examination of public records.** To have the right of reasonable access to and examination of all state and local government records in Maine;

[1995, c. 148, §6 (AMD) .]

3. **Rules.** To adopt such rules as are necessary to effectuate the purposes of this chapter. No restrictions or limitations may be imposed on the use of records that are defined by law as state and local government records or as records open to public inspection, unless necessary to protect and preserve them from deterioration, mutilation, loss or destruction. Restrictions or limitations imposed by law on the examination and use of records transferred to the archives under subsection 7, paragraph C and subsection 8 remain in effect until the records have been in existence for 50 years, unless removed or relaxed by the State Archivist with the concurrence in writing of the head of the agency from which the records were transferred or the successor in function, if any. The State Archivist shall adopt rules governing the transfer of records from the custody of one agency to that of another subject to any applicable provision of law;

[1995, c. 148, §6 (AMD) .]

4. **Acceptance of gifts and bequests.** To accept gifts, bequests and endowments for purposes consistent with the objectives of this chapter. Such funds, if given as an endowment must be invested in securities by the Treasurer of State according to the laws governing the investment of trust funds. All gifts, bequests and proceeds of invested endowment funds must be used solely to carry out the purposes for which they were made;

[1991, c. 837, Pt. A, §9 (AMD) .]

5. **Publication.** To publish archival material, reports, bulletins and other publications that promote the objectives of this chapter. The State Archivist shall establish the price at which publications, photocopies and photoduplication services may be sold and delivered. The income received under this subsection and subsection 12 must be credited to a special revenue account, which is carried forward and expended by the agency for these purposes;

[1991, c. 837, Pt. A, §9 (AMD) .]

6. **Biennial report.** To report biennially to the Governor and Legislature facts and recommendations related to the work and needs of the office of State Archivist;

[1991, c. 837, Pt. A, §9 (AMD) .]

7. **Records management program.** To establish and administer in the executive branch of State Government an active, continuing program for the economical and efficient management of state and local government records, and for the proper disposition of local government records. Upon request, the State Archivist shall assist and advise in the establishment of records management programs in the legislative and judicial branches of State Government and shall, as required by them, provide program services similar to those available to the executive branch. The State Archivist shall, with due regard for the functions of the agencies concerned:

A. Provide standards, procedures and techniques for effective management of state and local government records in the conduct of business; [1997, c. 636, §5 (AMD).]

B. Recommend improvements in records management practices, including the use of space, equipment and supplies employed in creating, maintaining, storing and servicing state and local government records; [1997, c. 636, §5 (AMD).]

C. Establish schedules, in consultation with the heads of state agencies and local government agencies, under which each agency shall retain records of continuing value, and dispose, as provided by this chapter, of records no longer possessing sufficient administrative, legal or fiscal value to warrant their further keeping for business purposes; and [1997, c. 636, §5 (AMD).]

D. Obtain such reports from state or local government agencies as are required for the administration of the program. [1997, c. 636, §5 (AMD).]

The head of each state agency or local government agency shall establish and maintain an active, continuing program for the economical and efficient management of any records in compliance with the standards, procedures and regulations issued by the State Archivist.

[1997, c. 636, §5 (AMD) .]

8. **Transfer of state records.** To provide for the transfer to the archives of state records, disposed of under subsection 7, paragraph C, that have archival value;

[1991, c. 837, Pt. A, §9 (AMD) .]

9. **Destruction of state records.** To authorize and receive confirmation of the destruction of the state records of any state or local agency that, in the opinion of the head of the agency, are no longer of value to the state or local government agency, and that, in the opinion of the State Archivist and the Archives Advisory Board, have no archival value to the State;

[1995, c. 148, §8 (AMD) .]

10. **Transfer of state and official records.** To receive all state records transferred to the Maine State Archives under subsection 8 and to negotiate for the transfer of official records from the custody of any public official not governed by subsection 7. The State Archivist shall charge a fee sufficient to cover the cost of receiving and processing all transfers from the custody of any public official not governed by subsection 7. The fees collected must be deposited in the General Fund. Any public officer in Maine is authorized to turn over to the State Archivist those official records legally in that public official's custody that are not needed for the transaction of the business of that office, whenever the State Archivist is willing and able to receive them. Whenever such a transfer is made, the State Archivist shall transmit to the office from which the records are transferred a memorandum in which such records are described in terms sufficient to identify them, which must be preserved in the transferring office. Unless otherwise directed by law, the state records of any public office, commission or committee in the State must, upon the termination of its existence or functions, be transferred to the custody of the State Archivist;

[1997, c. 636, §6 (AMD) .]

10-A. **Records of Secretary of State.** To preserve the records of the Secretary of State to the extent the Secretary of State determines desirable under the Constitution and the regulations of the State Archivist;

[1991, c. 837, Pt. A, §9 (AMD) .]

10-B. **Permanent state records of agency administration.** To establish such standards concerning the establishment, maintenance and operation of state or local government administered computerized and auxiliary automated information handling as are necessary to ensure the preservation of adequate and permanent records of the organization, functions, policies, procedures, decisions and essential transactions of the agencies of State Government or local government;

[1995, c. 148, §8 (AMD) .]

10-C. **Legislative records.** To receive legislative records. The Secretary of the Senate and the Clerk of the House of Representatives shall obtain the noncurrent records of the Legislature and of each legislative committee at the close of each Legislature and transfer them to the Maine State Archives for preservation, subject to the orders of the Senate or the House of Representatives, respectively, and subject to schedules established in consultation with the Executive Director of the Legislative Council;

[2005, c. 683, Pt. A, §4 (AMD) .]

11. **Archives available for public use.** To make archival material under the archivist's supervision available for public use at reasonable times. The archivist shall carefully protect and preserve the materials from deterioration, mutilation, loss or destruction. State records maintained by the archivist that contain information related to the identity of an archives patron relative to the patron's use of materials at the archives are confidential. Those state records and the information contained in them may only be released with the express written consent of the patron involved or as a result of a court order;

[1991, c. 837, Pt. A, §9 (AMD) .]

12. **Copies.** To furnish copies of archival material upon the request of any person, on payment in advance of such fees as may be required. Copies of state records transferred pursuant to law from the office of their origin to the custody of the State Archivist, when certified by the State Archivist, under the seal of that office, have the same legal force and effect as if certified by their original custodian. A facsimile of the signature of the State Archivist imprinted by or at the direction of the State Archivist upon any certificate issued by the State Archivist has the same validity as the written signature of the State Archivist;

[2009, c. 509, §2 (AMD) .]

13. **Photoreproduction and restoration.** To provide centralized photoreproduction and records preservation services for government agencies to the extent the State Archivist determines advisable in the administration of the state program and facilities. Such services must be furnished to such agencies at cost.

Fees collected under this subsection must be deposited in the General Fund; and

[2009, c. 509, §3 (AMD) .]

14. **Records explanation available.** To prepare a detailed explanation of what constitutes a "record" pursuant to section 92-A, subsection 5 and "records belonging to the State or to a local government or any agency of the State" pursuant to section 95-A, subsection 1. The State Archivist shall include in the explanation practical examples of such records in plain language. Upon request, the State Archivist shall provide the explanation to interested parties at no cost to the requestor and shall post the explanation on a publicly accessible website.

[2009, c. 509, §4 (NEW) .]

SECTION HISTORY

1973, c. 625, §16 (NEW). 1981, c. 456, §§A17,A18 (AMD). 1985, c. 785, §B10 (AMD). 1989, c. 235, §§1,2 (AMD). 1989, c. 501, §L4 (AMD). 1991, c. 172, §1 (AMD). 1991, c. 837, §A9 (AMD). 1995, c. 148, §§6-8 (AMD). 1997, c. 636, §§5,6 (AMD). 2005, c. 683, §A4 (AMD). 2009, c. 509, §§2-4 (AMD).

§95-A. PROTECTION AND RECOVERY OF PUBLIC RECORDS

1. **Ownership and possession; notice and demand of return.** A record created by or belonging to the State, to a local or county government in the State or to any agency of the State remains the property of the State until ownership and possession are formally relinquished in accordance with statute and rules. Whenever the State Archivist has reasonable grounds to believe that records belonging to the State or to a local government or any agency of the State or to which the State or its agencies have a lawful right of possession are in the possession of a person or entity not authorized by the State Archivist, other lawful custodian or by law to possess those records, the State Archivist may issue a written notice and demand to that person or entity for the immediate return of the records. The notice and demand must be sent by certified or registered mail, return receipt requested. The notice and demand must identify the records claimed to belong to the State or local government with reasonable specificity. Upon receipt of the notice and demand, the person or entity in the possession of records claimed to belong to the State or local government may not destroy, alter, transfer, convey or otherwise alienate those records unless authorized in writing by the State Archivist or by an order issued by a court of competent jurisdiction. The notice and demand must specifically state that any transfer, conveyance or other alienation of the records after receipt of the notice and demand constitutes a Class E crime in violation of section 97.

[2009, c. 509, §5 (AMD) .]

2. **Petition; hearing.** Following the issuance of a notice and demand in accordance with subsection 1, the State Archivist, with the assistance of the Attorney General, may petition the Superior Court of Kennebec County or the Superior Court in the county in which records are located for the return of state records that are in the possession of a person or entity not authorized by the State Archivist, other lawful custodian or by law to possess those records. After hearing, the court shall order the records to be delivered to the State Archivist, or other custodian designated by the State Archivist, upon a finding that the materials in question are records and that the records are in the possession of a person or entity not authorized by the State Archivist, other lawful custodian or provision of law to possess the records. The court may issue all orders necessary to protect the records from destruction, alteration, transfer, conveyance or alienation by the person or entity in possession of the materials and may also order the person or entity in possession of the materials to surrender the records into the custody of the State Archivist pending the court's decision on the petition.

[1997, c. 636, §7 (AMD) .]

3. **Presumption.** In any proceeding pursuant to subsection 2, there is a rebuttable presumption that records that were once in the custody of the State or a local government were not lawfully alienated from that custody.

[1997, c. 636, §7 (AMD) .]

4. **Definition.**

[1997, c. 636, §7 (RP) .]

5. **Sale or transfer of record prohibited.** A person may not sell or transfer a record unless specifically authorized by law. A person who violates this subsection commits a Class D crime.

[2003, c. 365, §1 (NEW) .]

SECTION HISTORY
1989, c. 283, (NEW). 1995, c. 148, §9 (AMD). 1997, c. 636, §7 (AMD). 2003, c. 365, §1 (AMD). 2009, c. 509, §5 (AMD).

§95-B. LOCAL GOVERNMENT RECORDS

The following provisions apply to local government records. [1995, c. 148, §10 (NEW).]

1. **Omissions or errors corrected.** When omissions or errors exist in local government records, those records must be corrected under oath by the person who was responsible for those local government records, whether or not that person remains in office.

A. If an original town meeting warrant is lost or destroyed, the return may be made or amended on a copy of it. [1995, c. 148, §10 (NEW).]

[1995, c. 148, §10 (NEW) .]

2. **Safe or vault for preservation.** Each local government shall provide a fireproof safe or vault for the preservation of all records that must be retained permanently but are not required for business purposes. The official having responsibility for those records shall deposit them in the safe or vault where those records must be kept except when required for use. Beginning in 2002, each local government shall respond to a survey distributed biennially by the State Archivist requesting:

A. A description of the fireproof safe or vault required by this section; [2001, c. 704, §1 (NEW).]

B. A statement of the adequacy of the safe or vault for the preservation of records that must be retained permanently; and [2001, c. 704, §1 (NEW).]

C. A plan, if any, for the establishment or enhancement of a safe or vault to comply with the requirements of this section. [2001, c. 704, §1 (NEW).]

The State Archivist shall report the results of the survey, with recommendations, to the joint standing committees of the Legislature having jurisdiction over education and cultural affairs and over state and local government matters.

[2001, c. 704, §1 (AMD) .]

2-A. **Retention of archival records currently in digital form.** Beginning in 2002, each local government shall respond to a survey distributed biennially by the State Archivist requesting:

A. A description of the provisions currently in place for the preservation of records that must be retained permanently and are currently maintained in digital form; [2001, c. 704, §2 (NEW).]

B. A statement of the adequacy of those provisions for the preservation of records that must be retained permanently; and [2001, c. 704, §2 (NEW).]

C. A plan, if any, for the establishment or enhancement of those provisions to ensure the permanent retention of and access to these records. [2001, c. 704, §2 (NEW).]

The State Archivist shall report the results of the survey, with recommendations, to the joint standing committees of the Legislature having jurisdiction over education and cultural affairs and over state and local government matters.

[2001, c. 704, §2 (NEW) .]

3. **Attestation.** The records of a local government official may be attested by volume. Each document is sufficiently attested when the volume in which it is recorded bears the attestation with the written signature of the official.

[1995, c. 148, §10 (NEW) .]

4. **Delivery to successor in office.** Local government officials shall deliver the records of their office to their successors in office upon the expiration of the officials' terms.

[1995, c. 148, §10 (NEW) .]

5. **Records available for public use.** Each local government official shall make records available for public use under that official's supervision at reasonable times unless the use of the records is otherwise restricted by law.

[1995, c. 148, §10 (NEW) .]

6. **Protection of records.** Local government officials shall carefully protect and preserve the records of their office from deterioration, mutilation, loss or destruction.

[1995, c. 148, §10 (NEW) .]

7. **Disposition of records.** Records may not be destroyed or otherwise disposed of by any local government official, except as provided by the Archives Advisory Board. Records that have been determined by the board to possess sufficient archival value must be preserved by the municipality or deposited with the State Archivist.

[1995, c. 148, §10 (NEW) .]

8. **Regulations of Archives Advisory Board.** Each local government official shall comply with the standards, procedures and regulations issued by the Archives Advisory Board.

[1995, c. 148, §10 (NEW) .]

SECTION HISTORY
1995, c. 148, §10 (NEW). 1997, c. 636, §8 (AMD). 2001, c. 704, §§1,2 (AMD).

§96. ARCHIVES ADVISORY BOARD

The Archives Advisory Board, established by section 12004-I, subsection 8, shall serve to advise the State Archivist in administration of this chapter and to perform such other duties as may be prescribed by law. The board shall consist of 9 persons especially interested in the history of the State appointed by the Governor as advisors for overlapping terms of 6 years. The 3 new advisors shall be first appointed one for one year, one for 3 years and one for 5 years. Their successors shall be appointed for terms of 6 years. Each advisor shall serve for the term of appointment and thereafter until a successor is appointed and qualified. In case of the termination of an advisor's service during that advisor's term, the Governor shall appoint a successor for the unexpired term. Advisors shall be compensated as provided in chapter 379. [1989, c. 503, Pt. B, §9 (AMD).]

SECTION HISTORY
1973, c. 625, §16 (NEW). 1983, c. 812, §13 (AMD). 1989, c. 503, §B9 (AMD).

§97. VIOLATION

Violation of any provision of this chapter or any rules and regulations issued under section 95, subsection 3, except those violations for which specific penalties are provided, is a Class E crime. [1977, c. 696, §3 (RPR).]

SECTION HISTORY
1973, c. 625, §16 (NEW). 1977, c. 696, §33 (RPR).

§98. MAINE HISTORICAL RECORDS ADVISORY BOARD

The Maine Historical Records Advisory Board, established by section 12004-I, subsection 18-D and referred to in this section as the "board," is within the office of the State Archivist and serves to encourage the preservation of and access to historical records within the State. [2001, c. 704, §3 (NEW).]

1. **Duties.** In support of its mission, the board shall conduct the following activities:

A. Make recommendations to the National Historical Publications and Records Commission regarding the funding of proposals seeking support from that commission; [2001, c. 704, §3 (NEW).]

B. Develop, maintain and execute a strategic plan supporting the board's priorities for funding recommendations and other activities; [2001, c. 704, §3 (NEW).]

C. Seek, receive and administer nonstate funds to support its priority activities; [2001, c. 704, §3 (NEW).]

D. Work cooperatively with other state historical records advisory boards, especially those in New England; [2001, c. 704, §3 (NEW).]

E. Report biennially to the joint standing committees of the Legislature having jurisdiction over education and cultural affairs and over state and local government matters on the board's activities and on the condition of historical records in the State; and [2001, c. 704, §3 (NEW).]

F. Other activities it determines appropriate. [2001, c. 704, §3 (NEW).]

[2001, c. 704, §3 (NEW) .]

2. **Authority.** In order to carry out its mission, the board may make expenditures in accordance with the following:

A. Beginning with the 2004-2005 biennium, the Governor shall include in the budget submitted to the Legislature each biennium a line item to allow the expenditure by the board of any non-General Fund revenues received by the board, including federal funds, grants or gifts; and [2001, c. 704, §3 (NEW).]

B. Beginning with the 2004-2005 biennium, the Governor shall include in the budget submitted to the Legislature each biennium a line item to allow the expenditure by the board of any non-General Fund revenues received by the board to fund a full-time position. [2001, c. 704, §3 (NEW).]

[2001, c. 704, §3 (NEW) .]

3. **Membership.** The board consists of at least 7 and no more than 11 members who are appointed to serve as follows:

A. Except as provided in paragraph B, the Governor shall appoint all of the members, the majority of whom must have experience in the administration of historical records or in a field of research activity that makes extensive use of historical records; [2001, c. 704, §3 (NEW).]

B. The Director of the Maine Historical Society and the State Archivist are members ex officio and are voting members; and [2001, c. 704, §3 (NEW).]

C. The Governor shall appoint either the Director of the Maine Historical Society or the State Archivist to serve as the Maine Historical Records Coordinator and to serve as the chair of the board. The coordinator shall serve a term of 4 years and may not be compensated but may receive the reimbursements allowed members of the board. [2001, c. 704, §3 (NEW).]

All members, with the exception of the coordinator, serve 3-year terms. All members serve without compensation. All legally allowed expenditures incurred by the members in the performance of their duties may be reimbursed by the National Historical Publications and Records Commission or by other funds available to the board.

[2001, c. 704, §3 (NEW) .]

4. **Maine Historical Records Advisory Board Fund.** The Maine Historical Records Advisory Board Fund, referred to in this section as the "fund," is established for use by the board. Balances in the fund may not lapse and must be carried forward and used for the purposes of this section. The board may accept and deposit in the fund money from private and public sources.

[2001, c. 704, §3 (NEW) .]

SECTION HISTORY
2001, c. 704, §3 (NEW).

Chapter 6-A: MODEL REGISTERED AGENTS ACT

§101. SHORT TITLE

This chapter is known and may be cited as "the Model Registered Agents Act." [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

SECTION HISTORY
2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§102. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

1. **Appointment of agent.** "Appointment of agent" means a statement appointing an agent for service of process filed by a domestic entity that is not a filing entity or a nonqualified foreign entity under section 112.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. **Clerk.** "Clerk" means the person described in Title 13-C, chapter 5-A.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

3. **Clerk filing.** "Clerk filing" means the public organic document of a domestic filing entity formed under Title 13-C.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

4. **Commercial clerk.** "Commercial clerk" means a clerk who is listed under section 106.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

5. **Commercial registered agent.** "Commercial registered agent" means an individual or a domestic or foreign entity listed under section 106.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

6. **Domestic entity.** "Domestic entity" means an entity whose internal affairs are governed by the laws of this State.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

7. **Entity.** "Entity" means a person that has a separate legal existence or has the power to acquire an interest in real property in its own name other than:

A. An individual; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. A testamentary, inter vivos or charitable trust, with the exception of a business trust, statutory trust or similar trust; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §1 (AFF).]

C. An association or relationship that is not a partnership by reason of Title 31, section 1022, subsection 3 or a similar provision of the law of any other jurisdiction; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

D. A decedent's estate; or [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

E. A public corporation, government or governmental subdivision, agency or instrumentality or quasi-governmental instrumentality. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

8. **Filing entity.** "Filing entity" means an entity that is created by the filing of a public organic document.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

9. **Foreign entity.** "Foreign entity" means an entity other than a domestic entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

10. **Foreign qualification document.** "Foreign qualification document" means an application for a certificate of authority or other foreign qualification filing with the Secretary of State by a foreign entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

11. **Governance interest.** "Governance interest" means the right under the organic law or organic rules of an entity, other than as a governor, agent, assignee or proxy, to:

A. Receive or demand access to information concerning, or the books and records of, the entity; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. Vote for the election of the governors of the entity; or [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

C. Receive notice of or vote on any or all issues involving the internal affairs of the entity. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

12. **Governor.** "Governor" means a person by or under whose authority the powers of an entity are exercised and under whose direction the business and affairs of the entity are managed pursuant to the organic law and organic rules of the entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

13. **Interest.** "Interest" means:

A. A governance interest in an unincorporated entity; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. A transferable interest in an unincorporated entity; or [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

C. A share or membership in a corporation. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

14. **Interest holder.** "Interest holder" means a direct holder of an interest.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

15. **Jurisdiction of organization.** "Jurisdiction of organization," with respect to an entity, means the jurisdiction whose law includes the organic law of the entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

16. **Noncommercial clerk.** "Noncommercial clerk" means a clerk that is not listed as a commercial clerk under section 106 and that is:

A. An individual that serves in this State as the agent for service of process of an entity; or [2009, c. 56, §1 (AMD).]

B. The individual who holds the office or other position in an entity that is designated as the agent for service of process pursuant to section 105, subsection 1, paragraph B, subparagraph (2). [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2009, c. 56, §1 (AMD) .]

17. **Noncommercial registered agent.** "Noncommercial registered agent" means a person that is not listed as a commercial registered agent under section 106 and that is:

A. An individual or a domestic or foreign entity that serves in this State as the agent for service of process of an entity; or [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. The individual who holds the office or other position in an entity that is designated as the agent for service of process pursuant to section 105, subsection 1, paragraph B, subparagraph (2). [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

18. **Nonqualified foreign entity.** "Nonqualified foreign entity" means a foreign entity that is not authorized to transact business in this State pursuant to a filing with the Secretary of State.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

19. **Nonresident LLP statement.** "Nonresident LLP statement" means:

A. A statement of qualification of a domestic limited liability partnership that does not have an office in this State; or [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. A statement of foreign qualification of a foreign limited liability partnership that does not have an office in this State. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

20. **Organic law.** "Organic law" means the statutes, if any, other than this chapter, governing the internal affairs of an entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

21. **Organic rules.** "Organic rules" means the public organic document and private organic rules of an entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

22. **Person.** "Person" means an individual, corporation, estate, trust, partnership, limited liability company, business or similar trust, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality or any other legal or commercial entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

23. **Private organic rules.** "Private organic rules" means the rules, whether or not in a record, that govern the internal affairs of an entity, are binding on all of its interest holders and are not part of its public organic document, if any.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

24. **Public organic document.** "Public organic document" means the public record, the filing of which creates an entity, and any amendment to or restatement of that record.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

25. **Qualified foreign entity.** "Qualified foreign entity" means a foreign entity that is authorized to transact business in this State pursuant to a filing with the Secretary of State.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

26. **Record.** "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

27. **Registered agent.** "Registered agent" means a commercial registered agent or a noncommercial registered agent.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

28. **Registered agent filing.** "Registered agent filing" means:

A. The public organic document of a domestic filing entity other than a domestic filing entity formed under Title 13-C; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. A nonresident LLP statement; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

C. A foreign qualification document; or [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

D. An appointment of agent. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

29. **Represented entity.** "Represented entity" means:

A. A domestic filing entity; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. A domestic or qualified foreign limited liability partnership that does not have an office in this State; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

C. A qualified foreign entity; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

D. A domestic or foreign unincorporated nonprofit association for which an appointment of agent has been filed; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

E. A domestic entity that is not a filing entity for which an appointment of agent has been filed; or [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

F. A nonqualified foreign entity for which an appointment of agent has been filed. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

30. **Sign.** "Sign" means, with present intent to authenticate or adopt a record:

A. To execute or adopt a tangible symbol; or [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. To attach to or logically associate with the record an electronic sound, symbol or process. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

31. **Transferable interest.** "Transferable interest" means the right under an entity's organic law to receive distributions from the entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

32. **Type.** "Type," with respect to an entity, means a generic form of entity:

A. Recognized at common law; or [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. Organized under an organic law, whether or not some entities organized under that organic law are subject to provisions of that law that create different categories of the form of entity. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY
2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF). 2009, c. 56, §1 (AMD).

§103. FEES

1. **Filing fees.** The Secretary of State shall collect the following fees when a filing is made under this chapter:

A. Commercial clerk or commercial registered agent listing statement as required by section 106, $150; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. Commercial clerk or commercial registered agent termination as required by section 107, $150; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

C. Statement of appointment or change of clerk or registered agent by entity as required by section 105, subsection 1 or section 108, $35; except a statement filed for nonprofit corporations formed under Title 13-B, $15; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

D. Statement of change of name or address by noncommercial clerk or noncommercial registered agent as required by section 109, $35; except a statement filed for nonprofit corporations formed under Title 13-B, $15; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

E. Statement of change of name, address or type of organization by commercial clerk or commercial registered agent as required by section 110, $50; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

F. Statement of resignation by commercial clerk or commercial registered agent as required by section 111, no fee; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

G. Statement of resignation by noncommercial clerk or noncommercial registered agent as required by section 111, $35; except a statement filed for nonprofit corporations formed under Title 13-B, $15; and [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

H. Statement of appointment of agent for service of process for nonfiling domestic entity or nonqualified foreign entity, $100. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. **Copying and certification fees.** The Secretary of State shall collect the following fees for copying and certifying a copy of any document filed under this chapter:

A. For copying, $2 a page; and [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. For certifying the copy, $5 for a certificate. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY
2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§104. ADDRESSES IN FILINGS

Whenever a provision of this chapter other than section 111, subsection 1, paragraph D requires that a filing state an address, the filing must state: [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

1. **Street or rural route.** An actual street address or rural route box number in this State; and

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. **Mailing address.** A mailing address in this State, if different from the address under subsection 1.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY
2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§105. APPOINTMENT OF CLERK OR REGISTERED AGENT

1. **Contents of filing.** A clerk or registered agent filing must state:

A. The name of the represented entity's commercial clerk or commercial registered agent; or [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. If the entity does not have a commercial clerk or commercial registered agent:

(1) The name and address of the entity's noncommercial clerk or noncommercial registered agent; or

(2) The title of an office or other position with the entity if service of process is to be sent to the person holding that office or position, and the address of the business office of that person. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. **Consent to serve as agent.** The appointment of a clerk or a registered agent pursuant to subsection 1, paragraph A or subsection 1, paragraph B, subparagraph (1) is an affirmation by the represented entity that the agent has consented to serve as such.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

3. **Daily list of filings.** The Secretary of State shall make available in a record as soon as practicable a daily list of filings that contain the name of a clerk or a registered agent. The list must:

A. Be available for at least 14 calendar days; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. List in alphabetical order the names of the clerks or registered agents; and [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

C. State the type of filing and name of the represented entity making the filing. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY
2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§106. LISTING OF COMMERCIAL CLERK OR COMMERCIAL REGISTERED AGENT

1. **Contents of statement.** An individual or a domestic or foreign entity may become listed as a commercial clerk or commercial registered agent by filing with the Secretary of State a commercial clerk or commercial registered agent listing statement signed by or on behalf of the person that states:

A. The name of the individual or the name, type and jurisdiction of organization of the entity; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. That the person is in the business of serving as a commercial clerk or commercial registered agent in this State; and [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

C. The address of a place of business of the person in this State to which service of process and other notice and documents being served on or sent to entities represented by it may be delivered. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. **Additional information.** A commercial clerk or commercial registered agent listing statement may include the information regarding acceptance of service of process in a record by the commercial clerk or commercial registered agent provided for in section 113, subsection 4.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

3. **Distinguishable name.** If the name of a person filing a commercial clerk or commercial registered agent listing statement is not distinguishable on the records of the Secretary of State from the name of another commercial clerk or commercial registered agent listed under this section, the person must adopt a fictitious name that is distinguishable and use that name in its statement and when it does business in this State as a commercial clerk or commercial registered agent.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

4. **Effective on filing.** A commercial clerk or commercial registered agent listing statement takes effect on filing.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

5. **Filing noted in index; effect.** The Secretary of State shall note the filing of the commercial clerk or commercial registered agent listing statement in the index of filings maintained by the Secretary of State for each entity represented by the clerk or registered agent at the time of the filing. The statement has the effect of deleting the address of the clerk or the registered agent from the clerk or registered agent filing of each of those entities.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY

2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§107. TERMINATION OF LISTING OF COMMERCIAL CLERK OR COMMERCIAL REGISTERED AGENT

1. **Contents of statement.** A commercial clerk or commercial registered agent may terminate its listing as a commercial clerk or commercial registered agent by filing with the Secretary of State a commercial clerk or commercial registered agent termination statement signed by or on behalf of the agent that states:

A. The name of the agent as currently listed under section 106; [2007, c. 535, Pt. B, §1 (AMD).]

B. That the agent is no longer in the business of serving as a commercial clerk or commercial registered agent in this State; and [2007, c. 535, Pt. B, §1 (AMD).]

C. The name and address of the person to whom the commercial clerk or commercial registered agent sends the notice required by subsection 3. [2007, c. 535, Pt. B, §1 (NEW).]

[2007, c. 535, Pt. B, §1 (AMD) .]

2. **Effective date.** A commercial clerk or commercial registered agent termination statement takes effect on the 31st day after the day on which it is filed.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

3. **Notice.** The commercial clerk or commercial registered agent shall promptly furnish each entity represented by it with notice in a record of the filing of the commercial clerk or commercial registered agent termination statement.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

4. **Effect of termination.** When a commercial clerk or commercial registered agent termination statement takes effect, the clerk or registered agent ceases to be an agent for service of process on each entity formerly represented by it. Until an entity formerly represented by a terminated commercial clerk or commercial registered agent appoints a new clerk or registered agent, service of process may be made on the entity as provided in section 113. Termination of the listing of a commercial clerk or commercial registered agent under this section does not affect any contractual rights a represented entity may have against the agent or that the agent may have against the entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY
2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF). 2007, c. 535, Pt. B, §1 (AMD).

§108. CHANGE OF CLERK OR REGISTERED AGENT BY ENTITY

1. **Change of information.** A represented entity may change the information currently on file under section 105, subsection 1 by filing with the Secretary of State a statement of change signed on behalf of the entity that states:

A. The name of the entity; and [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. The information that is to be in effect as a result of the filing of the statement of change. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. **Approval not needed.** Except for a corporation formed under Title 13-C, the interest holders or governors of a domestic entity need not approve the filing of:

A. A statement of change under this section; or [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. A similar filing changing the clerk or registered agent or registered office of the entity in any other jurisdiction. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2009, c. 56, §2 (AMD) .]

3. **Consent.** The appointment of a clerk or a registered agent pursuant to section 105, subsection 1 is an affirmation by the represented entity that the clerk or agent has consented to serve as such.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

4. **Effective on filing.** A statement of change filed under this section takes effect on filing.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

5. **Amended filing.** As an alternative to using the procedures in this section, a represented entity may change the information currently on file under section 105, subsection 1 by amending its most recent clerk or registered agent filing in the manner provided by the laws of this State other than this chapter for amending that filing.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY
2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF). 2009, c. 56, §2 (AMD).

§109. CHANGE OF NAME OR ADDRESS BY NONCOMMERCIAL CLERK OR NONCOMMERCIAL REGISTERED AGENT

1. **Contents of statement.** If a noncommercial clerk or noncommercial registered agent changes its name or its address as currently in effect with respect to a represented entity pursuant to section 105, subsection 1, the agent shall file with the Secretary of State, with respect to each entity represented by the agent, a statement of change signed by or on behalf of the agent that states:

A. The name of the entity; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. The name and address of the agent as currently in effect with respect to the entity; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

C. If the name of the agent has changed, its new name; and [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

D. If the address of the agent has changed, the new address. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. **Effective on filing.** A statement of change filed under this section takes effect on filing.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

3. **Notice.** A noncommercial clerk or noncommercial registered agent shall promptly furnish the represented entity with notice in a record of the filing of a statement of change and the changes made by the filing.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY
2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§110. CHANGE OF NAME, ADDRESS OR TYPE OF ORGANIZATION BY COMMERCIAL CLERK OR COMMERCIAL REGISTERED AGENT

1. **Contents of statement.** If a commercial clerk or commercial registered agent changes its name, its address as currently listed under section 106, subsection 1 or its type or jurisdiction of organization, the agent shall file with the Secretary of State a statement of change signed by or on behalf of the agent that states:

A. The name of the agent as currently listed under section 106, subsection 1; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. If the name of the agent has changed, its new name; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

C. If the address of the agent has changed, the new address; and [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

D. If the type or jurisdiction of organization of the agent has changed, the new type or jurisdiction of organization. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. **Effect of filing.** The filing of a statement of change under subsection 1 is effective to change the information regarding the commercial clerk or commercial registered agent with respect to each entity represented by the agent.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

3. **Effective on filing.** A statement of change filed under this section takes effect on filing.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

4. **Notice.** A commercial clerk or commercial registered agent shall promptly furnish each entity represented by it with notice in a record of the filing of a statement of change relating to the name or address of the agent and the changes made by the filing.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

5. **Cancellation.** If a commercial clerk or commercial registered agent changes its address without filing a statement of change as required by this section, the Secretary of State may cancel the listing of the agent under section 106. A cancellation under this subsection has the same effect as a termination under section 107. Promptly after canceling the listing of an agent, the Secretary of State shall serve notice in a record in the manner provided in section 113, subsection 2 or 3 on:

A. Each entity represented by the agent, stating that the agent has ceased to be an agent for service of process on the entity and that, until the entity appoints a new clerk or registered agent, service of process may be made on the entity as provided in section 113; and [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. The agent, stating that the listing of the agent has been canceled under this section. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY
2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§111. RESIGNATION OF CLERK OR REGISTERED AGENT

1. **Statement of resignation.** A clerk or registered agent may resign at any time with respect to a represented entity by filing with the Secretary of State a statement of resignation signed by or on behalf of the agent that states:

A. The name of the entity; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. The name of the agent; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

C. That the agent resigns from serving as agent for service of process for the entity; and [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

D. The name and address of the person to which the agent will send the notice required by subsection 3. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. **Effective date.** A statement of resignation takes effect on the earlier of the 31st day after the day on which it is filed or the appointment of a new registered agent for the represented entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

3. **Notice.** The clerk or registered agent shall promptly furnish the represented entity notice in a record of the date on which a statement of resignation was filed.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

4. **Effect of resignation.** When a statement of resignation takes effect, the clerk or registered agent ceases to have responsibility for any matter tendered to it as agent for the represented entity. A resignation under this section does not affect any contractual rights the entity has against the agent or that the agent has against the entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

5. **Standing of entity.** A clerk or registered agent may resign with respect to a represented entity whether or not the entity is in good standing.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY
2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§112. APPOINTMENT OF AGENT BY NONFILING OR NONQUALIFIED FOREIGN ENTITY

1. **Contents of statement.** A domestic entity that is not a filing entity or a nonqualified foreign entity may file with the Secretary of State a statement appointing an agent for service of process signed on behalf of the entity that states:

A. The name, type and jurisdiction of organization of the entity; and [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. The information required by section 105, subsection 1. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. **Effective on filing.** A statement appointing an agent for service of process takes effect on filing.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

3. **Effect of appointment.** The appointment of a registered agent under this section does not qualify a nonqualified foreign entity to do business in this State and is not sufficient alone to create personal jurisdiction over the nonqualified foreign entity in this State.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

4. **Distinguishable name.** A statement appointing an agent for service of process may not be rejected for filing because the name of the entity filing the statement is not distinguishable on the records of the Secretary of State from the name of another entity appearing in those records. The filing of a statement appointing an agent for service of process does not make the name of the entity filing the statement unavailable for use by another entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

5. **Cancellation of statement.** An entity that has filed a statement appointing an agent for service of process may cancel the statement by filing a statement of cancellation, which takes effect upon filing, and shall state the name of the entity and that the entity is canceling its appointment of an agent for service of process in this State. A statement appointing an agent for service of process that has not been canceled earlier is effective for a period of 5 years after the date of filing.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

6. **Termination upon becoming qualified.** A statement appointing an agent for service of process for a nonqualified foreign entity terminates automatically on the date the entity becomes a qualified foreign entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY
2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§113. SERVICE OF PROCESS ON ENTITIES

1. **Agent to receive service.** A clerk or registered agent is an agent of the represented entity authorized to receive service of any process, notice or demand required or permitted by law to be served on the entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. **Service to other than clerk or registered agent.** If an entity that previously filed a clerk or registered agent filing with the Secretary of State no longer has a clerk or registered agent, or if its clerk or registered agent cannot with reasonable diligence be served, the entity may be served by registered or certified mail, return receipt requested, addressed to the governors of the entity by name at its principal office in accordance with any applicable judicial rules and procedures. The names of the governors and the address of the principal office may be as shown in the most recent annual report filed with the Secretary of State. Service is perfected under this subsection at the earliest of:

A. The date the entity receives the mail; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. The date shown on the return receipt, if signed on behalf of the entity; or [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

C. Five days after its deposit with the United States Postal Service, if correctly addressed and with sufficient postage. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

3. **Hand delivery.** If process, notice or demand cannot be served on an entity pursuant to subsection 1 or 2, service of process may be made by handing a copy to the manager, clerk or other person in charge of any regular place of business or activity of the entity if the person served is not a plaintiff in the action.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

4. **Form acceptable.** Service of process, notice or demand on a clerk or a registered agent must be in the form of a written document, except that service may be made on a commercial clerk or commercial registered agent in such other forms of a record and subject to such requirements as the agent has stated from time to time in its listing under section 106 that it will accept.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

5. **Perfected by other legal means.** Service of process, notice or demand may be perfected by any other means prescribed by law other than this chapter.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY
2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§114. DUTIES OF CLERK OR REGISTERED AGENT

The only duties under this chapter of a clerk or registered agent that has complied with this chapter are: [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

1. **Forward.** To forward to the represented entity at the address most recently supplied to the agent by the entity any process, notice or demand that is served on the agent;

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. **Notice.** To provide the notices required by this chapter to the entity at the address most recently supplied to the agent by the entity;

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

3. **Noncommercial clerk or noncommercial registered agent; current information.** If the agent is a noncommercial clerk or noncommercial registered agent, to keep current the information required by section 105, subsection 1 in the most recent clerk or registered agent filing for the entity; and

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

4. **Commercial clerk or commercial registered agent; current information.** If the agent is a commercial clerk or commercial registered agent, to keep current the information listed for it under section 106, subsection 1.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY
2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§115. JURISDICTION AND VENUE

The appointment or maintenance in this State of a clerk or registered agent does not by itself create the basis for personal jurisdiction over the represented entity in this State. The address of the agent does not determine venue in an action or proceeding involving the entity. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

SECTION HISTORY
2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§116. CONSISTENCY OF APPLICATION

In applying and construing this chapter, consideration must be given to the need to promote consistency of the law with respect to its subject matter among states that enact it. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

SECTION HISTORY
2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§117. RULES

The Secretary of State may adopt rules consistent with this chapter pertaining to the filing of documents with the Secretary of State. These rules may include, but are not limited to: [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

1. **Forms.** Prescribing forms for documents required or permitted to be delivered for filing under this chapter and refusing to file documents not using these prescribed forms;

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. **Disapproved filing.** Disapproving the filing of a document that is not clearly legible or one that may not be clearly reproducible photographically;

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

3. **Appointed designee.** Appointing a designee or other agent to receive documents for filing and to file documents on behalf of the Secretary of State;

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

4. **Electronic filing; facsimile signatures.** Permitting the filing of documents by electronic transmission and permitting facsimile signatures on documents to be filed; and

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

5. **Effective dates of filings.** Unless specifically stated in this chapter, setting forth the effective dates of filings required by this chapter.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY
2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§118. EXPEDITED SERVICE

The Secretary of State may provide an expedited service for the processing of documents in accordance with this chapter. If the service is provided, the Secretary of State shall establish by rule a fee schedule and governing procedures in accordance with the Maine Administrative Procedure Act. Fees collected for expedited service must be deposited into a fund for use by the Secretary of State to provide an improved filing service. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

SECTION HISTORY
2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§119. ACCESS TO DATABASE

The Secretary of State may provide public access to the database through a dial-in modem, through public terminals and through electronic duplicates of the database. If access to the database is provided to the public, the Secretary of State may adopt rules in accordance with the Maine Administrative Procedure Act to establish a fee schedule and governing procedures. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

SECTION HISTORY
2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§120. PUBLICATIONS

1. **Fee for publications.** The Secretary of State may establish by rule in accordance with the Maine Administrative Procedure Act a fee schedule to cover the cost of printing and distribution of publications and to set forth the procedures for the sale of those publications.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. **Use of fees.** Fees collected pursuant to this section must be deposited in a fund for use by the Secretary of State to replace and update publications offered in accordance with this chapter and to fund new publications.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY
2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§120-A. ROUTINE TECHNICAL RULES

Rules adopted pursuant to this chapter, unless expressly designated otherwise, are routine technical rules as defined in chapter 375, subchapter 2-A. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

SECTION HISTORY
2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§120-B. DUTY OF SECRETARY OF STATE

The duty of the Secretary of State to file documents under this chapter is ministerial. The filing or refusal to file a document does not: [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

1. **Validity of documents.** Affect the validity or invalidity of the document in whole or in part;

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. **Correctness of information.** Relate to the correctness or incorrectness of information contained in the document; or

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

3. **Presumption of validity or correctness.** Create a presumption that the document is valid or invalid or that the information in the document is correct or incorrect.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY
2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§120-C. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

This chapter modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 United States Code, Section 7001, et seq., but does not modify, limit or supersede Section 101(c) of that Act, 15 United States Code, Section 7001(c), or authorize delivery of any of the notices described in Section 103(b) of that Act, 15 United States Code, Section 7003(b). [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

SECTION HISTORY
2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§120-D. EFFECTIVE DATE

This chapter takes effect July 1, 2008. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

SECTION HISTORY
2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

Chapter 7: TREASURER OF STATE

§121. OFFICE; BOND; SALARY; DEPUTY; FEES

The Treasurer of State shall keep the office at the seat of government and give the bond required by the Constitution to the State of Maine, with 2 or more surety companies authorized to transact business in the State, as sureties, in the penal sum of not less than $500,000. Each surety company shall give bond for only a fractional part of the total penal sum and shall be held responsible for its proportional share of any loss. [2005, c. 683, Pt. C, §1 (AMD).]

The Treasurer of State may not receive any other fee, emolument or perquisite in addition to the salary. [2005, c. 683, Pt. C, §1 (AMD).]

The chief clerk in the office of the Treasurer of State is designated as "deputy treasurer of state." In the event of a vacancy in the office of Treasurer of State, the deputy treasurer of state shall act as the Treasurer of State until a Treasurer of State is elected by the Legislature, and the deputy treasurer shall give bond to the State, with sureties, to the satisfaction of the Governor for the faithful discharge of the trust. In the event of the absence or disability of the Treasurer of State, the deputy treasurer of state shall act as the Treasurer of State to perform the duties of the office, including the exercise of all the Treasurer of State's rights and obligations as a member or ex officio member of any governing board of directors. [2005, c. 683, Pt. C, §1 (AMD).]

SECTION HISTORY
1965, c. 412, §§6-A (AMD). 1967, c. 476, §8 (AMD). 1969, c. 132, §3 (AMD). 1969, c. 504, §5 (AMD). 1975, c. 771, §34 (AMD). 2005, c. 683, §C1 (AMD).

§121-A. TRANSITION PERIOD

In order to provide for an orderly transition following the biennial election of the Treasurer of State, the Treasurer of State-elect shall not take the oath of his office or otherwise qualify for the office for a period of no less than 30 days following that election. [1983, c. 65, §2 (NEW).]

SECTION HISTORY
1983, c. 65, §2 (NEW).

§122. CONDITIONS OF BOND; FILING

The condition of the Treasurer of State's bond shall be for the faithful discharge of all the duties of his office, and that during his continuance in office he will not engage in trade or commerce, or act as broker, agent or factor for any merchant or trader; and that he, or his executors, administrators or sureties, or their executors or administrators, shall render a just and true account of all his agents' and servants' doings and transactions in the office to the Legislature, or to such committee as it appoints, on the first day of each regular session of the Legislature, previous to the choice of a new treasurer, and at any other time when required by the Legislature or the Governor; and that he will settle and adjust said account and faithfully deliver to his successor in office or to such person as the Legislature appoints, all moneys, books, property and appurtenances of said office, in his, or any of his agents' possession, and pay over all balances found due on such adjustment. Such bond, when approved as the Constitution prescribes, shall be lodged in the office of the State Auditor. [1975, c. 771, §35 (AMD).]

SECTION HISTORY
1975, c. 771, §35 (AMD).

§123. BOND PREMIUMS TO BE PAID BY STATE

The premiums necessarily incurred and due and payable on account of any bond given by the Treasurer of State, his deputy or by any employee in the Treasury Department of the State shall be paid out of the State Treasury.

§124. GOVERNOR MAY REQUIRE NEW BOND

When it appears to the Governor that the Treasurer of State's bond is not sufficient for the full security of the State, they shall make written demand upon him for a new bond. If he neglects for 10 days thereafter to file such bond to their satisfaction, they shall remove him and declare the office vacant. [1975, c. 771, §36 (AMD).]

SECTION HISTORY
1975, c. 771, §36 (AMD).

§125. PERSONAL USE OR RECEIPT OF MONEY FROM TREASURY OR CREDIT PROHIBITED

The Treasurer of State shall not in any way receive for his own use any interest, premium, gratuity or benefit by reason of any money belonging to the State, or of any loan obtained for the State or for keeping on hand or circulating the bills of any bank; but whatever is so received shall be accounted for to the State. He shall not loan or use in his own business, or for his own benefit, any such money, or permit any other person to do so, unless authorized by law, on pain of forfeiting a sum equal to the amount so used or loaned, to be recovered by indictment.

§126. -- ATTORNEY GENERAL TO PROSECUTE VIOLATIONS

When the Attorney General receives satisfactory information that the Treasurer of State has violated any provision of section 125, he shall cause him to be indicted therefor and shall prosecute such indictment to final judgment.

§127. GOVERNOR MAY HEAR COMPLAINTS; REMOVAL FROM OFFICE

Upon written complaint of any person that the Treasurer of State is mentally ill or insolvent, or has absconded or concealed himself to avoid his creditors, or is absent from the State and neglecting his duties to the hazard of the trust reposed in him, or has violated any provision of section 125, or has failed faithfully to perform the duties of his office, the Governor shall forthwith examine into the charges and if any of them is found true, he shall remove him and declare the office vacant. [1975, c. 771, §37 (AMD).]

SECTION HISTORY
1975, c. 771, §37 (AMD).

§128. APPOINTMENT OF COMMISSIONER TO FILL VACANCY

(REPEALED)

SECTION HISTORY
1969, c. 504, §§5-A (RP).

§129. INVENTORY

When the deputy treasurer of state assumes the office of Treasurer of State under section 121, the State Auditor shall, as soon as practicable, after notice to the sureties of the late Treasurer of State or of the Treasurer of State to be superseded, take a true account and inventory of all moneys, notes, books of account and other property belonging to the State which were in the hands of such Treasurer of State or of any of his agents, and deliver it to the new Treasurer of State, he giving a receipt therefor, which shall be lodged in the office of the State Auditor. [1969, c. 504, §5-B (AMD).]

SECTION HISTORY
1969, c. 504, §§5-B (AMD).

§130. PAYMENT OF RECEIPTS INTO STATE TREASURY

Any public officer or any person, firm, association or corporation paying money into the State Treasury may make such payment by delivering to the Treasurer of State a check, draft, certificate of deposit or money order drawn, indorsed and payable to the Treasurer of State or his order, or may make such payment by delivering to the Treasurer of State the proper amount of lawful currency. The Treasurer of State shall keep a record of all drafts, checks, certificates of deposit, money orders and all cash received by him and upon receipt thereof shall forthwith cause the same to be placed to the credit of the State of Maine in some state depository. If any check, draft or certificate of deposit shall not be paid on presentation, the Treasurer of State shall proceed to collect the amount thereof, with costs, from the person drawing same. The Treasurer of State shall daily transmit to the State Controller a statement of all receipts into the State Treasury, giving such details thereof as the State Controller may require. [1979, c. 541, Pt. A, §20 (AMD).]

The State Government shall not be liable for any loss resulting from lack of diligence on the part of any depository in forwarding or failing to collect any draft, check or certificate of deposit, or for the loss of any such draft, check or certificate of deposit in the mails or otherwise.

Any person who makes payment of an amount due to any state department, agency, board, commission, authority or other state entity is liable, if the payment fails as a result of insufficient funds, a closed account, no account or a similar reason, for a penalty of $20, which must be reported and paid to the Treasurer of State as undedicated revenue to the General Fund. The penalty provided by this section is in addition to any other penalties provided by law. [2007, c. 13, §1 (AMD).]

SECTION HISTORY
1979, c. 541, §A20 (AMD). 1991, c. 622, §C (AMD). 2007, c. 13, §1 (AMD).

§131. DEPARTMENTAL COLLECTIONS

Every department and agency of the State, whether located at the Capitol or not, collecting or receiving public money, or money from any source whatsoever, belonging to or for the use of the State, or for the use of any state department or agency, shall pay the same immediately into the State Treasury, without any deductions on account of salaries, fees, costs, charges, expenses, refunds, claims or demands of any description whatsoever. The Bureau of Parks and Lands shall be allowed to refund daily use and camping fees based on the Bureau of Parks and Lands standard refund policies. Any department or agency may deposit such money to the credit of the State upon communicating with the Treasurer of State and receiving from the Treasurer of State instructions as to what state depository may be used for that purpose and in every such case, the depositor shall send to the Treasurer of State a statement of the deposits certified by the bank receiving it. This section shall not apply to county or town officers. [1989, c. 501, Pt. P, §7 (AMD); 1995, c. 502, Pt. E, §30 (AMD); 2011, c. 657, Pt. W, §7 (REV); 2013, c. 405, Pt. A, §24 (REV).]

SECTION HISTORY
1989, c. 501, Pt. P, §7 (AMD). 1995, c. 502, Pt. E, §30 (AMD). 2011, c. 657, Pt. W, §7 (REV). 2013, c. 405, Pt. A, §24 (REV).

§131-A. PAYMENT PRIORITY

Payments made on behalf of the Department of Health and Human Services for Temporary Assistance for Needy Families and for foster care have priority over other payments and must be made without delay whether or not they are pursuant to a state plan or contract under 45 Code of Federal Regulations, Part 23. The Treasurer of State shall cooperate with other state agencies to accomplish priority payments. [1991, c. 747, §1 (NEW); 1997, c. 530, Pt. A, §34 (AMD); 2003, c. 689, Pt. B, §6 (REV).]

SECTION HISTORY

1991, c. 747, §1 (NEW). 1997, c. 530, §A34 (AMD). 2003, c. 689, §B6 (REV).

§131-B. INTERFUND TRANSFERS

In order that state obligations may be paid as they come due, the State Treasurer may request the State Controller to transfer funds on deposit among the various funds in the cash pool of State Government by journal entry in such manner as to best manage the available funds to meet current obligations of the various funds and accounts. [2005, c. 386, Pt. CC, §1 (NEW).]

SECTION HISTORY
2005, c. 386, §CC1 (NEW).

§132. RECORDS; COLLECTIONS

(REPEALED)

SECTION HISTORY
1967, c. 21, (AMD). 1973, c. 701, §1 (RP).

§133. PAYMENTS TO BE WITHHELD AND APPLIED ON ACCOUNTS

If any town or county unreasonably neglects or refuses to pay an account for money due from it to or for the use of the State or for the use of any department or agency, the Treasurer of State may withhold from any funds due such town or county under any laws of the State an amount sufficient to pay such account in whole or in part and to apply the amount thus withheld to such payment. Such application shall constitute payment by the State in the amount thus withheld and applied under any laws of the State directing payment to such town or county of the funds so withheld and applied. It is expressly provided that funds due to any town or county from the General Highway Fund shall only be so withheld and applied in payment of accounts due from such town or county to the State for improvement, construction and maintenance of highways and bridges, and for snow guards, snow removal and sanding as provided by statute. The method of collection provided by this section shall be in addition to and not exclusive of all other remedies afforded by law for proper enforcement of payment. [1973, c. 701, §2 (AMD).]

SECTION HISTORY
1973, c. 701, §2 (AMD).

§134. MONEY IN DEPOSITORIES

All state money in any depository of the State Government shall stand on the books of said depository to the credit of the State but the Treasurer of State shall not withdraw any of said money except upon the authority of the State Controller.

§135. DEPOSIT OF STATE FUNDS; LIMITATIONS

The Treasurer of State may deposit the money, including trust funds of the State, in any national bank or in any banking institution, trust company, state or federal savings and loan association or mutual savings bank organized under the laws of this State or having a location in the State except as provided in chapter 161. Before making a deposit, the Treasurer of State must consider the rating of the banking institution, trust company, state or federal savings and loan association or mutual savings bank on its most recent assessment conducted pursuant to the federal Community Reinvestment Act, 12 United States Code, Section 2901. The Treasurer of State may transfer funds into and out of the respective funds in the cash pool as circumstances may require to meet current obligations and shall request the State Controller to effect such transfers by journal entry as set forth in section 131-B. When there is excess money in the State Treasury that is not needed to meet current obligations, the Treasurer of State may invest, with the concurrence of the State Controller or the Commissioner of Administrative and Financial Services and with the consent of the

Governor, those amounts in bonds, notes, certificates of indebtedness or other obligations of the United States and its agencies and instrumentalities that mature not more than 36 months from the date of investment or in repurchase agreements that mature within the succeeding 12 months that are secured by obligations of the United States and its agencies and instrumentalities, prime commercial paper, tax-exempt obligations and corporate bonds rated "AAA" that mature not more than 36 months from the date of investment, banker's acceptances or so-called "no-load" shares of any investment company registered under the federal Investment Company Act of 1940, as amended, that complies with Rule 2a-7 guidelines and maintains a constant share price. The Treasurer of State may participate in the securities loan market by loaning state-owned bonds, notes or certificates of indebtedness of the Federal Government, only if loans are fully collateralized by treasury bills or cash. The Treasurer of State shall seek competitive bids for investments except when, after a reasonable investigation, it appears that an investment of the desired maturity is procurable by the State from only one source. Interest earned on those investments of money must be credited to the respective funds, except that interest earned on investments of special revenue funds must be credited to the General Fund of the State. Effective July 1, 1995, interest earned on investments of the Highway Fund must be credited to the Highway Fund. Interest earned on funds of the Department of Inland Fisheries and Wildlife must be credited to the General Fund. Interest earned on funds of the Baxter State Park Authority must be credited to the Baxter State Park Fund. This section does not prevent the deposit for safekeeping or custodial care of the securities of the several funds of the State in banks or safe deposit companies in this State or any other state, nor the deposit of state funds required by the terms of custodial contracts or agreements negotiated in accordance with the laws of this State. All custodial contracts and agreements are subject to the approval of the Governor. [2005, c. 386, Pt. CC, §2 (AMD).]

The Treasurer of State may accept component unit and nonstate funds into custody and invest those funds along with excess state funds as prescribed in this section. [2003, c. 20, Pt. T, §3 (NEW).]

For the purpose of this section only, tax-exempt obligations and securities are limited exclusively to tax-exempt commercial paper and tax-exempt bonds maturing in less than 2 years. [1985, c. 757, (NEW).]

No sum exceeding an amount equal to 25% of the capital, surplus and undivided profits of any trust company or national bank or a sum exceeding an amount equal to 25% of the reserve fund and undivided profit account of a mutual savings bank or state or federal savings and loan associations may be on deposit therein at any one time. The restriction does not apply to deposits subject to immediate withdrawal available to meet the payment of any bonded debts or interest or to pay current bills or expenses of the State. The restriction does not apply to deposits that are secured by the pledge of certain securities as collateral, nor to deposits fully covered by insurance. Such collateral must be in an amount equal to such deposit. The Treasurer of State may require, in the discretion of the Treasurer of State, collateralization or insurance for the full amount of any deposit of public funds, whether held by an institution permitted under this section or by a vendor contracted to collect or disburse public funds. The value of the securities so pledged must be determined by the Treasurer of State on the basis of market value. The Treasurer of State shall review the value of securities pledged on January 2nd and July 2nd of each year. The collateral must consist of securities or obligations issued or fully insured or guaranteed by the United States, an agency or instrumentality thereof or a United States government sponsored corporation. The securities must be held in a depository institution approved by the Treasurer of State and pledged to indemnify the State of Maine against any loss. Notice of such hypothecation at the time of deposit must be given to the Treasurer of State by the depository institution and a copy of said notice mailed to the Office of the State Auditor. [2003, c. 20, Pt. T, §3 (AMD); 2013, c. 16, §10 (REV).]

It is the intent of the Legislature that the Treasurer of State shall seek competitive bids whenever possible prior to the selection of investments under this section. [1977, c. 197, §2 (NEW).]

The Treasurer of State may deposit an amount not to exceed $4,000,000 in each calendar year with responsible financial institutions authorized to do business in the State at a rate of return not more than 2% per year below the rate of return otherwise obtainable had the funds been invested with such financial institutions for a similar term, as determined by the treasurer, for periods not to exceed one year, provided that each such financial institution covenants with the treasurer as a condition of the deposit to loan an amount

at least equal to the amount so deposited with the financial institution by the treasurer under this paragraph to agricultural enterprises located within the State for agricultural purposes. All the loans must be at interest rates that are below the interest rates the loans would have borne under existing market conditions and loan standards of the financial institution but for the deposit by the treasurer under this paragraph, and the interest rates must fully reflect the savings to the financial institution due to the reduced interest rate paid on the deposit. Notwithstanding any provisions of this section to the contrary, the treasurer is not obligated to seek competitive bids for investments or deposits pursuant to this paragraph. The Finance Authority of Maine shall provide assistance to the treasurer in implementing this paragraph. For purposes of this section, "agricultural enterprises" means a business involving cultivating soil, producing crops and raising livestock or their by-products. In adopting rules to implement this paragraph, the treasurer shall consider criteria targeting loans under the program to geographic areas of financial need and borrowers who are new entrants to agriculture, and may establish limits on deposits to any one financial institution and limits on deposits supporting loans to any one borrower. [2003, c. 20, Pt. T, §3 (AMD).]

The Treasurer of State may deposit an amount not to exceed $4,000,000 in each calendar year with responsible financial institutions authorized to do business in the State at a rate of return not more than 2% per year below the rate of return otherwise obtainable had the funds been invested with such financial institutions for a similar term, as determined by the treasurer, for periods not to exceed one year, provided that each such financial institution covenants with the treasurer as a condition of the deposit to loan an amount at least equal to the amount so deposited with the financial institution by the treasurer under this paragraph to commercial enterprises approved by the treasurer pursuant to this paragraph. All the loans must be at interest rates that are below the interest rates the loans would have borne under existing market conditions and loan standards of the financial institution but for the deposit by the treasurer under this paragraph, and the interest rates must fully reflect the savings to the financial institution due to the reduced interest rate paid on the deposit. Notwithstanding any provisions of this section to the contrary, the treasurer is not obligated to seek competitive bids for investments or deposits pursuant to this paragraph. The Finance Authority of Maine shall provide assistance to the treasurer in implementing this paragraph. For purposes of this paragraph, eligible commercial enterprises are for-profit businesses with 20 or fewer employees or annual sales of less than $2,500,000, whose sales of services or products are primarily out of state or that are manufacturers, that are primarily owned and operated by Maine residents or by corporations that are primarily owned and operated by Maine residents, when the treasurer determines that not less than one job will be created or retained per $20,000 of deposited funds. The maximum loan to any borrower for which a deposit may be applied under this paragraph is $200,000, and businesses are eligible to receive subsidies pursuant to this paragraph for a maximum of an aggregate of 24 months. In adopting rules to implement this paragraph, the treasurer shall consider criteria targeting loans under the program to geographic areas of financial need, and may establish limits on deposits to any one financial institution, further limits on deposits supporting loans to any one borrower, and further restrictions on eligibility. [2003, c. 20, Pt. T, §3 (AMD).]

SECTION HISTORY
1969, c. 63, (AMD). 1969, c. 583, (AMD). 1973, c. 406, §§1-3 (AMD). 1973, c. 426, (AMD). 1973, c. 639, §1 (AMD). 1975, c. 497, §3 (AMD). 1975, c. 771, §§38, 39 (AMD). 1977, c. 197, §§1, 2 (AMD). 1979, c. 127, §19 (AMD). 1979, c. 398, §§1, 2 (AMD). 1983, c. 588, §1 (AMD). 1985, c. 501, Pt. B, §14 (AMD). 1985, c. 757, (AMD). 1985, c. 785, Pt. A, §6 (AMD). 1985, c. 816, §1 (AMD). 1987, c. 247, §1 (AMD). 1987, c. 402, Pt. A, §10 (AMD). 1987, c. 769, Pt. A, §8 (AMD). 1987, c. 806, §§1, 2 (AMD). 1989, c. 672, (AMD). 1991, c. 622, Pt. K, §1 (AMD). 1991, c. 622, Pt. K, §2 (AFF). 1991, c. 780, Pt. Y, §9 (AMD). 1993, c. 437, §1 (AMD). 1993, c. 651, §1 (AMD). 1995, c. 368, Pt. ZZ, §1 (AMD). 1999, c. 401, Pt. HHH, §1 (AMD). 2003, c. 20, Pt. T, §3 (AMD). 2003, c. 451, Pt. DD, §1 (AMD). 2005, c. 386, Pt. CC, §2 (AMD). 2013, c. 16, §10 (REV).

§135-A. ESTABLISHMENT OF OTHER SPECIAL REVENUE ACCOUNTS

Except in cases when a state department or agency receives funds that the department or agency is legally required to distribute to or hold on behalf of specifically named persons, and except for the Baxter State Park Authority, all departments or agencies of State Government, in working with the Treasurer of State, are prohibited from establishing trust funds, escrow accounts or other accounts that would not be specifically allocated by the Legislature unless there is a compelling, documented legal reason, as determined by the Treasurer of State, to do otherwise. [1991, c. 532, §1 (NEW); 1991, c. 532, §2 (AFF).]

SECTION HISTORY
1991, c. 532, §1 (NEW). 1991, c. 532, §2 (AFF).

§136. MONTHLY EXHIBITS

At the expiration of each month, the Treasurer of State shall prepare an exhibit showing the banks and places in which moneys of the State have been kept or deposited during the preceding month, and the amount at the time of the exhibit. This exhibit shall be open to public inspection. [1981, c. 456, Pt. A, §19 (AMD).]

SECTION HISTORY
1981, c. 456, §A19 (AMD).

§137. PURCHASE OF UNMATURED BONDS OF STATE

Whenever, from time to time in the judgment of the Treasurer of State, it may be done to the financial advantage of the State, he may, with the advice and consent of the Governor, purchase with any funds in the State Treasury not otherwise appropriated and, when so purchased, may cancel any outstanding, unmatured bonds of the State. [1975, c. 771, §40 (AMD).]

SECTION HISTORY
1975, c. 771, §40 (AMD).

§138. CUSTODY AND SERVICING OF SECURITIES; INVESTMENT OF TRUST FUNDS; EXCEPTIONS; PRORATIONS

The Treasurer of State, with the approval of the Commissioner of Administrative and Financial Services, the Superintendent of Financial Institutions and the Attorney General, shall invest all permanent funds held in trust by the State in such securities as are legal investments for savings banks under Title 9-B, except as provided in chapter 161. For purposes of this section, those investments include, without limitation, shares of an investment company registered under the federal Investment Company Act of 1940, whose shares are registered under the United States Securities Act of 1933, only if the investments of the investment company are limited to obligations of the United States or any agency or instrumentality, corporate or otherwise, of the United States or repurchase agreements secured by obligations of the United States or any agency or instrumentality, corporate or otherwise, of the United States. This section does not apply to the fund of the Employees' Retirement System or the fund arising from the lands reserved for public uses. [1993, c. 651, §2 (AMD); 2001, c. 44, §11 (AMD); 2001, c. 44, §14 (AFF).]

The investments need not be segregated to the separate trust funds and the earnings of the investments must be prorated according to the principal amounts of the several trusts. The identity of each separate trust fund must be maintained. [1991, c. 780, Pt. Y, §10 (AMD).]

The Treasurer of State, with the approval of the Commissioner of Administrative and Financial Services, the Superintendent of Financial Institutions and the Attorney General, has the power to enter into contracts or agreements approved by the Governor with any national bank, trust company or safe deposit company located in New England or New York City for custodial care and servicing of the securities belonging to

the permanent trust funds of this State. Such services must consist of the safekeeping of those securities, collection of interest and dividends, periodical checks of the portfolio deposited for safekeeping to determine all calls for redemption, in whole or in part, of any bonds owned by such funds, and any other fiscal service that is normally covered in a custodial contract or agreement. In performing services under any such contract or agreement, the contracting bank has all of the powers and duties prescribed for trust companies by Title 9-B, section 473. [1997, c. 398, Pt. L, §1 (AMD); 2001, c. 44, §11 (AMD); 2001, c. 44, §14 (AFF).]

The Treasurer of State is empowered to arrange for the payment for such services, either by cash payments to be charged pro rata to the income of such trust funds, or by an agreement for a compensating deposit balance with the bank in question, in lieu of such cash payment, or by some combination of both methods of payment. The contracting bank shall give assurance of proper safeguards that are usual to such contracts and shall furnish insurance protection satisfactory to both parties. [1991, c. 780, Pt. Y, §10 (AMD).]

The Treasurer of State is empowered to withdraw or deposit securities from or with the custodian as circumstances may require, all withdrawal orders or delivery instructions to bear the approval in writing of the Superintendent of Financial Institutions and that of either or both the Attorney General and the Commissioner of Administrative and Financial Services. [1991, c. 780, Pt. Y, §10 (AMD); 2001, c. 44, §11 (AMD); 2001, c. 44, §14 (AFF).]

SECTION HISTORY
1971, c. 181, §§1-3 (AMD). 1973, c. 585, §§11,14 (AMD). 1973, c. 733, §§1,2 (AMD). 1973, c. 788, §12 (AMD). 1975, c. 771, §41 (AMD). 1977, c. 78, §7 (AMD). 1979, c. 127, §20 (AMD). 1985, c. 785, §§A7-9 (AMD). 1987, c. 247, §2 (AMD). 1991, c. 780, §Y10 (AMD). 1993, c. 651, §2 (AMD). 1997, c. 398, §L1 (AMD). 2001, c. 44, §11 (AMD). 2001, c. 44, §14 (AFF).

§139. DISPOSAL OF MONEY AND SECURITIES

The Treasurer of State, with the approval of the Commissioner of Administrative and Financial Services, the Superintendent of Financial Institutions and the Commissioner of Education, shall invest and reinvest the principal of all funds derived or that may be derived from the sale and lease of lands reserved for public uses in accordance with the laws of the State governing the investment of funds of savings banks, as enumerated in Title 9-B, except as provided in chapter 161. [1991, c. 780, Pt. Y, §11 (AMD); 2001, c. 44, §11 (AMD); 2001, c. 44, §14 (AFF).]

The Treasurer of State, with the approval of the Commissioner of Administrative and Financial Services, the Superintendent of Financial Institutions and the Commissioner of Education, has the power to enter into a contract or agreement approved by the Governor with any national bank, trust company or safe deposit company located in New England or New York City for custodial care and servicing of the securities belonging to any trust fund created from funds derived or that may be derived from the sale and lease of lands reserved for public uses. Such services must consist of the safekeeping of those securities, collection of interest and dividends, periodical checks of the portfolio deposited for safekeeping to determine all calls for redemption, in whole or in part, of any bonds owned by such funds, and any other fiscal service that is normally covered in a custodial contract or agreement. In performing services under any such contract or agreement, the contracting bank has all of the powers and duties prescribed for trust companies by Title 9-B, section 473. [1997, c. 398, Pt. L, §2 (AMD); 2001, c. 44, §11 (AMD); 2001, c. 44, §14 (AFF).]

The Treasurer of State is empowered to arrange for the payment for such services, either by cash payments to be charged pro rata to the income of such trust funds, or by an agreement for a compensating deposit balance with the bank in question, in lieu of such cash payment, or by some combination of both

methods of payment. The contracting bank shall give assurance of proper safeguards that are usual to such contracts and shall furnish insurance protection satisfactory to both parties. [1991, c. 780, Pt. Y, §11 (AMD).]

The Treasurer of State is empowered to withdraw or deposit securities from or with the custodian as circumstances may require, all withdrawal orders or delivery instructions to bear the approval in writing of the Superintendent of Financial Institutions and that of either or both the Commissioner of Education and the Commissioner of Administrative and Financial Services. [1991, c. 780, Pt. Y, §11 (AMD); 2001, c. 44, §11 (AMD); 2001, c. 44, §14 (AFF).]

SECTION HISTORY
1971, c. 181, §§4-6 (AMD). 1973, c. 571, §1 (AMD). 1973, c. 585, §§11,14 (AMD). 1973, c. 733, §§3,4 (AMD). 1975, c. 771, §42 (AMD). 1977, c. 78, §§8,72 (AMD). 1979, c. 127, §21 (AMD). 1985, c. 785, §§A10-12 (AMD). 1987, c. 247, §3 (AMD). 1989, c. 700, §§A11-13 (AMD). 1991, c. 780, §Y11 (AMD). 1997, c. 398, §L2 (AMD). 2001, c. 44, §11 (AMD). 2001, c. 44, §14 (AFF).

§139-A. --GUARANTY FUNDS

The Treasurer of State, with the approval of the Commissioner of Administrative and Financial Services, the Superintendent of Financial Institutions and the Attorney General, has the power to enter into contracts or agreements approved by the Governor, with any national bank, trust company or safe deposit company located in New England or New York City, for custodial care and servicing of any securities deposited with the treasurer as a guaranty fund required by statutes. [1991, c. 780, Pt. Y, §12 (AMD); 2001, c. 44, §11 (AMD); 2001, c. 44, §14 (AFF).]

Such services shall consist of the safekeeping of such securities in the vaults of the bank or safe deposit company and any fiscal service which is normally covered in a custodial contract or agreement. [1971, c. 555, (NEW).]

The Treasurer of State shall obtain the written approval of the Superintendent of Insurance prior to releasing any securities received by the Treasurer of State and deposited in custodial accounts pursuant to the deposit requirements of the Maine Insurance Code. [1993, c. 313, §1 (NEW).]

SECTION HISTORY
1971, c. 555, (NEW). 1973, c. 585, §§11,14 (AMD). 1975, c. 771, §43 (AMD). 1985, c. 785, §A13 (AMD). 1991, c. 780, §Y12 (AMD). 1993, c. 313, §1 (AMD). 2001, c. 44, §11 (AMD). 2001, c. 44, §14 (AFF).

§140. -- RESTORATION OF PERMANENT TRUST FUNDS

(REPEALED)

SECTION HISTORY
1971, c. 181, §7 (RP).

§141. -- "RESERVE AGAINST FUTURE LOSSES" ACCOUNT

(REPEALED)

SECTION HISTORY
1971, c. 181, §7 (RP).

§142. -- INVESTMENT OF SINKING FUNDS

The Treasurer of State, with the approval of the Governor and the Superintendent of Financial Institutions, shall from time to time as funds appropriated for any sinking fund established by law are received into the treasury, invest the same, with the income thereof as it accrues, in any bonds of Maine, of any other New England state or in the bonds of the United States. When the bonds fall due and are paid, the proceeds from the bonds must be reinvested in like manner. [2001, c. 667, Pt. A, §2 (AMD).]

The Treasurer of State, with the approval of the Governor and the Superintendent of Financial Institutions, has the power to enter into a contract or agreement with any national bank, trust company or safe deposit company located in New England or New York City for custodial care and the servicing of the negotiable securities belonging to any sinking fund of the State. The services consist of the safekeeping of the negotiable securities in the vaults of the bank or safe deposit company, preparation of coupons for collection, the actual collection of the coupons, periodical checks of the portfolio deposited for safekeeping to determine all calls for redemption, in whole or in part, of any bonds owned by the funds, and any other fiscal service that is normally covered in a custodial contract or agreement. [2001, c. 667, Pt. A, §2 (AMD).]

The Treasurer of State is empowered to arrange for the payment for such services, either by cash payments to be charged pro rata to the income of such sinking funds, or by an agreement for a compensating deposit balance with the bank in question, in lieu of such cash payment, or by some combination of both methods of payment. The contracting bank shall give assurance of proper internal safeguards which are usual to such contracts, and shall furnish insurance protection satisfactory to both parties.

The Treasurer of State is empowered to withdraw or deposit securities from or with the custodian as circumstances may require, all withdrawal orders or delivery instructions to bear the approval in writing of the Superintendent of Financial Institutions and that of either or both the Governor and the Commissioner of Administrative and Financial Services. [1991, c. 780, Pt. Y, §13 (AMD); 2001, c. 44, §11 (AMD); 2001, c. 44, §14 (AFF).]

All contracts and agreements entered into between the Treasurer of State and custodian banks and safe deposit companies selected for the safekeeping or custodial care of the negotiable securities referred to in this section shall have the approval of the Governor. [1975, c. 771, §44 (AMD).]

SECTION HISTORY
1973, c. 585, §§11,14 (AMD). 1975, c. 771, §44 (AMD). 1985, c. 785, §A14 (AMD). 1991, c. 780, §Y13 (AMD). 2001, c. 667, §A2 (AMD).

§143. REGISTER OF INVESTMENTS AND TREASURER OF STATE'S REPORT

The Treasurer of State shall keep a register of all investments made under section 142, showing the date, amount and number of each bond, by whom issued and the time when it will mature, and in his annual report to the Governor, he shall include an exhibit of the condition of said sinking funds. [1975, c. 771, §45 (AMD).]

SECTION HISTORY
1975, c. 771, §45 (AMD).

§144. FORM OF UNREGISTERED BONDS

Unregistered bonds issued under the laws of the State must bear the signature, or the facsimile of the signature, of the Governor, and must be signed by the Treasurer of State or the Treasurer of State's deputy and attested by the Commissioner of Administrative and Financial Services, or such agent as the commissioner may designate. The seal of the State may be a facsimile. [1991, c. 780, Pt. Y, §14 (AMD).]

SECTION HISTORY
1969, c. 202, §1 (AMD). 1973, c. 625, §17 (AMD). 1985, c. 785, §A15 (AMD). 1991, c. 780, §Y14 (AMD).

§145. REGISTERED BONDS

The Treasurer of State may issue registered bonds, transferable by assignment, in pieces of not less than $1,000, and of any multiple of 1,000, in exchange for, and in place of, any coupon bonds issued under the laws of this State, bearing the same rate of interest and maturing at the same time as the bonds that the Treasurer of State may receive therefor in exchange. The place of payment prescribed therein must be the State Treasury. Said bonds must bear the facsimile of the signature of the Governor and must be signed by the Treasurer of State or the Treasurer of State's deputy and attested by the Commissioner of Administrative and Financial Services, or such agent as the commissioner may designate. [1991, c. 780, Pt. Y, §15 (AMD).]

SECTION HISTORY
1969, c. 202, §2 (AMD). 1973, c. 625, §18 (AMD). 1985, c. 785, §A16 (AMD). 1991, c. 780, §Y15 (AMD).

§145-A. MINIBONDS

Notwithstanding any other provisions of the laws of this State, whenever the Treasurer of State is authorized to issue and sell bonds for the State, and he determines to issue and sell all or a portion of these bonds in denominations of less than $5,000, minibonds, he may issue and sell these minibonds at public or private sale, maturing in such amounts and upon such dates, at such interest rate or rates, payable at such time and in such manner, at discount, with or without disclosure, in bearer or registered form, and upon such other terms and conditions, all as he shall determine to be in the best interests of the State; provided that: Not more than $1,000,000 principal amount of minibonds shall be sold by the Treasurer of State in any one fiscal year; no minibond shall mature more than 5 years after its date; no one sale to a purchaser of minibonds shall be in an aggregate principal amount equal to or greater than $5,000; and each minibond shall provide that it shall be redeemed by the State upon due presentation by an appropriate person on any business day after one year from its date of sale by the Treasurer of State at such price as the Treasurer of State shall determine according to a schedule established with respect to each issue of minibonds prior to the sale thereof. Section 137 shall not apply to the issuance of minibonds. [1979, c. 560, (NEW).]

The minibonds must bear the facsimile of the signature of the Governor and must be signed by the Treasurer of State, or the Treasurer of State's deputy, and attested by the Commissioner of Administrative and Financial Services, or such agent as the commissioner may designate. [1991, c. 780, Pt. Y, §16 (AMD).]

The Treasurer of State may adopt rules pursuant to chapter 375 for purposes of this section. [1979, c. 560, (NEW).]

SECTION HISTORY
1979, c. 560, (NEW). 1985, c. 785, §A17 (AMD). 1991, c. 780, §Y16 (AMD).

§145-B. ISSUANCE OF REGISTERED BONDS; MISCELLANEOUS PROVISIONS

1. **Issuance.** Notwithstanding any other provisions of the laws of this State, whenever the Treasurer of State is authorized to issue and sell bonds for the State, he may issue the bonds in registered form.

[1983, c. 745, (NEW) .]

2. **Signatures.** Registered bonds must bear the facsimile signatures of the Governor and the Treasurer of State, or the Treasurer of State's deputy, and must be attested by the facsimile signature of the Commissioner of Administrative and Financial Services or such agents as the commissioner may designate. Whenever signatures on registered bonds of other state officials are required, their facsimile signatures may be used.

[1991, c. 780, Pt. Y, §17 (AMD) .]

3. **Seal.** The seal of the State on registered bonds may be by facsimile.

[1983, c. 745, (NEW) .]

4. **Agents.** The Treasurer of State may appoint, for such terms as may be agreed upon, including for as long as a registered bond may be outstanding, corporate or other authenticity, agents, transfer agents, registrars, paying or other agents, and specify the terms of their appointments, including their rights, compensation and duties. None of the agents need have an office or do business within this State.

[1983, c. 745, (NEW) .]

5. **Storage and transfer.** The Treasurer of State may agree with custodial banks and financial intermediaries, within or without this State, and the nominees of any of them, in connection with the establishment and maintenance by others of a central depository system for the storage of transferable certificates and the transfer of registered bonds. Any such custodial banks and financial intermediaries, and nominees, if qualified and acting as fiduciaries, may also serve as authenticating agents, transfer agents, registrars, paying or other agents of the Treasurer of State with respect to the same issue of registered bonds.

[1983, c. 745, (NEW) .]

SECTION HISTORY
1983, c. 745, (NEW). 1985, c. 785, §A18 (AMD). 1991, c. 780, §Y17 (AMD).

§145-C. CAPITAL APPRECIATION BONDS

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

A. "College savings bonds" means any general obligation bonds of the State that:

(1) The Treasurer of State is authorized to issue and sell;

(2) Are offered for initial sale at a substantial discount from face value with some or all of the payment to bondholders of principal or interest or both deferred until maturity; and

(3) Are designated by the Treasurer of State as college savings bonds. [1991, c. 603, §1 (NEW).]

[1991, c. 603, §1 (NEW) .]

2. **Authorization.** Any general obligation bonds of the State that the Treasurer of State now or after July 30, 1991 is authorized to issue and sell may be issued and sold by the Treasurer of State as college savings bonds. The Treasurer of State, after consultation with the advisory committee established in subsection 3, may offer college savings bonds in such amounts and form and on such terms and conditions as the Treasurer of State determines necessary. Notwithstanding any contrary provision of any general obligation bond act, the Treasurer of State is authorized to issue bonds in serial or term form in the name of and on behalf of the State, in amounts that will raise usable bond proceeds equal to the total amount for the projects authorized by the

general obligation bond act and approved at referendum. For purposes of determining the amount of bonds of the State being issued or outstanding as of any given time, the amount of capital appreciation bonds is the greater of the original issue amount and the accreted value, as determined by the Treasurer of State.

[1997, c. 2, §8 (COR) .]

3. **Advisory committee.** There is established an advisory committee on college savings bonds to advise the Treasurer of State on the issuance of college savings bonds. The advisory committee consists of 3 ex officio members, the Commissioner of Administrative and Financial Services, the Commissioner of Education, the Chief Executive Officer of the Finance Authority of Maine; and one representative of the University of Maine System designated by the Governor for a 4-year term. The advisory committee shall consult with the Treasurer of State on the amount of college savings bonds to be issued by the State, their terms, maturities and structures and the marketing and availability of the bonds.

[1991, c. 780, Pt. Y, §18 (AMD) .]

4. **Sale of college savings bonds.** College savings bonds may be sold by competitive or negotiated sale, provided that the Treasurer of State shall determine that the underwriter or underwriters to which the bonds are sold have sufficient capability to provide for broad retail distribution of the bonds to investors residing in the State. College savings bonds may be issued in certificate or book entry form, in face amounts as low as $1,000 if determined advisable by the Treasurer of State. The Treasurer of State may covenant and consent to establish any sinking funds, reserve funds or other accounts necessary to pay the bonds at maturity.

[1991, c. 603, §1 (NEW) .]

SECTION HISTORY
1991, c. 603, §1 (NEW). 1991, c. 780, §Y18 (AMD). RR 1997, c. 2, §8 (COR).

§146. EQUIVALENT BOND TO BE ISSUED ON ASSIGNMENT

Upon due assignment of any such registered bond and delivery thereof to the Treasurer of State, an equivalent bond or bonds, in form as provided, shall be issued to the assignee in substitution therefor.

§147. CANCELLATION AND REGISTRY OF OLD BONDS

All bonds received by the Treasurer of State for exchange must be canceled and retained in the office of the Treasurer of State. [1989, c. 857, §14 (AMD).]

SECTION HISTORY
1989, c. 857, §14 (AMD).

§148. CREMATION OF OLD BONDS

The Treasurer of State, in the presence of the Commissioner of Administrative and Financial Services and the State Auditor, or such agents as they may designate, may cremate any state bonds and coupons, on the premises of the state bond and coupon paying agent, that have matured and have been paid after the paid certification has been received by the Treasurer of State and the State Auditor. This paid certification must bear the additional sworn certification of the auditor of the bank paying agent employed by the Treasurer of State. A cremation certificate, signed under oath by the state officers named in this section and the bank paying agent auditor identifying the bonds and coupons destroyed, must be filed in the office of the Treasurer of State. [1991, c. 780, Pt. Y, §19 (AMD).]

SECTION HISTORY
1969, c. 202, §3 (AMD). 1971, c. 181, §8 (AMD). 1981, c. 100, (RPR). 1985, c. 785, §A19 (AMD). 1991, c. 780, §Y19 (AMD).

§149. SIGNATURE OF OUTGOING TREASURER OF STATE VALID

The facsimile signature of the Treasurer of State who is leaving office shall be valid until new signature plates for the signing of checks have been obtained for his successor.

§150. TEMPORARY LOANS BY STATE

The Treasurer of State, with the approval of the Governor, may negotiate a temporary loan or loans in anticipation of the issuance of bonds authorized but not yet issued. Such temporary loan or loans shall be repaid from the proceeds of the bonds within one year from the date of the loan. [1975, c. 771, §46 (AMD).]

The Treasurer of State, with the approval of the Governor, may negotiate a temporary loan or loans in anticipation of taxes levied for that fiscal year, but not exceeding a total of that amount of taxes estimated by the Treasurer of State to be collected in the fiscal year in which the temporary loan or loans, or renewal of the temporary loan or loans, is made, as long as the temporary loans or renewals of the temporary loans do not exceed any limitation set forth in the Constitution of Maine, Article IX, Section 14. Any such loans may be renewed from time to time as the Treasurer of State, with the approval of the Governor, determines, except that each loan or renewal of the loan must be retired not later than the close of the fiscal year in which the loan was originally made and for which were levied the taxes in anticipation of the collection of which the loan was originally made; and that each loan or renewal of the loan must comply with the provisions of this section and the Constitution of Maine, Article IX, Section 14. [2001, c. 705, §1 (AMD).]

SECTION HISTORY
1967, c. 417, (RPR). 1967, c. 544, §115 (AMD). 1969, c. 452, (AMD). 1971, c. 156, (AMD). 1971, c. 176, §§1,2 (AMD). P&SL 1975, c. 147, §C13 (AMD). 1975, c. 771, §46 (AMD). 1981, c. 705, §P (AMD). RR 1991, c. 2, §6 (COR). 1991, c. 5, §1 (AMD). 1991, c. 589, §1 (AMD). 1991, c. 589, §5 (AFF). 1991, c. 780, §BB1 (AMD). 1993, c. 382, §1 (AMD). 1993, c. 707, §P1 (AMD). 1995, c. 368, §V1 (AMD). 1995, c. 665, §P1 (AMD). 1997, c. 24, §F1 (AMD). 1997, c. 643, §E5 (AFF). 2001, c. 467, §A1 (AMD). 2001, c. 705, §1 (AMD).

§150-A. SHORT-TERM BORROWING IN ANTICIPATION OF FEDERAL TRANSPORTATION FUNDS

The Treasurer of State, with the approval of the Governor, may from time to time negotiate a temporary loan or loans in anticipation of federal transportation funds, as long as the term of the loans does not exceed 12 months and the aggregate principal amount of all notes issued in a federal fiscal year does not exceed 50% of the total of transportation funds appropriated by the Federal Government in the prior federal fiscal year. The obligation to repay the notes must be a limited obligation of the State, payment of which may not be secured by a pledge of the faith and credit of the State or of a municipality or political subdivision but is payable solely from federal transportation funds, and a note must contain on its face a statement to that effect. A note may not directly, indirectly or contingently obligate the State or a municipality or political subdivision to levy or to pledge any form of taxation whatever for a payment on a note or to make an appropriation for payment of a note. Proceeds of a note must be used for highways, roads, bridges, other transportation improvements and related and subordinate facilities. A note must be dated, delivered, bear interest at a rate or rates and mature at a time or times not exceeding 12 months from the date of delivery, as may be determined by the Treasurer of State with the approval of the Governor, and may be made redeemable before maturity, at the option of the Treasurer of State with the approval of the Governor, at a price or prices and under terms and conditions as may be fixed by the Treasurer of State with the approval of the Governor. The Treasurer of State with the approval of the Governor may enter into an indenture or other agreement necessary for issuing a note. The Commissioner of Transportation, at the request of the Treasurer of State with the approval of the

Governor, may enter into an agreement necessary for issuing a note. A note and the income from that note are exempt from all taxation within the State. [2001, c. 565, Pt. G, §1 (NEW); 2001, c. 565, Pt. G, §2 (AFF).]

As used in this section, unless the context otherwise indicates, "note" means a bond, note or other obligation issued to evidence a loan negotiated pursuant to this section in anticipation of federal transportation funds. "Federal transportation funds" means federal funds used for transportation purposes including funds administered by or through the United States Department of Transportation. [2001, c. 565, Pt. G, §1 (NEW); 2001, c. 565, Pt. G, §2 (AFF).]

SECTION HISTORY
2001, c. 565, §G1 (NEW). 2001, c. 565, §G2 (AFF).

§151. FUNDS OF PROFESSIONAL LICENSING BOARDS

All money received by the Treasurer of State from those boards listed in section 12004-A constitutes a fund for each board, which is a continuous carrying account for the payment of the compensation and expenses of the members and the expenses of the board and for executing the law relating to each board respectively and as much of the fund as may be required is appropriated for these purposes. All payments must be made from the respective funds held in the State Treasury, after the approval of the State Controller. In no event may these payments exceed the amounts received by the Treasurer of State from the treasurer of each respective board. Any balance remaining to the credit of any board at the end of any year must be carried forward to the next year. [1997, c. 393, Pt. B, §2 (AFF); 1997, c. 393, Pt. B, §1 (RPR).]

Whenever there shall accumulate in the State Treasury to the account of any board or commission charged with the duty of issuing licenses for the conduct of any profession, trade or business, sums of money in excess of the amount required properly to cover the expense of performing the duties imposed upon the board or commission in connection with the granting of licenses and the supervision of persons licensed, the board or commission, with the approval of the Governor, may suspend the payment or reduce the amount of any license fees fixed by law for any renewal until, in the opinion of the board or commission, it shall be necessary to collect the full amount established by law. [1987, c. 395, Pt. A, §16 (RPR).]

SECTION HISTORY
1967, c. 253, §11 (AMD). 1967, c. 423, §2 (AMD). 1967, c. 544, §7 (AMD). 1971, c. 9, (AMD). 1971, c. 518, §1 (AMD). 1971, c. 622, §7 (AMD). 1973, c. 101, §2 (AMD). 1973, c. 558, §2 (AMD). 1975, c. 705, §1 (AMD). 1975, c. 771, §47 (AMD). 1979, c. 606, §1 (AMD). 1987, c. 395, §A16 (RPR). 1993, c. 600, §§B20-22 (AMD). 1995, c. 402, §A2 (AMD). 1995, c. 505, §2 (AMD). 1995, c. 505, §22 (AFF). 1997, c. 393, §B1 (AMD). 1997, c. 393, §B2 (AFF).

§151-A. INCOME FROM TEMPORARY INVESTMENT OF BONDS

All net income realized from the temporary investment of bond proceeds on general fund bond issues approved by the 103rd Legislature and future Legislatures shall be credited to a special account designated as Debt Service Account, and used only for the retirement of bonds and notes. [1971, c. 544, §10 (AMD).]

SECTION HISTORY
P&SL 1967, c. 154, §E (NEW). 1967, c. 544, §8 (RPR). 1971, c. 544, §10 (AMD).

§152. RATIFICATION OF BOND ISSUE; SIGNED STATEMENT

In accordance with the Constitution of Maine, Article IX, section 14, the Treasurer of State shall prepare a signed statement, called the Treasurer's Statement, to accompany any question submitted to the electors for ratification of a bond issue setting forth the total amount of bonds of the State outstanding and unpaid, the total amount of bonds of the State authorized and unissued and the total amount of bonds of the State contemplated to be issued if the enactment submitted to the electors should be ratified. The Treasurer of State shall also set forth in that statement an estimate of costs involved, including explanation of, based on such factors as interest rates that may vary, the interest cost contemplated to be paid on the amount to be issued, the total cost of principal and interest that will be paid at maturity and any other substantive explanatory information relating to the debt of the State as the Treasurer of State considers appropriate. To meet the requirement that the signed statement of the Treasurer of State accompany any ballot question for ratification of a bond issue, the statement may be printed on the ballot or it may be printed as a separate document that is made available to voters as provided in Title 21-A, sections 605-A and 651. [2013, c. 131, §1 (AMD).]

SECTION HISTORY
1979, c. 534, §2 (NEW). 2007, c. 515, §1 (AMD). 2011, c. 342, §3 (AMD). 2013, c. 131, §1 (AMD).

§153. RULES

The Treasurer of State may adopt and amend rules necessary to carry out this chapter. These rules shall be adopted and amended pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II. [1985, c. 816, §2 (NEW).]

SECTION HISTORY
1985, c. 816, §2 (NEW).

§154. SERVICES TO NONSTATE AGENCIES

Notwithstanding any other provision of law, the State Controller may establish an account within Other Special Revenue funds for the Treasurer of State to recover the cost of providing administrative services to the Maine Military Authority. [2001, c. 559, Pt. F, §1 (NEW).]

SECTION HISTORY
2001, c. 559, §F1 (NEW).

§155. STATE LIABILITIES

By July 31st of each year, the Treasurer of State shall publish on the publicly accessible portion of the treasurer's website the latest information available regarding all liabilities of the State as of June 30th of that same year. For purposes of this section, "liabilities of the State" includes all state debts, loans, bonds, unfunded liabilities and promises to pay, including issued and unissued bonds, pension liabilities, promises to provide health insurance in future years, Maine Governmental Facilities Authority bonds and any other debt or obligation that the State has guaranteed or promised to pay. "Liabilities of the State" does not include state contracts for goods and services or vendor information. [2011, c. 188, §1 (NEW).]

SECTION HISTORY
2011, c. 188, §1 (NEW).

Chapter 9: ATTORNEY GENERAL

§191. DUTIES; SALARY; FEES; FULL TIME

1. **Attorney General; office; salary.** The Attorney General is the executive head of the Department of the Attorney General. The Attorney General shall keep an office at the seat of government and is entitled to receive an annual salary in full for all services. The Attorney General is entitled to receive actual expenses incurred in the performance of official duties.

[2003, c. 510, Pt. B, §2 (NEW); 2003, c. 599, §11 (AFF) .]

2. **Full time; prohibited activities.** The Attorney General shall devote full time to the duties of the office and may not engage in the private practice of law during the Attorney General's term of office, nor may the Attorney General during that term be a partner or associate of any person in the practice of law. During the term of service, the Attorney General may not be an officer or director of any corporation engaged in business for profit within the State.

[2003, c. 510, Pt. B, §2 (NEW); 2003, c. 599, §11 (AFF) .]

3. **Representation by Attorney General, deputies, assistants and staff attorneys.** The Attorney General or a deputy, assistant or staff attorney shall appear for the State, the head of any state department, the head of any state institution and agencies of the State in all civil actions and proceedings in which the State is a party or interested, or in which the official acts and doings of the officers are called into question, in all the courts of the State and in those actions and proceedings before any other tribunal when requested by the Governor or by the Legislature or either House of the Legislature. All such actions and proceedings must be prosecuted or defended by the Attorney General or under the Attorney General's direction.

A. Writs, summonses or other processes served upon those officers must be transmitted by them to the Attorney General. [2003, c. 510, Pt. B, §2 (NEW); 2003, c. 599, §11 (AFF).]

B. All legal services required by those officers, boards and commissions in matters relating to their official duties must be rendered by the Attorney General or under the Attorney General's direction. The officers or agencies of the State may not act at the expense of the State as counsel, nor employ private counsel except upon prior written approval of the Attorney General. In all instances where the Legislature has authorized an office or an agency of the State to employ private counsel, the Attorney General's written approval is required as a condition precedent to the employment. [2003, c. 510, Pt. B, §2 (NEW); 2003, c. 599, §11 (AFF).]

[2003, c. 510, Pt. B, §2 (NEW); 2003, c. 599, §11 (AFF) .]

4. **Fees.** The Attorney General is entitled to receive the following fees:

A. [2003, c. 599, §2 (AFF); 2003, c. 599, §1 (RP).]

B. For certificate that any corporation has ceased to transact business and is excused from filing annual returns, as authorized in Title 13-C, section 1621, subsection 4, $5. [2003, c. 510, Pt. B, §2 (NEW); 2003, c. 599, §11 (AFF).]

The Attorney General shall collect the legal and usual fees payable to the Attorney General by virtue of the Attorney General's office and shall pay them over to the Treasurer of State.

[2003, c. 599, §1 (AMD); 2003, c. 599, §§2, 11 (AFF) .]

SECTION HISTORY
1965, c. 141, (AMD). 1965, c. 510, §1 (AMD). 1965, c. 513, §§5-B (AMD). 1967, c. 476, §9 (AMD). 1969, c. 504, §6 (AMD). 1971, c. 439, §7 (AMD). 1971, c. 550, §2 (AMD). 1973, c. 585, §§11,12,14 (AMD). 1973, c. 711,

§§1-2 (AMD). 1975, c. 770, §20 (AMD). 1977, c. 696, §34 (AMD). 1989, c. 410, §13 (AMD). 2003, c. 510, §B3 (AFF). 2003, c. 510, §B2 (RPR). 2003, c. 599, §1 (AMD). 2003, c. 599, §§2,11 (AFF).

§191-A. TRANSITION PERIOD

In order to provide for an orderly transition following the biennial election of the Attorney General, the Attorney General-elect shall not take the oath of his office or otherwise qualify for the office for a period of no less than 30 days following that election. [1981, c. 143, (NEW).]

SECTION HISTORY
1981, c. 143, (NEW).

§191-B. QUALIFICATION

To serve as Attorney General, a person must be a member in good standing of the bar of the State. For purposes of this section, a person is a "member in good standing of the bar of the State" if that person is admitted to the practice of law in this State, is presently registered with the Board of Overseers of the Bar as an active practitioner and has not been and is not currently disbarred or suspended from practice pursuant to Title 4, chapter 17, subchapter II or Maine Bar Rule 7.2 or its successor. [1997, c. 145, §1 (NEW).]

SECTION HISTORY
1997, c. 145, §1 (NEW).

§192. PROSECUTION OF ALL CLAIMS FOR STATE

All civil actions to recover money for the State shall be brought by the Attorney General or by the district attorney in the name of the State. The Attorney General shall appear before the departments and tribunals of the United States and the committees of Congress to prosecute all claims of the State against the United States. [1973, c. 567, §20 (AMD).]

SECTION HISTORY
1973, c. 567, §20 (AMD).

§193. PROSECUTION OF INTRUDERS

The Attorney General may, if in his judgment the public interest so requires, prosecute by indictment or complaint any person who intrudes on the land, rights or property of the State, or commits or erects a nuisance thereon.

§194. PUBLIC CHARITIES

1. Definition. As used in this section and sections 194-A to 194-H and section 194-K, "public charity" means an entity formed primarily for charitable purposes, including but not limited to:

A. A corporation formed under Title 13 or Title 13-B primarily for charitable purposes; and [2001, c. 550, Pt. A, §1 (NEW).]

B. A charitable trust. [2001, c. 550, Pt. A, §1 (NEW).]

[2003, c. 171, §1 (AMD) .]

2. **Application; funds.** The Attorney General shall enforce due application of funds given or appropriated to public charities within the State and prevent breaches of trust in the administration of public charities.

[2001, c. 550, Pt. A, §1 (NEW) .]

3. **Gift.** A gift to a public charity made for a public charitable purpose is deemed to have been made with a general intention to devote the property to public charitable purposes, unless otherwise provided in writing in the gift instrument.

[2001, c. 550, Pt. A, §1 (NEW) .]

4. **Party to proceedings.** The Attorney General must be made a party to all judicial proceedings in which the Attorney General is interested in the performance of the Attorney General's duties under subsection 2.

[2001, c. 550, Pt. A, §1 (NEW) .]

5. **Investigation.** The Attorney General may conduct an investigation using the methods set forth in subsections 6 and 7 if:

A. The Attorney General reasonably believes that a public charity has engaged or is about to engage in one of the following acts or practices:

(1) Consummation of a conversion transaction as defined in section 194-B without compliance with the applicable provisions of sections 194-C through 194-H; or

(2) The application of funds or assets of a public charity:

(a) In violation of statute;

(b) For noncharitable purposes unrelated to the operations of the public charity; or

(c) For private inurement or excess benefits provided to directors, officers, disqualified persons or others deemed insiders under applicable federal law for tax-exempt organizations; and [2001, c. 2, Pt. A, §5 (COR).]

B. The Attorney General has applied to a Justice of the Superior Court for approval to conduct the investigation and the justice has granted that approval. The application for approval may be filed ex parte, and the justice shall approve the application if the justice finds that the conditions set forth in paragraph A have been met. [2001, c. 550, Pt. A, §1 (NEW).]

[2001, c. 2, Pt. A, §5 (COR) .]

6. **Scope and powers related to investigation.** The authority of the Attorney General to conduct an investigation under this section is limited to investigation of the acts or practices described in subsection 5, paragraph A. In conducting the investigation, the Attorney General has authority to:

A. Take testimony under oath; [2001, c. 550, Pt. A, §1 (NEW).]

B. Examine or cause to be examined any documentary material of whatever nature relevant to such acts or practices; and [2001, c. 550, Pt. A, §1 (NEW).]

C. Require attendance during examination of documentary material under paragraph B of any person having knowledge of the documentary material and take testimony under oath or acknowledgement in respect to that documentary material. [2001, c. 550, Pt. A, §1 (NEW).]

[2001, c. 550, Pt. A, §1 (NEW) .]

7. **Taking testimony; examining documents.** The taking of testimony and examination under subsection 6 must take place in the county where the testifying person resides or has a place of business or, if the parties consent or the testifying person is a nonresident or has no place of business within the State, in Kennebec County.

A. Notice of the time, place and cause of the taking of testimony, examination or attendance under this subsection must be given by the Attorney General at least 30 days prior to the date of the taking of testimony or examination, except that, upon application and good cause shown, a Justice of the Superior Court may order a shorter period of notice, but not less than 10 days. [2001, c. 550, Pt. A, §1 (NEW).]

B. Service of a notice under paragraph A may be made by:

(1) Delivering a duly executed copy of the notice to the person to be served or to a partner or to any officer or agent authorized by appointment or by law to receive service of process on behalf of that person;

(2) Delivering a duly executed copy of the notice to the principal place of business in this State of the person to be served; or

(3) Mailing by registered or certified mail a duly executed copy of the notice, addressed to the person to be served, to the person's principal place of business. [2001, c. 550, Pt. A, §1 (NEW).]

C. Each notice under this subsection must:

(1) State the time and place for the taking of testimony or the examination and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the person;

(2) State the general subject matter of the investigation, the alleged violation that is under investigation and the title and section of statute, if any, governing the alleged violation;

(3) Describe the class or classes of documentary material to be produced with reasonable specificity to fairly indicate the material demanded;

(4) Prescribe a return date by which the documentary material must be produced; and

(5) Identify the members of the Attorney General's staff to whom the documentary material must be made available for inspection and copying. [2001, c. 550, Pt. A, §1 (NEW).]

D. A notice to produce documentary information or to give testimony under this subsection may not contain a requirement that would be unreasonable if contained in a subpoena duces tecum issued by a court of the State and may not require the disclosure of any documentary material that would be privileged or that for any other reason would not be required by a subpoena duces tecum issued by a court of the State. [2001, c. 550, Pt. A, §1 (NEW).]

E. Any documentary material or other information produced by a person pursuant to this subsection and subsection 6 may not, unless otherwise ordered by a court of the State for good cause shown, be disclosed to a person other than an authorized agent or representative of the Attorney General unless with the consent of the person producing the documentary material. [2001, c. 2, Pt. A, §6 (COR).]

F. The Superior Court for Kennebec County or a Superior Court in any other county in which a person who is served notice pursuant to this section resides or has that person's usual place of business may issue orders concerning compliance with the notice, modification or quashing of the notice and contempt in the same manner as if the notice were a subpoena governed by Rule 45 of the Maine Rules of Civil Procedure. The recipient of a notice under this section has the protections accorded by Rule 45 to a person who is subject to a subpoena. [2001, c. 550, Pt. A, §1 (NEW).]

[2001, c. 2, Pt. A, §6 (COR) .]

8. **Authority regarding conversion proceedings.** If a public charity files notice of a conversion transaction under section 194-D or applies for approval of such a transaction under section 194-E or 194-F, the authority of the Attorney General with regard to the notice or approval and the proceedings for approval are governed by sections 194-B to 194-K and the provisions of this section do not apply.

[2001, c. 550, Pt. A, §1 (NEW) .]

9. **Notice to the Superintendent of Insurance.** If the Attorney General intends to conduct an investigation of a public charity that is subject to regulation by the Superintendent of Insurance, the Attorney General shall notify the superintendent that an investigation is being initiated. The Attorney General shall also notify the superintendent of the resolution of any such investigation.

[2001, c. 550, Pt. A, §1 (NEW) .]

SECTION HISTORY
RR 2001, c. 2, §§A5,6 (COR). 2001, c. 550, §A1 (RPR). 2003, c. 171, §1 (AMD).

§194-A. NONPROFIT HOSPITAL AND MEDICAL SERVICE ORGANIZATIONS

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

A. "Affiliate" means a person who directly or indirectly controls or is controlled by or is under common control with the person specified. [1997, c. 344, §1 (NEW).]

B. "Charitable authority" means the Attorney General's authority over charities under section 194, under the Attorney General's corresponding common law authority and under the Maine Nonprofit Corporation Act, Title 13-B. [1997, c. 344, §1 (NEW).]

C. "Charitable trust" means the entity described in subsection 5, paragraph B, subparagraph (1). [1997, c. 344, §1 (NEW).]

D. "Contract holder" means the employer, labor union, association, trustee, creditor or other entity to which a group contract evidencing coverage is issued. [1997, c. 344, §1 (NEW).]

E. "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services or otherwise unless the power is solely the result of an official position with or a corporate office held by the person. [1997, c. 344, §1 (NEW).]

F. "Conversion" means the process by which a nonprofit hospital and medical service organization, with the approval of the superintendent pursuant to Title 24, section 2301, subsection 9-D, converts to a domestic stock insurer. [1997, c. 344, §1 (NEW).]

G. "Fair market value" means the value of an organization or an affiliate or of the assets of such an entity determined, consistent with Title 24, section 2301, subsection 9-D, as if the entity had voting stock outstanding and 100% of its stock were freely transferrable and available for purchase without restrictions. In determining fair market value, consideration must be given to value as a going concern, market value, investment or earnings value, net asset value and a control premium, if any. If a charitable trust receives, at the time of conversion, 100% of the shares of the then-outstanding stock of the converted domestic stock insurer, the charitable trust is regarded as having acquired the fair market value of the organization unless the superintendent finds that such outstanding stock does not represent the fair market value of the organization. [1997, c. 344, §1 (NEW).]

H. "Health insurance affiliate" means any domestic for-profit stock insurer required to be authorized under Title 24-A, section 404 to provide health insurance or any domestic for-profit health maintenance organization required to be licensed under Title 24-A, chapter 56 that is formed, acquired, invested in or otherwise established, whether directly or indirectly, by a nonprofit hospital and medical service organization. [1997, c. 344, §1 (NEW).]

I. "Materially changes its form" or "material change in form" means any transaction that the superintendent or Attorney General determines has transferred control of the organization to a person other than a public charity as defined in section 194, substantially changed the organization's legal or regulatory status or substantially changed the organization's purposes, including, but not limited to, conversion, dissolution, merger, division, consolidation, amalgamation, disposition of substantially all of an organization's business, line of business or assets, lease, exchange, restructuring or bulk reinsurance transfer. [2003, c. 171, §2 (AMD).]

J. "Member" means a member of the nonprofit hospital and medical service organization entitled to vote under the articles or bylaws of the organization. [1997, c. 344, §1 (NEW).]

K. "Nonprofit hospital and medical service organization" or "organization" means a corporation or other entity authorized by the superintendent or organized pursuant to Title 24 for the purpose of providing nonprofit hospital service plans within the meaning of Title 24, section 2301, subsection 1, nonprofit medical service plans within the meaning of Title 24, section 2301, subsection 2 and any organization that provides only nonprofit health care plans within the meaning of Title 24, section 2301, subsection 3. [2001, c. 550, Pt. B, §1 (AMD).]

L. "Subscriber" means an individual who has subscribed to one or more of the hospital, medical or health care service plans or contracts offered by the organization or health insurance affiliate as defined in Title 24, section 2308-A through an individual or family policy or group policy. [1997, c. 344, §1 (NEW).]

M. "Superintendent" means the Superintendent of Insurance. [1997, c. 344, §1 (NEW).]

[2003, c. 171, §2 (AMD) .]

2. Charitable status of organization. Any nonprofit hospital and medical service organization is a charitable and benevolent institution and a public charity and its assets are held for the purpose of fulfilling the charitable purposes of the organization. The charitable purposes may include, but are not limited to, the following: providing access to medical care through affordable health insurance and affordable managed care products for persons of all incomes; identifying and addressing the State's unmet health care needs, particularly with regard to medically uninsured and underserved populations; making services and care available through participating providers; and improving the quality of care for medically uninsured and underserved populations.

A. If the organization materially changes its form and the ownership of an organization is at issue or is relevant in any proceeding in court or before the superintendent, then 100% of the fair market value of the organization as of the date of the material change in form must be owned by the charitable trust upon the approval or approval with modifications of the charitable trust plan or modified charitable trust plan by the court pursuant to subsection 5 or 6 and must be dedicated to the fulfillment of the charitable trust. [2003, c. 171, §3 (AMD).]

B. [2003, c. 171, §3 (RP).]

C. [2003, c. 171, §3 (RP).]

[2003, c. 171, §3 (AMD) .]

3. Determination of ownership interest and charitable purposes by the Superior Court.

[2003, c. 171, §4 (RP) .]

4. **Representation of charitable interests.** Except as provided in this subsection, the Attorney General is the sole person authorized to represent the charitable interests of beneficiaries of the charitable obligations of a nonprofit hospital and medical service organization and any health insurance affiliate in any proceeding before any court or any administrative agency. The Attorney General may enforce the organization's charitable obligations in an action in Superior Court under the Attorney General's charitable authority. Nothing in this subsection may be construed to limit the superintendent's authority with respect to the interests of subscribers or the public in enforcing the provisions of Title 24 and Title 24-A.

A. The board of directors of a nonprofit hospital and medical service organization has the responsibility to fulfill the organization's charitable obligation, subject only to the Attorney General's authority to represent the charitable interests of beneficiaries of the organization's charitable obligation, any applicable law and the superintendent's authority to enforce Title 24 and Title 24-A. [1997, c. 344, §1 (NEW).]

B. A nonprofit hospital and medical service organization shall reimburse the Attorney General and the superintendent for the costs of any experts or consultants retained by the Attorney General or the superintendent in connection with any matter before any court or any administrative agency relating to the organization's charitable value and charitable obligations. [1997, c. 344, §1 (NEW).]

[1997, c. 344, §1 (NEW) .]

5. **Charitable trust plan required prior to conversion.** A nonprofit hospital and medical service organization shall submit a charitable trust plan to the Attorney General at the same time that it submits a conversion plan to the superintendent for approval of a conversion to a domestic stock insurer pursuant to Title 24, section 2301, subsection 9-D.

A. Within 60 days of the organization's submission of the charitable trust plan to the Attorney General, the Attorney General shall file an action under the Attorney General's charitable authority in Superior Court seeking approval, approval with modifications, or disapproval of the charitable trust plan or of any amended charitable trust plan submitted to the Attorney General by the organization with the consent of the Attorney General. [1997, c. 344, §1 (NEW).]

B. An organization may not convert to a domestic stock insurer under Title 24, section 2301, subsection 9-D until the Superior Court has approved or approved with modifications the organization's charitable trust plan. The court may not approve or approve with modifications the charitable trust plan unless it finds that the charitable trust plan meets the following requirements.

(1) The plan must describe the charitable trust or trusts that will receive the ownership interest in the organization following its conversion to a domestic stock insurer. For purposes of this section, a charitable trust:

(a) Must be a new or existing trust or public benefit corporation formed under the laws of this State, but may not include the organization or any person controlled by the organization;

(b) Must be a charitable entity that qualifies for federal income tax exemption under the United States Internal Revenue Code of 1986, as amended, Section 501 (c)(3) or (c)(4);

(c) May not be controlled by the converted domestic stock insurer;

(d) May not have more than one of its directors serve as a director of the domestic stock insurer;

(e) May not have as a director any person who has been a director or officer of the organization, the domestic stock insurer or any affiliate of either during the 3-year period preceding the date of appointment as a director of the charitable trust; and

(f) Must have a board of directors representing the people of the State including, but not limited to, persons representing the interests of the medically uninsured and underserved populations.

(2) The charitable mission of the charitable trust must include, but is not limited to, serving the State's unmet health care needs for the type of care historically covered by the organization, particularly with regard to medically uninsured and underserved populations and providing access to care and improving quality of care for those populations.

(3) The charitable trust plan must provide for the fair and equitable use by the charitable trust of its ownership interest in the organization to fulfill the charitable mission of the charitable trust.

(4) The charitable trust plan must require the charitable trust to report annually to the Attorney General as to its charitable activities and grant making relating to the use of its ownership interest in the organization and to make that annual report available to the public at both the Department of the Attorney General and the office of the charitable trust.

(5) The charitable trust plan must require the charitable trust, at all times when the charitable trust owns stock in any converted stock insurer and for 5 calendar years after any such ownership, to provide audited financial statements on a calendar-year basis and other reports, as may be required, to the superintendent and the Attorney General at the time and in the manner as either the Attorney General or the superintendent prescribes.

(7) The charitable trust must have in place procedures and policies to prohibit conflicts of interest, including those associated with grant-making activities that may benefit the converted stock insurer, its affiliates, any person who owns or controls any ownership interest in either the converted stock insurer or its affiliates and any directors or officers of the converted stock insurer or its affiliates. [2003, c. 171, §5 (AMD).]

C. The superintendent has the right to intervene in the Superior Court proceeding. [1997, c. 344, §1 (NEW).]

D. In approving, disapproving or approving with modification the charitable trust plan, the Superior Court may not review or decide the fair market value of the organization, including the methodologies for determining, allocating and transferring the fair market value of the organization. This paragraph does not in any way limit the appeal rights of any person under the Maine Rules of Civil Procedure, Rule 80(c) or under the Maine Administrative Procedure Act from the superintendent's final agency action on these matters pursuant to Title 24, section 2301, subsection 9-D. [2003, c. 171, §6 (AMD).]

[2003, c. 171, §§5, 6 (AMD) .]

6. **Modified charitable trust plan required for a material change in form.** An organization shall notify the Attorney General and the superintendent of the organization's intent to engage in any transaction described in subsection 1, paragraph I at least 60 days prior to engaging in that transaction. Upon the superintendent's or the Attorney General's determination that a transaction described in subsection 1, paragraph I is a material change in form, notice must be given to the organization and the Attorney General or superintendent, as applicable. Within 90 days after the superintendent or the Attorney General issues a notice of the determination that a transaction described in subsection 1, paragraph I is a material change in form, other than through conversion to a domestic stock insurer pursuant to Title 24, section 2301, subsection 9-D, the Attorney General shall file an action in Superior Court under the Attorney General's charitable authority requesting the court to order the organization to submit to the superintendent, the court and the Attorney General a modified charitable trust plan containing the provisions set forth in subsection 5, paragraph I as the court determines are reasonable under the circumstances, together with any additional provisions as the court determines are reasonably required to coordinate the modified charitable trust plan with any proceeding instituted or to be instituted by the superintendent in connection with the material change in form. The Superior Court, after hearing, shall approve, approve with modifications or disapprove the modified charitable trust plan. The superintendent has the right to intervene in the Superior Court proceeding. In the event that either the superintendent or the court determines that a valuation of the organization is necessary, the superintendent shall conduct the valuation consistent with Title 24, section 2301, subsection 9-D. The superintendent may hold proceedings as the superintendent determines necessary to review an organization's

proposal to materially change its form. If the modified charitable trust plan includes the creation of a charitable trust or public benefit corporation, the charitable trust or public benefit corporation may not include the organization or any person controlled by the organization.

[2003, c. 171, §7 (AMD) .]

7. **Affiliates providing health insurance.** This subsection governs health insurance affiliates.

A. A nonprofit hospital and medical service organization shall notify the Attorney General at least 60 days prior to directly or indirectly forming, acquiring, investing in or otherwise establishing a health insurance affiliate. [1997, c. 344, §1 (NEW).]

B. Each health insurance affiliate shall expressly have corporate purposes that are consistent with or are in furtherance of the charitable and benevolent purposes of its public charity owners.

(1) Subject to subparagraph (2), the health insurance affiliate may further its purposes as described in this paragraph by:

(a) The provision of direct services that are consistent with or further the charitable and benevolent purposes of its public charity owners; or

(b) The payment of distributions or dividends to any public charity owner.

(2) The payment by the health insurance affiliate of distributions or dividends to any owner does not fulfill a health insurance affiliate's purposes as described in this paragraph if the payment of such distributions or dividends unreasonably interferes with the health insurance affiliate's ability to fulfill its purposes as described in this paragraph through the provision of direct services as described in subparagraph (1), division (a). Payment of dividends and distributions may be made to a for-profit owner consistent with this subparagraph but may not be considered to fulfill the health insurance affiliate's purposes as described in this paragraph.

(3) If the nonprofit hospital and medical service organization holding an ownership interest in a health insurance affiliate materially changes its form and the Superior Court has approved or approved with modifications a charitable trust plan or modified charitable trust plan, the purposes as described in this paragraph of the health insurance affiliate terminate unless the Superior Court determines otherwise. [2003, c. 171, §8 (AMD).]

C. Any public charity that owns or controls an ownership interest in a health insurance affiliate must be treated as having acquired that ownership interest in furtherance of the charitable purposes of the public charity. [2003, c. 171, §8 (AMD).]

D. The Attorney General may enforce the purposes as described in paragraph B of a health insurance affiliate under this subsection under the Attorney General's charitable authority to the same extent as if the health insurance affiliate were a public charity. [2003, c. 171, §8 (AMD).]

E. A nonprofit hospital and medical service organization shall file with the Attorney General and the superintendent a charitable activities plan at least 60 days prior to the organization's sale of any ownership interest in a health insurance affiliate or the sale or other disposition of substantially all the assets of the health insurance affiliate.

(1) The charitable activities plan must set forth the charitable activities that the nonprofit hospital and medical service organization intends to pursue with the revenues or proceeds received from the sale of any ownership interest in a health insurance affiliate or the sale or other disposition of substantially all the assets of the health insurance affiliate.

(2) If the Attorney General concludes that the charitable activities plan does not fairly and equitably fulfill the nonprofit hospital and medical service organization's charitable purposes, the Attorney General shall bring an action in Superior Court under the Attorney General's charitable authority to challenge the charitable activities plan. The Attorney General shall provide to the superintendent prior written notice of any such action. The superintendent has the right to intervene in such action.

If the Superior Court determines that the organization's charitable activities plan does not fairly and equitably fulfill the organization's purposes as described in paragraph B, the court shall issue orders necessary to remedy the inadequacies in the charitable activities plan.

(3) If a nonprofit hospital and medical service organization sells its ownership interest in a health insurance affiliate and the charitable activities plan filed with the Attorney General in connection with the sale has been approved by the Attorney General or the Superior Court, then the purposes described in paragraph B of a health insurance affiliate terminate unless the Superior Court determines otherwise. [1997, c. 344, §1 (NEW).]

F. Each health insurance affiliate shall file an annual report with the Attorney General at the time and in the manner as the Attorney General shall establish describing the efforts that the affiliate has undertaken to fulfill its purposes as described in paragraph B, including, but not limited to, all direct services as described in paragraph B, subparagraph (1), division (a) and grant making. [1997, c. 344, §1 (NEW).]

G. The sale by an organization of its ownership interest in a health insurance affiliate for fair market value, as determined by the superintendent, does not constitute a diversion of charitable assets. [1997, c. 344, §1 (NEW).]

[2003, c. 171, §8 (AMD) .]

8. **Annual report.** The organization shall file an annual report with the Attorney General and the superintendent at the time and in the manner as the Attorney General establishes describing the efforts that the organization has undertaken to fulfill its charitable and benevolent purposes.

[1997, c. 344, §1 (NEW) .]

SECTION HISTORY
1997, c. 344, §1 (NEW). 1997, c. 344, §10 (AFF). 2001, c. 550, §B1 (AMD). 2003, c. 171, §§2-8 (AMD).

§194-B. DEFINITIONS

As used in this section and sections 194-C to 194-K, unless the context otherwise indicates, the following terms have the following meanings. [2001, c. 550, Pt. A, §2 (NEW).]

1. **Control.** "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an individual, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services or otherwise, including but not limited to situations in which the power is the result of an official position with the person or a corporate office held by an individual.

[2001, c. 550, Pt. A, §2 (NEW) .]

2. **Conversion transaction.** "Conversion transaction" means the sale, transfer, lease, exchange, transfer by exercise of an option, conveyance, conversion, merger or other disposition or the transfer of control or governance of the assets or operations of a public charity to a person other than a public charity incorporated or domiciled in this State. A disposition or transfer constitutes a conversion transaction regardless of whether it occurs directly or indirectly and whether it occurs in a single transaction or a related series of transactions. If exercise of an option constitutes a conversion transaction, any consideration received for the granting of the option must be considered part of the transaction for purposes of applying the review criteria in section 194-G. "Conversion transaction" does not include a transaction that supports or continues the charitable activities of the public charity, including but not limited to:

A. Granting of encumbrances in the ordinary course of business, such as security interests or mortgage deeds with respect to assets owned by the public charity or any wholly owned subsidiary to secure indebtedness for borrowed money, the net proceeds of which are paid solely to the public charity or its wholly owned subsidiaries or are applied to the public charity's charitable mission, and the foreclosing or other exercise of remedies permitted with respect to such encumbrances; [2001, c. 550, Pt. A, §2 (NEW).]

B. Sales or transfers for fair market value of:

(1) Any interest in property owned by the public charity or any wholly owned subsidiary, the net proceeds of which are paid solely to the public charity or any wholly owned subsidiary; or

(2) Money or monetary equivalents owned by a public charity or any wholly owned subsidiary in exchange for an interest in property, including securities as defined in Title 32, section 16102, subsection 28, to be held by the public charity or any wholly owned subsidiary; [2005, c. 65, Pt. C, §2 (AMD).]

C. Awards, grants or payments to or on behalf of intended beneficiaries, consistent with the public charity's charitable purpose; and [2001, c. 550, Pt. A, §2 (NEW).]

D. A change in the membership of the board of directors or officers of a public charity. [2001, c. 550, Pt. A, §2 (NEW).]

[2005, c. 65, Pt. C, §2 (AMD) .]

3. **Fair market value.** "Fair market value" means the most likely value or range of values that assets, tangible or intangible, being sold would have in a competitive and open market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably and in their own best interest and a reasonable time being allowed for exposure in the open market. If the value of the assets being converted is $500,000 or more, the appraisal must include a value representing volunteer efforts and tax exemptions, if any, received during the operation of the public charity.

[2001, c. 550, Pt. A, §2 (NEW) .]

4. **Independent appraisal of the fair market value.** "Independent appraisal of the fair market value" means an appraisal conducted by persons independent of all parties to a proposed conversion transaction and experienced and expert in the area of appraisal of the type and form of property being valued. The appraisal must be conducted using professionally accepted standards for the type and form of property being valued. The appraisal must contain a complete and detailed description of the elements that make up the appraisal values produced and detailed support for the conclusions reached in the appraisal.

[2001, c. 550, Pt. A, §2 (NEW) .]

5. **Person.** "Person" means an individual, partnership, trust, estate, corporation, association, joint venture, joint stock company or other organization.

[2001, c. 550, Pt. A, §2 (NEW) .]

6. **Public charity.** "Public charity" has the same meaning as in section 194.

[2001, c. 550, Pt. A, §2 (NEW) .]

SECTION HISTORY
2001, c. 550, §A2 (NEW). 2005, c. 65, §C2 (AMD).

§194-C. NOTICE AND APPROVAL FOR CONVERSION TRANSACTION

1. **Notice or approval required.** Prior to completing a conversion transaction, a public charity must:

A. If the fair market value of assets to be converted in the transaction is $500,000 or more, obtain approval of the court in accordance with section 194-F; [2001, c. 550, Pt. A, §2 (NEW).]

B. If the fair market value of assets to be converted in the transaction is less than $500,000 but at least $50,000, obtain approval from the Attorney General in accordance with section 194-E or, if the Attorney General does not approve the transaction, obtain approval from the court in accordance with section 194-F; or [2001, c. 550, Pt. A, §2 (NEW).]

C. If the value of the transaction is less than $50,000, provide notice to the Attorney General in accordance with section 194-D. [2001, c. 550, Pt. A, §2 (NEW).]

[2001, c. 550, Pt. A, §2 (NEW) .]

2. **Appraisal required.** Fair market value must be determined by an independent appraisal for conversion transactions with a fair market value of $50,000 or more. If the appraisal provides a range of values, the highest point of the range determines which section of law applies to the transaction pursuant to subsection 1.

[2001, c. 550, Pt. A, §2 (NEW) .]

3. **Failure to comply with this section or sections 194-D to 194-H.** A transaction consummated in violation of any provision of this section or sections 194-D to 194-H is voidable. Officers and directors who receive private inurement or excess benefits from such a transaction are subject to the civil penalties provided in section 194-K.

[2001, c. 550, Pt. A, §2 (NEW) .]

4. **Applicability to nonprofit hospital or medical service organizations.** This section, section 194-B and sections 194-D to 194-K do not apply to a corporation or other entity licensed under Title 24, chapter 19. A conversion of a corporation or other entity licensed under Title 24, chapter 19 is governed by section 194-A and Title 24, section 2301, subsection 9-D.

[2001, c. 550, Pt. A, §2 (NEW) .]

SECTION HISTORY
2001, c. 550, §A2 (NEW).

§194-D. CONVERSION TRANSACTIONS LESS THAN $50,000

A public charity shall provide written notice to the Attorney General of its intent to enter into a conversion transaction if the value of the transaction is less than $50,000. The notice must include the name of the public charity, the value of the assets to be converted and the entity to which the assets will be transferred. Twenty days after providing notice to the Attorney General in accordance with this section, the public charity is deemed to be in compliance with section 194-C and this section unless the Attorney General notifies the public charity within those 20 days that the value of the transaction is $50,000 or more or that the filing otherwise fails to comply with this section. [2001, c. 550, Pt. A, §2 (NEW).]

The Attorney General is not required to take any action on notices received under this section, except that, upon request of a public charity that has properly provided notice under this section, the Attorney General shall issue a letter indicating that the public charity has complied with its obligation under this section, section 194-C and sections 194-E to 194-H. [2001, c. 550, Pt. A, §2 (NEW).]

SECTION HISTORY

2001, c. 550, §A2 (NEW).

§194-E. ATTORNEY GENERAL APPROVAL WITHOUT COURT REVIEW

1. **Filing with Attorney General.** To obtain approval of a conversion transaction when the independent appraisal of the fair market value of the assets to be converted is $50,000 or more but is less than $500,000, a public charity must file a written request for approval with the Attorney General at least 90 days prior to consummating the transaction. The written request must include a conversion plan, a plan for distributing proceeds of the conversion consistent with section 194-H and any other information reasonably necessary for the Attorney General to complete a review of the transaction. Failure to provide the information described in this subsection in a timely manner is sufficient grounds for the Attorney General to refuse to approve the transaction.

[2001, c. 550, Pt. A, §2 (NEW) .]

2. **Attorney General approval.** The Attorney General shall approve a conversion transaction under subsection 1 if the Attorney General determines that the criteria set forth in section 194-G have been met. The Attorney General shall refuse to approve a transaction if the Attorney General reasonably believes that the fair market value of the transaction is $500,000 or more.

[2001, c. 550, Pt. A, §2 (NEW) .]

3. **Public notice.** Within 5 days of filing the request for approval under subsection 1, a public charity shall publish notice to the public of its intent to enter into a conversion transaction. Notice must be published once per week for 3 weeks in a newspaper of general circulation in the public charity's service area and must meet the following criteria.

A. A notice under this subsection must describe the proposed transaction, including the parties, the value of the transaction, the timing of the transaction, the potential impact on services to the public and the proposed plan for utilizing the proceeds. The public notice must also provide information on opportunities for the public to provide comment on the proposal to the Attorney General. [2001, c. 550, Pt. A, §2 (NEW).]

B. A notice under this subsection must be published in languages other than English whenever a significant number or percentage of the population eligible to be served or likely to be directly affected by the service or purpose of the public charity needs information in a language other than English to communicate effectively. For the purposes of this paragraph, "significant number" is defined as 5% or 1,000, whichever is less, of the population of persons eligible to be served or likely to be directly affected. [2001, c. 550, Pt. A, §2 (NEW).]

[2001, c. 550, Pt. A, §2 (NEW) .]

4. **Public comment.** The Attorney General shall accept public comments regarding a proposed conversion transaction under this section for a 60-day period commencing the day that proper notice has been provided to the public of the proposed conversion.

[2001, c. 550, Pt. A, §2 (NEW) .]

5. **Public hearings.** The Attorney General may hold public hearings if the Attorney General determines that a conversion transaction under this section is likely to cause a significant impact on access to services in the community served by the public charity.

[2001, c. 550, Pt. A, §2 (NEW) .]

6. **Public records.** All documents submitted to the Attorney General by a person filing a request under subsection 1 in connection with the Attorney General's review of a proposed conversion transaction are public records subject to Title 1, chapter 13, subchapter I except records made confidential by statute or privileged under the Maine Rules of Evidence.

[2001, c. 550, Pt. A, §2 (NEW) .]

7. **Attorney General rejection of or failure to act on request for approval.** If the Attorney General refuses to approve a conversion transaction under this section or fails to act on the request for approval within 90 days of receipt of the request, a public charity may request court approval of the transaction under section 194-F.

[2001, c. 550, Pt. A, §2 (NEW) .]

8. **Contracts with consultants; reimbursement for costs.** To assist in the review of a proposed conversion transaction pursuant to this section, the Attorney General, at the Attorney General's sole discretion, may contract with experts or consultants the Attorney General considers appropriate.

A. Contract costs incurred by the Attorney General pursuant to this subsection may not exceed an amount that is reasonable and necessary to conduct the review of a proposed conversion transaction. A public charity filing a request under subsection 1 shall pay the Attorney General promptly upon request for all costs of contracts entered into by the Attorney General pursuant to this subsection but is not required to pay any amount that exceeds 5% of the fair market value of the assets to be converted. [2001, c. 550, Pt. A, §2 (NEW).]

B. The Attorney General is exempt from the provisions of applicable state laws regarding public bidding procedures for purposes of entering into contracts pursuant to this subsection. [2001, c. 550, Pt. A, §2 (NEW).]

[2001, c. 550, Pt. A, §2 (NEW) .]

SECTION HISTORY
2001, c. 550, §A2 (NEW).

§194-F. COURT APPROVAL

1. **Filing of court action.** To obtain approval of a conversion transaction when the independent appraisal of the fair market value of the assets to be converted is $500,000 or more, a public charity must file an action in Superior Court in the county in which the public charity's service area is located or in Kennebec County. Concurrent with filing an action in Superior Court, a public charity must file with the court and the Attorney General a conversion plan and a plan for distributing proceeds of the conversion consistent with section 194-H. The Attorney General must be made a party to the action.

[2001, c. 550, Pt. A, §2 (NEW) .]

2. **Court action.** The court shall approve a proposed conversion transaction under subsection 1 if the court finds by a preponderance of the evidence that the criteria set forth in section 194-G have been satisfied. The court may deny approval of a conversion transaction or may approve the transaction with or without modifications or conditions. The court may require any entity that receives the assets of the public charity as a result of the conversion to report annually to the Attorney General and the public and may require the entity to submit to monitoring and oversight by the Attorney General.

[2001, c. 550, Pt. A, §2 (NEW) .]

3. **Public notice.** Within 5 days of filing an action under subsection 1, a public charity shall publish notice to the public of its intent to enter into a conversion transaction. Notice must be published once per week for 3 weeks in a newspaper of general circulation in the charity's service area and must meet the following criteria.

A. A notice under this subsection must describe the proposed transaction, including the parties, the value of the transaction, the timing of the transaction, the potential impact on services to the public and the proposed plan for utilizing the proceeds. The public notice must also include the court docket number and provide information on opportunities for the public to provide comment on the proposal to the Attorney General. [2001, c. 550, Pt. A, §2 (NEW).]

B. The notice must be published in languages other than English whenever a significant number or percentage of the population eligible to be served or likely to be directly affected by the service or purpose of the public charity needs information in a language other than English to communicate effectively. For purposes of this paragraph, "significant number" is defined as 5% or 1,000, whichever is less, of the population of persons eligible to be served or likely to be directly affected. [2001, c. 550, Pt. A, §2 (NEW).]

[2001, c. 550, Pt. A, §2 (NEW) .]

4. **Public access to conversion plan.** The Attorney General shall make a conversion plan, the plan for distribution of proceeds, the valuation and any other documents filed under subsection 1 that are public records under Title 1, chapter 13, subchapter I and that are available electronically available for viewing on the Attorney General's publicly accessible site on the Internet as soon as feasible after the documents are filed with the Attorney General.

[2001, c. 550, Pt. A, §2 (NEW) .]

5. **Contracts with consultants; reimbursement for costs.** To assist in the review of a proposed conversion transaction pursuant to this section, the Attorney General, at the Attorney General's sole discretion, may contract with experts or consultants the Attorney General considers appropriate.

A. Contract costs incurred by the Attorney General pursuant to this subsection may not exceed an amount that is reasonable and necessary to conduct the review of the proposed conversion transaction. Costs must be approved in advance by the court. The public charity filing an action under subsection 1 shall pay the Attorney General promptly upon request for all costs of contracts entered into by the Attorney General and approved by the court pursuant to this subsection. [2001, c. 550, Pt. A, §2 (NEW).]

B. The Attorney General is exempt from the provisions of applicable state laws regarding public bidding procedures for purposes of entering into contracts pursuant to this subsection. [2001, c. 550, Pt. A, §2 (NEW).]

[2001, c. 550, Pt. A, §2 (NEW) .]

6. **Filing with Secretary of State.** A public charity shall file a copy of the court's approval under this section with the Secretary of State.

[2001, c. 550, Pt. A, §2 (NEW) .]

SECTION HISTORY
2001, c. 550, §A2 (NEW).

§194-G. REVIEW CRITERIA

1. **Required determinations.** The Attorney General may not approve or recommend that a court approve and the court may not approve a proposed conversion transaction unless the Attorney General or the court, as appropriate, finds that:

A. The public charity will receive fair market value for its charitable assets. The fair market value must be based upon an appraisal conducted in accordance with subsection 3 and must use the projected closing date of the conversion transaction as the valuation date; [2001, c. 550, Pt. A, §2 (NEW).]

B. The proposed distribution of proceeds of the transaction complies with section 194-H; and [2001, c. 550, Pt. A, §2 (NEW).]

C. The public charity considered the proposed conversion as the best alternative in carrying out its mission and purposes. [2001, c. 550, Pt. A, §2 (NEW).]

[2001, c. 550, Pt. A, §2 (NEW) .]

2. **Considerations.** In determining whether the criteria in subsection 1 are met, the Attorney General or the court, as appropriate, shall consider, as applicable, whether:

A. The public charity will receive fair market value for its charitable assets; [2001, c. 550, Pt. A, §2 (NEW).]

B. The terms and conditions of the agreement or transaction are fair and reasonable to the public charity; [2001, c. 550, Pt. A, §2 (NEW).]

C. The fair market value of the public charity's assets to be transferred has been manipulated by the actions of the parties in a manner that causes the fair market value of the assets to decrease; [2001, c. 550, Pt. A, §2 (NEW).]

D. The agreement or transaction will result in inurement to any private person or entity; [2001, c. 550, Pt. A, §2 (NEW).]

E. The proposed conversion transaction will result in a breach of fiduciary duty or violate any statutory or common-law duty or obligation on the part of the directors, trustees or other parties involved in the transaction, including but not limited to conflicts of interest related to payments or benefits to officers, directors, board members, executives and experts employed or retained by the parties; [2001, c. 550, Pt. A, §2 (NEW).]

F. The governing body of the public charity exercised due diligence in deciding to dispose of the public charity's assets, selecting the acquiring entity and negotiating the terms and conditions of the disposition; [2001, c. 550, Pt. A, §2 (NEW).]

G. The Attorney General has been provided with sufficient information and data by the public charity to evaluate adequately the agreement or transaction and the effects of the agreement or transaction on the public; [2001, c. 550, Pt. A, §2 (NEW).]

H. The proceeds of the conversion of the public charity are distributed to either an existing or new public benefit corporation or foundation pursuant to section 194-H; [2001, c. 550, Pt. A, §2 (NEW).]

I. The proceeds of the proposed conversion transaction will be used in accordance with the rules of any trust under which the assets were held by the public charity and the proceeds will be controlled as funds independent of the acquiring entity or entities related to the acquiring entity; [2001, c. 550, Pt. A, §2 (NEW).]

J. The entity surviving after the conversion transaction will be financially viable and competently managed; [2001, c. 550, Pt. A, §2 (NEW).]

K. The transaction will diminish the availability and accessibility of services to the affected community; and [2001, c. 550, Pt. A, §2 (NEW).]

L. The conversion plan and transaction complies with all applicable laws including the Maine Nonprofit Corporation Act and state tax code provisions. [2001, c. 550, Pt. A, §2 (NEW).]

[2001, c. 550, Pt. A, §2 (NEW) .]

3. **Valuation.** A public charity shall submit to the Attorney General and the court an independent appraisal of the fair market value of assets to be converted under subsection 1. To the extent that the appraisal is based on a capitalization of the pro forma income of the converted assets, the appraisal must indicate the basis for determination of the income to be derived from any proceeds of the sale of stock and demonstrate the appropriateness of the earnings-multiple used, including assumptions made regarding future earnings growth.

A. To the extent that an appraisal under this subsection is based on the comparison of the capital stock of the converted entity with outstanding capital stock of existing stock entities offering comparable products, the existing stock entities must be reasonably comparable to the converting entity in terms of such factors as size, market area, competitive conditions, profit history and expected future earnings. [2001, c. 550, Pt. A, §2 (NEW).]

B. If the value of assets being converted is $500,000 or more, the appraisal must include any element of value arising from the accomplishment or expectation of the conversion transaction, including any value attributable to projected operating efficiencies to result from the conversion, net of the cost of changes to produce such efficiencies. [2001, c. 550, Pt. A, §2 (NEW).]

C. If the Attorney General or the court determines that an appraisal under this subsection is materially deficient or substantially incomplete, the Attorney General or the court may deem the entire conversion plan materially deficient or substantially incomplete and reject or decline to further process the application for conversion. [2001, c. 550, Pt. A, §2 (NEW).]

D. A converting entity shall submit to the Attorney General and the court information demonstrating to the satisfaction of the Attorney General or the court the independence and expertise of any person preparing the appraisal or related materials under this subsection. [2001, c. 550, Pt. A, §2 (NEW).]

E. An appraiser under this subsection may not serve as an underwriter or selling agent under the same conversion plan and an affiliate of an appraiser may not act as an underwriter or selling agent unless procedures are followed and representations and warranties made to ensure that an appraiser is separate from the underwriter or selling agent affiliate and the underwriter or selling agent affiliate does not make recommendations or in any way have an impact on the appraisal. [2001, c. 550, Pt. A, §2 (NEW).]

F. An appraiser may not receive any other fee except the fee for services rendered in connection with the appraisal. [2001, c. 550, Pt. A, §2 (NEW).]

[2001, c. 550, Pt. A, §2 (NEW) .]

SECTION HISTORY
2001, c. 550, §A2 (NEW).

§194-H. DISTRIBUTION OF PROCEEDS

1. **Requirements.** The proceeds of a conversion transaction must be distributed to an existing or new foundation or public benefit corporation that meets the following requirements.

A. The foundation or public benefit corporation must operate pursuant to 26 United States Code, Section 501(c)(3) or 501(c)(4), and, regardless of whether the foundation is classified as a private foundation under 26 United States Code, Section 509, the foundation or public benefit corporation must operate in accordance with the restrictions and limitations that apply to private foundations found in 26 United States Code, Sections 4941 to 4945. [2001, c. 550, Pt. A, §2 (NEW).]

B. The foundation or public benefit corporation and its directors, officers and staff must be and remain independent of the for-profit company and its affiliates. A person who is an officer, director or staff member with influence over a conversion decision of a public charity submitting a conversion plan, at the time the plan is submitted or at the time of the conversion transaction or within 5 years thereafter, is not qualified to be an officer, director or staff member of the foundation. A director, officer, agent or employee of the public charity submitting the plan or the foundation receiving the charitable assets may not benefit directly or indirectly from the transaction. [2001, c. 550, Pt. A, §2 (NEW).]

C. A foundation or public benefit corporation must have or establish formal mechanisms to avoid conflicts of interest and to prohibit grants benefiting the for-profit corporation or members of the board of directors and management of the for-profit corporation. [2001, c. 550, Pt. A, §2 (NEW).]

[2001, c. 550, Pt. A, §2 (NEW) .]

SECTION HISTORY
2001, c. 550, §A2 (NEW).

§194-I. INTERVENTION IN COURT PROCEEDING

This section relates to intervention in proceedings under section 194-F. [2001, c. 550, Pt. A, §2 (NEW).]

1. **Right to intervene.** Except as provided in subsection 2, the court, on timely application made pursuant to Rule 24(a) of the Maine Rules of Civil Procedure, shall allow any person who is interested in the outcome of a conversion proceeding to intervene as a party to that proceeding, notwithstanding the presence of the Attorney General in the action.

[2001, c. 550, Pt. A, §2 (NEW) .]

2. **Court power to manage process.** This section does not limit the power of the court to manage its cases by limiting the number of intervenors or by consolidating parties with similar interests.

[2001, c. 550, Pt. A, §2 (NEW) .]

SECTION HISTORY
2001, c. 550, §A2 (NEW).

§194-J. ATTORNEY GENERAL AUTHORITY

1. **Rules.** The Attorney General may adopt rules the Attorney General considers appropriate to implement this section, sections 194-B to 194-I and section 194-K. Rules adopted pursuant to this subsection are routine technical rules as defined in chapter 375, subchapter II-A.

[2001, c. 550, Pt. A, §2 (NEW) .]

2. **Attorney General authority not limited.** This section, sections 194-B to 194-I and section 194-K do not limit the common-law authority of the Attorney General to protect charitable trusts and charitable assets in this State. The penalties and remedies provided in section 194-K are in addition to and are not a

replacement for any other civil or criminal action the Attorney General may take under common law or statute, including an action to rescind the conversion transaction or to obtain injunctive relief or a combination of injunctive relief and other remedies available under common law or statute.

[2001, c. 550, Pt. A, §2 (NEW) .]

SECTION HISTORY
2001, c. 550, §A2 (NEW).

§194-K. PENALTIES

1. **Attorney General to bring action.** The Attorney General may initiate an action in Superior Court to:

A. Void a conversion transaction pursuant to subsection 2. Such an action may be brought in Superior Court in Kennebec County or in the county in which the assets of the public charity to be transferred are located; [2001, c. 550, Pt. A, §2 (NEW).]

B. Seek a civil penalty against an individual pursuant to subsection 3. Such an action must be brought in the Superior Court of Kennebec County or in the county in which the individual resides; and [2001, c. 550, Pt. A, §2 (NEW).]

C. Obtain on behalf of the public charity the return or repayment of any property or consideration received as private inurement or an excess benefit in violation of Title 13-B standards. [2001, c. 550, Pt. A, §2 (NEW).]

[2001, c. 550, Pt. A, §2 (NEW) .]

2. **Transaction voidable.** The Superior Court may void a conversion transaction entered into in violation of applicable provisions of sections 194-C to 194-H. If the court voids the transaction, it may also grant any orders necessary to restore the public charity to its former position, including removing the board of the public charity or voiding contracts.

[2001, c. 550, Pt. A, §2 (NEW) .]

3. **Penalties against individuals.** An individual officer, director, trustee or manager in a position to exercise substantial influence over the affairs of a public charity is subject to a civil penalty if that person, in violation of the standards established under Title 13-B for conduct by directors or officers or for avoiding conflicts of interest:

A. Receives property or consideration from the public charity that constitutes private inurement; or [2001, c. 550, Pt. A, §2 (NEW).]

B. Receives excess benefits that exceed the fair market value of anything provided in return. [2001, c. 550, Pt. A, §2 (NEW).]

The civil penalty under this subsection may be an amount up to 100% of the excess benefit or private inurement received and may be recovered in addition to costs and fees incurred by the Attorney General in bringing the action.

[2001, c. 550, Pt. A, §2 (NEW) .]

SECTION HISTORY
2001, c. 550, §A2 (NEW).

§195. OPINIONS ON QUESTIONS OF LAW

The Attorney General shall give his written opinion upon questions of law submitted to him by the Governor, by the head of any state department or any of the state agencies or by either branch of the Legislature or any members of the Legislature on legislative matters. [1975, c. 771, §48 (RPR).]

SECTION HISTORY
1973, c. 585, §§11,12,14 (AMD). 1973, c. 711, §3 (AMD). 1975, c. 771, §48 (RPR).

§196. DEPUTIES AND ASSISTANTS; APPOINTMENT AND DUTIES

The Attorney General may appoint one or more deputy attorneys general, assistant attorneys general and staff attorneys who serve at the pleasure of the Attorney General or until their successors are duly appointed and qualified. They may perform all the duties required of the Attorney General and other duties the Attorney General delegates to them. The Attorney General may appoint research assistants with any powers and duties the Attorney General delegates. Research assistants may perform duties delegated to them by the Attorney General, including activities authorized by Title 4, section 807. Notwithstanding any other provisions of law, the compensations of research assistants, law office manager and deputy attorneys general are fixed by the Attorney General. The compensations of the staff attorneys, assistant attorneys general and secretary to the Attorney General are fixed by the Attorney General with the approval of the Governor, but such compensations may not in the aggregate exceed the amount appropriated for those positions and may not result in an increased request to future Legislatures. [2005, c. 154, §1 (AMD).]

Notwithstanding any other provision of law, whenever the written approval of the Attorney General is required by statute or court rule and the Attorney General either is unavailable to act upon the matter or has determined that it would be legally or ethically improper for the Attorney General to do so, the required approval may be given by a deputy attorney general specifically authorized in writing by the Attorney General to act on the Attorney General's behalf in these situations. [2005, c. 154, §1 (AMD).]

SECTION HISTORY
1969, c. 53, §1 (AMD). 1971, c. 439, §8 (AMD). 1973, c. 711, §4 (RPR). 1975, c. 96, §2 (AMD). 1975, c. 771, §49 (AMD). 1977, c. 380, §B1 (AMD). 1981, c. 67, §§F1,F2 (AMD). 1981, c. 549, (AMD). 1983, c. 824, §T (AMD). 1989, c. 410, §14 (AMD). 2005, c. 154, §1 (AMD).

§197. STATE CRIMINAL INSPECTORS; CLERKS; OFFICE EXPENSES

The Attorney General is authorized to employ in his office in addition to the officers named in section 196, state criminal inspectors and additional clerks as the business of his office may demand, whose appointment and compensation shall be subject to the Civil Service Law. He may incur a reasonable expense for postage, printing, stationery and other office expenses. [1985, c. 785, Pt. B, §11 (AMD).]

SECTION HISTORY
1965, c. 478, (AMD). 1985, c. 785, §B11 (AMD).

§198. ADDITIONAL ASSISTANT ATTORNEYS GENERAL, CLERKS OR ATTORNEYS MAY BE PAID FROM MONEYS COLLECTED BY DEPARTMENT

Whenever the Attorney General shall appoint any additional assistant attorneys general or staff attorneys as authorized under section 196, or shall employ additional clerks as provided by section 197, or shall employ attorneys-at-law to collect claims due the State, the compensation of such assistants, staff attorneys, clerks or attorneys, as approved by the Governor, may be paid, if the Governor so directs, from moneys thus collected by the Department of the Attorney General. [1975, c. 771, §50 (AMD).]

SECTION HISTORY

1973, c. 711, §5 (AMD). 1975, c. 771, §50 (AMD).

§199. CONSULTATION WITH, AND ADVICE TO, DISTRICT ATTORNEYS

The Attorney General shall consult with and advise the district attorneys in matters relating to their duties. If in the Attorney General's judgment the public interest so requires, the Attorney General shall assist them by attending the grand jury in the examination of a case in which the accused is charged with treason or murder, and if in the Attorney General's judgment the public interest so requires, the Attorney General shall appear for the State in the trial of indictments for treason or murder. The Attorney General may institute and conduct prosecutions for all offenses against Title 21-A, and for that purpose attend and present evidence to grand juries and assist them in the examination of witnesses and drawing indictments. The Attorney General may, in the Attorney General's discretion, act in place of or with the district attorneys, or any of them, in instituting and conducting prosecutions for crime, and is invested, for that purpose, with all the rights, powers and privileges of each and all of them. Any or all of the powers and duties enumerated in this chapter may, at the discretion of the Attorney General, be delegated to and performed by, any deputy attorney general, assistant attorney general or staff attorney. The authority given under this section shall not be construed to deny or limit the duty and authority of the Attorney General as heretofore authorized, either by statute or under the common law. [1989, c. 502, Pt. A, §11 (AMD).]

SECTION HISTORY
1969, c. 53, §2 (AMD). 1973, c. 567, §1 (AMD). 1973, c. 711, §6 (AMD).
1989, c. 502, §A11 (AMD).

§200. ATTENDANCE AT LAW COURT AND INSTRUCTION OF COUNTY ATTORNEYS

(REPEALED)

SECTION HISTORY
1977, c. 240, §1 (RP).

§200-A. CRIMINAL DIVISION

The Attorney General is authorized to create a Criminal Division within the Department of the Attorney General in order to coordinate all criminal investigation and prosecution for the purpose of improving law enforcement within the State of Maine. [1967, c. 58, §1 (NEW).]

The Attorney General shall have full responsibility for the direction and control of all investigation and prosecution of homicides and such other major crimes as the Attorney General may deem necessary for the peace and good order of the State of Maine. [1967, c. 58, §1 (NEW).]

The Attorney General shall conduct and control all drug-related investigations of public officials or members of the law enforcement community. [1991, c. 837, Pt. B, §3 (NEW).]

The Attorney General has exclusive responsibility for the direction of any criminal investigation of an official holding a partisan public office when the alleged crime is a violation of Title 17-A, chapter 25 or when, in the Attorney General's opinion, the alleged crime may affect the official's performance in office. As used in this section, the term "partisan public office" means an office in which, prior to an election to fill the office, the candidate must declare membership in a political party, or an office filled by the appointment of the Governor, the President of the Senate or the Speaker of the House of Representatives. Any law enforcement agency investigating an alleged crime that may result in formal charges against an official holding partisan public office shall, as soon as practicable, notify the Attorney General of the investigation. The Attorney General may, after review, designate any law enforcement agency to complete the investigation and direct its completion. [1991, c. 841, §3 (NEW).]

The Attorney General has exclusive responsibility for the direction and control of any criminal investigation of a law enforcement officer who, while acting in the performance of that law enforcement officer's duties, uses deadly force, as defined in Title 17-A, section 2, subsection 8. Any law enforcement agency whose officer uses deadly force shall notify, as soon as practicable, the Attorney General of the event. [1995, c. 200, §1 (NEW).]

SECTION HISTORY
1967, c. 58, §1 (NEW). 1991, c. 837, §B3 (AMD). 1991, c. 841, §3 (AMD). 1995, c. 200, §1 (AMD).

§200-B. AUTHORITY OF ATTORNEY GENERAL TO REQUEST UTILITY RECORDS

1. **Public utility services.**

[1999, c. 686, §1 (RP) .]

1-A. **Definitions.** As used in this section, the following terms have the following meanings.

A. "Internet service provider" means an entity that provides electronic communication or remote computation services, whether or not subject to the jurisdiction of the Public Utilities Commission. [1999, c. 686, §1 (NEW).]

B. "Utility services" means:

(1) Services furnished by a public utility, as defined in Title 35-A, section 102, subsections 7, 8, 14, 15, 19, 20-B and 22, whether or not subject to the jurisdiction of the Public Utilities Commission;

(2) Services provided by an Internet service provider; and

(3) Mobile telecommunications services, as defined in Title 35-A, section 102, subsection 9-A, whether or not the provider of the mobile telecommunications services is subject to the jurisdiction of the Public Utilities Commission. [1999, c. 686, §1 (NEW).]

[1999, c. 686, §1 (NEW) .]

2. **Demand for records of utility services; cause.** The Attorney General, a deputy attorney general or a district attorney may demand, in writing, all the records or information in the possession of the public utility or Internet service provider relating to the furnishing of public utility services or Internet services to a person or a location if the attorney has reasonable grounds to believe that the services furnished to a person or to a location by a public utility or Internet service provider are being or may be used for, or to further, an unlawful purpose.

Records of utility services, as applied to Internet service providers, are limited to the following information and records in the possession of the Internet service provider: the subscriber's or customer's name, address, local and long-distance telephone billing records, telephone number or other subscriber number or identity and length of time the services have been provided to the subscriber or customer.

Upon a showing of cause to any Justice of the Superior Court or Judge of the District Court, the justice or judge shall approve the demand. Showing of cause must be by the affidavit of any law enforcement officer.

[1999, c. 686, §1 (AMD) .]

3. **Release of other information.** An order approving a demand for records of utility services may include a provision prohibiting the provider of utility services from releasing the fact of the request or that the records or information will be or have been supplied. The provider of utility services may not release the fact or facts without obtaining a court order to that effect.

[1999, c. 686, §1 (AMD) .]

4. **Production of records of utility services.** Upon receipt of a demand, approved by a justice or judge, the provider of utility services shall immediately deliver to the attorney, or the attorney's designee or agent, making the request all the records or information demanded. A provider of utility services or employee of that provider of utility services is not criminally or civilly liable for furnishing any records or information in compliance with the order approving the demand.

[1999, c. 686, §1 (AMD) .]

5. **Orders permitted under federal law.** The Attorney General, a deputy attorney general or a district attorney may, upon an affidavit of an investigating law enforcement officer, make application to any Justice of the Superior Court or any Judge of the District Court for any order permitted pursuant to 18 United States Code, Section 3122(a)(2).

[1995, c. 625, Pt. A, §2 (RPR) .]

6. **Notification; extension.** Within 60 days of approval of the demand under subsection 2, the Attorney General, deputy attorney general or district attorney making the demand shall notify the person receiving the services that the demand for utility service records has been made and approved. Upon showing of reasonable cause by the Attorney General, deputy attorney general or district attorney, the court may extend the period within which notice must be given for a definite period of time.

[1999, c. 686, §1 (NEW) .]

SECTION HISTORY
1971, c. 275, (NEW). 1985, c. 393, (AMD). 1987, c. 141, §B2 (AMD). 1987, c. 260, (AMD). 1987, c. 769, §A9 (RPR). 1995, c. 225, §1 (AMD). 1995, c. 327, §1 (RPR). 1995, c. 625, §A2 (RPR). 1999, c. 398, §A1 (AMD). 1999, c. 398, §A105 (AFF). 1999, c. 579, §1 (AMD). 1999, c. 686, §1 (AMD).

§200-C. STATE FRAUD DIVISION

1. **Establishment.** The Attorney General is authorized to create a State Fraud Division, hereinafter referred to in this section as the "division," within the Department of the Attorney General.

[1975, c. 715, §1 (NEW) .]

2. **Purpose.** The purpose of the division shall be to investigate and prosecute, including actions for civil recovery, any act of fraud or attempted fraud perpetrated against the State or any department, agency or commission thereof. The division shall not have primary responsibility for the investigation of any act of fraud or attempted fraud or incident of commingling or misapplication of funds pursuant to Title 22, section 13, subsection 2.

[1975, c. 715, §1 (NEW) .]

3. **Cooperation, information.** All agencies of the State and municipal governments shall cooperate fully with the division, rendering any assistance requested by the division. Every head of a department, bureau, division, commission or any other unit of State Government shall report in writing to the division any suspected act of fraud or attempted fraud or violation of any law in connection with funds of the State. Any such act or violation involving funds administered by the Department of Health and Human Services shall be reported pursuant to Title 22, section 13, subsection 3.

[1975, c. 715, §1 (NEW); 2003, c. 689, Pt. B, §6 (REV) .]

All information in the files of any department, commission or agency of State Government, regardless of any statute relating to confidentiality, shall be available to the division for use in connection with its official purpose. [1975, c. 715, §1 (NEW).]

SECTION HISTORY
1975, c. 715, §1 (NEW). 2003, c. 689, §B6 (REV).

§200-D. COMPLAINTS AND INVESTIGATIVE RECORDS CONFIDENTIAL *(REPEALED)*

SECTION HISTORY
1975, c. 715, §1 (NEW). 1993, c. 719, §12 (AFF). 1993, c. 719, §1 (RP).

§200-E. MEDICAL RECORDS FURNISHED TO PROSECUTOR IN CERTAIN CASES

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

A. "Medical records" means all the records of the examination or treatment of a person relating to the alleged criminal act, in whatever medium preserved, including, but not limited to, records which are made confidential by any other provision of law. [1985, c. 422, (NEW).]

B. "Victim" means a person who is or was the object of an alleged criminal act. In this section, a person who is certified by the prosecutor to be a victim, shall be considered a victim.

A victim includes, but is not limited to:

(1) A person certified to be deceased;

(2) An abused person who has not attained his 18th birthday;

(3) An abused person who reasonably appears to be incapacitated; or

(4) An abused person subject to guardianship, public guardianship or temporary guardianship. [1985, c. 422, (NEW).]

[1985, c. 422, (NEW) .]

2. **Medical examination; criminal proceeding or investigation.** In any criminal proceeding or investigation, where medical examination or treatment has been provided to a victim, upon written request of the Attorney General or any of his deputies or assistants whom he designates in writing, or the district attorney or his deputy or assistants whom he designates in writing, any individual, partnership, association, corporation, institution or governmental entity which has rendered the examination or treatment shall immediately provide the authorized person with all medical records pertaining to the medical examination or treatment that are requested by the authorized person. Where the authorized person knows of circumstances or factors which would require production of fewer than all medical records, he shall attempt to request the specific medical records believed to be pertinent.

A. Unless otherwise provided by state or federal law, this section on the furnishing of confidential medical records governs. [1985, c. 422, (NEW).]

[1985, c. 422, (NEW) .]

3. **Medical records; copies.** A person or entity who provides copies of medical records shall be entitled to be paid the reasonable costs of the provision of the copies as agreed upon by the person or entity who provides these copies and the authorized person making the request pursuant to this section. If the parties cannot agree, the Superior Court shall order reimbursement at a reasonable rate. The delay occasioned by any negotiations surrounding reimbursement or complaint to the Superior Court shall not delay the provision of the requested medical records.

[1985, c. 422, (NEW) .]

4. **Medical records confidential.** Medical records obtained by the authorized person pursuant to this section are confidential and shall not be disseminated to any person other than by order of court or to a member of the staff of the authorized person, a law enforcement officer specially assigned to the criminal proceeding or investigation, or other person who, by virtue of special knowledge or training, is designated by the authorized person to assist him in the performance of his duty in the criminal proceeding or investigation.

[1985, c. 422, (NEW) .]

5. **Civil contempt.** Any person who is required to produce medical records by this section and intentionally or knowingly fails to do so within 20 days of the service of the written request upon him, may be subject to civil contempt for his failure to comply with the request.

[1985, c. 422, (NEW) .]

6. **Immunity from liability.** No individual, partnership, association, corporation, institution or governmental entity or employee or agent of a governmental entity may be criminally or civilly responsible for furnishing any medical records in compliance with this section.

[1985, c. 422, (NEW) .]

SECTION HISTORY
1981, c. 242, §1 (NEW). 1985, c. 422, (RPR).

§200-F. TELEPHONE COMMUNICATION BY KIDNAPPERS

Whenever the Attorney General has reason to believe that one or more persons have been kidnapped, as defined by Title 17-A, section 301, he shall have the authority to order a public utility company employee to cut, reroute or divert telephone lines for the purpose of preventing telephone communication by the kidnapper with any person other than a law enforcement officer or a person authorized by a law enforcement officer to receive or transmit those communications. [1981, c. 242, §1 (NEW).]

SECTION HISTORY
1981, c. 242, §1 (NEW).

§200-G. STRIP SEARCHES AND BODY CAVITY SEARCHES

1. **Rules promulgated.** The Attorney General shall promulgate rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, relating to strip searches and body cavity searches of arrestees. These rules shall be a guide for the conduct of law enforcement officers in enforcing

the law and shall establish acceptable procedures for conducting a strip search or a body cavity search of an arrestee when the arrestee is concealing a weapon or where an officer has a reasonable belief that the arrestee may be concealing contraband or evidence of a crime.

A copy of these rules shall be furnished to each officer within the Department of Public Safety and to each sheriff's department and police department statewide and shall be filed and be available for public inspection at the headquarters of each department.

[1983, c. 789, §1 (NEW) .]

2. **Conditions.** The rules promulgated by this subsection shall be subject to the following conditions:

A. [2003, c. 196, §1 (RP).]

B. Strip searches or body cavity searches of the mouth shall be conducted by an officer or officers or by authorized medical personnel of the same sex as the arrestee under conditions so that the search cannot be observed by persons other than the officer or officers or authorized medical personnel conducting the search. [1983, c. 789, §1 (NEW).]

C. Body cavity searches other than of the mouth shall be conducted by medically trained personnel of the same sex as the arrestee under conditions so that the search cannot be observed by persons other than those conducting the search. [1983, c. 789, §1 (NEW).]

D. Each strip search or body cavity search shall be recorded in a log kept by the Department of Public Safety, sheriff's department or police department indicating the person who ordered the search, the name of the arrestee and the parts of the body searched. [1983, c. 789, §1 (NEW).]

[2003, c. 196, §1 (AMD) .]

3. **Immunity.** A person is immune from criminal or civil liability for an act or omission in conducting a body cavity search if:

A. The body cavity search is pursuant to a search warrant directing the body cavity search; [1999, c. 290, §1 (NEW).]

B. The person is authorized to conduct a body cavity search under the rules adopted pursuant to subsection 1; and [1999, c. 290, §1 (NEW).]

C. The person uses due care in conducting the body cavity search. [1999, c. 290, §1 (NEW).]

Nothing in this subsection requires a person authorized to conduct body cavity searches to conduct a body cavity search pursuant to a search warrant.

[1999, c. 290, §1 (NEW) .]

SECTION HISTORY
1983, c. 789, §1 (NEW). 1999, c. 290, §1 (AMD). 2003, c. 196, §1 (AMD).

§200-H. MAINE ELDER DEATH ANALYSIS REVIEW TEAM

There is created, within the Office of the Attorney General, the Maine Elder Death Analysis Review Team, referred to in this section as "the team." [2003, c. 433, §1 (NEW).]

1. **Composition.** The team is composed of 16 members as follows:

A. The Chief Medical Examiner, ex officio; [2003, c. 433, §1 (NEW).]

B. The Director of Investigations for the Office of the Attorney General, ex officio; [2003, c. 433, §1 (NEW).]

C. The Director of the Division of Licensing and Regulatory Services within the Department of Health and Human Services, ex officio; [2007, c. 324, §1 (AMD).]

D. The Director of the Health Care Crimes Unit within the Office of the Attorney General, ex officio; [2003, c. 433, §1 (NEW).]

E. The Director of Aging Planning and Resources Development within the Department of Health and Human Services, Office of Elder and Adult Services, ex officio; [2009, c. 149, §1 (AMD).]

F. The Director of the Adult Protective Services program within the Department of Health and Human Services, Office of Elder and Adult Services, ex officio; [2009, c. 149, §1 (AMD).]

G. The Director of Adult Mental Health Services within the Department of Health and Human Services, ex officio; [2003, c. 433, §1 (NEW); 2003, c. 689, Pt. B, §6 (REV).]

H. The executive director of the long-term care ombudsman program, as established in Title 22, section 5106, subsection 11-C, ex officio; [2003, c. 433, §1 (NEW).]

H-1. A sexual assault nurse examiner within the Department of Health and Human Services; [2015, c. 267, Pt. GG, §1 (AMD).]

I. A representative of victim services, appointed by the Attorney General; [2003, c. 433, §1 (NEW).]

J. A commanding officer of the Criminal Investigation Division within the Department of Public Safety, Bureau of the State Police, appointed by the Attorney General; [2003, c. 433, §1 (NEW).]

K. A prosecutor, nominated by a statewide association of prosecutors and appointed by the Attorney General; [2003, c. 433, §1 (NEW).]

L. A police chief, nominated by a statewide association of chiefs of police and appointed by the Attorney General; [2009, c. 149, §1 (AMD).]

M. A sheriff, nominated by a statewide association of sheriffs and appointed by the Attorney General; [2009, c. 149, §1 (AMD).]

N. A physician, a geriatrician or a primary care physician who works in the area of elder care, nominated by a statewide association of physicians and appointed by the Attorney General; and [2009, c. 149, §1 (NEW).]

O. An emergency medical services' person, nominated by a statewide association of emergency medical services professionals and appointed by the Attorney General. [2009, c. 149, §1 (NEW).]

[2015, c. 267, Pt. GG, §1 (AMD) .]

2. **Designees; terms of office.** An ex officio member may appoint a designee to represent the ex officio member on the team. A designee, once appointed, qualifies as a full voting member of the team who may hold office and enjoy all the other rights and privileges of full membership on the team. All of the appointed members of the team serve for a term of 3 years. Any vacancy on the team must be filled in the same manner as the original appointment, but for the unexpired term.

[2003, c. 433, §1 (NEW) .]

3. **Meetings; officers.** The team shall meet at such time or times as may be reasonably necessary to carry out its duties, but it shall meet at least once in each calendar quarter at such place and time as the team determines, and it shall meet at the call of the chair. The Attorney General shall call the first meeting before January 1, 2004. The team shall organize initially and thereafter annually by electing a chair and a vice-chair from among its members. The vice-chair shall also serve as secretary.

[2003, c. 433, §1 (NEW) .]

4. **Powers and duties.** The team shall examine deaths and serious injuries associated with suspected abuse or neglect of elderly adults and vulnerable adults. The purpose of such examinations is to identify whether systems that have the responsibility to assist or protect victims were sufficient for the particular circumstances or whether such systems require adjustment or improvement. The team shall recommend methods of improving the system for protecting persons from abuse and neglect, including modifications of statutes, rules, training and policies and procedures.

[2003, c. 433, §1 (NEW) .]

5. **Access to information and records.** In any case subject to review by the team, upon oral or written request of the team, notwithstanding any other provision of law, any person that possesses information or records that are necessary and relevant to a team review shall as soon as practicable provide the team with the information and records. Persons disclosing or providing information or records upon request of the team are not criminally or civilly liable for disclosing or providing information or records in compliance with this subsection.

[2003, c. 433, §1 (NEW) .]

6. **Confidentiality.** The proceedings and records of the team are confidential and are not subject to subpoena, discovery or introduction into evidence in a civil or criminal action. The Office of the Attorney General shall disclose conclusions of the review team upon request, but may not disclose information, records or data that are otherwise classified as confidential.

[2003, c. 433, §1 (NEW) .]

SECTION HISTORY
2003, c. 433, §1 (NEW). 2003, c. 689, §B6 (REV). 2007, c. 324, §1 (AMD). 2009, c. 149, §1 (AMD). 2015, c. 267, Pt. GG, §1 (AMD).

§200-I. PUBLIC ACCESS DIVISION; PUBLIC ACCESS OMBUDSMAN

1. **Public Access Division; Public Access Ombudsman.** There is created within the Department of the Attorney General the Public Access Division to assist in compliance with the State's freedom of access laws, Title 1, chapter 13. The Attorney General shall appoint the Public Access Ombudsman, referred to in this section as "the ombudsman," to administer the division.

[2007, c. 603, §1 (NEW) .]

2. **Duties.** The ombudsman shall:

A. Prepare and make available interpretive and educational materials and programs concerning the State's freedom of access laws in cooperation with the Right To Know Advisory Committee established in Title 1, section 411; [2007, c. 603, §1 (NEW).]

B. Respond to informal inquiries made by the public and public agencies and officials concerning the State's freedom of access laws; [2007, c. 603, §1 (NEW).]

C. Respond to and work to resolve complaints made by the public and public agencies and officials concerning the State's freedom of access laws; [2007, c. 603, §1 (NEW).]

D. Furnish, upon request, advisory opinions regarding the interpretation of and compliance with the State's freedom of access laws to any person or public agency or official in an expeditious manner. The ombudsman may not issue an advisory opinion concerning a specific matter with respect to which a lawsuit has been filed under Title 1, chapter 13. Advisory opinions must be publicly available after distribution to the requestor and the parties involved; [2013, c. 229, §1 (AMD).]

E. Make recommendations concerning ways to improve public access to public records and proceedings; and [2013, c. 229, §1 (AMD).]

F. Coordinate with the state agency public access officers the compilation of data through the development of a uniform log to facilitate record keeping and annual reporting of the number of requests for information, the average response time and the costs of processing requests. [2013, c. 229, §2 (NEW).]

[2013, c. 229, §§1, 2 (AMD) .]

3. **Assistance.** The ombudsman may request from any public agency or official such assistance, services and information as will enable the ombudsman to effectively carry out the responsibilities of this section.

[2007, c. 603, §1 (NEW) .]

4. **Confidentiality.** The ombudsman may access records that a public agency or official believes are confidential in order to make a recommendation concerning whether the public agency or official may release the records to the public. The ombudsman's recommendation is not binding on the public agency or official. The ombudsman shall maintain the confidentiality of records and information provided to the ombudsman by a public agency or official under this subsection and shall return the records to the public agency or official when the ombudsman's review is complete.

[2007, c. 603, §1 (NEW) .]

5. **Report.** The ombudsman shall submit a report not later than January 15th of each year to the Legislature and the Right To Know Advisory Committee established in Title 1, section 411 concerning the activities of the ombudsman for the previous year. The report must include:

A. The total number of inquiries and complaints received; [2007, c. 603, §1 (NEW).]

B. The number of inquiries and complaints received respectively from the public, the media and public agencies or officials; [2007, c. 603, §1 (NEW).]

C. The number of complaints received concerning respectively public records and public meetings; [2007, c. 603, §1 (NEW).]

D. The number of complaints received concerning respectively:

(1) State agencies;

(2) County agencies;

(3) Regional agencies;

(4) Municipal agencies;

(5) School administrative units; and

(6) Other public entities; [2007, c. 603, §1 (NEW).]

E. The number of inquiries and complaints that were resolved; [2007, c. 603, §1 (NEW).]

F. The total number of written advisory opinions issued and pending; and [2007, c. 603, §1 (NEW).]

G. Recommendations concerning ways to improve public access to public records and proceedings. [2007, c. 603, §1 (NEW).]

[2015, c. 250, Pt. B, §1 (AMD) .]

6. **Repeal.**

[2009, c. 240, §7 (RP) .]

SECTION HISTORY
2007, c. 603, §1 (NEW). 2009, c. 240, §7 (AMD). 2013, c. 229, §§1, 2 (AMD). 2015, c. 250, Pt. B, §1 (AMD).

§200-J. COLD CASE HOMICIDE UNIT

The Attorney General in collaboration with the Commissioner of Public Safety shall establish a cold case homicide unit within the Department of the Attorney General to work exclusively on unsolved murders in the State. The unit must consist of personnel from the Department of the Attorney General and the Department of Public Safety, Bureau of State Police and must include at a minimum one attorney from the Department of the Attorney General, 2 detectives from the Bureau of State Police and one employee of the bureau's crime laboratory. The Attorney General shall adopt rules for the operation of the unit. Rules adopted pursuant to this section are routine technical rules as defined in chapter 375, subchapter 2-A. [2013, c. 585, §1 (NEW); 2013, c. 585, §4 (AFF); 2015, c. 267, Pt. D, §1 (AFF).]

SECTION HISTORY
2013, c. 585, §1 (NEW). 2013, c. 585, §4 (AFF). 2015, c. 267, Pt. D, §1 (AFF).

§201. ATTENDANCE OF WITNESSES; RECOGNIZANCES

When a criminal prosecution in which he appears is continued, the Attorney General shall cause the witnesses in behalf of the State to recognize to appear at the next term, unless otherwise directed by the court, and may procure the attendance of a witness living out of the State deemed by him material in procuring an indictment or conviction. The court shall allow such witness a reasonable compensation beyond his legal fees.

§202. EMPLOYMENT OF DETECTIVES

The Attorney General may, for the Department of the Attorney General or through the several district attorneys or other officers of the State, employ such detectives or other persons, offer rewards or use other means that the Attorney General considers advisable for the detection, arrest and apprehension of persons who commit crime in this State. Detectives with the department may exercise all the powers necessary to levy and enforce writs of execution on judgments owed to the State. Any property seized as payment towards a judgment owed to the State may be sold by the State at a surplus auction or in any other commercially reasonable manner. [2007, c. 248, §2 (AMD).]

SECTION HISTORY
1973, c. 567, §2 (AMD). 2007, c. 248, §2 (AMD).

§203. APPROPRIATIONS

1. **Expenses charged to appropriation.** Such sum as may be appropriated for the purposes of this chapter may be expended under the direction of the Attorney General. The Attorney General shall, at the request of any state department, make or cause to be made investigations in behalf of the department and the Attorney General shall prosecute any case to such extent as may seem advisable with all the rights, powers and privileges of district attorneys. The expense of any such investigation and of any prosecution that results from the investigation is charged to this appropriation.

[1991, c. 9, Pt. G, §1 (NEW) .]

2. **Legal services to agency with dedicated revenue.** Notwithstanding any other provision of law, when the Attorney General provides legal services to any board or state agency that is financed in whole or in part by dedicated or federal revenues, the Attorney General may bill the board or agency at a reasonable rate determined by the Attorney General. An account may be established by the Attorney General for receipt of these revenues. Attorneys in the Office of the Attorney General may be paid in whole or in part from these accounts or in part from a General Fund account. After reimbursement to an account in the Office of the Attorney General is made, the remaining balance must be deposited in the General Fund.

[1991, c. 528, Pt. RRR, (AFF); 1991, c. 528, Pt. X, §1 (AMD); 1991, c. 591, Pt. X, §1 (AMD) .]

3. **Allocation of work.** Notwithstanding any other provision of law, the Attorney General has discretion to allocate legal work among the attorneys in the Department of the Attorney General without reference to position counts contained in any appropriation. If the provisions of this section are used to seek reimbursement for legal services for which there is specific appropriation, the Attorney General shall keep time records demonstrating the amount of legal services performed for which reimbursement is sought. The Attorney General shall submit a quarterly report detailing the manner in which legal work has been allocated among attorneys in that office pursuant to this subsection to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over audit and program review.

[1991, c. 9, Pt. G, §1 (NEW) .]

SECTION HISTORY
1973, c. 567, §20 (AMD). 1991, c. 9, §G1 (RPR). 1991, c. 528, §X1 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §X1 (AMD).

§203-A. ACCOUNTS ESTABLISHED DUE TO COURT ORDERS OR OTHER SETTLEMENTS

Unless specifically ordered by the court to do otherwise, the Attorney General shall work with the Treasurer of State to deposit any revenue or money received as a result of any court order, court settlement or other agreement into an other special revenue account of the State and all interest must be credited to the General Fund. When, pursuant to a court order or settlement, the Attorney General receives money that is specifically designated for antitrust enforcement or for enforcement of the Maine Unfair Trade Practices Act, the Attorney General is authorized to expend such funds for expert witness fees, copying of documents, transcripts and any other purpose in accordance with the court order. Any interest on such funds, unless otherwise ordered by the court, must be credited to the General Fund. The Attorney General shall provide an accounting of such funds to the Legislature in a form and as determined by the Office of Fiscal and Program Review. [1991, c. 532, §1 (NEW); 1991, c. 532, §2 (AFF).]

SECTION HISTORY
1991, c. 532, §1 (NEW). 1991, c. 532, §2 (AFF).

§204. BIENNIAL REPORTS

(REPEALED)

SECTION HISTORY
1973, c. 567, §20 (AMD). 1977, c. 78, §9 (AMD). 1977, c. 240, §2 (RP).

§204-A. ANNUAL REPORT

The Attorney General, working with the district attorneys of the State, shall submit a report that compiles data from domestic violence prosecutors statewide to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs, the joint standing committee of the Legislature having jurisdiction over criminal justice matters and the joint standing committee of the Legislature having jurisdiction over judiciary matters on an annual basis. The first report must be submitted no later than October 1, 2001. [1999, c. 746, §1 (NEW).]

SECTION HISTORY
1999, c. 746, §1 (NEW).

§205. FEES FROM PROSECUTORS FORBIDDEN

The Attorney General shall not receive any fee or reward from or in behalf of any prosecutor for official services or, during the pendency of a prosecution, be engaged as counsel or attorney for either party in a civil action depending essentially on the same facts.

Chapter 10: UNFAIR TRADE PRACTICES

§205-A. SHORT TITLE

This chapter will be known as and may be cited as the Maine Unfair Trade Practices Act. [1987, c. 307, §1 (NEW).]

SECTION HISTORY
1987, c. 307, §1 (NEW).

§206. DEFINITIONS

The following words, as used in this chapter, unless the context otherwise requires or a different meaning is specifically required, shall mean: [1969, c. 577, §1 (NEW).]

1. **Documentary material.** "Documentary material" shall include the original or a copy of any book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription or other tangible document or recording wherever situate.

[1969, c. 577, §1 (NEW) .]

2. **Person.** "Person" shall include, where applicable, natural persons, corporations, trusts, partnerships, incorporated or unincorporated associations and any other legal entity.

[1969, c. 577, §1 (NEW) .]

3. **Trade and commerce.** "Trade" and "commerce" shall include the advertising, offering for sale, sale or distribution of any services and any property, tangible or intangible, real, personal or mixed, and any other article, commodity or thing of value wherever situate, and shall include any trade or commerce directly or indirectly affecting the people of this State.

[1969, c. 577, §1 (NEW) .]

SECTION HISTORY
1969, c. 577, §1 (NEW).

§207. UNLAWFUL ACTS AND CONDUCT

Unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are declared unlawful. [1969, c. 577, §1 (NEW).]

1. **Intent.** It is the intent of the Legislature that in construing this section the courts will be guided by the interpretations given by the Federal Trade Commission and the Federal Courts to Section 45(a)(1) of the Federal Trade Commission Act (15 United States Code 45(a)(1)), as from time to time amended.

[2007, c. 466, Pt. A, §4 (AMD) .]

2. **Rules and regulations.** The Attorney General may make rules and regulations interpreting this section. Such rules and regulations shall not be inconsistent with the rules, regulations and decisions of the Federal Trade Commission and the Federal Courts interpreting the provisions of 15 U.S.C. 45(a)(1) (The Federal Trade Commission Act) as from time to time amended. Evidence of a violation of a rule or regulation made by the Attorney General shall constitute prima facie evidence of an act or practice declared to be unlawful by this chapter in any action thereafter brought under this chapter.

[1973, c. 322, (AMD) .]

SECTION HISTORY
1969, c. 577, §1 (NEW). 1973, c. 322, (AMD). 2007, c. 466, Pt. A, §4 (AMD).

§208. EXCEPTIONS

Nothing in this chapter shall apply to: [1969, c. 577, §1 (NEW).]

1. **Regulatory boards.** Transactions or actions otherwise permitted under laws as administered by any regulatory board or officer acting under statutory authority of the State or of the United States. This exception applies only if the defendant shows that:

A. Its business activities are subject to regulation by a state or federal agency; and [2007, c. 222, §1 (NEW).]

B. The specific activity that would otherwise constitute a violation of this chapter is authorized, permitted or required by a state or federal agency or by applicable law, rule or regulation or other regulatory approval. [2007, c. 222, §1 (NEW).]

[2007, c. 222, §1 (AMD) .]

2. **Interstate commerce.**

[1981, c. 569, (RP) .]

3. **Complaints.**

[1973, c. 323, §2 (RP) .]

SECTION HISTORY
1969, c. 577, §1 (NEW). 1973, c. 323, §§1,2 (AMD). 1981, c. 569, (AMD). 2007, c. 222, §1 (AMD).

§209. INJUNCTION; PROCEDURES

Whenever the Attorney General has reason to believe that any person is using or is about to use any method, act or practice declared by section 207 to be unlawful, and that proceedings would be in the public interest, he may bring an action in the name of the State against such person to restrain by temporary or permanent injunction the use of such method, act or practice and the court may make such other orders or judgments as may be necessary to restore to any person who has suffered any ascertainable loss by reason of the use or employment of such unlawful method, act or practice, any moneys or property, real or personal, which may have been acquired by means of such method, act or practice. At least 10 days prior to commencement of any action under this section, the Attorney General shall notify the person of his intended action, and give the person an opportunity to confer with the Attorney General in person or by counsel or other representative as to the proposed action. Notice shall be given the person by mail, postage prepaid, sent to his usual place of business, or if he has no usual place of business, to his last known address. The Attorney General may proceed without notice as required by this section upon a showing of facts by affidavit of immediate irreparable harm to the consumers of the State. The action may be brought in the Superior Court of the county in which such person resides or has his principal place of business, or may be brought in the Superior Court of Kennebec County. The said courts are authorized to issue temporary or permanent injunctions to restrain and prevent violations of this chapter. Any district attorney or law enforcement officer, receiving notice of any alleged violation of this chapter, shall immediately forward written notice of the same with any other information that he may have to the office of the Attorney General. Any person who violates the terms of an injunction issued under this section shall forfeit and pay to the State, to be applied in the carrying out of this chapter, a civil penalty of not more than $10,000 for each violation. For the purposes of this section, the court issuing such injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the State may petition for recovery of such civil penalty. In any action under this section where a permanent injunction is issued, the court may order the person against whom the permanent injunction has been issued to pay to the State the costs of the investigation of that person by the Attorney General and the costs of the suit, which funds shall accrue to the General Fund. [1975, c. 199, (AMD).]

In any action under this section where a permanent injunction is denied, the court may order the State to pay the costs of the defense of the prevailing party or parties and the costs of the suit upon a finding by the court that the action was frivolous. [1981, c. 339, (NEW).]

In any action by the Attorney General brought against the defendant for violating the terms of an injunction issued under this section, the court may make such orders or judgments as may be necessary to restore to any persons who have suffered any ascertainable loss by reason of such conduct found to be in violation of an injunction, any money or property, real or personal, which may have been acquired by means of such conduct. Each intentional violation of section 207 in which the Attorney General establishes that the conduct giving rise to the violation is either unfair or deceptive is a violation for which a civil penalty of not more than $10,000 shall be adjudged. The Attorney General may seek to recover civil penalties for violations of section 207 which are intentional and are unfair or deceptive. The Attorney General in seeking civil penalties has the burden of proving that the conduct was intentional and was unfair or deceptive notwithstanding any other statute which declares a violation of that statute an unfair trade practice. These penalties shall be applied in the carrying out of this chapter. [1989, c. 239, (AMD).]

SECTION HISTORY
1969, c. 577, §1 (NEW). 1971, c. 229, (AMD). 1971, c. 338, §§1,2 (AMD). 1971, c. 622, §8 (AMD). 1973, c. 419, §§1,2 (AMD). 1973, c. 567, §20 (AMD). 1975, c. 199, (AMD). 1981, c. 339, (AMD). 1987, c. 307, §2 (AMD). 1989, c. 239, (AMD).

§210. DISCONTINUANCE; COSTS

In any case where the Attorney General has authority to institute an action or proceeding under section 209, in lieu thereof he may accept an assurance of discontinuance of any method, act or practice in violation of this chapter from any person alleged to be engaged or to have been engaged in such method, act or

practice. Such assurance may include a stipulation for the voluntary payment by such person of the costs of investigation, or of an amount to be held in escrow pending the outcome of an action or as restitution to aggrieved buyers, or both. Any such assurance of discontinuance shall be in writing and be filed with the Superior Court of Kennebec County. Matters thus closed may at any time be reopened by the Attorney General for further proceedings in the public interest. Evidence of a violation of such assurance shall constitute prima facie evidence of an act or practice declared to be unlawful by this chapter in any action thereafter brought under this chapter. [1973, c. 320, (AMD).]

SECTION HISTORY
1969, c. 577, §1 (NEW). 1973, c. 320, (AMD).

§211. EXAMINATION; NOTICE REQUIREMENTS

The Attorney General, whenever he believes any person to be or to have been in violation of this chapter, may examine or cause to be examined for that purpose, any books, records, papers and memoranda of whatever nature relevant to such alleged violation. The Attorney General may require the attendance of such person or of any other person having knowledge in the premises at any place in the county where such person resides or has a place of business or in Kennebec County if such person is a nonresident or has no place of business within the State, and may take testimony and require proof material for his information, and may administer oaths or take acknowledgement in respect of any book, record, paper or memorandum. The Attorney General shall serve notice of the time, place and cause of such examination or attendance at least 10 days prior to the date of such examination. [1969, c. 577, §1 (NEW).]

1. **Service.** Service of any such notice may be made by:

A. Delivering a duly executed copy thereof to the person to be served or to a partner or to any officer or agent authorized by appointment or by law to receive service of process on behalf of such person; [1969, c. 577, §1 (NEW).]

B. Delivering a duly executed copy thereof to the principal place of business in this State of the person to be served; or [1969, c. 577, §1 (NEW).]

C. Mailing by registered or certified mail a duly executed copy thereof addressed to the person to be served at the principal place of business in this State or, if said person has no place of business in this State, to his principal office or place of business. [1969, c. 577, §1 (NEW).]

[1969, c. 577, §1 (NEW) .]

2. **Contents.** Each such notice shall:

A. State the time and place for taking the examination and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs; [1969, c. 577, §1 (NEW).]

B. State the statute and section thereof, the alleged violation of which is under investigation, and the general subject matter of the investigation; [1969, c. 577, §1 (NEW).]

C. Describe the class or classes of documentary material to be produced thereunder with reasonable specificity so as fairly to indicate the material demand; [1969, c. 577, §1 (NEW).]

D. Prescribe a return date within which the documentary material is to be produced; and [1969, c. 577, §1 (NEW).]

E. Identify the members of the Attorney General's staff to whom such documentary material is to be made available for inspection and copying. [1969, c. 577, §1 (NEW).]

[1969, c. 577, §1 (NEW) .]

3. **Exceptions.** No such notice shall:

A. Contain any requirement which would be unreasonable or improper if contained in a subpoena duces tecum issued by a court of this State; or [1969, c. 577, §1 (NEW).]

B. Require the disclosure of any documentary material that would be privileged or that for any other reason would not be required by a subpoena duces tecum issued by a court of this State. [2001, c. 370, §1 (AMD).]

[2001, c. 370, §1 (AMD) .]

4. **Disclosure of documentary material.** Documentary material demanded pursuant to this section must be produced for inspection, reproduction and copying during normal business hours at the principal office or place of business of the person served, in the county where that person resides or has a place of business, in Kennebec County if the person served is a nonresident or has no place of business within the State or at such other times and places as may be agreed upon by the person served and the Attorney General. Any book, record, paper, memorandum or other information produced by any person pursuant to this section, unless otherwise ordered by a court of this State for good cause shown, may not be disclosed to any person other than the authorized agent or representative of the Attorney General unless with the consent of the person producing the same, except that such material or information may be disclosed by the Attorney General in court pleadings or other papers filed in court.

[2001, c. 370, §2 (NEW) .]

5. **Motion for additional time, to modify or set aside or grant protective order.** At any time prior to the date specified in the notice or within 21 days after the notice has been served, whichever period is shorter, the court upon motion for good cause shown may extend that reporting date or modify or set aside that demand or grant a protective order in accordance with the standards set forth in the Maine Rules of Civil Procedure, Rule 26(c). The motion may be filed in the Superior Court of the county in which the person served resides or has a usual place of business or in Kennebec County.

[2001, c. 370, §2 (NEW) .]

6. **Information not to be used in criminal proceeding.** A person is not excused from attending and testifying or from producing documentary material in compliance with this section on the ground or for the reason that the testimony or other information, documentary or otherwise, may tend to incriminate that person or subject that person to a penalty or forfeiture. Testimony and other information obtained under the authority of this section and information directly or indirectly derived from such testimony or other information may not be used against a natural person who has testified or produced information under oath in compliance with this section in any criminal case except a prosecution for perjury, giving a false statement or otherwise failing to comply with a notice served upon that person under this section.

[2001, c. 370, §2 (NEW) .]

7. **Cost of court reporter.** At the request of the person under investigation or that person's attorney, any testimony taken pursuant to a demand or notice under this section must be recorded on a recording device or taken before a court reporter authorized to serve as such under the laws of the State. Upon request of either party, all such testimony taken or recorded must be transcribed by an authorized court reporter, and in that case the original transcript of that testimony must be preserved by the Attorney General. The cost of the taking or recording and transcription must be paid by the State. In the event the Attorney General or some other party obtains judgment against the party whose testimony is taken for a violation of section 207, the cost of the court reporter or recording and transcription may be recovered by the State in such a judgment.

[2001, c. 370, §2 (NEW) .]

8. **Authority not applicable in criminal proceedings.** This section is not applicable to any criminal proceeding brought under the laws of this State.

[2001, c. 370, §2 (NEW) .]

SECTION HISTORY
1969, c. 577, §1 (NEW). 1973, c. 334, (AMD). 1973, c. 648, (AMD). 1975, c. 529, (AMD). 2001, c. 370, §§1-5 (AMD).

§212. PENALTIES

A person upon whom a notice is served pursuant to section 211 shall comply with the terms thereof unless otherwise provided by the order of a court of this State. Any person who fails to appear, or with intent to avoid, evade or prevent compliance, in whole or in part, with any civil investigation under this section, removes from any place, conceals, withholds or destroys, mutilates, alters or by any other means falsifies any documentary material in the possession, custody or control of any person subject of any such notice, or knowingly conceals any relevant information, shall be subject to a civil penalty of not more than $5,000 payable to the State to be recovered in a civil action. [1977, c. 696, §35 (AMD).]

Whenever any person fails to comply with any notice served upon him under section 211, or whenever satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material, the Attorney General may file, in the Superior Court of the county in which such person resides or has his principal place of business or of Kennebec County, if such person is a nonresident or has no principal place of business in this State, and serve upon such person or in the same manner as provided in section 211 a petition for an order of such court for the enforcement of this section. Any disobedience of any final order entered under this section by any court shall be punished as a contempt thereof. [1969, c. 577, §1 (NEW).]

SECTION HISTORY
1969, c. 577, §1 (NEW). 1977, c. 696, §35 (AMD).

§213. PRIVATE REMEDIES

1. **Court action.** Any person who purchases or leases goods, services or property, real or personal, primarily for personal, family or household purposes and thereby suffers any loss of money or property, real or personal, as a result of the use or employment by another person of a method, act or practice declared unlawful by section 207 or by any rule or regulation issued under section 207, subsection 2 may bring an action either in the Superior Court or District Court for actual damages, restitution and for such other equitable relief, including an injunction, as the court determines to be necessary and proper. There is a right to trial by jury in any action brought in Superior Court under this section.

[1991, c. 536, §1 (AMD) .]

1-A. **Settlement offer.** At least 30 days prior to the filing of an action for damages, a written demand for relief, identifying the claimant and reasonably describing the unfair and deceptive act or practice relied upon and the injuries suffered, must be mailed or delivered to any prospective respondent at the respondent's last known address. A person receiving a demand for relief, or otherwise a party to any litigation arising from the claim that is the subject of the court action, may make a written tender of settlement or, if a court action has been filed, an offer of judgment. If the judgment obtained in court by a claimant is not more favorable than any rejected tender of settlement or offer of judgment, the claimant may not recover attorney's fees or costs incurred after the more favorable tender of settlement or offer of judgment.

The demand requirement of this subsection does not apply if the claim is asserted by way of counterclaim or cross claim.

[1991, c. 536, §2 (NEW); 1991, c. 536, §3 (AFF) .]

2. **Fees and costs.** If the court finds, in any action commenced under this section that there has been a violation of section 207, the petitioner shall, in addition to other relief provided for by this section and irrespective of the amount in controversy, be awarded reasonable attorney's fees and costs incurred in connection with said action.

[1973, c. 251, (NEW) .]

3. **Notices to Attorney General.** Upon commencement of any action brought under subsection 1, the clerk of courts shall mail a copy of the complaint or other initial pleading to the Attorney General and upon entry of any judgment or decree in the action, shall mail a copy of such judgment or decree to the Attorney General.

[1973, c. 251, (NEW) .]

4. **Injunction as evidence.** Any permanent injunction or order of the court issued under section 209 shall be prima facie evidence in an action brought under subsection 1 that the respondent used or employed an unfair or deceptive method, act or practice declared unlawful under section 207.

[1973, c. 251, (NEW) .]

SECTION HISTORY
1973, c. 251, (NEW). 1973, c. 788, §13 (AMD). 1979, c. 451, (AMD). 1983, c. 29, §2 (AMD). 1991, c. 536, §§1,2 (AMD). 1991, c. 536, §3 (AFF).

§214. WAIVER; PUBLIC POLICY

Any waiver by a consumer of the provisions of this chapter is contrary to public policy and shall be unenforceable and void. [1973, c. 321, (NEW).]

SECTION HISTORY
1973, c. 321, (NEW).

Chapter 11: OFFICE OF THE STATE AUDITOR

§241. STATE AUDITOR; SALARY

The State Auditor is the head of the Office of the State Auditor. The State Auditor must be a certified public accountant or a college graduate with not less than 6 years of experience as a professional accountant or auditor, including not less than 5 years of auditing experience, of which not less than 4 years must have been in a supervisory capacity. The State Auditor must be elected by the Legislature by a joint ballot of the Senators and Representatives in convention and holds office for a term of 4 years or until a successor is elected and qualified. The State Auditor shall exercise such powers and perform such duties as are set forth in this chapter. In case the office of State Auditor becomes vacant during a period when the Legislature is not in session, the appointment of a person to fill such vacancy must be made immediately by the President of the Senate or if that office is vacant, by the Speaker of the House, and the person appointed holds that office until such time as the Legislature meets in regular or special session, and either confirm the appointment of the person or chooses another person to fill the office during the unexpired term. [2013, c. 16, §1 (AMD).]

If a person elected to the office of State Auditor is not qualified as, or has not successfully completed or passed the examination for, a certified public accountant, certified information systems auditor or certified internal auditor at the time of election and fails to become so qualified within 9 months of being sworn into office, as required by section 242, that person may no longer serve as State Auditor and is ineligible for reelection by the same Legislature and the office of State Auditor is deemed vacant. [2015, c. 44, §3 (AMD).]

SECTION HISTORY
1965, c. 510, §2 (AMD). 1967, c. 476, §10 (AMD). 1969, c. 504, §7 (AMD). 1973, c. 792, §1 (AMD). 1997, c. 516, §1 (AMD). 2013, c. 16, §1 (AMD). 2015, c. 44, §3 (AMD).

§241-A. TRANSITION PERIOD

In order to provide for an orderly transition following the quadrennial election of the State Auditor, the State Auditor-elect may not take the oath of office or otherwise qualify for the office for a period of no less than 30 days following that election. [1989, c. 857, §15 (AMD).]

SECTION HISTORY
1983, c. 65, §3 (NEW). 1989, c. 857, §15 (AMD).

§242. ORGANIZATION; DEPUTY

The Office of the State Auditor must be organized in the manner the State Auditor considers best suited to the accomplishment of its functions. The office may have those auditors, assistants and employees as the State Auditor may require, but they are subject to the Civil Service Law. [2013, c. 16, §2 (AMD).]

Any person elected to the position of State Auditor or any person permanently employed by the Office of the State Auditor as deputy auditor, director of audits or assistant director of audits must be currently qualified as or have successfully completed or passed the examination for a certified public accountant, certified information systems auditor or certified internal auditor. Persons not so qualified may be employed in these audit supervisory positions on a temporary basis not to exceed 9 months. [2015, c. 44, §4 (AMD).]

In the event of a vacancy in the office of State Auditor because of death, resignation, removal or other cause, the deputy auditor shall perform the duties of the office until a State Auditor has been appointed in conformity with section 241 and has been duly qualified. In the event of absence or disability of the State Auditor, the deputy auditor shall likewise perform the duties of the office during the State Auditor's absence. [2013, c. 16, §2 (AMD).]

SECTION HISTORY
1985, c. 785, §B12 (AMD). 1987, c. 802, §§1,2 (AMD). 2013, c. 16, §2 (AMD). 2015, c. 44, §4 (AMD).

§242-A. FRAUD INVESTIGATION DIVISION

(REPEALED)

SECTION HISTORY
P&SL 1971, c. 179, §J1 (NEW). 1973, c. 788, §14 (AMD). 1975, c. 715, §2 (RP).

§242-B. PROGRAM REVIEW AND EVALUATION DIVISION

(REPEALED)

SECTION HISTORY
1973, c. 792, §3 (NEW). 1975, c. 591, (AMD). 1977, c. 579, §B1 (RP).

§243. POWERS AND DUTIES

The Office of the State Auditor has authority: [2013, c. 16, §3 (AMD).]

1. **Audit.** To audit all accounts and other financial records of State Government or any department or agency of State Government, including the judiciary and the Executive Department of the Governor, except the Governor's Expense Account, and to report annually on this audit, and at such other times as the Legislature may require;

[1999, c. 208, §1 (AMD) .]

2. **Counties.** To perform annual audits of all accounts and other financial records of the several counties or any departments or agencies thereof, the expenses of such audits to be paid by the counties.

[2003, c. 450, §1 (AMD) .]

3. **Municipalities.** To perform audits for cities, towns and villages as required by Title 30-A, sections 5821 to 5823. The rate charged by the office to perform audits must include the proportional amount of the State Auditor's duties and be used to offset the General Fund costs of the State Auditor;

[2013, c. 16, §4 (AMD) .]

3-A. **Municipal cost component.** No later than February 1st following the end of each fiscal year, to ensure that an annual audit of the municipal cost component and the Unorganized Territory Education and Services Fund in Title 36, chapter 115 is conducted. The expenses of these services are part of the municipal cost component and are paid out of the Unorganized Territory Education and Services Fund;

[1999, c. 208, §1 (AMD) .]

4. **Accounting systems; probation officers.**

[1999, c. 208, §1 (RP) .]

4-A. **Audit for District Court.**

[1979, c. 124, §23 (RP) .]

5. **Postaudit.**

[1983, c. 556, §1 (RP) .]

5-A. **Budget and program review.** To review and study departmental budgets and capital programs for better and efficient management of State Government;

[1999, c. 208, §1 (AMD) .]

5-B. **Dedicated funds.** To review and study expenditures of the dedicated funds of independent boards and commissions;

[1999, c. 208, §1 (AMD) .]

6. **Staff agency.** To serve as a staff agency to the Legislature, or any of its committees, or to the Governor in making investigations of any phase of the State's finances;

[1999, c. 208, §1 (AMD) .]

7. **Reports.** To report its findings, with recommendations, on any review or study to the Legislature;

[1999, c. 208, §1 (AMD) .]

8. **Audit.** To perform audits of all accounts and financial records of any organization, institution or other entity receiving or requesting an appropriation or grant from State Government and to issue reports on such audits at such times as the Legislature or the State Auditor may require; and

[1999, c. 208, §1 (AMD) .]

9. **Single audit.** To conduct financial and compliance audits of financial transactions and accounts kept by or for all state agencies subject to the Single Audit Act Amendments of 1996, 31 United States Code, Sections 7501 to 7507 (1998). The audits must be conducted in accordance with generally accepted governmental auditing standards.

[1999, c. 208, §1 (NEW) .]

SECTION HISTORY
1965, c. 486, (AMD). 1967, c. 427, §2 (AMD). 1967, c. 494, §4 (AMD). 1967, c. 544, §9 (AMD). 1969, c. 504, §8 (AMD). 1971, c. 145, §§1,2 (AMD). 1973, c. 537, §2 (AMD). 1975, c. 497, §3 (AMD). 1977, c. 380, §B2 (AMD). 1979, c. 127, §§22,23 (AMD). 1979, c. 541, §A21 (AMD). 1983, c. 508, §1 (AMD). 1983, c. 556, §1 (AMD). 1987, c. 737, §§C5,C6,C106 (AMD). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,C10 (AMD). 1989, c. 857, §§16,17 (AMD). 1999, c. 208, §1 (AMD). 2003, c. 450, §1 (AMD). 2013, c. 16, §§3, 4 (AMD).

§243-A. RANDOM AUDITS AND REVIEWS

(REPEALED)

SECTION HISTORY
2001, c. 104, §1 (NEW). 2003, c. 450, §2 (AMD).

§243-B. REPORT REGARDING DISCREPANCIES

If in the course of any audit of a state department or agency the Office of the State Auditor finds significant discrepancies in the financial records of that state department or agency, the State Auditor shall report, in person, to the joint standing committee of the Legislature that has jurisdiction over that state department or agency within 60 days of the audit findings and the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and state and local government matters. If the Legislature is not in session during that 60 days, the State Auditor may report in writing to those committees. [2013, c. 16, §5 (AMD).]

SECTION HISTORY
2003, c. 450, §3 (NEW). RR 2011, c. 1, §3 (COR). 2013, c. 16, §5 (AMD).

§244. RECORDS AND REPORTS; FINDINGS OF IMPROPER PRACTICES

The State Auditor may not perform the accounting functions for the State, but shall audit the accounts, books, records and other evidences of financial transactions kept in the Department of Financial and Administrative Services or in the other departments and agencies of State Government. The State Auditor shall prepare and publish a report for each fiscal year, setting forth the essential facts of such audits in summary form, within the following fiscal year after the books of the State Controller have been officially closed. If the State Auditor finds in the course of an audit evidences of improper transactions, or of

unacceptable practices in keeping accounts or handling funds or of any other improper practice of financial administration, the State Auditor shall report the same to the Governor and the Legislature immediately. After reporting evidence of material weaknesses or reportable conditions, the State Auditor shall provide for subsequent review to ensure that those conditions are addressed in a timely manner and report to the Governor and the Legislature to confirm the status of the correction of those conditions. If the State Auditor finds evidences of illegal transactions, the State Auditor shall immediately report those transactions both to the Governor and to the Attorney General. All such evidences must be included in the annual reports of the State Auditor and the State Auditor may, at the State Auditor's discretion, make them public at any time during the fiscal year. [2003, c. 450, §4 (AMD).]

By September 15th of each year, the State Auditor shall schedule a meeting with each joint standing committee of the Legislature having jurisdiction over those departments or agencies in the audit of which the State Auditor has identified findings and the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and state and local government matters. The State Auditor shall present an assessment of findings and recommendations of the most recently completed audit performed pursuant to this section, including, but not restricted to, questioned costs and material weaknesses of state programs. The State Auditor shall notify affected state agencies and applicable state central service agency officials, such as, without limitation, the State Controller, State Budget Officer, State Purchasing Agent and Chief Information Officer, of the meeting time and place. [2003, c. 450, §4 (NEW).]

SECTION HISTORY
1971, c. 145, §3 (AMD). 1979, c. 541, §A22 (AMD). 1985, c. 785, §A20 (AMD). 1995, c. 651, §1 (AMD). 1995, c. 651, §5 (AFF). 1999, c. 208, §2 (AMD). 2003, c. 450, §4 (AMD).

§244-A. REPORTS TO THE STATE AUDITOR

The head of any department, agency, bureau or division of the State or of any board, commission, agency or authority of any county, municipality, school district or other political or administrative subdivision who has any evidence of any improper or illegal transactions within that department, agency, bureau or division shall immediately report the transactions to the State Auditor. [2003, c. 82, §1 (AMD).]

SECTION HISTORY
1979, c. 46, (NEW). 2003, c. 82, §1 (AMD).

§244-B. COMMITTEE TO DIRECT UNDERTAKING OF AUDITS

Pursuant to section 243, subsection 6, the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs may direct the State Auditor to undertake management audits, systems reviews or audits of any department or agency of the State. [1995, c. 651, §2 (NEW); 1995, c. 651, §5 (AFF).]

SECTION HISTORY
1995, c. 651, §2 (NEW). 1995, c. 651, §5 (AFF).

§244-C. ACCESS TO CONFIDENTIAL RECORDS

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

A. "Audit working paper" means all documentary and other information acquired, prepared or maintained by the State Auditor during the conduct of an audit or investigation, including all intraagency and interagency communications relating to an audit or investigation and includes draft reports or any portion of a draft report. [1997, c. 703, §1 (NEW).]

B. "Auditor" means the State Auditor or an agent of the State Auditor who is an employee of the Office of the State Auditor. [2013, c. 16, §6 (AMD).]

[2013, c. 16, §6 (AMD) .]

2. **Information available to the Auditor.** Notwithstanding any state law relating to the confidentiality of information, all information in the files of any department, commission or agency of the State subject to an audit or investigation by the Auditor must be made available when necessary to the Auditor for performance of the Auditor's official duties.

A. Before beginning an audit or investigation that may require access to records containing confidential or privileged information, the Auditor shall consult with representatives of the department, commission or agency to discuss methods of identifying and protecting privileged or confidential information in those records. During that consultation, the department, commission or agency shall inform the Auditor of all standards and procedures set forth in department, commission or agency policies or agreements to protect information considered by the department, commission or agency to be confidential or privileged. The Auditor shall limit access to information that is privileged or confidential by appropriate methods, which may include examining records without copying or removing them from the department, commission or agency. [1997, c. 703, §1 (NEW).]

B. In making information available to the Auditor, the department, commission or agency that is subject to the audit or investigation or that provides the information may remove information that identifies individuals or institutions to protect privileged or confidential information, provided the information necessary for the Auditor to fulfill the Auditor's official duties is disclosed to the Auditor. If names are removed, another unique identifier must be inserted to enable verification of audit results. [1997, c. 703, §1 (NEW).]

C. Documentary or other information obtained by the Auditor during the course of an audit or investigation is privileged or confidential to the same extent under law that that information would be privileged or confidential in the possession of the department, commission or agency providing the information. Any privilege or statutory provision, including penalties, concerning the confidentiality or obligation not to disclose information in the possession of any department, commission or agency or their officers or employees applies equally to the Auditor. Privileged or confidential information obtained by the Auditor during the course of an audit or investigation may be disclosed only as provided by law and with the agreement of the department, commission or agency subject to the audit or investigation that provided the information. [1997, c. 703, §1 (NEW).]

D. If the Auditor accesses information classified as privileged or confidential pursuant to department, commission or agency policy or procedures or by agreement, the Auditor shall comply with the department, commission or agency standards or procedures for handling that information. The Auditor may include in the audit working papers only such excerpts from information classified as confidential or privileged as may be necessary to complete the audit, provided the use does not infringe on department policies or procedures applicable to the original provision of information. [1997, c. 703, §1 (NEW).]

[1997, c. 703, §1 (NEW) .]

3. **Confidentiality of audit working papers.** Except as provided in this subsection, audit working papers are confidential and may not be disclosed to any person. Prior to the release of the final audit or investigation report, the Auditor has sole discretion to disclose audit working papers to the department, commission or agency subject to the audit or investigation when such disclosure will not prejudice the audit or investigation. After release of the final audit or investigation report, working papers may be released as necessary to:

A. The department, commission or agency that was subject to the audit or investigation; [1997, c. 703, §1 (NEW).]

B. Federal agencies providing a grant to the audited entity; [1997, c. 703, §1 (NEW).]

C. Law enforcement agencies for the purpose of criminal law enforcement or investigations; or [1997, c. 703, §1 (NEW).]

D. Other auditors in their work reviewing the Office of the State Auditor. [2013, c. 16, §7 (AMD).]

[2013, c. 16, §7 (AMD) .]

SECTION HISTORY
1997, c. 703, §1 (NEW). 2013, c. 16, §§6, 7 (AMD).

§244-D. REFERRAL SERVICE; CONFIDENTIALITY; PUBLIC RECORDS *(REPEALED)*

SECTION HISTORY
2005, c. 682, §2 (NEW). MRSA T. 5, §244-D, sub-§5 (RP).

§244-E. REFERRAL SERVICE; CONFIDENTIALITY; PUBLIC RECORDS

1. **Identity confidential.** The identity of a person making a complaint alleging fraud, waste, inefficiency or abuse through a hotline or other referral service established by the State Auditor for the confidential reporting of fraud, waste, inefficiency and abuse in State Government is confidential and may not be disclosed, unless the person making the complaint agrees in writing to the disclosure of that person's name.

[2009, c. 567, §1 (NEW) .]

2. **Contents of complaint confidential.** A complaint alleging fraud, waste, inefficiency or abuse made through a hotline or other referral service established by the State Auditor for the confidential reporting of fraud, waste, inefficiency and abuse in State Government and any resulting investigation is confidential and may not be disclosed except as provided in subsections 3 and 4.

[2009, c. 567, §1 (NEW) .]

3. **Coordination with Office of Program Evaluation and Government Accountability and Attorney General.** The State Auditor may disclose information that is confidential under this section to the Director of the Office of Program Evaluation and Government Accountability and the Attorney General to ensure appropriate agency referral or coordination between agencies to respond appropriately to all complaints made under this section.

[2009, c. 567, §1 (NEW) .]

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

A. The total number of complaints received; [2009, c. 567, §1 (NEW).]

B. The number of referrals of fraud or other criminal conduct to the Attorney General; [2009, c. 567, §1 (NEW).]

C. The number of referrals of agency performance issues to the Office of Program Evaluation and Government Accountability; and [2009, c. 567, §1 (NEW).]

D. The number of investigations by the State Auditor by current status whether opened, pending, completed or closed. [2009, c. 567, §1 (NEW).]

[2009, c. 567, §1 (NEW) .]

SECTION HISTORY
2009, c. 567, §1 (NEW).

§245. NO EX OFFICIO DUTIES

The State Auditor shall not serve in an ex officio capacity on any administrative board or commission or have any financial interest in the transactions of any department, institution or agency of the State Government. He shall not be responsible for the collection of any money belonging to the State or for the handling or custody of any state funds.

§246. ADMINISTRATION OF THE UNORGANIZED TERRITORY EDUCATION AND SERVICES FUND

1. **Position created.** There is created within the Office of the State Auditor the position of fiscal administrator of the unorganized territory. The fiscal administrator must be a person qualified by education or experience in the administration of budgets. The position is subject to the Civil Service Law.

[2013, c. 16, §8 (AMD) .]

2. **Duties.** The fiscal administrator of the unorganized territory shall have the following duties:

A. To review, analyze and investigate the budgets and expenditures of all counties and state agencies requesting funds under Title 36, chapter 115; [1985, c. 459, Pt. C, §1 (NEW).]

B. To prepare and submit, by March 1st, annually, a report of the fiscal administrator's review, analysis and investigation to the joint standing committee of the Legislature having jurisdiction over taxation, each Legislator representing a county containing unorganized territory and the office of the county commissioners of each county having unorganized territory. The report must contain sufficient detail to explain fully each agency or county request and may contain recommendations by the administrator regarding legislative or administrative action. This report must also include information relating to development districts under consideration or approved by the county commissioners under Title 30-A, section 5235 and provide details regarding costs and tax shifts resulting from or anticipated to result from the development district or proposed district; [2007, c. 636, §1 (AMD).]

C. To publish an annual financial report, signed by the administrator, as required by Title 36, section 1608, and to make that report available to taxpayers in the unorganized territory upon request; [1985, c. 459, Pt. C, §1 (NEW).]

D. To attend public hearings, if necessary, on county budgets relating to the unorganized territory and to attend legislative hearings on bills relating to property taxes and the funding of services in the unorganized territory; [1985, c. 459, Pt. C, §1 (NEW).]

E. To design budget request forms to be used by counties and by agencies requesting funds under Title 36, chapter 115; [1985, c. 459, Pt. C, §1 (NEW).]

F. To design contract forms to be used by counties and state agencies for all contracted services; and [1985, c. 459, Pt. C, §1 (NEW).]

G. To design forms for agencies reporting actual annual expenses for reimbursement from the Unorganized Territory Education and Services Fund. [1985, c. 459, Pt. C, §1 (NEW).]

[2007, c. 636, §1 (AMD) .]

3. **Legislation.** The fiscal administrator shall prepare and submit legislation to the Legislature by March 1st, annually, providing for the requests made by counties and state agencies for services provided in the unorganized territory that are entitled to funding under Title 36, chapter 115. The administrator may not reject or change a budget submitted by a county or state agency without the approval of the county or agency making the request.

[2009, c. 303, §1 (AMD) .]

4. **Investigation.** In order to perform the duties described in this section, the fiscal administrator may inspect the records of any agency or county requesting funding from the Unorganized Territory Education and Services Fund.

[1985, c. 459, Pt. C, §1 (NEW) .]

5. **Funding.** The costs of the positions and responsibilities required in this section shall be reimbursed from the Unorganized Territory Educational and Services Fund established under Title 36, chapter 115.

[1985, c. 459, Pt. C, §1 (NEW) .]

SECTION HISTORY
1985, c. 459, §C1 (NEW). 1985, c. 785, §B13 (AMD). 2007, c. 636, §§1, 2 (AMD). 2009, c. 303, §1 (AMD). 2013, c. 16, §8 (AMD).

Chapter 12: MAINE-NEW HAMPSHIRE BOUNDARY COMMISSION

§251. COMMISSION ESTABLISHED

(REPEALED)

SECTION HISTORY
1985, c. 555, §1 (NEW). 1989, c. 503, §B10 (AMD). 1993, c. 361, §D1 (RP).

§252. TENURE OF OFFICE

(REPEALED)

SECTION HISTORY
1985, c. 555, §1 (NEW). 1995, c. 462, §A5 (RP).

§253. ORGANIZATION AND PROCEDURE

(REPEALED)

SECTION HISTORY
1985, c. 555, §1 (NEW). 1995, c. 462, §A5 (RP).

§254. POWERS

(REPEALED)

SECTION HISTORY
1985, c. 555, §1 (NEW). 1995, c. 462, §A5 (RP).

§255. AGREEMENT

(REPEALED)

SECTION HISTORY
1985, c. 555, §1 (NEW). 1995, c. 462, §A5 (RP).

§256. APPROVAL OF COMPACT

(REPEALED)

SECTION HISTORY
1985, c. 555, §1 (NEW). 1995, c. 462, §A5 (RP).

§257. VACANCY

(REPEALED)

SECTION HISTORY
1985, c. 555, §1 (NEW). 1995, c. 462, §A5 (RP).

§258. EXPENSES

(REPEALED)

SECTION HISTORY
1985, c. 555, §1 (NEW). 1995, c. 462, §A5 (RP).

§259. IMPLEMENTATION OF CHAPTER

(REPEALED)

SECTION HISTORY
1985, c. 555, §1 (NEW). 1995, c. 462, §A5 (RP).

Chapter 12-A: MAINE-CANADA TRADE OMBUDSMAN

§261. OFFICE CREATED

The Office of the Maine-Canada Trade Ombudsman is established within the Executive Department and is autonomous from any other state agency. [2001, c. 643, §1 (NEW); 2001, c. 643, §3 (AFF).]

SECTION HISTORY
2001, c. 643, §1 (NEW). 2001, c. 643, §3 (AFF).

§262. APPOINTMENT; TERM; COMPENSATION

The Governor shall appoint an ombudsman to head the Office of the Maine-Canada Trade Ombudsman, who is referred to in this chapter as the "ombudsman," subject to review by the joint standing committee of the Legislature having jurisdiction over state and local government matters and confirmation by the Senate. The ombudsman must be chosen without reference to party affiliation and solely on the ground of

professional competence to perform the duties of that office. The ombudsman holds office for a term of 4 years. An ombudsman may be reappointed. The compensation of the ombudsman is fixed by the Governor. [2003, c. 701, §1 (AMD).]

SECTION HISTORY
2001, c. 643, §1 (NEW). 2001, c. 643, §3 (AFF). 2003, c. 701, §1 (AMD).

§263. DUTIES

The ombudsman has, upon consent of the Governor, the duties and powers established under the following provisions governing trade between businesses in this State and individuals, businesses and governmental entities in Canada. [2001, c. 643, §1 (NEW); 2001, c. 643, §3 (AFF).]

1. **Administration.** The ombudsman shall administer the Office of the Maine-Canada Trade Ombudsman. In exercising the administration of the office, the ombudsman shall formulate policies, establish organizational and operational procedures and exercise general supervision. The ombudsman shall employ, with the approval of the Governor and subject to the Civil Service Law, those assistants as are necessary to carry out this chapter. The ombudsman shall adopt a seal for use in the official business of the office. The ombudsman has custody and control of the facilities provided for the administration of this chapter.

[2001, c. 643, §1 (NEW); 2001, c. 643, §3 (AFF) .]

2. **Advice.** The ombudsman shall advise the Governor, the Legislature and the directors of other appropriate state departments or agencies on appropriate steps needed to coordinate state policy and state actions on commerce and other relations with individuals, businesses and governmental entities in Canada.

[2001, c. 643, §1 (NEW); 2001, c. 643, §3 (AFF) .]

3. **Representation.** The ombudsman shall represent the State at the national level for trade matters between the United States and Canada that involve the State.

[2001, c. 643, §1 (NEW); 2001, c. 643, §3 (AFF) .]

4. **Investigation; resolution of complaints; negotiation.** The ombudsman shall answer inquires from citizens and businesses in this State and investigate, advise and work toward resolution of complaints that arise concerning trade issues. The ombudsman may negotiate on behalf of businesses in this State, with their consent, with individuals, businesses and governmental entities of Canada to secure fair trade treatment of products and services of this State.

[2001, c. 643, §1 (NEW); 2001, c. 643, §3 (AFF) .]

5. **Biennial report.** The ombudsman shall report biennially to the Governor and Legislature facts and recommendations related to the work and needs of the Office of the Maine-Canada Trade Ombudsman.

[2001, c. 643, §1 (NEW); 2001, c. 643, §3 (AFF) .]

6. **Rules.** The ombudsman may adopt rules necessary to carry out the purposes of this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in chapter 375, subchapter II-A.

[2001, c. 643, §1 (NEW); 2001, c. 643, §3 (AFF) .]

SECTION HISTORY
2001, c. 643, §1 (NEW). 2001, c. 643, §3 (AFF).

Chapter 13: DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

Subchapter 1: GENERAL PROVISIONS

§281. DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES; COMMISSIONER

The Department of Administrative and Financial Services is established as the principal fiscal department of State Government and shall exercise such powers and perform such duties as are provided by law. [1991, c. 780, Pt. Y, §20 (AMD).]

The department is under the supervision and control of the Commissioner of Administrative and Financial Services appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and to confirmation by the Legislature. The commissioner shall serve at the pleasure of the Governor. [1991, c. 780, Pt. Y, §20 (AMD).]

The department shall coordinate financial planning and programming activities of departments and agencies of the State Government for review and action by the Governor, prepare and report to the Governor and to the Legislature financial data and statistics and administer under the direction of the State Liquor and Lottery Commission the laws relating to legalized alcoholic beverages within this State. The department consists of the bureaus and organizations referenced in section 947-B, and the State Liquor and Lottery Commission. [1997, c. 373, §1 (AMD).]

SECTION HISTORY
1967, c. 490, §1 (AMD). 1969, c. 504, §9 (AMD). 1971, c. 615, §1 (RPR). 1973, c. 537, §3 (AMD). 1975, c. 771, §51 (AMD). 1985, c. 785, §A21 (RPR). 1987, c. 402, §A11 (AMD). 1991, c. 780, §Y20 (AMD). 1997, c. 373, §1 (AMD).

§282. POWERS AND DUTIES OF COMMISSIONER

The commissioner may, with the approval of the Governor, appoint a deputy commissioner, who is the chief of one of the department bureaus and shall perform the duties of the commissioner during the commissioner's absence, in addition to the deputy commissioner's regular duties. The compensation and expense of the deputy commissioner is paid from any available funds appropriated for the use of the bureau of which the deputy commissioner is chief. The commissioner may appoint and employ the bureau chiefs and the assistant to the commissioner to be under the commissioner's immediate supervision, direction and control, and to serve at the commissioner's pleasure and perform such duties as the commissioner may prescribe, except as otherwise provided by law. In addition, the commissioner may appoint an associate commissioner for administrative services who is not subject to the Civil Service Law and who serves at the pleasure of the commissioner. [2003, c. 673, Pt. C, §1 (AMD).]

The commissioner may employ such other deputies, division heads, assistants and employees as may be necessary, subject to the Civil Service Law. In addition, the commissioner may employ a Director of Compliance to carry out departmental responsibilities related to: Labor relations and labor contract compliance; human rights and affirmative action compliance; and audit guidelines and other 3rd-party compliance requirements. The Director of Compliance serves at the pleasure of the commissioner. In addition, the commissioner may employ an Associate Commissioner for Tax Policy to supervise and direct the tax policy analysis, guidance and communications activities of the Office of Tax Policy within the Bureau of Revenue Services. The Associate Commissioner for Tax Policy serves at the pleasure of the commissioner. [2011, c. 655, Pt. I, §3 (AMD); 2011, c. 655, Pt. I, §11 (AFF).]

In the event of a vacancy in the office of the commissioner because of death, resignation, removal from office or other cause, the various bureau chiefs, deputies and assistants shall continue in office and perform such duties as have been prescribed or assigned to them, until said vacancy has been filled by the appointment and qualification of a new commissioner.

The commissioner shall have the duty and authority:

1. **Aide to Governor.** To serve as the principal fiscal aide to the Governor;

[1987, c. 402, Pt. A, §12 (AMD) .]

2. **Financial planning.** To coordinate financial planning and programming activities of departments and agencies of the State Government for review and action by the Governor;

[1977, c. 78, §10 (AMD) .]

3. **Financial data and statistics.** To prepare and report to the Governor or to the Legislature such financial data or statistics as may be required or requested by them;

4. **Direct bureaus.** To supervise and direct the activities of the bureaus that may by statute be designated as being under the Department of Administrative and Financial Services;

[2007, c. 466, Pt. A, §5 (AMD) .]

4-A. **Engage in planning.** To engage in short-term and long-term planning with respect to:

A. The structure and operation of the department; [1985, c. 785, Pt. A, §23 (NEW).]

B. The fiscal needs of State Government; and [1985, c. 785, Pt. A, §23 (NEW).]

C. The means by which the collection of revenues and payment of State Government obligations may be most efficiently realized; [1985, c. 785, Pt. A, §23 (NEW).]

[2009, c. 2, §2 (COR) .]

4-B. **Assist other departments.** To meet with other departments and agencies of State Government at least 2 times a year to discuss fiscal problems and needs of each agency and department;

[1985, c. 785, Pt. A, §23 (NEW) .]

5. **Other powers and duties.** To exercise such other powers and perform such other duties as may be designated by law;

[1987, c. 448, §1 (AMD) .]

6. **Supervise.** To supervise and direct the administration of the State Claims Commission;

[2001, c. 333, §1 (AMD) .]

7. **Value of fringe benefits.** To ensure that all publications that state the salary of an employee or of a position in State Government also include a statement of the dollar value of the fringe benefit package provided. For purposes of this subsection, "fringe benefits" includes an employer's cost of an employee's health insurance, dental insurance and retirement but does not include the amount paid to cover any unfunded liability;

[2009, c. 372, Pt. F, §1 (AMD) .]

8. **Serve as director of Clean Government Initiative.** To serve as a director, along with the Commissioner of Environmental Protection, of the Clean Government Initiative established in Title 38, section 343-H; and

[2009, c. 372, Pt. F, §2 (AMD) .]

9. **Energy infrastructure benefits fund.** To establish an energy infrastructure benefits fund. Except as otherwise provided by Title 35-A, section 122, subsections 1-C and 6-B or any other law, including the Constitution of Maine, the fund consists of any revenues derived from the use of state-owned land and assets for energy infrastructure development pursuant to Title 35-A, section 122. Each fiscal year, the Treasurer of State shall transfer revenues collected in the fund to the Efficiency Maine Trust for deposit by the Efficiency Maine Trust Board in program funds pursuant to Title 35-A, section 10103, subsection 4 and use by the trust in accordance with Title 35-A, section 10103, subsection 4-A. For the purposes of this subsection, "energy infrastructure" and "state-owned" have the same meanings as in Title 35-A, section 122, subsection 1.

A. [2009, c. 655, Pt. B, §1 (RP).]

B. [2009, c. 655, Pt. B, §1 (RP).]

C. [2009, c. 655, Pt. B, §1 (RP).]

D. [2009, c. 655, Pt. B, §1 (RP).]

[2011, c. 652, §1 (AMD); 2011, c. 652, §14 (AFF) .]

SECTION HISTORY
1967, c. 490, §2 (AMD). 1969, c. 504, §10 (AMD). 1971, c. 615, §2 (AMD). 1975, c. 771, §51-A (AMD). 1977, c. 78, §10 (AMD). 1977, c. 674, §3 (AMD). 1983, c. 477, Pt. E, Subpt. 22, (AMD). 1983, c. 489, §1 (AMD). 1983, c. 553, §1 (AMD). 1985, c. 785, §§A22,23 (AMD). 1985, c. 785, §B14 (AMD). 1987, c. 395, §A17 (AMD). 1987, c. 402, §A12 (AMD). 1987, c. 448, §§1,1-A (AMD). 1987, c. 769, §A10 (AMD). 1989, c. 502, §B1 (AMD). 1995, c. 37, §§3,4 (AMD). 2001, c. 333, §§1-3 (AMD). 2003, c. 673, §C1 (AMD). 2007, c. 466, Pt. A, §5 (AMD). RR 2009, c. 2, §2 (COR). 2009, c. 372, Pt. F, §§1-3 (AMD). 2009, c. 655, Pt. B, §1 (AMD). 2011, c. 652, §1 (AMD). 2011, c. 652, §14 (AFF). 2011, c. 655, Pt. I, §3 (AMD). 2011, c. 655, Pt. I, §11 (AFF).

§282-A. COMMISSIONER OF ADMINISTRATIVE AND FINANCIAL SERVICES AUTHORIZED TO EXECUTE EASEMENTS

1. **Authority.** The Commissioner of Administrative and Financial Services is authorized to release, grant or receive title to nonfee interests such as easements or rights-of-way in property held by state agencies over which the Department of Administrative and Financial Services has jurisdiction in accordance with the following:

A. A release of an interest in property is authorized upon the commissioner's finding that the interest no longer contributes to the value of the state property or that the release does not detract from the value of state property; [2003, c. 539, §1 (NEW).]

B. The granting of an interest in property is authorized upon the commissioner's finding that such interest does not detract from the value of state property; and [2003, c. 539, §1 (NEW).]

C. Receiving title to an interest in property is authorized upon the commissioner's finding that the value of state property is enhanced. [2003, c. 539, §1 (NEW).]

The authority granted to the commissioner under this subsection does not apply to state park lands protected by the Constitution of Maine, Article IX, Section 23 and designated in Title 12, section 598-A.

[2003, c. 539, §1 (NEW) .]

2. **Appraisal.** In order to release, grant or receive title to nonfee interests pursuant to subsection 1, the Commissioner of Administrative and Financial Services must have the current market value of the nonfee interest determined through an estimate of value if the value is under $1,000 or through an independent appraisal if the value exceeds $1,000.

[2003, c. 539, §1 (NEW) .]

SECTION HISTORY
2003, c. 539, §1 (NEW).

§283. ORGANIZATION; BUREAU CHIEFS; VACANCIES

(REPEALED)

SECTION HISTORY
1971, c. 615, §3 (AMD). 1973, c. 592, §1 (AMD). 1973, c. 620, §1 (AMD). 1975, c. 322, §1 (AMD). 1975, c. 771, §§51-B (AMD). 1977, c. 674, §4 (AMD). 1979, c. 127, §24 (AMD). 1985, c. 785, §§A24-29 (AMD). 1985, c. 785, §B15 (AMD). 1987, c. 402, §A13 (AMD). 1991, c. 780, §Y21 (RP).

§283-A. STATE LIQUOR AND LOTTERY COMMISSION

1. **Commission.** The State Liquor and Lottery Commission, established in Title 5, section 12004-G, subsection 14, consists of 5 members who must be residents of this State. Members are appointed by the Governor and are subject to review by the joint standing committee of the Legislature having jurisdiction over legal and veterans affairs and to confirmation by the Legislature. No more than 3 members of the commission may be members of the same political party.

[1997, c. 373, §2 (NEW) .]

2. **Chair.** The commission shall elect a chair from among its members.

[1997, c. 373, §2 (NEW) .]

3. **Eligibility of members.** A person is not eligible for appointment as a member of the commission or as an employee of the commission if that person:

A. Has any official, professional or other connection with or owns any stock in a corporation interested either directly or indirectly in the manufacture or sale of liquor; or [1997, c. 373, §2 (NEW).]

B. Has been convicted or adjudicated guilty of violating any state or federal law regulating the manufacture, sale or transportation of liquor. [1997, c. 373, §2 (NEW).]

[1997, c. 373, §2 (NEW) .]

4. **Terms; vacancies.** Members of the commission serve 3-year terms. Vacancies must be filled for the unexpired term in the same manner as the original appointment.

[1997, c. 373, §2 (NEW) .]

5. **Meetings.** The commission shall meet at the call of the chair and at least once each month with the Director of the Bureau of Alcoholic Beverages and Lottery Operations.

[1997, c. 373, §2 (NEW) .]

6. **Quorum.** An action of the commission is not binding unless taken at a meeting at which at least 3 of the 5 members are present and vote in favor of the action.

[1997, c. 373, §2 (NEW) .]

7. **Compensation.** Members of the commission are entitled to compensation as provided in chapter 379. Members may not be compensated for more than 25 meetings per year, except for the chair who may be compensated for up to 30 meetings per year.

[1997, c. 373, §2 (NEW) .]

8. **Removal.** A member of the commission may be removed by the Governor on the address of both branches of the Legislature or by impeachment.

[1997, c. 373, §2 (NEW) .]

SECTION HISTORY
1997, c. 373, §2 (NEW).

§284. DIVISION OF FINANCIAL AND PERSONNEL SERVICES

The Division of Financial and Personnel Services is established to provide assistance to the Commissioner of Administrative and Financial Services and to the agencies within the department in personnel matters, budgeting and financial matters, purchasing and clerical and support services, and to perform such other duties as the commissioner may designate. [1991, c. 780, Pt. Y, §22 (AMD).]

SECTION HISTORY
1985, c. 819, §A2 (NEW). 1991, c. 780, §Y22 (AMD).

Subchapter 2: STATE EMPLOYEE HEALTH INSURANCE PROGRAM

§285. GROUP HEALTH PLAN

A group health plan is available to state employees and other eligible persons, subject to the following provisions. [2001, c. 439, Pt. XX, §1 (AMD).]

1. **Eligibility; generally.** The following persons are eligible for a group health plan:

A. Each appointed or elective officer or employee of the State who is eligible for membership in the Maine Public Employees Retirement System, Legislative Retirement Program or the State Police Retirement System; [2011, c. 1, §4 (COR).]

A-1. Any employee of the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf, unless a different health program is established by collective bargaining agreement or otherwise consistent with applicable law; [2005, c. 279, §1 (AMD).]

A-1. (REALLOCATED TO T. 5, §285, sub-§1, ¶A-2) [2001, c. 1, §7 (RAL); 2001, c. 374, §1 (NEW).]

A-2. (REALLOCATED FROM T. 5, §285, sub-§1, ¶A-1) Any employee of the Maine Military Authority; [2001, c. 1, §7 (RAL).]

B. Any member of the judiciary; [1993, c. 16, §1 (AMD).]

B-1. Any member of the former Workers' Compensation Commission as follows:

(1) A member who retired prior to January 1, 1993; and

(2) For the period of employment, a member who is an employee of the Workers' Compensation Board between January 1, 1993 and December 31, 1993; [1993, c. 16, §2 (NEW).]

C. [1987, c. 221, §1 (RP).]

D. Any employee of the Maine State Employees Association; [1983, c. 692, §1 (NEW).]

E. Any employee of Council 74 of the American Federation of State, County and Municipal Employees; [1983, c. 692, §1 (NEW).]

F. Any employee of the Maine Turnpike Authority; [1985, c. 695, §4 (AMD).]

F-1. Any employee of the Maine Community College System; [1989, c. 443, §6 (AMD); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF).]

F-2. Any employee of the Maine Maritime Academy; [1993, c. 410, Pt. L, §9 (AMD).]

F-3. Any employee of the Maine Public Employees Retirement System; [1997, c. 80, §1 (NEW); 1997, c. 455, §2 (AMD); 2007, c. 58, §3 (REV).]

F-4. Any member of the Maine National Guard performing state active service pursuant to Title 37-B, section 181-A, subsection 4 or 5; [1999, c. 152, Pt. E, §1 (AMD).]

F-5. Any employee of the Northern New England Passenger Rail Authority; [1999, c. 152, Pt. E, §2 (NEW).]

F-6. Any employee of the Maine Port Authority; [2007, c. 134, §1 (NEW).]

F-7. Any employee of a regional site of the Child Development Services System under Title 20-A, section 7209, if the group health plan is agreed to in collective bargaining and funds are available; [2009, c. 1, §5 (COR).]

F-8. Any employee of the Finance Authority of Maine; [2009, c. 571, Pt. NN, §1 (NEW).]

F-9. Any employee of the Maine School of Science and Mathematics; [2011, c. 67, §1 (NEW).]

F-10. Any employee of the Small Enterprise Growth Board; [2011, c. 514, §1 (NEW).]

F-11. Any employee of the Maine School for Marine Science, Technology, Transportation and Engineering; [2015, c. 363, §1 (NEW).]

G. Subject to subsection 1-A, employees in any of the categories denominated in paragraphs A to F-1 and paragraph F-3 who:

(1) On April 26, 1968, have retired and who were covered under group health plans that by virtue of Public Law 1967, chapter 543 were terminated;

(2) After April 26, 1968, retire and who on the date of their retirement are currently enrolled in this group health plan as employees;

(3) After December 2, 1986, and after reaching normal retirement age, cease to be members of the Legislature and are recipients of retirement allowances from the Maine Public Employees Retirement System based upon creditable service as teachers, as defined by section 17001, subsection 42. This paragraph also applies to former members who were members on December 2, 1986;

(4) After December 2, 1986, and not yet normal retirement age, cease to be members of the Legislature and are recipients of retirement allowances from the Maine Public Employees Retirement System based upon creditable service as teachers, as defined by section 17001, subsection 42. This paragraph also applies to former members who were members on December 2, 1986; or

(5) After January 1, 1999, terminate employment under which they were eligible for the group health plan but do not retire at that time and who satisfy the requirements of subsection 1-A, paragraph D or paragraph E; [2001, c. 439, Pt. XX, §2 (AMD); 2007, c. 58, §3 (REV).]

H. A blind person operating a vending facility pursuant to Title 26, section 1418-F under the direction of the Department of Labor, Division for the Blind and Visually Impaired; [2001, c. 667, Pt. E, §1 (AMD).]

I. Any licensed foster parent caring for a child or children in the foster parent's residence whose care is reimbursed through the Department of Health and Human Services for the period during which the child or children are in that foster parent's care; [2011, c. 438, §1 (AMD).]

J. Legislative employees that are recipients of retirement allowances from the Maine Public Employees Retirement System based upon creditable service as teachers, as defined by section 17001, subsection 42; and [2011, c. 438, §2 (AMD).]

K. Any employee of a school administrative unit as defined in Title 20-A, section 1, subsection 26 or of an educational advisory organization as described in Title 30-A, section 5724, subsection 9. [2011, c. 438, §3 (NEW).]

[2015, c. 363, §1 (AMD) .]

1-A. **Eligibility; retirees.** Any person otherwise eligible pursuant to subsection 1, paragraph G, must in addition, in order to be eligible under this section:

A. If retiring on a disability retirement, have participated in the group health plan immediately prior to retirement; [1989, c. 776, §1 (AMD).]

B. If retiring but not retiring on a disability retirement, have participated, as an employee, in the group health plan for at least one year immediately prior to retirement; [1997, c. 652, §2 (AMD); 1997, c. 652, §4 (AFF).]

C. If eligibility is based upon subsection 1, paragraph G, subparagraph (3), have participated in the group health plan for at least one year immediately prior to ceasing to be a member of the Legislature; [1997, c. 652, §2 (AMD); 1997, c. 652, §4 (AFF).]

D. If terminating employment but not retiring at that time, have 25 years of creditable service under chapter 423, subchapter IV and remain a member of the Maine Public Employees Retirement System, make a one-time election to continue coverage from the date of termination until retirement and pay the cost of the coverage plus the cost incurred by the Division of State Employee Health Insurance in administering coverage under the plan. If a terminated employee who elects coverage under this paragraph fails to pay the cost of coverage and any administrative costs in the amount and manner determined by the division, the coverage may be cancelled in accordance with the requirements of Title 24 and Title 24-A. Regardless of election of coverage or cancellation of coverage under this paragraph, an employee terminating employment as provided in this paragraph may elect coverage upon retirement under paragraph E; or [1997, c. 652, §2 (NEW); 1997, c. 652, §4 (AFF); 2007, c. 58, §3 (REV).]

E. If retiring and not in service immediately prior to retirement, have at least 25 years of creditable service under chapter 423, subchapter IV and make a one-time election at retirement to rejoin the plan. Coverage of preexisting conditions upon rejoining the plan under this paragraph is governed by Title 24-A, chapter 36. The payment provisions of subsection 7 apply to retirees exercising the option under this paragraph. [1997, c. 652, §2 (NEW); 1997, c. 652, §4 (AFF).]

[1997, c. 652, §2 (AMD); 1997, c. 652, §4 (AFF); 2007, c. 58, §3 (REV) .]

1-B. **Ineligibility.** Except as provided in subsection 1, paragraph K and subsection 11-A, members of the Maine Municipal Association and employees of counties and municipalities and instrumentalities thereof, including quasi-municipal corporations, are not eligible to participate in the group health plan under this section.

[2011, c. 438, §4 (AMD) .]

1-C. **Status of employees who have retired and returned to covered employment under Maine Public Employees Retirement System.** For purposes of participation in the state employee health insurance program pursuant to this section or in dental insurance coverage offered by the State, recipients of a service retirement benefit under the Maine Public Employees Retirement System who are retired employees and who are reemployed as state employees must be treated as retirees under subsection 1-A for purposes of eligibility for coverage under the group plan.

[2005, c. 21, §1 (NEW); 2007, c. 58, §7 (REV) .]

2. **Coverage.** Each state employee to whom this section applies is eligible for a group health plan as provided in Title 24-A, sections 2802 to 2812, including major medical benefits or through a self-funded alternative. The provisions of the group insurance policy or policies or the self-funded alternative must be determined, insofar as the provisions are not inconsistent with terms and conditions contained in collective bargaining agreements negotiated pursuant to Title 26, chapter 9-B, by the State Employee Health Commission as provided in section 285-A. The master policy for the group health plan must be held by the Commissioner of Administrative and Financial Services.

[1991, c. 780, Pt. Y, §23 (AMD) .]

3. **Enrollment.** Any employee eligible under this section may join within the first 60 days of employment or during a declared open enrollment period. The filing of necessary applications shall be the responsibility of the employer. Effective dates under this section shall be at the discretion of the commission.

[1987, c. 731, §3 (AMD) .]

3-A. **Coverage under group health insurance plan for spouse and dependents after death of state employee.** If the spouse or other dependents of an employee in any of the categories denominated in subsection 1, paragraphs A to F-5 are covered by the group health plan and the employee dies while employed in that capacity, the spouse or dependent must have the opportunity to continue coverage under the plan after the death of the employee by making the premium payment for the cost of that coverage. In the case of underage dependent children, coverage must be available at least until the dependent children reach 19 years of age.

[2001, c. 341, §1 (NEW) .]

3-B. **Enrollment of spouse and dependents of retirees.** Effective January 1, 2003, a retiree eligible for participation in the group health insurance plan under this section may enroll a spouse and dependents in the group plan as follows:

A. Upon retirement, the retiree may enroll a spouse and dependent or dependents for coverage under the plan effective on the date of retirement; or [2001, c. 641, §1 (NEW).]

B. Subsequent to retirement, the retiree may enroll a spouse and dependent or dependents for coverage under the plan if:

(1) At the time of retirement, the retiree designated in writing the name of the spouse and dependent or dependents to be enrolled at a future date; and

(2) The spouse and dependent or dependents can demonstrate coverage for at least 18 months immediately prior to enrollment under another health insurance plan or can demonstrate that health insurance coverage for that person pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985 under a prior plan has been exhausted. [2001, c. 641, §1 (NEW).]

[2001, c. 641, §1 (NEW) .]

3-C. **Retirees may decline coverage and reenroll.** A retiree eligible for a group health plan under subsection 1, paragraph G may elect to decline or to withdraw from coverage under the plan and to reenroll in the plan at a later date pursuant to the provisions of this subsection.

A. The retiree must demonstrate that the retiree was covered under this plan or another health insurance plan for at least 18 months immediately prior to reenrollment or that health insurance coverage for that person pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985 under a prior plan has been exhausted. [2003, c. 214, §1 (NEW).]

B. Any conditions on eligibility or coverage under subsection 1-A, paragraph D or E continue to apply at the time of reenrollment. [2003, c. 214, §1 (NEW).]

C. The retiree may reenroll in the same contract type in which the retiree was enrolled at the time the retiree declined or withdrew from coverage, except for any change in contract type allowed under subsection 3-B. [2003, c. 214, §1 (NEW).]

D. An election under this subsection, which may be made only once, must be made either:

(1) At the time of retirement; or

(2) Following retirement, provided the person had elected at the time of retirement to be covered by the state program. [2003, c. 214, §1 (NEW).]

E. If a spouse or dependent of the retiree was enrolled in the plan at the time the retiree withdrew pursuant to this subsection, the spouse or dependent may reenroll if the spouse or dependent meets the 18-month coverage criteria set forth in paragraph A. A spouse or dependent who was not enrolled at the time the retiree withdrew may enroll only if that person meets the criteria set forth in subsection 3-B, paragraph B. [2003, c. 214, §1 (NEW).]

This subsection does not apply to persons who are reemployed by the State following retirement as provided in Public Law 2001, chapter 442.

[2003, c. 214, §1 (NEW) .]

3-D. **Coverage under group health insurance plan for spouse and dependents after death of retiree.** If the spouse or other dependents of a retiree who is eligible pursuant to subsection 1, paragraph G and subsection 1-A are covered by the group health plan and the retiree dies while enrolled in the group health plan, the spouse or dependents must have the opportunity to continue coverage under the plan after the death of the retiree by making the premium payment for the cost of that coverage. In the case of underage dependent children, coverage must be available at least until the dependent children reach 19 years of age.

[2005, c. 67, §1 (NEW) .]

4. **Payroll deduction.**

[1975, c. 90, §T1 (RP) .]

5. **Purchase of policies.** The commission shall purchase, by competitive bidding, from one or more insurance companies, nonprofit organizations, 3rd-party administrators or any organization necessary to administer and provide a health plan, a policy or policies or contract, to provide the benefits specified by this section. The purchase of policies by the commission must be accomplished by use of a written contract that must be fully executed within 90 calendar days of notification of bid acceptance from the commission to

the insurer. In extenuating circumstances, the Commissioner of Administrative and Financial Services may grant a waiver to that 90-day limit. Notwithstanding this subsection, with the consent of the policyholder and of the insurer and at the sole discretion of the commission, existing policies of insurance covering at least 1,000 of the employees defined as eligible by this section may be amended to provide the benefits specified by this section and assigned to the Commissioner of Administrative and Financial Services for the benefit of all those eligible under this section. The company or companies or nonprofit organizations must be licensed under the laws of the State, when applicable. The policy provisions are subject to and as provided for by the insurance laws of this State, when applicable. Notwithstanding any other provisions of law, the term of a contract executed with a successful bidder may not exceed 3 years.

[1995, c. 368, Pt. G, §1 (AMD) .]

6. **Master policy and certificates.** The insurance company, companies or nonprofit organizations or the Commissioner of Administrative and Financial Services shall furnish the usual master policy and certificates. Each covered participant must receive a certificate setting forth the benefits to which the participant is entitled, to whom payable, to whom claims must be submitted, and summarizing the provisions of the policy principally affecting the participant.

[1991, c. 780, Pt. Y, §24 (AMD) .]

7. **Payment by State.** Except as otherwise provided in this subsection, the State, through the commission, shall pay health plan premiums in accordance with this subsection.

A. Until October 1, 2009, for employees, the State shall pay 100% of the individual premium for the standard plan identified and offered by the commission and available to the employee as authorized by the commission. [2009, c. 213, Pt. GG, §1 (NEW).]

B. Beginning October 1, 2009 and until July 1, 2010, the State shall pay a share of the individual premium for the standard plan identified and offered by the commission as follows.

(1) For an employee whose base annual rate of pay is projected to be less than or equal to $30,000 on July 1, 2009, the State shall pay 100% of the individual premium for the standard plan identified and offered by the commission and available to the employee as authorized by the commission.

(2) For an employee whose base annual rate of pay is projected to be greater than $30,000 and less than $80,000 on July 1, 2009, the State shall pay 95% of the individual premium for the standard plan identified and offered by the commission and available to the employee as authorized by the commission.

(3) For an employee whose base annual rate of pay is projected to be $80,000 or greater on July 1, 2009, the State shall pay 90% of the individual premium for the standard plan identified and offered by the commission and available to the employee as authorized by the commission. [2009, c. 213, Pt. GG, §1 (NEW).]

C. Beginning July 1, 2010, except as provided in subsection 7-A, the State, through the commission, shall pay a share of the individual premium for the standard plan identified and offered by the commission as follows.

(1) For an employee whose base annual rate of pay is less than or equal to $30,000 on July 1st of the state fiscal year for which the premium contribution is being determined, the State shall pay 95% of the individual premium for the standard plan identified and offered by the commission and available to the employee as authorized by the commission.

(2) For an employee whose base annual rate of pay is greater than $30,000 and less than $80,000 on July 1st of the state fiscal year for which the premium contribution is being determined, the State shall pay 90% of the individual premium for the standard plan identified and offered by the commission and available to the employee as authorized by the commission.

(3) For an employee whose base annual rate of pay is $80,000 or greater on July 1st of the state fiscal year for which the premium contribution is being determined, the State shall pay 85% of the individual premium for the standard plan identified and offered by the commission and available to the employee as authorized by the commission. [2013, c. 276, §1 (AMD).]

D. For Legislators, the State shall pay 50% of the health plan premium for dependent coverage. [2009, c. 213, Pt. GG, §1 (NEW).]

E. For a person appointed to a position after November 1, 1981 who is employed less than full time, the State shall pay a share of the employee's share of the individual premium reduced pro rata to reflect the reduced number of work hours. [2009, c. 213, Pt. GG, §1 (NEW).]

F. The State may not pay any portion of the health plan premium for a blind person eligible for the group health plan under subsection 1, paragraph H or for a licensed foster parent eligible for the group health plan under subsection 1, paragraph I. [2009, c. 213, Pt. GG, §1 (NEW).]

G. For persons who were first employed before July 1, 1991, the State shall pay 100% of only the retiree's share of the premiums for the standard plan identified and offered by the commission and available to the retiree, as authorized by the commission for persons who were previously eligible for this health plan pursuant to subsection 1, paragraph A and who have subsequently become eligible pursuant to subsection 1, paragraph G. [2009, c. 213, Pt. GG, §1 (NEW).]

H. For persons who were first employed by the State after July 1, 1991, the State shall pay a pro rata share portion of only the retiree's share of the premiums for the standard plan identified and offered by the commission and available to the retiree, as authorized by the commission for persons who were previously eligible for this health plan pursuant to subsection 1, paragraph A and who have subsequently become eligible pursuant to subsection 1, paragraph G based on the total number of years of participation in the group health plan prior to retirement as follows:

(1) For an employee with 10 or more years of participation, the state portion is 100% of the group health plan premium.

(2) For an employee with at least 9 but less than 10 years of participation, the state portion is 90% of the group health plan premium.

(3) For an employee with at least 8 but less than 9 years of participation, the state portion is 80% of the group health plan premium.

(4) For an employee with at least 7 but less than 8 years of participation, the state portion is 70% of the group health plan premium.

(5) For an employee with at least 6 but less than 7 years of participation, the state portion is 60% of the group health plan premium.

(6) For an employee with at least 5 but less than 6 years of participation, the state portion is 50% of the group health plan premium.

(7) For an employee with less than 5 years of participation, there is no contribution by the State. [2009, c. 213, Pt. GG, §1 (NEW).]

I. For persons who were first employed by the State on or after July 1, 2011, the State shall pay a pro rata portion of only the retiree's share of the premiums for the standard plan identified and offered by the commission and available to the retiree, as authorized by the commission for persons who were previously eligible for this health plan pursuant to subsection 1, paragraph A and who have subsequently become eligible pursuant to subsection 1, paragraph G based on the total number of years of participation in the group health plan prior to retirement as follows.

(1) For an employee with at least 10 but less than 15 years of participation, the state portion is up to 50% of the group health plan premium.

(2) For an employee with at least 15 but less than 20 years of participation, the state portion is up to 75% of the group health plan premium.

(3) For an employee with at least 20 years of participation, the state portion is up to 100% of the group health plan premium.

(4) For an employee with less than 10 years of participation, there is no contribution by the State. [2011, c. 380, Pt. V, §1 (NEW); 2011, c. 380, Pt. V, §7 (AFF).]

J. Those state employees that retire after January 1, 2012, or those state employees employed as teachers in the unorganized territory or the Maine Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf that retire after July 1, 2012, under the provisions of section 17851, subsections 1-B, 1-C, 2-B, 2-C and 3 shall contribute 100% of the individual premium until such time as the retiree reaches normal retirement age. [2011, c. 380, Pt. V, §1 (NEW); 2011, c. 380, Pt. V, §7 (AFF).]

K. The total premium increase for active and retired state employee health insurance is capped at the fiscal year 2010-11 funding level for the fiscal years ending June 30, 2012 and June 30, 2013. The total premium increase for the fiscal years ending June 30, 2014 and June 30, 2015 is limited to no more than 1.5 percentage points per year. The total premium increase for fiscal years ending after June 30, 2015 is limited to no more than any percentage increase in the Consumer Price Index as defined in section 17001, subsection 9 plus 3%. [2013, c. 368, Pt. H, §1 (AMD).]

L. The provisions of paragraphs I and J do not apply to those individuals who are receiving or who have received retirement benefits under section 17907 or section 17929. [2011, c. 540, §1 (AMD); 2011, c. 540, §3 (AFF).]

Pursuant to Title 20-A, section 12722, subsection 5, this subsection applies to participants in the defined contribution plan offered by the Maine Community College System Board of Trustees under Title 20-A, section 12722.

[2013, c. 276, §1 (AMD); 2013, c. 368, Pt. H, §1 (AMD) .]

7-A. **Health credit premium program.** Notwithstanding subsection 7, paragraph C, the State may pay a greater proportion of the total cost of the individual premium for the standard plan identified and offered by the commission and available to the employee as authorized by the commission. The commission shall develop a health credit premium program whereby employees are provided incentives to engage in healthy behaviors in an effort to improve the health status of the state employee population and to help reduce costs to the state employee health insurance program. The commission shall define benchmarks for healthy behaviors that, if met by an individual employee, result in the State's paying a greater share of the individual premium. Adjustments to the state share of the individual premium must be applied once each year in advance of the beginning of the plan year.

The benchmarks developed by the commission must provide 2 discrete levels for the state share of the individual premium as follows.

A. For employees whose base annual rate of pay is less than or equal to $30,000 on July 1st of the state fiscal year for which the premium contribution is being determined, the health credit premium program must provide the individual employee meeting the specified benchmarks with the opportunity to have the state share of the individual premium paid at 100% or 95%. The state share is determined by the specific benchmarks met by the employee. [2013, c. 276, §2 (AMD).]

B. For employees whose base annual rate of pay is greater than $30,000 and less than $80,000 on July 1st of the state fiscal year for which the premium contribution is being determined, the health credit premium program must provide the individual employee meeting the specified benchmarks with the opportunity to have the state share of the individual premium paid at 95% or 90%. The state share is determined by the specific benchmarks met by the employee. [2013, c. 276, §2 (AMD).]

C. For employees whose base annual rate of pay is $80,000 or greater on July 1st of the state fiscal year for which the premium contribution is being determined, the health credit premium program must provide the individual employee meeting the specified benchmarks with the opportunity to have the state share of the individual premium paid at 90% or 85%. The state share is determined by the specific benchmarks met by the employee. [2013, c. 276, §2 (AMD).]

[2013, c. 276, §2 (AMD) .]

7-B. **Provision for alternative cost-savings initiatives.** If the commission fails to develop and implement the health credit premium program as specified in subsection 7-A, or if the health credit premium program fails to generate the savings required to maintain the fiscal balance in the state employee health insurance program, the commission shall develop and implement changes to the benefit structure of the standard plan in order to satisfy the need for fiscal stability.

[2009, c. 213, Pt. GG, §3 (NEW) .]

8. **Payment by Maine State Retirement System for persons first employed before July 1, 1991.**

[1995, c. 368, Pt. G, §3 (RP) .]

8-A. **Payment by Maine State Retirement System for persons employed after July 1, 1991.**

[1995, c. 368, Pt. G, §4 (RP) .]

9. **Restrictions on self-insured programs.** The following restrictions apply to self-insured group health or dental plans.

A. To the extent that the State assumes the risk with respect to any program provided for in this section, the State shall maintain a reserve at least equal to the sum of:

(1) An amount estimated to be necessary to pay claims and administrative costs for the assumed risk for 2 1/2 months; and

(2) The amount determined annually by a qualified actuary to be necessary to fund the unpaid portion of ultimate expected losses, including incurred but not reported claims, and related expenses incurred in the provision of benefits for eligible participants, less any credit, as determined by a qualified actuary, for excess or stop-loss insurance.

The reserve must be maintained in the fund provided for in section 286. If the State self-insures for more than one program, a reserve meeting the requirements of this paragraph must be maintained for each program. [1989, c. 776, §1 (NEW).]

B. The State may purchase excess or stop-loss insurance for any program, with attachment levels and limits as recommended by a qualified actuary. [1989, c. 776, §1 (NEW).]

C. Paragraph A does not apply to a program in the first 2 years after the program is changed from a fully insured program to a fully or partially self-insured program. Before a program may begin its first year of operation:

(1) The reserve fund must contain a reserve at least equal to the amount estimated to be necessary to pay the claims and administrative costs with respect to the assumed risk for one full month; and

(2) The rate structure of the program, as certified by a qualified actuary, must be designed to enable the fund to attain the following reserve levels:

(a) By the end of the first year of the program, the reserve required by paragraph A, subparagraph (2), and an amount estimated to be necessary to pay claims and administrative costs for the assumed risk for 2 full months; and

(b) By the end of the 2nd year of the program, the reserve required by paragraph A, subparagraph (2), and an amount estimated to be necessary to pay claims and administrative costs for the assumed risk for 2 1/2 full months.

If the State purchases stop-loss or excess insurance with respect to the risk, the required reserve is reduced by the credit specified in paragraph A. A self-insurance program may not continue if the reserve fund with respect to that program does not contain the amounts set forth in subparagraph (2) by the time limits established. [1989, c. 776, §1 (NEW).]

D. For purposes of paragraphs A, B and C, a "qualified actuary" is an actuary who is a member of the American Academy of Actuaries qualified as to health reserving methodologies. [1989, c. 776, §1 (NEW).]

E. The commission may not enter into a contract with a 3rd-party administrator that has not demonstrated compliance with all applicable state laws, and that is not, at the time of entering into the contract, administering a health plan or providing health care coverage for a total number of lives equal to the number that would be covered by the state contract. [1989, c. 776, §1 (NEW).]

F. This paragraph is effective only if no other applicable state law requires bonding of 3rd-party administrators.

(1) Every applicant to provide service as a 3rd-party administrator for this program shall file with the proposal, and shall maintain in force while representing the state program, a fidelity bond in favor of the Treasurer of State executed by a surety company for the benefit of the State or beneficiaries of the program. The bond must be continuous in form and in one of the following amounts:

(a) For an administrator that collects contributions and premiums for the program but does not administer or pay claims, the greater of $50,000 or 5% of contributions and premiums projected to be received or collected for the following plan year from the State or from persons covered by the program, but not to exceed $1,000,000;

(b) For an administrator that administers and pays claims, but does not collect premiums and contributions, the greater of $50,000 or 5% of the claims and claim expenses projected to be held for the following year to pay claims and claim expenses for persons covered by the program, but not to exceed $1,000,000; or

(c) For an administrator that collects premiums and contributions and administers and pays claims, the greater of the amounts determined under division (a) or (b), but not to exceed $1,000,000. [1989, c. 776, §1 (NEW).]

G. Any contract entered into by the State must provide for coverage that meets the same level of benefits as those that would be required by state law if the coverage was provided by a health insurance plan governed by Title 24 or Title 24-A. [1989, c. 776, §1 (NEW).]

[1989, c. 776, §1 (NEW) .]

10. **Commission not insurer.** The commission or other entity operating any self-funded plan pursuant to this section is not an insurer, reciprocal insurer, or joint underwriting association under the laws of the State. The administration of such a program by the director of the employees health insurance program does not constitute doing the business of insurance.

[1989, c. 776, §1 (NEW) .]

11. **Coverage for persons eligible under federal Trade Adjustment Assistance Reform Act of 2002.** The Department of Administrative and Financial Services, Division of Employee Health and Benefits may provide, through a qualified insurance company, a group health plan product for individuals certified to receive federal assistance in paying for health coverage under the terms of the health coverage tax credit program within the federal Trade Adjustment Assistance Reform Act of 2002, Public Law 107-210.

Certification of eligibility is made by the Department of Labor. Individuals may enroll eligible dependents. Individuals eligible for enrollment in this group health plan remain eligible for enrollment and coverage through the duration of their federal trade adjustment assistance eligibility and for one month after their federal trade adjustment assistance eligibility status ends.

Any person who is receiving a benefit payment from the federal Pension Benefit Guaranty Corporation and who has attained the age of 55, but who is not eligible for Medicare benefits, may also enroll in the group health plan. These individuals may enroll eligible dependents.

The eligibility requirements under the federal Trade Adjustment Assistance Reform Act of 2002, Public Law 107-210 apply to persons enrolling in the group health plan provided pursuant to this subsection.

Premium rates must be established to reflect the costs of providing insurance coverage. Premium payments must be provided by the United States Department of Labor and individual enrollees. The division may accept any funds allocated under the federal Trade Adjustment Assistance Reform Act of 2002 and other sources in order to pay premiums and to administer the program.

[2003, c. 348, §1 (NEW) .]

11-A. **Coverage for retired law enforcement officers and firefighters.** A retired county or municipal law enforcement officer or retired municipal firefighter, as defined in section 286-M, subsection 2, who participates in an employer-sponsored retirement program and, prior to July 1, 2007, was enrolled in a self-insured health benefits plan offered by the employing county or municipality may, if the requirements of this subsection are met, enroll in a group health plan administered pursuant to this section that provides coverage for the retired county or municipal law enforcement officer or retired municipal firefighter effective no earlier than July 1, 2007.

A. A retiree who fails to enroll in a group health plan pursuant to this subsection is not otherwise eligible to enroll in such a plan and is not eligible for the premium subsidy provided pursuant to this subsection for enrollment in any other health plan. Retirees may enroll themselves, their spouses or their dependents in a group health plan during the following time periods, as applicable.

(1) When the effective date of retirement from the county or municipality is on or before May 1, 2007, the retiree must enroll in the plan before July 1, 2007.

(2) When the effective date of retirement from the county or municipality is after May 1, 2007, the retiree must enroll in the plan no later than 60 days following the effective date of retirement from the county or municipality.

(3) Notwithstanding the requirements of subparagraphs (1) and (2), when the retiree, the retiree's spouse or the retiree's dependent experiences an involuntary loss of other health insurance coverage carried as of July 1, 2007 or 60 days following the date of the retiree's retirement, whichever is later, the retiree may elect to enroll in the plan no later than 60 days after the effective date of the loss of that coverage. Involuntary loss of coverage does not include a loss of coverage arising as a result of nonpayment of premiums. [2005, c. 636, Pt. A, §2 (NEW).]

B. Eligible persons enrolling in a group health plan in which the retiree enrolls pursuant to this subsection are responsible for the premium payment associated with participation in the plan to the extent such an obligation exists following application of any premium subsidy. Failure to remit premium payments in the manner required by the administration policies of the group health plan must result in disenrollment from the plan. [2005, c. 636, Pt. A, §2 (NEW).]

C. The State shall pay a premium subsidy that equals the dollar amount equivalent to the highest premium subsidy provided in accordance with section 286-M, subsection 6 or 45% of the cost of the retiree's share of the individual premium for the standard plan identified and offered under the group health insurance plan in which the retiree enrolls pursuant to this subsection, whichever is less. A retiree

electing to enroll a spouse or dependent in the plan is responsible for payment of 100% of the cost of such coverage, in addition to that portion of the retiree's individual premium cost not contributed by the State. [2005, c. 636, Pt. A, §2 (NEW).]

[2005, c. 636, Pt. A, §2 (NEW) .]

12. **Contractual commitment to health insurance for retirees.** Effective April 1, 2004, to each vested employee as defined in this subsection, the State makes solemn contractual commitments as set forth in paragraph C, protected under the contract clauses of the Constitution of Maine, Article I, Section 11 and the United States Constitution, Article I, Section 10.

A. For purposes of this subsection, "vested employee" means an employee in a category described in subsection 1, paragraph A, F, F-1, F-2 or F-3 who, on or after April 1, 2004, meets the applicable creditable service requirement for eligibility to receive a retirement benefit, at the applicable age if so required, under one of the following:

(1) Section 851, which governs legislative retirement;

(2) Section 17851, which governs the regular state employee plan;

(3) Section 17851-A, subsection 2, which governs state special plans;

(4) Section 18451, which governs participating local district regular plans;

(5) Section 18453, which governs participating local district special plans; or

(6) The terms of a retirement plan provided to employees pursuant to section 18252-B. [2003, c. 673, Pt. DDDD, §1 (NEW).]

B. For purposes of this subsection, "time of vesting" means, for each employee, the date on which that employee met the creditable service requirement for eligibility to receive a retirement benefit, at the applicable age if so required, as set forth in paragraph A, subparagraphs (1) to (6). [2003, c. 673, Pt. DDDD, §1 (NEW).]

C. The State makes solemn contractual commitments under this subsection that, with respect to any group health plan offered by the State:

(1) Eligibility criteria for a vested employee or a family member of a vested employee to participate in a group health plan under this section after retirement will be no more restrictive than eligibility criteria applicable to that employee or family member at the time of vesting;

(2) The state contribution toward the cost of the premium for any group health plan offered by the State for a retired vested employee, as a percentage of the cost of coverage, is not less than that provided at the time of vesting; and

(3) The group health plans offered in each plan year to retired vested employees under this section will be the same as or substantially similar to the group health plans offered to active employees in that same plan year. The State Employee Health Commission shall determine whether plans are substantially similar. [2003, c. 673, Pt. DDDD, §1 (NEW).]

D. This subsection does not create a contractual commitment on the part of the State to offer group health plans or to maintain coverage for a specific type of benefit or level of benefit payment. The State may reduce or eliminate coverage for types of benefits or levels of benefit payments for retired vested employees only if it makes the same or substantially similar reductions for active employees. [2003, c. 673, Pt. DDDD, §1 (NEW).]

E. This subsection does not create an ancillary benefit within the meaning of the Constitution of Maine, Article IX, Section 18-A and may not be construed to create a claim against the assets of the Maine Public Employees Retirement System. [2003, c. 673, Pt. DDDD, §1 (NEW); 2007, c. 58, §3 (REV).]

F. The solemn contractual commitment provided in this subsection is void if a court of competent jurisdiction rules that this subsection creates an ancillary benefit within the meaning of the Constitution of Maine, Article IX, Section 18-A. [2003, c. 673, Pt. DDDD, §1 (NEW).]

[2003, c. 673, Pt. DDDD, §1 (NEW); 2007, c. 58, §3 (REV) .]

13. **Contract on pilot basis authorized.** Notwithstanding the requirements of subsection 9, paragraph G, the State may enter into a contract on a pilot basis that does not adhere to any geographic access requirements set forth in Title 24-A or rules adopted by the Superintendent of Insurance. The department shall report annually beginning January 15, 2006 to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters on its progress in establishing and operating a pilot program pursuant to this subsection.

[2005, c. 12, Pt. NNN, §1 (NEW) .]

14. **Employees eligible for Medicare.** Notwithstanding subsection 7, if an active employee eligible for Medicare elects to enroll in Medicare, the State shall pay 100% of the employee's share of the premiums for Medicare Part B until such time as the employee enrolls as an eligible retiree pursuant to this section.

[2009, c. 456, §1 (NEW) .]

15. **Provider profiling programs.** Notwithstanding subsection 10, the requirements of Title 24-A, sections 2694-A and 4303-A apply to any provider profiling program, as defined in Title 24-A, section 4301-A, subsection 16-A, developed by the commission.

[2013, c. 383, §1 (NEW) .]

SECTION HISTORY
1967, c. 543, (NEW). 1969, c. 588, §§1,2 (AMD). 1971, c. 544, §11 (AMD). P&SL 1973, c. 625, §19 (AMD). P&SL 1975, c. 90, §§T1, 2 (AMD). 1975, c. 771, §52 (AMD). 1979, c. 653, (AMD). 1981, c. 178, (AMD). 1981, c. 270, §1 (AMD). 1983, c. 692, §§1,2 (AMD). 1985, c. 295, §2 (AMD). 1985, c. 391, §§1-4,7 (AMD). 1985, c. 507, §2 (AMD). 1985, c. 609, (AMD). 1985, c. 693, §12 (AMD). 1985, c. 695, §§4-7 (AMD). 1985, c. 785, §§A30,31 (AMD). 1987, c. 221, §§1-3 (AMD). 1987, c. 402, §A14 (AMD). 1987, c. 731, §§2-5 (AMD). 1987, c. 735, §§5,6 (AMD). 1987, c. 769, §A11 (AMD). 1989, c. 443, §6 (AMD). 1989, c. 483, §A8 (AMD). 1989, c. 502, §A12 (AMD). 1989, c. 776, §1 (AMD). RR 1991, c. 2, §7 (COR). 1991, c. 527, §§1,2 (AMD). 1991, c. 780, §§Y23,24 (AMD). 1991, c. 885, §D2 (AMD). 1993, c. 16, §§1,2 (AMD). P&SL 1993, c. 67, §1 (AMD). 1993, c. 410, §§L9-11 (AMD). 1995, c. 368, §§G1-4 (AMD). 1997, c. 24, §C1 (AMD). 1997, c. 80, §§1-4 (AMD). 1997, c. 455, §§2,3 (AMD). 1997, c. 652, §§1,2 (AMD). 1997, c. 652, §4 (AFF). 1997, c. 763, §1 (AMD). 1997, c. 763, §7 (AFF). 1999, c. 152, §§E1,2 (AMD). RR 2001, c. 1, §7 (COR). 2001, c. 239, §1 (AMD). 2001, c. 239, §5 (AFF). 2001, c. 341, §1 (AMD). 2001, c. 374, §1 (AMD). 2001, c. 439, §§XX1-5 (AMD). 2001, c. 641, §1 (AMD). 2001, c. 667, §§E1-3 (AMD). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF). 2003, c. 214, §1 (AMD). 2003, c. 348, §1 (AMD). 2003, c. 673, §DDDD1 (AMD). 2003, c. 689, §B6 (REV). 2005, c. 12, §NNN1 (AMD). 2005, c. 21, §1 (AMD). 2005, c. 67, §1 (AMD). 2005, c. 279, §1 (AMD). 2005, c. 636, §§A1,2 (AMD). 2007, c. 58, §3 (REV). 2007, c. 134, §1 (AMD). RR 2009, c. 1, §5 (COR). 2009, c. 213, Pt. GG, §§1-3 (AMD). 2009, c. 233, §1 (AMD). 2009, c. 456, §1 (AMD). 2009, c. 571, Pt. JJJ, §1 (AMD). 2009, c. 571, Pt. NN, §1 (AMD).

RR 2011, c. 1, §4 (COR). 2011, c. 1, Pt. FF, §1 (AMD). 2011, c. 67, §1 (AMD). 2011, c. 380, Pt. V, §1 (AMD). 2011, c. 380, Pt. V, §7 (AFF). 2011, c. 438, §§1-4 (AMD). 2011, c. 514, §1 (AMD). 2011, c. 540, §1 (AMD). 2011, c. 540, §3 (AFF). 2013, c. 276, §§1, 2 (AMD). 2013, c. 368, Pt. H, §1 (AMD). 2013, c. 383, §1 (AMD). 2015, c. 363, §1 (AMD).

§285-A. STATE EMPLOYEE HEALTH COMMISSION

1. **Establishment.** The State Employee Health Commission is established to serve as trustee of the group health plan in this subchapter and to advise the Executive Director of Health Insurance and the Director of the Bureau of Human Resources on health insurance issues and the Director of the Bureau of Human Resources on issues concerning employee health and wellness and the State Employee Assistance Program.

[1991, c. 780, Pt. Y, §25 (AMD) .]

2. **Membership.** The State Employee Health Commission consists of 24 labor and management members as follows:

A. One labor member from each bargaining unit recognized under Title 26, chapter 9-B, appointed by the employee organization certified to represent the unit; [1991, c. 780, Pt. Y, §25 (AMD).]

B. One labor member from the largest bargaining unit recognized under Title 26, chapter 14, appointed by the employee organization authorized to represent the unit; [1987, c. 731, §6 (NEW).]

C. One labor member appointed by the retiree chapters of the Maine State Employees Association; [1987, c. 731, §6 (NEW).]

C-1. One labor member from Maine Turnpike Authority employees appointed by the employee organization authorized to represent the employees; [1997, c. 77, §1 (NEW).]

C-2. One labor member from Maine Public Employees Retirement System employees, appointed by the employee organization authorized to represent the employees; [2001, c. 636, §1 (NEW); 2007, c. 58, §3 (REV).]

C-3. One labor member from Maine Maritime Academy employees, appointed by the employee organization authorized to represent the employees; [2009, c. 64, §1 (NEW).]

D. Four management members appointed by the Commissioner of Administrative and Financial Services; [1991, c. 780, Pt. Y, §25 (AMD).]

E. One management member appointed by the Court Administrators; [1993, c. 68, §1 (AMD).]

F. The Executive Director of Health Insurance, ex officio; [1995, c. 97, §1 (AMD).]

G. One member representing retirees appointed by the Maine Association of Retirees; [1995, c. 97, §1 (AMD).]

H. One labor member from the Maine Community College System faculty or administrative unit, appointed by the employee organization authorized to represent the units; [1997, c. 77, §1 (AMD); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF).]

I. One management member from the Maine Community College System appointed by the President of the Maine Community College System; [2001, c. 636, §1 (AMD); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF).]

J. One management member appointed by the Executive Director of the Maine Turnpike Authority; [2009, c. 64, §1 (AMD).]

K. One management member appointed by the Executive Director of the Maine Public Employees Retirement System; and [2009, c. 64, §1 (AMD).]

L. One management member appointed by the President of the Maine Maritime Academy. [2009, c. 64, §1 (NEW).]

All appointed or elected members serve at the pleasure of their appointing or electing authorities.

[2009, c. 64, §1 (AMD) .]

3. **Voting.** All votes of the commission must be one vote cast by labor and one vote cast by management. The votes must be cast by the labor cochair who must be chosen by the labor members, and the vote must represent the majority opinion of the labor members of the commission, and by the management cochair who is the Director of the Bureau of Human Resources or the director's designee.

[1991, c. 780, Pt. Y, §25 (AMD) .]

SECTION HISTORY
1987, c. 731, §6 (NEW). 1989, c. 483, §A9 (AMD). 1989, c. 776, §2 (AMD). 1991, c. 528, §III2 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §III2 (AMD). 1991, c. 780, §Y25 (AMD). 1993, c. 68, §1 (AMD). 1995, c. 97, §1 (AMD). 1997, c. 77, §1 (AMD). 2001, c. 636, §1 (AMD). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF). 2007, c. 58, §3 (REV). 2009, c. 64, §1 (AMD).

§286. ADMINISTRATION

The Commissioner of Administrative and Financial Services has responsibility for the state employee health insurance program through the Division of State Employee Health Insurance that is established as part of the organization of the Bureau of Human Resources. The division is headed by the Executive Director of Health Insurance. The executive director has responsibility for the daily operation of this program and for the development and maintenance of programs that promote the health and safety of the state employees. Program services must be administered through offices, systems, consultants and staff necessary to provide cost-effective, accessible and responsive services to eligible employees and retirees. Administration of the program must be consistent with rules adopted by the State Employee Health Commission. The executive director and the staff of the state employee health insurance program are appointed in accordance with the Civil Service Law. [1991, c. 780, Pt. Y, §26 (AMD).]

Appeals by eligible employees or retirees shall be to hearing officers designated by the commission. [1987, c. 731, §7 (NEW).]

The cost of administration of the state employee health insurance program shall be funded from an administrative allowance to be negotiated by the commission with the health benefit carrier or carriers. Indirect costs may not be allocated to the program. [1987, c. 731, §7 (NEW).]

The commissioner shall establish the Accident, Sickness and Health Insurance Internal Service Fund through the State Controller in which health insurance and dental insurance premiums collected from state departments and agencies and other plan participants, premium dividends, return of premiums resulting from risk reduction programs and any other receipts must be deposited to be used for the purposes of the state employee health insurance program. The fund is a continuing fund and may not lapse. Interest earned from investment of the fund shall be credited to the fund. [1999, c. 731, Pt. M, §1 (AMD).]

An annual report shall be prepared for the Governor concerning the number of participants, premiums charged, utilization of benefits and operating costs. The report shall also include recommendations regarding future operation of the program. [1987, c. 731, §7 (NEW).]

A reserve fund, administered by the Executive Director of Health Insurance and the Director of the Bureau of Human Resources with approval of the Commissioner of Administrative and Financial Services, is created to protect the program from unexpected losses and self-insured losses and related expenses incurred in the provision of health and dental benefits for the eligible participants. The fund is a continuing fund and may not lapse. The Treasurer of State shall invest the fund. All proceeds of these investments accrue to the fund. [1991, c. 780, Pt. Y, §27 (AMD).]

The reserve fund is capitalized by money from premium payments and by legislative appropriation, payments from state departments and agencies and by such other means as the Legislature may approve. All money in the fund is deemed to be the commingled assets of all the covered employees and must be used only for the purposes of this section. [1989, c. 776, §3 (NEW).]

SECTION HISTORY
1967, c. 543, (NEW). 1979, c. 657, (RPR). 1985, c. 785, §B16 (AMD). 1987, c. 731, §7 (RPR). 1989, c. 776, §3 (AMD). 1991, c. 528, §III3 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §III3 (AMD). 1991, c. 780, §§Y26,27 (AMD). 1999, c. 731, §M1 (AMD).

§286-A. BUREAU OF HUMAN RESOURCES' STATE EMPLOYEE HEALTH DEDICATED REVENUE ACCOUNT

The Bureau of Human Resources' State Employee Health Dedicated Revenue Account is established to include allocations made to the bureau, funds transferred to the bureau from within the department, funds from the administration allowance provided in section 286, funds from the reserve fund provided in section 1731, funds received for special services provided to state agencies and employees and funds from operational charges levied upon state agencies. The cost of administration of the State Employee Assistance Program, the State Employee Health Program and the state employee workers' compensation unit must be funded from this account. [1991, c. 780, Pt. Y, §28 (AMD).]

State agency operational charges are a per employee fee paid by each agency in the same manner as premiums for state employee health insurance. With the exception of the Legislature, the per employee fee must be paid by all state agencies that have employees who are eligible to participate in the state employee health insurance program. The State Budget Officer shall work with state agencies to budget the funds necessary for the purposes of this paragraph. The Director of the Bureau of Human Resources shall recommend a fee to the Commissioner of Administrative and Financial Services. The director may establish a proportional fee for agencies outside of the Executive Department to reflect those programs utilized by such agencies. The rationale for the recommended fee must be well documented and include the program costs to be met by the fee. The commissioner shall provide a final recommended fee to the Governor. The Governor shall determine the per employee fee to be included in the normal budget process. [1991, c. 780, Pt. Y, §28 (AMD).]

SECTION HISTORY
1991, c. 528, §III4 (NEW). 1991, c. 528, §RRR (AFF). 1991, c. 591, §III4 (NEW). 1991, c. 780, §Y28 (AMD).

§286-B. IRREVOCABLE TRUST FUNDS FOR OTHER POST-EMPLOYMENT BENEFITS

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

A. "Retiree health benefits" means health benefits as determined from time to time by the State Employee Health Commission pursuant to section 285. [2007, c. 240, Pt. RRR, §1 (NEW).]

B. "Investment trust fund" means the Retiree Health Insurance Post-employment Benefits Investment Trust Fund established under section 17432. [2007, c. 240, Pt. RRR, §1 (NEW).]

C. "Irrevocable trust funds" means the Irrevocable Trust Funds for Other Post-employment Benefits established under subsection 2. "Irrevocable trust funds" includes the state employee plan, the teacher plan and the first responder plan. [2011, c. 380, Pt. Y, §1 (AMD).]

D. "State employee plan" means the irrevocable trust fund established for eligible participants described in section 285, subsection 1-A. [2011, c. 380, Pt. Y, §1 (NEW).]

E. "Teacher plan" means the irrevocable trust fund established for eligible participants described in Title 20-A, section 13451, subsections 2, 2-A, 2-B and 2-C. [2011, c. 380, Pt. Y, §1 (NEW).]

F. "First responder plan" means the irrevocable trust fund established for eligible participants described in section 285, subsection 11-A. [2011, c. 380, Pt. Y, §1 (NEW).]

[2011, c. 380, Pt. Y, §1 (AMD) .]

2. **Establishment.** The Irrevocable Trust Funds for Other Post-employment Benefits are established to meet the State's unfunded liability obligations for retiree health benefits. The state employee plan is established for eligible participants as described in section 285, subsection 1-A. The teacher plan is established for eligible participants, beginning July 1, 2011, as described in Title 20-A, section 13451, subsections 2, 2-A, 2-B and 2-C. The first responder plan is established for eligible participants as described in section 285, subsection 11-A. Funds appropriated for the irrevocable trust funds must be held in trust and must be invested or disbursed for the exclusive purpose of providing for retiree health benefits and may not be encumbered for, or diverted to, other purposes. Funds appropriated for the irrevocable trust funds may not be diverted or deappropriated by any subsequent action.

Annually, beginning with the fiscal year starting July 1, 2007, the Legislature shall appropriate funds to meet the State's obligations under any group health plan, policy or contract purchased by the State Employee Health Commission to provide retiree health benefits pursuant to section 285, subsection 5 and, if applicable, to meet the State's obligations under any self-insured group health plan pursuant to section 285, subsection 9. Unfunded liabilities may not be created except those resulting from experience losses. Unfunded liability resulting from experience losses must be retired over a period not exceeding 10 years.

Annually, beginning with the fiscal year starting July 1, 2009, the Legislature shall appropriate funds that will retire, in 30 years or less from July 1, 2007, the unfunded liability for retiree health benefits for eligible participants in the state employee plan. The unfunded liability referred to in this section is that determined by the Department of Administrative and Financial Services, Office of the State Controller's actuaries and certified by the Commissioner of Administrative and Financial Services as of June 30, 2006.

Annually, beginning with the fiscal year starting July 1, 2011, the Legislature shall appropriate funds that will retire, in 30 years or less from July 1, 2007, the unfunded liability for retiree health benefits for eligible participants in the first responder plan. The unfunded liability referred to in this section is that determined by the Department of Administrative and Financial Services, Office of the State Controller's actuaries and certified by the Commissioner of Administrative and Financial Services as of June 30, 2006.

Annually, beginning with the fiscal year starting July 1, 2015, the Legislature shall appropriate funds that will retire, in 30 years or less from July 1, 2007, the unfunded liability for retiree health benefits for eligible participants in the teacher plan. The unfunded liability referred to in this section is that determined by the Department of Administrative and Financial Services, Office of the State Controller's actuaries and certified by the Commissioner of Administrative and Financial Services as of June 30, 2006.

[2013, c. 368, Pt. H, §2 (AMD) .]

3. **Trustees.** The trustees of the irrevocable trust funds are as follows.

A. The Treasurer of State and the State Controller shall serve as trustees of the state employee plan. [2011, c. 380, Pt. Y, §1 (NEW).]

B. An independent, nongovernmental entity with a physical presence in the State selected by the Treasurer of State with the advice of the State Controller and municipal, school management and education associations pursuant to the process set forth in Title 5, chapter 155 shall serve as the trustee of the teacher plan and the first responder plan. [2011, c. 380, Pt. Y, §1 (NEW).]

[2011, c. 380, Pt. Y, §1 (AMD) .]

4. **Duties of the trustees.** The trustees of the irrevocable trust funds have the following duties.

A. The trustees of the irrevocable trust funds shall calculate the funds necessary to fund the state employee health insurance program, including the unfunded liability as determined in accordance with subsection 2, on an actuarially sound basis and transmit those calculations to the State Budget Officer as required by chapter 149. The Legislature shall appropriate and transfer annually those funds the trustees of the irrevocable trust funds determine to be necessary under this subsection to fund the state employee health insurance program on an actuarially sound basis, including a contribution to the irrevocable trust funds. [2011, c. 380, Pt. Y, §1 (AMD).]

B. The trustees of the irrevocable trust funds biannually shall make, or cause to be made, valuations of the assets and liabilities of the state employee health insurance program. The trustees of the irrevocable trust funds shall select an independent actuary to make annual valuations of the assets and liabilities of the state employee health insurance program on the basis of actuarial assumptions adopted by the trustees of the irrevocable trust funds. The actuary may not be an officer or employee of the State. The goal of the actuarial assumptions is to achieve a fully funded state employee health insurance program. [2011, c. 380, Pt. Y, §1 (AMD).]

C. The trustees of the irrevocable trust funds annually shall conduct, or cause to be conducted, an audit of the irrevocable trust funds. The trustees of the irrevocable trust funds shall select an independent auditor to perform the audit. The auditor may not be an officer or employee of the State. [2011, c. 380, Pt. Y, §1 (AMD).]

D. The trustees of the irrevocable trust funds shall make the final decision on all matters pertaining to administration, actuarial assumptions, actuarial recommendations, funding, payout schedule and long-term time horizon for the irrevocable trust funds. [2011, c. 380, Pt. Y, §1 (AMD).]

[2011, c. 380, Pt. Y, §1 (AMD) .]

5. **Investment of funds.** The trustees of the investment trust fund are responsible for the investment and reinvestment of the funds appropriated to the irrevocable trust funds and transferred to the investment trust fund in accordance with the Maine Uniform Trust Code and the Maine Uniform Prudent Investor Act under Title 18-B, subject to the guidelines set for the investment trust fund in section 17435.

[2011, c. 380, Pt. Y, §1 (AMD) .]

6. **Report to Legislature.** The trustees of the irrevocable trust funds shall make a written report to the joint standing committee of the Legislature having jurisdiction over appropriations matters and the joint standing committee of the Legislature having jurisdiction over labor matters on or before March 1st of each year that contains a discussion of any areas of policy or administration of the irrevocable trust funds that, in the opinion of the trustees of the irrevocable trust funds, should be brought to the attention of the joint standing committees; a discussion of the progress toward meeting the goals of this section; and a review of the status of the irrevocable trust funds.

[2011, c. 380, Pt. Y, §1 (AMD) .]

SECTION HISTORY
2007, c. 240, Pt. RRR, §1 (NEW). 2009, c. 213, Pt. N, §1 (AMD). 2011, c. 380, Pt. Y, §1 (AMD). 2013, c. 368, Pt. H, §2 (AMD).

Subchapter 3: HEALTH INSURANCE PROGRAM FOR RETIRED LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS

§286-M. RETIRED COUNTY AND MUNICIPAL LAW ENFORCEMENT OFFICERS AND MUNICIPAL FIREFIGHTERS HEALTH INSURANCE PROGRAM

1. **Program established.** The Retired County and Municipal Law Enforcement Officers and Municipal Firefighters Health Insurance Program is established to provide health insurance coverage to retired county and municipal law enforcement officers and retired municipal firefighters.

[2005, c. 636, Pt. A, §3 (NEW) .]

2. **Definitions.** As used in this subchapter, the following terms have the following meanings.

A. "County or municipal law enforcement officer" means a person who by virtue of employment by a county or municipal government in the State is vested by law with the power to make arrests for crimes or serve criminal process, whether that power extends to all crimes or is limited to specific crimes. "County or municipal law enforcement officer" does not include a state or federal law enforcement officer, an attorney prosecuting for a county or municipal government or a reserve officer. [2005, c. 636, Pt. A, §3 (NEW).]

B. "Dependent" means a spouse, an unmarried child under 19 years of age, a child who is a student under 23 years of age and financially dependent upon the enrollee, a child of any age who is disabled and dependent upon the enrollee or a domestic partner as defined in Title 24-A, section 2741-A. [2005, c. 636, Pt. A, §3 (NEW).]

C. "Division" means the Department of Administrative and Financial Services, Division of State Employee Health Insurance. [2005, c. 636, Pt. A, §3 (NEW).]

D. "Enrollee" means a county or municipal law enforcement officer or municipal firefighter who has enrolled in the program. [2005, c. 636, Pt. A, §3 (NEW).]

E. "Fund" means the Firefighters and Law Enforcement Officers Health Insurance Program Fund established in subsection 7. [2005, c. 636, Pt. A, §3 (NEW).]

F. "Group health plan" or "group health insurance plan" means any employer-sponsored group health insurance plan, whether self-insured or fully insured, that provides coverage to eligible employees, retirees and their dependents. [2005, c. 636, Pt. A, §3 (NEW).]

G. "Majority multiple-employer welfare arrangement" means the multiple-employer welfare arrangement, as defined in Title 24-A, section 6601, subsection 5, in which the majority of state municipal government employees are enrolled as of the effective date of this section. [2005, c. 636, Pt. A, §3 (NEW).]

H. "Municipal firefighter" means a person employed by a municipal fire department with the primary responsibility of aiding in the extinguishment of fires and includes a member of emergency medical services line personnel but does not include a member of a volunteer firefighter association. For the purposes of this paragraph, "emergency medical services line personnel" means persons who are career employees employed full-time by a public sector agency or employer and whose primary responsibility is to provide emergency medical services. [2005, c. 636, Pt. A, §3 (NEW).]

I. "Program" means the Retired County and Municipal Law Enforcement Officers and Municipal Firefighters Health Insurance Program established in this section. [2005, c. 636, Pt. A, §3 (NEW).]

[2005, c. 636, Pt. A, §3 (NEW) .]

3. **Eligibility for program coverage.** A person must make contributions pursuant to subsection 8 for 60 months or the payment required pursuant to subsection 9 in order to be eligible for coverage under the program. In addition, a person must satisfy the eligibility criteria specified in this subsection as follows:

A. The person must:

(1) Be at least 50 years of age;

(2) Be a retired county or municipal law enforcement officer or a retired municipal firefighter;

(3) Have, while actively employed as a county or municipal law enforcement officer or municipal firefighter, participated in the person's employer's health insurance plan or other fully-insured health insurance plan; and

(4) Receive or be eligible to receive:

(a) If retired from at least 25 years of service in a position as a county or municipal law enforcement officer or a municipal firefighter, a retirement benefit from the Maine Public Employees Retirement System or a defined contribution retirement plan other than the United States Social Security Act; or

(b) If retired from less than 25 years of service in a position as a county or municipal law enforcement officer or a municipal firefighter, a retirement benefit from the Maine Public Employees Retirement System or a defined contribution retirement plan other than the United States Social Security Act, as long as the benefit provided is at least 50% of average final compensation, with no reduction for early retirement and with or without a cost-of-living adjustment; or [2005, c. 636, Pt. A, §3 (NEW); 2007, c. 58, §3 (REV).]

B. The person must be a dependent of a person meeting the criteria of paragraph A. [2005, c. 636, Pt. A, §3 (NEW).]

[2005, c. 636, Pt. A, §3 (NEW); 2007, c. 58, §3 (REV) .]

4. **Program administration.** The program is administered by the division. The division shall:

A. Enter into administrative arrangements with fully insured health insurance product vendors to implement the purposes of this section; [2005, c. 636, Pt. A, §3 (NEW).]

B. Remit authorized premium subsidy payments for enrolled eligible persons and enrolled dependents to any fully insured group health insurance plans on a periodic basis, as established by agreements with the providers of those plans. The dollar value of the subsidy payment may vary with the premium cost of the benefit plan in which the enrollee participates; and [2005, c. 636, Pt. A, §3 (NEW).]

C. Adopt rules to implement the purposes of this section, including the determination of the program subsidy for enrollees pursuant to subsection 6. Rules adopted under this subsection are routine technical rules as defined in chapter 375, subchapter 2-A. [2005, c. 636, Pt. A, §3 (NEW).]

[2005, c. 636, Pt. A, §3 (NEW) .]

5. **Enrollment.** A county or municipal law enforcement officer, a municipal firefighter or a person retired from such a position is eligible to enroll in the program. An eligible person who fails to enroll in the program pursuant to this subsection is not otherwise eligible to enroll in the program and is not eligible for the premium subsidy provided pursuant to this section for enrollment in any other health plan. Notwithstanding the date of enrollment, insurance coverage is not effective until the date of retirement or July 1, 2007, whichever occurs later. Eligible persons may enroll themselves, their spouses and their dependents in the program during the following time periods:

A. When the effective date of hire of the eligible person is on or before November 1, 2006, the eligible person must enroll in the program before January 1, 2007, subject to the enrollment and eligibility requirements of the applicable group health plan; [2005, c. 636, Pt. A, §3 (NEW).]

B. When the effective date of hire of the eligible person is after November 1, 2006, the eligible person must enroll in the program no later than 60 days following the effective date of hire, subject to the enrollment and eligibility requirements of the applicable group health plan; or [2005, c. 636, Pt. A, §3 (NEW).]

C. Notwithstanding paragraphs A and B, when the eligible person, the eligible person's spouse or the eligible person's dependent experiences an involuntary loss of other health insurance coverage carried as of January 1, 2007 or 60 days following the date of the eligible person's hire, whichever is later, the eligible person may elect to enroll in the program no later than 60 days after the effective date of the loss of that coverage, subject to the enrollment and eligibility requirements of the applicable group health plan. Involuntary loss of coverage does not include a loss of coverage arising as a result of nonpayment of premiums. [2005, c. 636, Pt. A, §3 (NEW).]

[2005, c. 636, Pt. A, §3 (NEW) .]

6. **Premiums; subsidy.** Premiums for the program and the premium subsidy are subject to the provisions of this subsection. Premium subsidies are not provided for supplemental health insurance coverage.

A. An enrollee participating in the majority multiple-employer welfare arrangement is responsible for the premium payment associated with the cost of the majority multiple-employer welfare arrangement benefit option in which the enrollee is participating, to the extent such premium obligations exist following the application of any premium subsidy authorized by law. An enrollee who fails to remit the premium payments as established and required by the majority multiple-employer welfare arrangement must be disenrolled from the program. Beginning July 1, 2007, the State shall provide a premium subsidy for enrollees in the form of a direct payment to the majority multiple-employer welfare arrangement for each enrollee. The level of the subsidy must equal 45% of the individual premium cost for the enrollee and varies among enrollees depending upon the terms of the majority multiple-employer welfare arrangement coverage plan in which each enrollee is participating. Enrollees are responsible for the balance of the applicable individual premium, as well as the total cost of the premium for any applicable dependent coverage, and shall make payments directly to the majority multiple-employer welfare arrangement. [2005, c. 636, Pt. A, §3 (NEW).]

B. Enrollees retiring from counties or municipalities that do not participate in the majority multiple-employer welfare arrangement but who are eligible and elect to participate in that county's or municipality's fully insured health benefits plan are responsible for the premium payment associated with the cost of that plan, to the extent such premium obligations exist following the application of any premium subsidy authorized by law. An enrollee who fails to remit the premium payments as established and required by the fully insured plan must be disenrolled from the program. Beginning July 1, 2007, the State shall provide a premium subsidy for enrollees participating in fully insured health benefits plans pursuant to this subsection. This subsidy must be made in the form of a direct payment to the enrollee's health benefits plan and must equal 45% of the individual premium cost for the enrollee or a dollar amount equivalent to the highest premium subsidy provided in accordance with paragraph A, whichever is less. A retiree electing to enroll a spouse or a dependent in the program is responsible for payment of 100% of such coverage in addition to that portion of the retiree's individual premium cost not contributed by the State. [2005, c. 636, Pt. A, §3 (NEW).]

[2005, c. 636, Pt. A, §3 (NEW) .]

7. **Fund established.** The Firefighters and Law Enforcement Officers Health Insurance Program Fund is established as a nonlapsing, dedicated account administered by the division. Money appropriated by law for the purpose of paying premium subsidies must be deposited in the fund. Premium dividends accruing to the State, return of premiums resulting from risk reduction programs, active employee contributions pursuant to subsection 8 and any other receipts must be deposited into the fund to be used for the purposes

of the program. The fund is a pooled account. Individual law enforcement officers and firefighters do not have a right to money deposited in the fund except to the extent premium subsidies are available to program enrollees.

[2005, c. 636, Pt. A, §3 (NEW) .]

8. **Employee contributions to the fund.** The contributions of enrollees to the fund are governed by this subsection.

A. Beginning January 1, 2007, each enrollee who participates as an active employee in a retirement plan shall contribute 1.5% of that enrollee's gross wages to the fund. [2005, c. 636, Pt. A, §3 (NEW).]

B. The employer of an enrollee required to contribute to the fund shall remit on a monthly basis that enrollee's contribution to the fund. [2005, c. 636, Pt. A, §3 (NEW).]

[2005, c. 636, Pt. A, §3 (NEW) .]

9. **Retirees without 5 years of contributions to fund.** A person who retires without making 60 months of contributions to the fund but who meets the other eligibility criteria of subsection 3, referred to in this subsection as "the retiree," is eligible to participate pursuant to this subsection.

A. The retiree is eligible for coverage under the program upon enrollment. [2005, c. 636, Pt. A, §3 (NEW).]

B. The retiree shall pay the dollar equivalent of the retiree's scheduled contributions based upon the following schedule:

(1) A retiree who is at least 50 years of age and under 55 years of age shall pay 2% of that retiree's average final monthly compensation multiplied by 60;

(2) A retiree who is at least 55 years of age and under 60 years of age shall pay 1.75% of that retiree's average final monthly compensation multiplied by 60; and

(3) A retiree who is at least 60 years of age shall pay 1.5% of that retiree's average final monthly compensation multiplied by 60.

As used in this paragraph, "average final monthly compensation" means the average annual rate of earnable compensation, divided by 12, of a retiree during the 3 years of creditable service as a county or municipal law enforcement officer or municipal firefighter, not necessarily consecutive, in which the average annual rate of earnable compensation is highest or during the retiree's entire period of creditable service as a county or municipal law enforcement officer or municipal firefighter, if the period is less than 3 years. [2005, c. 636, Pt. A, §3 (NEW).]

C. If the retiree has made contributions to the fund while employed as a county or municipal law enforcement officer or municipal firefighter, the retiree shall pay the difference between:

(1) The total of the retiree's employee contributions required pursuant to paragraph B based on the retiree's age as of the date of retirement; and

(2) The dollar equivalent of the retiree's scheduled contributions for 60 months pursuant to subsection 8. [2005, c. 636, Pt. A, §3 (NEW).]

D. The retiree shall make the payments required by paragraph B or C to the division within 12 months of enrollment in the program. A retiree who fails to make the required payment within 12 months of enrollment must be disenrolled from the program. [2005, c. 636, Pt. A, §3 (NEW).]

[2005, c. 636, Pt. A, §3 (NEW) .]

10. **Coverage under the program.** The benefits, copayments and deductibles under the program are determined by the fully insured health benefits plan in which the retired enrollee participates. Pursuant to the rules of the applicable plan, a retired enrollee is required to participate in the same health insurance plan as the active employees of the unit of government from which the enrolled person has retired. Participation in any qualified health insurance plan is subject to the rules of that plan.

[2005, c. 636, Pt. A, §3 (NEW) .]

11. **Volunteer and call firefighters and reserve law enforcement officers.** A member of a volunteer or call firefighters' association in this State, as well as a person serving as a county or municipal law enforcement officer on a reserve basis, is eligible to participate in the program of health benefits coverage established pursuant to the eligibility criteria and other provisions set forth in Title 24-A, chapter 87 if that person meets the eligibility requirements under that chapter.

[2005, c. 636, Pt. A, §3 (NEW) .]

12. **Report.** The division shall submit a report to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters in the Second Regular Session of the 124th Legislature, and biennially thereafter, on the status of the program, program participation and the financing of the program, including the status of the fund, expenditures from the fund, current and projected premium costs to the program and to program enrollees and a projection of funding needs for the next 5 years. The report must provide options, based on projections of future need, for changing the method of funding any state-paid premium subsidy, if such a subsidy is authorized by law, and employee contributions.

[2005, c. 636, Pt. A, §3 (NEW) .]

SECTION HISTORY
2005, c. 636, §A3 (NEW). 2007, c. 58, §3 (REV).

Chapter 13-A: DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

§287. DEPARTMENT; COMMISSIONER

(REPEALED)

SECTION HISTORY
1971, c. 497, (NEW). 1971, c. 615, §4 (AMD). 1975, c. 771, §§52-A (AMD). 1987, c. 402, §A15 (RP).

§287-A. DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES DESIGNATED AS STATE AGENCY TO RECEIVE AND DISTRIBUTE FEDERAL SURPLUS PROPERTY

(REPEALED)

SECTION HISTORY
1977, c. 564, §§13-A (NEW). 1985, c. 785, §§A32,B17 (AMD). RR 1993, c. 1, §6 (COR). 2005, c. 386, §H1 (RP).

Chapter 14: STATE GOVERNMENT INTERNSHIP PROGRAM

§291. CREATION

There is established the State Government Internship Program, referred to in this chapter as "the program," for attracting and placing qualified undergraduate and graduate college students temporarily within the State Government, to be administered by the Margaret Chase Smith Center for Public Policy within the University of Maine System. [1993, c. 78, §1 (AMD).]

SECTION HISTORY
1967, c. 493, (NEW). 1985, c. 779, §10 (AMD). 1993, c. 78, §1 (AMD).

§292. PURPOSES

The purposes of this program are: [1967, c. 493, (NEW).]

1. **Selection.** To attract and select college students with ambition and talent for temporary internships within Maine State Government;

[1967, c. 493, (NEW) .]

2. **Placement.** To place each intern in a position of some responsibility where he can contribute ideas, enthusiasm and ingenuity while completing a project under the direction of a responsible state administrator;

[1967, c. 493, (NEW) .]

3. **Liaison.** To encourage liaison between State Government and the various institutions of higher learning located within the State;

[1967, c. 493, (NEW) .]

4. **Recommendations.** To formulate recommendations for improving the intern program and for attracting college graduates with outstanding potential into permanent positions of state employment.

[1967, c. 493, (NEW) .]

SECTION HISTORY
1967, c. 493, (NEW).

§293. INTERNSHIP COMMITTEE

(REPEALED)

SECTION HISTORY
1967, c. 493, (NEW). 1975, c. 766, §4 (AMD). 1983, c. 812, §14 (AMD). 1985, c. 785, §A33 (AMD). 1985, c. 785, §B18 (AMD). 1987, c. 402, §§A16,A17 (RPR). 1989, c. 503, §B11 (AMD). 1991, c. 622, §S1 (RP).

§294. DUTIES OF THE MARGARET CHASE SMITH CENTER FOR PUBLIC POLICY

The State Government Internship Program is administered by the Margaret Chase Smith Center for Public Policy, referred to in this section as "the center," within the University of Maine System. The center's duties include the following. [1993, c. 78, §2 (AMD).]

1. **General supervision.** The center shall exercise general supervision over the operation of the program and shall develop and put into effect administrative guidelines for interns and state government personnel, formulate policies and establish and administer operational procedures.

[1993, c. 78, §2 (AMD) .]

2. **Promotion; recruitment.** The center shall disseminate widely information and application forms and otherwise publicize the program so as to attract the attention and interest of as many college students as possible and shall receive the completed application blanks of those students interested, as well as answering inquiries for further details and information.

[1993, c. 78, §2 (AMD) .]

3. **Participation of state agencies.** The center shall acquaint state department heads and administrators with the program and its advantages, encouraging the greatest possible participation by state departments and agencies.

[1993, c. 78, §2 (AMD) .]

4. **Selection.** Applications of interested students received by the center must be processed in accordance with procedures to be established by the center.

[1993, c. 78, §2 (AMD) .]

5. **Placement.** The center shall place students with participating agencies of State Government.

[1993, c. 78, §2 (AMD) .]

6. **Orientation.** The center shall arrange an orientation for interns and supervising state personnel prior to commencement of student work within a state office, and may conduct special programs during the internship to insure that students obtain a broad understanding of State Government.

[1993, c. 78, §2 (AMD) .]

7. **Coordination.** The center shall coordinate the activities of the interns with the various participating state agencies to the maximum advantage of the program.

[1993, c. 78, §2 (AMD) .]

8. **Annual report.** The center shall render an annual report by the end of each calendar year on the operation of the State Government Internship Program which is a public document. Copies of the report must be filed with the Legislature.

[1993, c. 78, §2 (AMD) .]

SECTION HISTORY
1967, c. 493, (NEW). 1985, c. 779, §11 (AMD). 1987, c. 735, §§7,8 (AMD). 1993, c. 78, §2 (AMD).

§295. CONDITIONS OF EMPLOYMENT

1. **Temporary unclassified service.** Interns are considered temporary unclassified employees of the State. The employing department or agency may discharge an intern for cause with one week advance notice to the intern and the Margaret Chase Smith Center for Public Policy. The center may reassign an intern or release the intern from the program with one week advance notice to the intern and the state agency when it is considered in the best interest of the program.

[1993, c. 78, §3 (AMD) .]

2. **Salary.** The Margaret Chase Smith Center for Public Policy shall determine from time to time an appropriate minimum salary for interns, which must be paid by the participating state department or agency. The Margaret Chase Smith Center for Public Policy may negotiate the placement of an intern within State Government, and to further the purposes of the intern program, may make funds from this chapter available to the intern.

[1993, c. 78, §3 (AMD) .]

3. **Internship training.** Participating state departments and agencies shall release intern personnel to participate on duty time in orientation or training activities planned by the Margaret Chase Smith Center for Public Policy as part of the internship program.

[1993, c. 78, §3 (AMD) .]

SECTION HISTORY
1967, c. 493, (NEW). 1993, c. 78, §3 (AMD).

§296. ACCEPTANCE OF GIFTS, BEQUESTS, GRANTS, AID

The Margaret Chase Smith Center for Public Policy is authorized to accept gifts, bequests and endowments for purposes consistent with the objectives of this chapter, and to accept federal, private foundation and other grants and matching funds when determined to be in the best interests of the program. [1993, c. 78, §3 (AMD).]

SECTION HISTORY
1967, c. 493, (NEW). 1993, c. 78, §3 (AMD).

Chapter 14-A: CAPITOL PLANNING COMMISSION

§297. DECLARATION OF POLICY

The Legislature, in view of the need for effective planning to accommodate the governmental agencies of the State of Maine located in Augusta, and the possibility that a continuing increase in these needs may eventually make the construction of additional buildings and the enlargement of the state capitol grounds necessary, declares that it is the policy of the State of Maine that the development of the Capitol Area shall proceed with economy, careful planning, aesthetic consideration and with due regard to the public interests involved. [1971, c. 544, §12 (AMD).]

SECTION HISTORY
1967, c. 458, §1 (NEW). 1971, c. 544, §12 (AMD).

§298. CAPITOL PLANNING COMMISSION

The Capitol Planning Commission, established by section 12004-I, subsection 75, shall administer this chapter and perform such other duties as may be prescribed by law. [1989, c. 503, Pt. B, §12 (AMD).]

The commission consists of 9 members as follows: [1999, c. 127, Pt. A, §3 (AMD).]

1. **Commissioner of Agriculture, Conservation and Forestry.** The Commissioner of Agriculture, Conservation and Forestry, or the commissioner's designee;

[2011, c. 655, Pt. JJ, §41 (AFF); 2011, c. 655, Pt. JJ, §1 (RPR); 2011, c. 657, Pt. W, §6 (REV) .]

2. **Councilman.** A member of the Augusta City Council to be appointed by the Mayor of Augusta, with the advice and consent of the Augusta City Council, for a term of one year;

[1979, c. 108, §2 (RPR) .]

3. **Residents.** One resident of the Capitol Planning District and 2 residents of the City of Augusta, who may not be residents of the Capitol Planning District, to be appointed by the Governor for terms of 5 years; and

[2005, c. 123, §1 (AMD) .]

4. **Members-at-large.** Four citizens of the State, who may not be residents of Augusta, to be appointed by the Governor for terms of 5 years; except that the first appointed member must be appointed for a term of one year.

[2005, c. 123, §2 (AMD) .]

Each appointed member shall serve for the term of his appointment and thereafter until his successor is appointed and qualified. A vacancy shall be filled for the unexpired term in the same manner in which the original appointment is made. The members of the commission shall be compensated as provided in chapter 379. [1983, c. 812, §16 (AMD).]

The members of the commission shall elect a chairman who shall preside at all meetings of the commission when present. The commission shall meet at least once every 4 months and in addition, may meet as often as necessary, at such times and places as the chairman may designate. Any 3 members constitute a quorum for the exercise of all powers of the commission. The commission may employ, subject to the Civil Service Law, such assistance as may be necessary to properly carry out the duties of the commission. [1985, c. 785, Pt. B, §20 (AMD).]

The Director of Public Improvements serves as the secretariat of the commission in exercising its administration. The commission may, in accordance with the Maine Administrative Procedure Act, chapter 375, adopt and enforce rules as it determines necessary, except rules relating to the State Capitol Building under the jurisdiction of the State House and Capitol Park Commission, as it determines necessary for the purposes of carrying out this chapter. These rules have the force of law. [1993, c. 361, Pt. A, §1 (AMD).]

Among these rules and regulations, the commission shall adopt and promulgate regulations governing the height, setback, location of driveways, exterior design and materials, landscaping, location of parking and parking ratio of parking area to building area of all buildings erected or reconstructed within the Capitol Area

of the City of Augusta, provided that the regulations shall not apply to the erection, reconstruction or repair of buildings which are used for residential purposes and do not exceed 8 dwelling units. [1979, c. 598, §1 (RPR).]

SECTION HISTORY
1967, c. 458, §1 (NEW). 1971, c. 615, §5 (RPR). 1973, c. 622, §1 (RPR). 1975, c. 470, §2 (AMD). 1977, c. 78, §11 (AMD). 1977, c. 513, §§1,2 (AMD). 1979, c. 108, §§1,2 (AMD). 1979, c. 598, §1 (AMD). 1983, c. 812, §§15,16 (AMD). 1985, c. 785, §B20 (AMD). 1987, c. 816, §EE3 (AMD). 1989, c. 503, §B12 (AMD). 1993, c. 361, §A1 (AMD). 1999, c. 127, §A3 (AMD). 2005, c. 123, §§1,2 (AMD). 2011, c. 655, Pt. JJ, §1 (AMD). 2011, c. 655, Pt. JJ, §41 (AFF). 2011, c. 657, Pt. W, §6 (REV).

§299. DUTIES OF THE COMMISSION

The commission shall establish and maintain a master plan for the orderly development of future state buildings and grounds in the Capitol Area of the City of Augusta, with the exception of the State House and the grounds specified in Title 3, section 902-A. In maintaining the master plan, the commission shall take the following factors into consideration: [2003, c. 510, Pt. A, §2 (AMD).]

1. **Building location and design.** The needs of the State relative to the location and general design of buildings to be constructed, parking facilities, traffic management, service approaches, park areas and landscaping, including the placement of statues, monuments, fountains and other items of decoration as may be deemed desirable for the beautification of the Capitol Area.

[1967, c. 458, §1 (NEW) .]

2. **Ordinances and regulations.** The ordinances, plans, requirements and proposed improvements of the City of Augusta, including, but not limited to, zoning regulations, population trends, plans for highway development and the desirability of preserving the integrity and aesthetic qualities of Capitol Park.

[1967, c. 458, §1 (NEW) .]

3. **Other factors.** Any other factors which bear upon the orderly, integrated and cooperative development by the State and the City of Augusta of property in the area of the State Capitol.

[1967, c. 458, §1 (NEW) .]

4. **Cooperation and information exchange.** The Capitol Planning Commission, the State House and Capitol Park Commission and the Office of the Governor shall exchange information on a regular basis, at least 2 times each year, concerning the plans, proposals and activities of each organization with respect to the facilities and grounds at the seat of government. Each organization shall cooperate with the others and coordinate their efforts.

[1989, c. 410, §16 (NEW) .]

SECTION HISTORY
1967, c. 458, §1 (NEW). 1971, c. 615, §14 (AMD). 1973, c. 622, §2 (AMD). 1975, c. 647, §1 (AMD). 1987, c. 816, §EE4 (AMD). 1989, c. 410, §§15,16 (AMD). 2003, c. 510, §A2 (AMD).

§300. ADVICE AND ASSISTANCE TO COMMISSION

The commission may request the assistance and advice of any state agency in the development of the master plan. Any state agency receiving such a request shall render such assistance and advice to the commission. [1975, c. 647, §2 (AMD).]

SECTION HISTORY
1967, c. 458, §1 (NEW). 1971, c. 615, §14 (AMD). 1975, c. 647, §2 (AMD).

§301. COOPERATION WITH CITY OFFICIALS

The commission shall inform the City of Augusta of the master plan, and subsequent revisions thereof, and shall make every effort to cooperate with appropriate city officials to the end that the development efforts of the State and the City of Augusta may be integrated and proceed without friction. [1975, c. 647, §3 (AMD).]

SECTION HISTORY
1967, c. 458, §1 (NEW). 1971, c. 615, §14 (AMD). 1975, c. 647, §3 (AMD).

§302. SUBMISSION OF PLAN TO LEGISLATURE

The commission shall submit the completed plan to the Legislature for adoption as the official state master plan for the development of state buildings and grounds in the Capitol Area. From time to time the commission may submit such additions and amendments as it deems necessary to the Legislature for adoption and inclusion in the official state master plan for the development of state buildings and grounds in the Capitol Area. [1975, c. 647, §4 (AMD).]

SECTION HISTORY
1967, c. 458, §1 (NEW). 1971, c. 615, §14 (AMD). 1973, c. 622, §3 (AMD). 1975, c. 647, §4 (AMD).

§303. CAPITOL AREA

The area established and described under Title 1, section 814 for acquisition and use by the State is designated as the Capitol Area. The master plan shall be a guide for future state policy in the expansion of the State's physical plant and in the locating of state buildings and other public improvements in the Capitol Area. [1967, c. 458, §1 (NEW).]

SECTION HISTORY
1967, c. 458, §1 (NEW).

§304. APPROVAL OF CONSTRUCTION PROJECTS

A construction project may not be initiated in the Capitol Area for the development of state buildings and grounds following the adoption of the plan or amendments and additions thereto by the Legislature without the approval of the Legislative Council, the Bureau of General Services and the commission of the proposals and plans for the project. [2011, c. 691, Pt. B, §6 (AMD).]

SECTION HISTORY
1967, c. 458, §1 (NEW). 1969, c. 590, §76 (AMD). 1971, c. 615, §14 (AMD). 1973, c. 622, §4 (AMD). 1973, c. 788, §15 (AMD). 1975, c. 647, §5 (AMD). 2011, c. 691, Pt. B, §6 (AMD).

§305. REPORT

The commission shall report biennially to the Joint Standing Committee of the Legislature which is assigned jurisdiction over the subject of State Government facts and recommendations relating to the work and needs of the commission. The report shall list the construction projects initiated, completed and proposed during the next biennium in the Capitol Area since the last report. The commission shall recommend such revisions of the plan as from time to time become necessary or desirable for the orderly development of the Capitol Area. [1979, c. 598, §2 (AMD).]

SECTION HISTORY
1967, c. 458, §1 (NEW). 1971, c. 615, §14 (AMD). 1975, c. 647, §§5-A (AMD). 1979, c. 598, §2 (AMD).

§306. CONTRIBUTIONS

The commission may accept gifts, bequests and federal funds for purposes consistent with the objectives of this chapter. Such gifts and bequests shall be used solely to carry out the purposes for which they were made. [1975, c. 647, §6 (AMD).]

SECTION HISTORY
1967, c. 458, §1 (NEW). 1971, c. 615, §14 (AMD). 1975, c. 647, §6 (AMD).

§307. INTEREST IN CONTRACTS PROHIBITED

In addition to the limitations of section 18, an employee of the Department of Administrative and Financial Services or member of the commission may not be interested directly or indirectly in any contract or contracts calling for the construction or improvements of facilities, buildings and grounds in the Capitol Area in the City of Augusta as described in Title 1, section 814. [2007, c. 466, Pt. A, §6 (AMD).]

SECTION HISTORY
1967, c. 458, §1 (NEW). 1971, c. 615, §6 (AMD). 1973, c. 622, §5 (AMD). 1979, c. 734, §3 (AMD). 1985, c. 785, §A34 (AMD). 2007, c. 466, Pt. A, §6 (AMD).

§308. ESTABLISHMENT OF MEMORIAL TO CIVILIAN CONSERVATION CORPS

The Capitol Planning Commission shall construct and maintain a memorial dedicated to the Civilian Conservation Corps in honor of those who served and in recognition of their contributions to the State. The memorial must be located and constructed in accordance with a plan approved by the Capitol Planning Commission and the Legislative Council. Subject to available funding, the memorial must be completed by October 1, 2000. In addition, construction of the memorial must be in accordance with the following provisions. [1999, c. 747, §1 (NEW).]

1. **Location.** The memorial must be located immediately west of the main entrance to the Cultural Building that houses the Maine State Library, the Maine State Museum and the Maine State Archives in the State House complex.

[1999, c. 747, §1 (NEW) .]

2. **Memorial design and inscription.** The memorial must be of a design that is the same or similar to the memorial erected by the State of Michigan to honor the Civilian Conservation Corps. It must be a bronze casting approximately 6 feet in height of a Civilian Conservation Corps worker and must be placed on an elevated base constructed in whole or in part of stone or other natural materials. The area adjacent to the memorial must be landscaped with natural plantings following completion of the memorial.

The memorial must have a bronze plaque placed upon it on which is inscribed the following or similar language as determined by the Legislative Council:

> "In Honor Of The Young Men Of The Civilian Conservation Corps Who Changed the Face Of Maine From 1933 To 1942 By Building Parks, Roads, Trails, Forests And Citizenship, Leaving A Lasting Legacy To The Conservation Of Natural Resources For Which All Citizens Of Maine Owe A Debt Of Gratitude."

[1999, c. 747, §1 (NEW) .]

3. **Funding.** The Capitol Planning Commission may accept state and local funds, gifts and other contributions to be used solely to carry out the purposes of this section. All contributions or other funds received must be reported in writing to the Legislative Council at least quarterly. The Capitol Planning Commission shall make use of the services provided by the Maine Conservation Corps within the Department of Labor as feasible and appropriate.

[1999, c. 747, §1 (NEW) .]

4. **Maintenance of historical and educational information.** The State Archivist shall maintain and make available to the public a listing of persons who served in the Civilian Conservation Corps in Maine, if known, including the periods of service and projects on which they worked. In addition, the Director of the Maine State Museum shall develop and display an educational plaque regarding the memorial and the Civilian Conservation Corps and its accomplishments in this State in the main entrance to the Cultural Building. Funds received by the Capitol Planning Commission pursuant to subsection 3 may be used to pay the costs of developing the plaque.

[1999, c. 747, §1 (NEW) .]

SECTION HISTORY
1999, c. 747, §1 (NEW).

Chapter 15: BOARD OF SANITATION, LICENSING AND INSPECTION

§311. MEMBERSHIP AND DUTIES

(REPEALED)

SECTION HISTORY
1977, c. 83, §1 (RP). 1977, c. 240, §3 (RP).

Chapter 15-A: HISTORIC PRESERVATION OF STATEHOUSE AND BLAINE HOUSE

§321. DECLARATION OF POLICY

The Legislature, in view of the continuing importance which the State House and the Blaine House have for the people of Maine, declares that it is the policy of the State to preserve and develop the aesthetic and historical integrity of the State House and the Blaine House. [1989, c. 410, §17 (AMD).]

SECTION HISTORY
1979, c. 536, §1 (NEW). 1979, c. 663, §11 (AMD). 1989, c. 410, §17 (AMD).

§322. BLAINE HOUSE COMMISSION

The Blaine House Commission, as established in section 12004-I, subsection 75-B and referred to in this chapter as the "commission," consists of 9 voting members who are appointed and serve as described in this section. [1993, c. 590, §1 (NEW).]

1. **Members; appointment.** The commission consists of the following members:

A. The Director of the Maine Historic Preservation Commission; [1993, c. 590, §1 (NEW).]

B. The Director of the Maine State Museum; [1993, c. 590, §1 (NEW).]

C. The Director of the Bureau of General Services; [1993, c. 590, §1 (NEW).]

D. The Commissioner of Administrative and Financial Services; and [1993, c. 590, §1 (NEW).]

E. Five public members appointed by the Governor. The public members must have expertise in one or more of the following areas: historic preservation, interior decoration, historic architecture or landscape architecture. [1993, c. 590, §1 (NEW).]

[1993, c. 590, §1 (NEW) .]

2. **Terms.** Each public member serves a term concurrent with the term of the Governor.

[1993, c. 590, §1 (NEW) .]

3. **Chair.** The commission shall elect a chair from among its public members.

[1993, c. 590, §1 (NEW) .]

4. **Reimbursement.** Members serve on the commission without compensation.

[1993, c. 590, §1 (NEW) .]

5. **Meetings; decisions; quorum.** The commission shall meet at least quarterly on the call of the chair. Decisions must be made by a majority of those present and voting. A quorum is a majority of the members of the commission.

[1993, c. 590, §1 (NEW) .]

6. **Rules.** The commission, in accordance with the Maine Administrative Procedure Act, shall adopt all rules necessary or desirable for it to carry out the functions assigned it by this chapter.

[1993, c. 590, §1 (NEW) .]

SECTION HISTORY
1993, c. 590, §1 (NEW).

§323. APPROVAL OF ALTERATIONS; OVERSIGHT OF PLANS

The commission shall approve any architectural, aesthetic and decorative alterations to Blaine House grounds and public rooms and alterations to the structural features and architectural details of the private rooms and oversee plans to preserve and develop the aesthetic and historical integrity of the Blaine House and adjacent grounds. [1993, c. 590, §1 (NEW).]

1. **Oversight.** The commission shall oversee the preservation of, and the development and implementation of changes guaranteeing, the aesthetic and historical integrity of the public rooms of the Blaine House and adjacent grounds and alterations to the structural features and architectural details of the private rooms of the Blaine House.

[1993, c. 590, §1 (NEW) .]

2. **Jurisdiction.** The commission has jurisdiction over the entire exterior of the Blaine House, the interior rooms used by the public and the immediate grounds. The private office and living quarters used at the discretion of the Governor by the Governor and the Governor's family are exempt from this chapter, except for alterations to structural features and architectural details.

[1993, c. 590, §1 (NEW) .]

3. **Alterations.** The Bureau of General Services may not make any architectural, aesthetic or decorative addition to, deletion from or change to any external or internal part of the Blaine House or its immediate grounds under the jurisdiction of the commission unless the commission has approved the change in writing.

[1993, c. 590, §1 (NEW) .]

4. **Research; publications.** The commission may conduct research into the Blaine House, its grounds and its residents, to guide the commission in the preservation and development of the building's aesthetic and historical integrity. The commission may publish and distribute this research to enhance public understanding and appreciation of the Blaine House.

[1993, c. 590, §1 (NEW) .]

SECTION HISTORY
1993, c. 590, §1 (NEW).

§324. ADVICE AND ASSISTANCE TO COMMISSION

The commission may request the assistance and advice of any state agency in the administration of its duties. Any state agency receiving a request shall render any assistance and advice to the commission within reasonable means. [1993, c. 590, §1 (NEW).]

SECTION HISTORY
1993, c. 590, §1 (NEW).

§325. ANNUAL REPORT TO GOVERNOR AND LEGISLATURE

The commission shall report to the Governor and the Legislature annually on September 1st its accomplishments and recommendations relating to the work and needs of the commission. The commission shall list all activities and projects initiated and completed during the past year and those projects proposed during the next year that concern the preservation and development of the aesthetic and historical integrity of the Blaine House and its adjacent grounds. [1993, c. 590, §1 (NEW).]

SECTION HISTORY

1993, c. 590, §1 (NEW).

§326. CONTRIBUTIONS TO BLAINE HOUSE

The commission may accept gifts, bequests, loans of artifacts and federal funds for purposes consistent with the objectives of this chapter. These gifts, bequests, loans of artifacts and federal funds must be used solely to carry out the purposes for which they were intended. Gifts may include furnishings, other artifacts and any items or specimens appropriate for the grounds. [1993, c. 590, §1 (NEW).]

All contributions, purchases and bequests of artifacts for the Blaine House and grounds must be reported in writing to the Maine State Museum Commission at least quarterly. The Maine State Museum Commission shall consider these acquisitions for inclusion in the Blaine House Historic Collection and report its decisions to the Blaine House Commission at least quarterly. For the purposes of this section, the "Blaine House Historic Collection" consists of all artifacts associated with the Blaine House and grounds that, in the judgment of the Maine State Museum Commission, are determined culturally or historically significant to the Blaine House, its inhabitants or the State. [1993, c. 590, §1 (NEW).]

SECTION HISTORY
1993, c. 590, §1 (NEW).

Chapter 16: ADVISORY COMMITTEE ON STATE TELECOMMUNICATIONS

§350. STATEMENT OF PURPOSE; ADVISORY COMMITTEE ON STATE TELECOMMUNICATIONS

(REPEALED)

SECTION HISTORY
1975, c. 281, (NEW). 1983, c. 812, §17 (AMD). 1985, c. 785, §A35 (AMD). 1985, c. 819, §A3 (AMD). 1989, c. 503, §B13 (AMD). 1993, c. 361, §C1 (RP).

§351. COMMITTEE MEMBERSHIP; ORGANIZATION

(REPEALED)

SECTION HISTORY
1975, c. 281, (NEW). 1975, c. 497, §3 (AMD). 1985, c. 785, §A36 (AMD). 1987, c. 370, §1 (AMD). 1991, c. 780, §Y29 (AMD). 1993, c. 361, §C2 (RP).

§352. DUTIES

(REPEALED)

SECTION HISTORY
1975, c. 281, (NEW). 1985, c. 785, §A37 (AMD). 1993, c. 361, §C3 (RP).

Chapter 17: MAINE GOVERNMENTAL INFORMATION NETWORK BOARD

§353. MAINE GOVERNMENTAL INFORMATION NETWORK BOARD ESTABLISHED

(REPEALED)

(REPEALED)

SECTION HISTORY
1999, c. 428, §1 (NEW). 2003, c. 643, §1 (RP).

§354. BOARD MEMBERSHIP; TERM OF OFFICE; ORGANIZATION; REIMBURSEMENT

(REPEALED)
(REPEALED)

SECTION HISTORY
1999, c. 428, §1 (NEW). 2001, c. 388, §2 (AMD). 2003, c. 643, §1 (RP).

§355. POWERS AND DUTIES

(REPEALED)
(REPEALED)

SECTION HISTORY
1999, c. 428, §1 (NEW). 2003, c. 643, §1 (RP).

§356. ADMINISTRATION

(REPEALED)
(REPEALED)

SECTION HISTORY
1999, c. 428, §1 (NEW). 2003, c. 643, §1 (RP).

§357. FUNDING ESTABLISHED

(REPEALED)
(REPEALED)

SECTION HISTORY
1999, c. 428, §1 (NEW). 2003, c. 643, §1 (RP).

Chapter 18: MINING EXCISE TAX TRUST FUND

§451. STATEMENT OF PURPOSE

(REPEALED)

SECTION HISTORY
1981, c. 711, §2 (NEW). 1991, c. 799, §1 (RP).

§452. MINING EXCISE TAX TRUST FUND

There is created a separate trust fund to be known as the Mining Excise Tax Trust Fund, referred to in this chapter as the "fund," to replace the loss to the State of a nonrenewable natural resource, to protect the State's environment and to protect municipalities from any adverse impact resulting from mining of metallic minerals. [1991, c. 799, §2 (AMD).]

1. **Nonlapsing fund.** The fund may not lapse.

[1991, c. 799, §2 (AMD) .]

2. **Investment.** The Treasurer of State shall invest the fund in accordance with section 138.

[1981, c. 711, §2 (NEW) .]

3. **Principal limit.**

[1991, c. 799, §2 (RP) .]

SECTION HISTORY
1981, c. 711, §2 (NEW). 1991, c. 799, §2 (AMD).

§453. BOARD OF TRUSTEES

(REPEALED)

SECTION HISTORY
1981, c. 711, §2 (NEW). 1983, c. 812, §18 (AMD). 1989, c. 503, §B14 (AMD). 1991, c. 622, §S2 (RP).

§453-A. BOARD OF TRUSTEES

The Mining Excise Tax Trust Fund Board of Trustees, as established in section 12004-G, subsection 33-B and referred to in the chapter as the "board," consists of 5 members, at least one of whom must be a resident of the unorganized territory. [1993, c. 680, Pt. A, §8 (AMD).]

1. **Appointment.** The members of the board are appointed by the Governor and are subject to review by the joint standing committee of the Legislature having jurisdiction over taxation matters and to confirmation by the Legislature, except that the Governor may not appoint any members to the board until such time as funds accrue to the Mining Excise Tax Trust Fund.

[1999, c. 668, §3 (AMD) .]

2. **Terms.** Of the initial members one serves a term of one year, one serves a term of 2 years, one serves a term of 3 years, one serves a term of 4 years and one serves a term of 5 years. Upon the expiration of the initial terms, members are appointed to serve 5-year terms. Members may be reappointed. Members serve until their successors are appointed and qualified.

[1991, c. 799, §3 (NEW); 1991, c. 883, §1 (NEW) .]

3. **Vacancies.** A vacancy is filled for the expiration of the term to which the member has been appointed.

[1991, c. 799, §3 (NEW); 1991, c. 883, §1 (NEW) .]

SECTION HISTORY
1991, c. 799, §3 (NEW). 1991, c. 883, §1 (NEW). 1993, c. 349, §5 (AMD). 1993, c. 680, §A8 (AMD). 1999, c. 668, §3 (AMD).

§454. POWERS AND DUTIES OF THE BOARD

(REPEALED)

SECTION HISTORY
1981, c. 711, §2 (NEW). 1991, c. 799, §4 (RP).

§454-A. POWERS AND DUTIES OF BOARD

1. **Authorize expenditures.** The board may authorize any expenditure of the fund. An expenditure of funds or transfer of responsibility may be made only with the concurrence of at least 3 members of the board.

[1991, c. 799, §5 (NEW) .]

2. **Employ staff as necessary.** The board may employ staff necessary to carry out the purposes of this chapter.

[1991, c. 799, §5 (NEW) .]

3. **Reinvestment of funds.** The board may direct the Treasurer of State to reinvest any portion of the income earned by the fund with the principal of the fund. Earned income that is reinvested is not considered principal of the fund under section 455, subsection 1, paragraph B.

[1991, c. 799, §5 (NEW) .]

4. **Expenditures from excise tax revenues.** The board is responsible for expenditures from excise tax revenues in accordance with Title 36, chapter 371. The board shall reimburse municipalities for any lost property taxes pursuant to this chapter and Title 36, chapter 371.

[1991, c. 799, §5 (NEW) .]

5. **Biennial report and annual plan.** Upon appointment of the board members pursuant to section 453-A, subsection 1, the board shall prepare:

A. A biennial report to be submitted to the Governor and the Legislature. The report must include an audited financial statement of the fund and a listing of activities undertaken by the board in the preceding biennium. The report must be submitted 30 days prior to the convening of each first regular session of the Legislature; and [1991, c. 799, §5 (NEW).]

B. An annual general plan of expenditures and activities of the coming year. The general plan must be submitted to the Legislature for approval 30 days prior to the convening of each regular session. [1991, c. 799, §5 (NEW).]

[1999, c. 668, §4 (AMD) .]

SECTION HISTORY
1991, c. 799, §5 (NEW). 1999, c. 668, §4 (AMD).

§455. USES OF THE TRUST FUND

1. **Funds available.** The board may utilize available funds as follows.

A. The board may use income for the purposes of this section. [1981, c. 711, §2 (NEW).]

B. The board may use the principal if approved by the Legislature and the Governor. [1981, c. 711, §2 (NEW).]

[1981, c. 711, §2 (NEW) .]

2. **Uses.** Funds may be used as follows:

A. To purchase and develop land or other real property interests for park and recreational uses; [1981, c. 711, §2 (NEW).]

B. To purchase wildlife habitats, marine habitats and unique natural areas; or [1981, c. 711, §2 (NEW).]

C. To restore the quality of marine waters, lakes, rivers and streams. [1981, c. 711, §2 (NEW).]

[1981, c. 711, §2 (NEW) .]

SECTION HISTORY
1981, c. 711, §2 (NEW).

Chapter 19: MAINE HUMAN DEVELOPMENT COMMISSION

§461. COMMISSION ESTABLISHED

(REPEALED)

SECTION HISTORY
1989, c. 576, §§1,5 (NEW). 1991, c. 622, §S3 (RP).

§462. MEMBERSHIP

(REPEALED)

SECTION HISTORY
1989, c. 576, §§1,5 (NEW). 1991, c. 622, §S3 (RP).

§463. ADMINISTRATIVE AUTHORITY

(REPEALED)

SECTION HISTORY
1989, c. 576, §§1,5 (NEW). 1991, c. 622, §S3 (RP).

§464. POWERS AND DUTIES

(REPEALED)

SECTION HISTORY
1989, c. 576, §§1,5 (NEW). 1991, c. 622, §S3 (RP).

Chapter 20: COUNTY AND LOCAL GOVERNMENT INTERNSHIP PROGRAM

§471. CREATION

The County and Local Government Internship Program, referred to in this chapter as "the program," is established to attract and place qualified undergraduate and graduate college students temporarily within county and local governments. [2007, c. 466, Pt. A, §7 (AMD).]

SECTION HISTORY
2005, c. 656, §1 (NEW). 2007, c. 466, Pt. A, §7 (AMD).

§472. PURPOSES

The purposes of this program are: [2005, c. 656, §1 (NEW).]

1. **Selection.** To attract and select college students with ambition and talent for temporary internships within county and local governments;

[2005, c. 656, §1 (NEW) .]

2. **Placement.** To place each program intern in a position of some responsibility where the intern can contribute ideas, enthusiasm and ingenuity while completing a project under the direction of a responsible county or local administrator;

[2005, c. 656, §1 (NEW) .]

3. **Liaison.** To encourage liaisons between county and local governments and the various institutions of higher learning located within the State; and

[2005, c. 656, §1 (NEW) .]

4. **Recommendations.** To formulate recommendations for improving the program and for attracting college graduates with outstanding potential into permanent positions of employment within county and local governments.

[2005, c. 656, §1 (NEW) .]

SECTION HISTORY
2005, c. 656, §1 (NEW).

§473. ELIGIBILITY

To be eligible to participate in the program, a student must: [2005, c. 656, §1 (NEW).]

1. **College.** Have completed at least 2 years of college or have graduated from college within the past year; and

[2005, c. 656, §1 (NEW) .]

2. **Residence.** Be a state resident or attend a college in the State.

[2005, c. 656, §1 (NEW) .]

SECTION HISTORY
2005, c. 656, §1 (NEW).

§474. DUTIES OF THE MARGARET CHASE SMITH CENTER FOR PUBLIC POLICY

The Margaret Chase Smith Center for Public Policy within the University of Maine System, referred to in this chapter as "the center," shall administer the program. The center's duties include the following. [2007, c. 466, Pt. A, §8 (RPR).]

1. **General supervision.** The center shall exercise general supervision over the operation of the program and shall develop and put into effect administrative guidelines for interns and county and local government personnel, formulate policies and establish and administer operational procedures.

[2005, c. 656, §1 (NEW) .]

2. **Promotion; recruitment.** The center shall disseminate widely information and application forms and otherwise publicize the program to attract the attention and interest of as many college students as possible and shall receive the completed application blanks of those students interested, as well as answering inquiries for further details and information.

[2005, c. 656, §1 (NEW) .]

3. **Participation of county and local governments.** The center shall acquaint officials and administrators with the program and its advantages, encouraging the greatest possible participation by county and local government offices.

[2005, c. 656, §1 (NEW) .]

4. **Selection.** Applications of interested students received by the center must be processed in accordance with procedures to be established by the center.

[2005, c. 656, §1 (NEW) .]

5. **Placement.** The center shall place students with participating county and local government offices.

[2005, c. 656, §1 (NEW) .]

6. **Orientation.** The center shall arrange an orientation for interns and supervising county and local personnel prior to commencement of intern work within a county or local government office and may conduct special programs during the internship to ensure that interns obtain a broad understanding of county and local governments.

[2005, c. 656, §1 (NEW) .]

7. **Coordination.** The center shall coordinate the activities of the interns with the various participating county and local government offices to the maximum advantage of the program.

[2005, c. 656, §1 (NEW) .]

8. **Annual report.** The center shall produce an annual report, which is a public document, by the end of each calendar year on the operation of the program. Copies of the report must be filed with the Legislature.

[2005, c. 656, §1 (NEW) .]

SECTION HISTORY
2005, c. 656, §1 (NEW). 2007, c. 466, Pt. A, §8 (AMD).

§475. CONDITIONS OF EMPLOYMENT

1. **Temporary unclassified service.** Interns are considered temporary, unclassified employees of the county and local governments. The employing county or local government office may discharge an intern for cause with one week's advance notice to the intern and the center. The center may reassign an intern or release the intern from the program with one week's advance notice to the intern and the office when it is considered in the best interest of the program.

[2005, c. 656, §1 (NEW) .]

2. **Salary.** The center shall determine from time to time an appropriate minimum salary for interns, which must be paid by the participating county and local government offices. The center may negotiate the placement of an intern within county or local government and, to further the purposes of the intern program, may make funds from this chapter available to the intern.

[2005, c. 656, §1 (NEW) .]

3. **Internship training.** Participating county or local government offices shall release intern personnel to participate in paid orientation or training activities planned by the center as part of the internship program.

[2005, c. 656, §1 (NEW) .]

SECTION HISTORY
2005, c. 656, §1 (NEW).

§476. ACCEPTANCE OF GIFTS, BEQUESTS, GRANTS, AID

The center may accept gifts, bequests and endowments for purposes consistent with the objectives of this chapter and may accept federal, private foundation and other grants and matching funds when determined to be in the best interests of the program. [2005, c. 656, §1 (NEW).]

SECTION HISTORY
2005, c. 656, §1 (NEW).

Part 2: CIVIL SERVICE

Chapter 51: GENERAL PROVISIONS

§551. TITLE

(REPEALED)

SECTION HISTORY
1979, c. 127, §25 (AMD). 1979, c. 541, §A24 (AMD). 1985, c. 785, §B19 (RP).

§551-A. PURPOSE

(REPEALED)

SECTION HISTORY
1981, c. 289, §1 (NEW). 1985, c. 785, §B19 (RP).

§552. DEFINITIONS

(REPEALED)

SECTION HISTORY
1973, c. 723, §1 (AMD). 1979, c. 127, §§26-28 (AMD). 1979, c. 541, §§B1,B2 (AMD). 1985, c. 785, §A38 (AMD). 1985, c. 785, §B19 (RP). 1989, c. 878, §B2 (AMD).

§553. DISCRIMINATION

(REPEALED)

SECTION HISTORY
1971, c. 212, (AMD). 1979, c. 127, §29 (AMD). 1979, c. 541, §A25 (AMD). 1985, c. 785, §B19 (RP).

§553-A. APPOINTING AUTHORITY OBLIGATION TO INFORM EMPLOYEE

(REPEALED)

SECTION HISTORY
1977, c. 667, §1 (NEW). 1981, c. 28, §2 (AMD). 1985, c. 785, §B19 (RP).

§554. PERSONNEL RECORDS

(REPEALED)

SECTION HISTORY
1977, c. 564, §14 (RPR). 1979, c. 137, (AMD). 1979, c. 403, §1 (AMD). 1985, c. 785, §B19 (RP).

§555. EMPLOYEES IN MILITARY OR NAVAL SERVICE; SUBSTITUTES

(REPEALED)

SECTION HISTORY

1971, c. 587, (AMD). 1973, c. 511, §1 (AMD). 1973, c. 633, §21 (AMD). 1977, c. 564, §15 (AMD). 1985, c. 779, §12 (AMD). 1985, c. 785, §B19 (RP). 1987, c. 402, §§A18,A19 (RP).

§556. CITIZENSHIP

(REPEALED)

SECTION HISTORY
1965, c. 218, (AMD). 1967, c. 50, (AMD). 1973, c. 723, §2 (RPR). 1975, c. 686, §1 (AMD). 1975, c. 766, §4 (AMD). 1977, c. 696, §36 (AMD). 1979, c. 127, §30 (AMD). 1981, c. 289, §2 (RPR). 1985, c. 785, §B19 (RP).

§557. COMPULSORY CONSIDERATION OF EXPERIENCE

(REPEALED)

SECTION HISTORY
1973, c. 568, (NEW). 1973, c. 723, §3 (AMD). 1979, c. 541, §A26 (AMD). 1981, c. 289, §3 (RPR). 1985, c. 785, §B19 (RP).

§558. HIRING AND PROMOTING NEUTRALITY

(REPEALED)

SECTION HISTORY
1975, c. 82, (NEW). 1985, c. 785, §B19 (RP).

§559. INTERMITTENT EMPLOYEES

(REPEALED)

SECTION HISTORY
1977, c. 667, §2 (NEW). 1979, c. 7, (AMD). 1985, c. 785, §B19 (RP).

Chapter 53: STATE PERSONNEL BOARD

§591. MEMBERSHIP; TERM; COMPENSATION

(REPEALED)

SECTION HISTORY
1967, c. 476, §11 (AMD). 1975, c. 608, §1 (RPR). 1975, c. 771, §53 (AMD). 1981, c. 289, §4 (RPR). 1983, c. 812, §§19,20 (AMD). 1985, c. 785, §B19 (RP).

§592. POWERS AND DUTIES

(REPEALED)

SECTION HISTORY
1973, c. 625, §20 (AMD). 1975, c. 686, §2 (RPR). 1975, c. 766, §4 (AMD). 1975, c. 771, §54 (AMD). 1977, c. 78, §12 (RPR). 1981, c. 289, §5 (AMD). 1985, c. 785, §B19 (RP).

§593. APPEALS TO THE BOARD

(REPEALED)

SECTION HISTORY
1975, c. 686, §3 (NEW). 1975, c. 766, §4 (AMD). 1977, c. 427, (AMD). 1977, c. 694, §§12,13 (AMD). 1981, c. 313, (AMD). 1985, c. 785, §B19 (RP).

Chapter 55: COMMISSIONER OF PERSONNEL

§631. QUALIFICATIONS; TENURE; POWERS AND DUTIES

(REPEALED)

SECTION HISTORY
1975, c. 686, §4 (RPR). 1975, c. 766, §§3,4 (AMD). 1977, c. 78, §13 (AMD). 1977, c. 694, §§14-17 (AMD). 1979, c. 127, §31 (AMD). 1981, c. 270, §§2,3 (AMD). 1981, c. 289, §§6,7 (AMD). 1983, c. 489, §§2,3 (AMD). 1985, c. 785, §B19 (RP).

§632. REGISTERS OF ELIGIBILITY

(REPEALED)

SECTION HISTORY
1973, c. 390, §1 (AMD). 1975, c. 766, §4 (AMD). 1977, c. 564, §16 (AMD). 1979, c. 127, §32 (AMD). 1979, c. 541, §B3 (AMD). 1981, c. 47, §1 (AMD). 1985, c. 785, §B19 (RP).

§633. CLASSIFICATION PLAN

(REPEALED)

SECTION HISTORY
1975, c. 766, §4 (AMD). 1977, c. 564, §17 (AMD). 1985, c. 785, §B19 (RP).

§634. COMPENSATION PLAN

(REPEALED)

SECTION HISTORY
1965, c. 382, (AMD). 1969, c. 549, (AMD). 1971, c. 331, (AMD). 1973, c. 390, §2 (AMD). 1975, c. 594, §§1-3 (AMD). 1975, c. 766, §4 (AMD). 1977, c. 564, §§18-20 (AMD). 1985, c. 720, (AMD). 1985, c. 785, §B19 (RP). 1987, c. 240, §1 (AMD). 1987, c. 402, §§A20,A21 (RP).

§635. DEFINITION OF SALARY PAID TO MINISTER OF THE GOSPEL

(REPEALED)

SECTION HISTORY
1967, c. 151, (AMD). 1985, c. 785, §B19 (RP).

§636. TRAINING AND APPRENTICESHIP PROGRAMS

(REPEALED)

SECTION HISTORY
1975, c. 766, §4 (AMD). 1983, c. 260, §1 (RPR). 1985, c. 785, §B19 (RP).

§637. SERVICE RATINGS

(REPEALED)

SECTION HISTORY
1975, c. 766, §4 (AMD). 1977, c. 564, §21 (AMD). 1985, c. 785, §B19 (RP).

§638. EMPLOYEE RIGHT TO REVIEW PERSONNEL FILE

(REPEALED)

SECTION HISTORY
1975, c. 694, §1 (NEW). 1975, c. 766, §4 (AMD). 1985, c. 785, §B19 (RP).

Chapter 56: SUGGESTION AWARDS BOARD

§641. SUGGESTION AWARDS BOARD

(REPEALED)

SECTION HISTORY
1967, c. 445, §1 (NEW). 1969, c. 429, §§1,2 (AMD). P&SL 1971, c. 91, §C (RP).

§642. EMPLOYEE SUGGESTION SYSTEM

(REPEALED)

SECTION HISTORY
1981, c. 289, §8 (NEW). 1987, c. 402, §§A22,A23 (AMD). 1989, c. 645, §§1-3 (AMD). 1991, c. 780, §§Y30,31 (AMD). 1993, c. 455, §§1,2 (AMD). 1995, c. 368, §HH2 (RP).

Chapter 56-A: EMPLOYEE AWARDS

§651. EMPLOYEE SUGGESTION SYSTEM

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

A. "Board" means the Employee Suggestion System Board established in subsection 3. [2003, c. 692, §1 (NEW); 2003, c. 692, §2 (AFF).]

B. "System" means the Employee Suggestion System established in subsection 2. [2003, c. 692, §1 (NEW); 2003, c. 692, §2 (AFF).]

[2003, c. 692, §1 (NEW); 2003, c. 692, §2 (AFF) .]

2. **System established.** The Employee Suggestion System is established to encourage by means of cash or honorary awards state employees to find substantial savings and efficiencies in state operations.

[2003, c. 692, §1 (NEW); 2003, c. 692, §2 (AFF) .]

3. **Board.** The Employee Suggestion System Board is established and consists of the Commissioner of Administrative and Financial Services and 2 other departmental commissioners appointed by the Governor.

A. The board shall elect a chair annually. [2003, c. 692, §1 (NEW); 2003, c. 692, §2 (AFF).]

B. The Commissioner of Administrative and Financial Services is responsible for administering the system and shall assign an employee, who may have other assignments not related to the system, to manage the system on a day-to-day basis. [2003, c. 692, §1 (NEW); 2003, c. 692, §2 (AFF).]

C. The board may adopt routine technical rules in accordance with chapter 375, subchapter 2-A to implement the system, including criteria for suggesting ideas and making awards, and to establish fees as the board considers necessary to ensure timely and responsive assistance from all state agencies. [2003, c. 692, §1 (NEW); 2003, c. 692, §2 (AFF).]

D. The board has the sole and exclusive authority to make cash or honorary awards under the system. All decisions of the board are final and are not subject to judicial review. [2003, c. 692, §1 (NEW); 2003, c. 692, §2 (AFF).]

E. The board shall forward all suggestions to the Office of Program Evaluation and Government Accountability, as established by Title 3, section 991, a minimum of 2 times per year. [2003, c. 692, §1 (NEW); 2003, c. 692, §2 (AFF).]

[2003, c. 692, §1 (NEW); 2003, c. 692, §2 (AFF) .]

4. **Ineligible employees.** The board may exclude certain levels of positions from participation in the system. Persons in positions enumerated in chapter 71 or in Title 2, sections 6 to 6-E are not eligible to receive cash awards under the system.

[2003, c. 692, §1 (NEW); 2003, c. 692, §2 (AFF) .]

5. **Maximum cash award; cost savings.** The maximum cash award approved for a suggestion that is implemented and results in cost savings is limited to 10% of the first year's estimated All Other savings or $2,000, whichever is less. Except as provided in subsection 6, an award may not be made for any suggested savings of less than $250. Any cash awards approved by the board must be charged against the fund or funds to which estimated savings apply. If it is not possible to reasonably estimate the savings, the board may pay an initial amount and pay an additional amount at the end of the first year or may pay the full amount at the end of the first year.

[2003, c. 692, §1 (NEW); 2003, c. 692, §2 (AFF) .]

6. **Improvements to service without cost savings.** Upon the recommendation of the agency head of the affected program, the board may approve an award not to exceed $100 for a suggestion that results in improved services or operation of the program but does not result in identifiable cost savings.

[2003, c. 692, §1 (NEW); 2003, c. 692, §2 (AFF) .]

7. **Reductions in service.** An award may not be approved by the board for a suggestion that generates savings through a reduction of services, unless it is an identified duplication of services.

[2003, c. 692, §1 (NEW); 2003, c. 692, §2 (AFF) .]

8. **Confidentiality.** The name of the person with the suggestion must be treated confidentially by the board and any other person handling the suggestion until a final decision is made by the board, if requested by the person with the suggestion.

[2003, c. 692, §1 (NEW); 2003, c. 692, §2 (AFF) .]

9. **Assistance.** Any department or other organization of State Government shall provide whatever assistance the board requests for evaluating suggestions or other purposes.

[2003, c. 692, §1 (NEW); 2003, c. 692, §2 (AFF) .]

10. **Administration.** Notwithstanding any other law, whenever an award is made from a fund, an equal amount must be transferred from the same fund to a special revenue fund available to the Department of Administrative and Financial Services to be used to administer the system.

[2003, c. 692, §1 (NEW); 2003, c. 692, §2 (AFF) .]

11. **Promotion.** The board shall ensure that all employees are aware of the system and the potential award amounts.

[2003, c. 692, §1 (NEW); 2003, c. 692, §2 (AFF) .]

12. **Discrimination prohibited.** A supervisor or other person in authority may not discriminate against an employee regarding the employee's compensation terms, conditions, location or privilege of employment because the employee acting in good faith has suggested savings or efficiencies under this chapter. The remedies available under Title 26, chapter 7, subchapter 5-B apply to a person subject to any such discrimination.

[2003, c. 692, §1 (NEW); 2003, c. 692, §2 (AFF) .]

SECTION HISTORY
2003, c. 692, §1 (NEW). 2003, c. 692, §2 (AFF).

Chapter 57: CLASSIFIED SERVICE

§671. COMPOSITION OF

(REPEALED)

SECTION HISTORY
1977, c. 564, §§22,23 (AMD). 1985, c. 785, §B19 (RP).

§672. FILLING OF POSITIONS

(REPEALED)

SECTION HISTORY
1975, c. 686, §5 (AMD). 1975, c. 766, §4 (AMD). 1985, c. 481, §A6 (AMD). 1985, c. 785, §B19 (RP).

§673. EXAMINATIONS

(REPEALED)

SECTION HISTORY
1973, c. 723, §4 (AMD). 1975, c. 686, §6 (AMD). 1975, c. 766, §4 (AMD). 1977, c. 564, §§24,25 (AMD). 1981, c. 47, §2 (AMD). 1985, c. 785, §B19 (RP).

§674. VETERANS PREFERENCE

(REPEALED)

SECTION HISTORY
1967, c. 67, §1 (AMD). 1971, c. 561, (RPR). 1973, c. 496, §§1,2 (AMD). 1973, c. 511, §2 (AMD). 1973, c. 513, §22 (AMD). 1973, c. 633, §21 (AMD). 1975, c. 432, §1 (AMD). 1975, c. 459, §§1-5 (AMD). 1975, c. 497, §3 (AMD). 1975, c. 686, §7 (AMD). 1975, c. 766, §4 (AMD). 1979, c. 541, §A27 (AMD). 1985, c. 779, §13 (AMD). 1985, c. 785, §B19 (RP). 1987, c. 402, §§A24,A25 (AMD).

§675. -- REOPENING OF EXAMINATIONS

(REPEALED)

SECTION HISTORY
1975, c. 459, §6 (AMD). 1975, c. 686, §8 (AMD). 1975, c. 766, §4 (AMD). 1985, c. 785, §B19 (RP).

§676. PROBATIONARY PERIOD; PERMANENT APPOINTMENT

(REPEALED)

SECTION HISTORY
1973, c. 390, §3 (AMD). 1975, c. 766, §4 (AMD). 1985, c. 785, §B19 (RP).

§677. TEMPORARY AND PROVISIONAL APPOINTMENTS

(REPEALED)

SECTION HISTORY
1975, c. 686, §9 (AMD). 1975, c. 766, §4 (AMD). 1985, c. 785, §B19 (RP).

§678. DISMISSAL AND DISCIPLINARY ACTION

(REPEALED)

SECTION HISTORY
1967, c. 539, §2 (RPR). 1969, c. 512, (AMD). 1973, c. 390, §4 (AMD). 1975, c. 366, (AMD). 1977, c. 564, §26 (AMD). 1977, c. 674, §5 (AMD). 1985, c. 785, §B19 (RP).

§679. SOLICITATION OF POLITICAL CAMPAIGN CONTRIBUTIONS

(REPEALED)

SECTION HISTORY
1975, c. 309, §1 (RP).

§679-A. POLITICAL ACTIVITY

(REPEALED)

SECTION HISTORY
1975, c. 309, §2 (NEW). 1985, c. 785, §B19 (RP).

§680. INJURY TO WARDENS

(REPEALED)

SECTION HISTORY
1971, c. 317, (NEW). 1973, c. 513, §22 (AMD). 1973, c. 788, §16 (AMD). 1975, c. 594, §4 (RP).

Chapter 59: UNCLASSIFIED SERVICE

§711. UNCLASSIFIED SERVICE

(REPEALED)

SECTION HISTORY
1965, c. 91, §1 (AMD). 1965, c. 513, §6 (AMD). 1969, c. 504, §11 (AMD). 1971, c. 350, §1 (AMD). 1971, c. 395, §11 (AMD). P&SL 1973, c. 53, (AMD). P&SL 1973, c. 150, §2 (AMD). 1973, c. 625, §21 (AMD). 1973, c. 702, §§1,2 (AMD). 1975, c. 96, §1 (AMD). 1975, c. 136, (AMD). 1975, c. 755, §1 (AMD). 1975, c. 770, §21 (AMD). 1975, c. 771, §55 (AMD). 1975, c. 777, §7 (AMD). 1977, c. 360, §1 (AMD). 1977, c. 564, §§27,28 (AMD). 1977, c. 674, §6 (RPR). 1979, c. 127, §§32-A,32-B (AMD). 1979, c. 537, (AMD). 1979, c. 731, §1 (AMD). 1979, c. 737, §§1,2 (AMD). 1981, c. 10, §6 (AMD). 1981, c. 168, §3 (AMD). 1981, c. 359, §2 (AMD). 1981, c. 501, §2 (AMD). 1981, c. 698, §6 (AMD). 1981, c. 708, §§1-3 (AMD). 1983, c. 139, (AMD). 1983, c. 349, §2 (AMD). 1983, c. 477, Pt. E, Subpt. 10, (AMD). 1983, c. 480, §A3 (AMD). 1983, c. 489, §§4,5 (AMD). 1983, c. 566, §1 (AMD). 1983, c. 579, §§3-5 (AMD). 1983, c. 729, §3 (RP). 1983, c. 743, §1 (AMD). 1983, c. 807, §K (AMD). 1983, c. 819, §A7 (AMD). 1983, c. 829, §1 (AMD). 1983, c. 862, §§7-9 (AMD).

Chapter 60: EDUCATIONAL LEAVE

§721. TITLE

(REPEALED)

SECTION HISTORY
1973, c. 500, (NEW). 2001, c. 519, §2 (RP).

§722. DECLARATION OF PURPOSE

(REPEALED)

SECTION HISTORY
1973, c. 500, (NEW). 2001, c. 519, §2 (RP).

§723. EDUCATIONAL LEAVE ADVISORY BOARD

(REPEALED)

SECTION HISTORY
1973, c. 500, (NEW). 1975, c. 766, §4 (AMD). 1975, c. 771, §56 (AMD). 1983, c. 812, §21 (AMD). 1985, c. 785, §B21 (AMD). 1989, c. 483, §A10 (AMD). 1989, c. 503, §B15 (AMD). 1989, c. 878, §A9 (RPR). 1991, c. 376, §14 (AMD). 2001, c. 519, §2 (RP).

§724. RULES AND REGULATIONS

(REPEALED)

SECTION HISTORY
1973, c. 500, (NEW). 1977, c. 694, §18 (AMD). 2001, c. 519, §2 (RP).

§725. FUNDS

(REPEALED)

SECTION HISTORY
1973, c. 500, (NEW). 1991, c. 376, §15 (RP).

§725-A. FUNDS

(REPEALED)

SECTION HISTORY
1991, c. 376, §16 (NEW). 2001, c. 519, §2 (RP).

§726. REPORT

(REPEALED)

SECTION HISTORY
1973, c. 500, (NEW). 2001, c. 519, §2 (RP).

§727. APPLICATION

(REPEALED)

SECTION HISTORY
1973, c. 500, (NEW). 2001, c. 519, §2 (RP).

Chapter 61: VIOLATIONS

§741. PENALTIES; FORFEITURE OF OFFICE

(REPEALED)

SECTION HISTORY
1977, c. 564, §29 (RP). 1979, c. 541, §A28 (RP).

Chapter 63: STATE EMPLOYEES APPEALS

§751. STATE EMPLOYEES APPEALS BOARD

(REPEALED)

SECTION HISTORY
1967, c. 539, §1 (NEW). 1975, c. 771, §57 (AMD). 1981, c. 289, §10 (AMD). 1987, c. 402, §B2 (RP).

§752. MEDIATION AUTHORITY

(REPEALED)

SECTION HISTORY
1967, c. 539, §1 (NEW). 1969, c. 550, §2 (AMD). 1987, c. 402, §B2 (RP).

§753. PROCEDURE FOR SETTLEMENT

(REPEALED)

SECTION HISTORY
1967, c. 539, §1 (NEW). 1969, c. 550, §1 (AMD). 1973, c. 493, §§1,2 (AMD). 1975, c. 766, §4 (AMD). 1979, c. 541, §A29 (AMD). 1987, c. 402, §B2 (RP).

Chapter 65: CODE OF FAIR PRACTICES AND AFFIRMATIVE ACTION

§781. CODE OF FAIR PRACTICES AND AFFIRMATIVE ACTION

The State of Maine is an equal opportunity employer and as such will require all its agencies to pursue in good faith affirmative action programs. [1975, c. 153, §1 (NEW).]

SECTION HISTORY
1975, c. 153, §1 (NEW).

§782. DEFINITION OF AFFIRMATIVE ACTION

An affirmative action program includes procedures designed to increase the numbers of minorities, women and handicapped at all levels and in all segments of the work force where imbalances exist. Such a program should include an assessment of the existing situation, and the development of realistic goals for necessary action. These goals and related procedures and timetables should not require rigid quotas, but are commitments which an employer should make every good faith effort to achieve. [1985, c. 388, §1 (AMD).]

SECTION HISTORY
1975, c. 153, §1 (NEW). 1985, c. 388, §1 (AMD).

§783. APPOINTMENT, ASSIGNMENT AND PROMOTION OF PERSONNEL

Officials and supervisory employees shall appoint, assign and promote personnel on the basis of merit and fitness, without regard to race, color, religious creed, national origin, sex, ancestry, age, physical handicap or mental handicap, unless related to a bona fide occupational qualification. Each appointing authority shall designate an affirmative action officer. The officer must be so placed within the agency's organizational

structure that he or she shall have direct access to the appointing authority. Each department or agency shall prepare an affirmative action program for that department or agency in accordance with criteria set forth by the Bureau of Human Resources. [1985, c. 785, Pt. B, §22 (AMD).]

SECTION HISTORY
1975, c. 153, §1 (NEW). 1985, c. 388, §2 (AMD). 1985, c. 785, §B22 (AMD).

§784. STATE ACTION AND CONTRACTS

1. **State action.** No agency or individual employee of the State or state related agencies will discriminate because of race, color, religious creed, sex, national origin, ancestry, age, physical handicap or mental handicap while providing any function or service to the public, in enforcing any regulation, or in any education, counseling, vocational guidance, apprenticeship and on-the-job training programs. Similarly, no state or state related agency contractor, subcontractor, or labor union or representative of the workers with which the contractor has an agreement, will discriminate unless based on a bona fide occupational qualification. State agencies or related agencies may withhold financial assistance to any recipient found to be in violation of the Maine Human Rights Act or the Federal Civil Rights Act. Any state agency or related agency shall decline any job order carrying a specification or limitation as to race, color, religious creed, sex, national origin, ancestry, age, physical handicap or mental handicap, unless it is related to a bona fide job requirement.

[1985, c. 388, §2 (AMD) .]

2. **Public contracts.** Every state or state related agency contract for public works or for services shall incorporate by reference the following provisions: "During the performance of this contract, the contractor agrees as follows.

A. The contractor will not discriminate against any employee or applicant for employment because of race, color, religious creed, sex, national origin, ancestry, age, physical handicap or mental handicap. Such action shall include, but not be limited to, the following: Employment, upgrading, demotions, transfers, recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship. [1985, c. 388, §2 (AMD).]

B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical handicap or mental handicap. [1985, c. 388, §2 (AMD).]

C. The contractor will send to each labor union or representative of the workers with which he has a collective or bargaining agreement, or other contract or understanding, whereby he is furnished with labor for the performances of his contract, a notice, to be provided by the contracting department or agency, advising the said labor union or workers' representative of the contractor's commitment under this section and shall post copies of the notice in conspicuous places available to employees and to applicants for employment." [1975, c. 153, §1 (NEW).]

D. The contractor will cause the foregoing provisions to be inserted in all contracts for any work covered by this agreement so that such provisions will be binding upon each subcontractor. [1975, c. 153, §1 (NEW).]

E. Contractors and subcontractors with contracts in excess of $50,000 will also pursue in good faith affirmative action programs. [1991, c. 807, §1 (NEW).]

[1991, c. 807, §1 (AMD) .]

SECTION HISTORY

1975, c. 153, §1 (NEW). 1985, c. 388, §2 (AMD). 1991, c. 807, §1 (AMD).

§785. STATE EMPLOYMENT SERVICES

Any state agency or state related agency engaged in employment, referral or placement service for private industry or public agencies shall fill all job orders on a nondiscriminatory basis, and shall decline any job order carrying a specification or limitation as to race, color, religious creed, sex, national origin, ancestry, age, physical handicap or mental handicap, unless it relates to a bona fide job requirement. [1985, c. 388, §2 (AMD).]

SECTION HISTORY
1975, c. 153, §1 (NEW). 1985, c. 388, §2 (AMD).

§786. TRAINING FOR JOB OPPORTUNITIES

All educational and vocational-guidance counseling programs and all apprenticeship and on-the-job training programs conducted, supervised or funded by the State or state-related agency must be conducted to encourage the fullest development of interest and aptitudes without regard to race, color, religious creed, sex, national origin, ancestry, age, physical handicap or mental handicap, unless sex or age relates to a bona fide job requirement. In the event that any such programs are conducted in conjunction with private employers or private educational institutions, the supervising or contracting department or agency shall insure that the provisions of this chapter are complied with fully by such private employer or private educational institution. [1993, c. 1, §7 (COR).]

SECTION HISTORY
1975, c. 153, §1 (NEW). 1985, c. 388, §2 (AMD). RR 1993, c. 1, §7 (COR).

§787. STATE FINANCIAL ASSISTANCE

No state agency or state related agency shall approve a grant of state financial assistance to any recipient who is engaged in discriminatory practices. All recipients of state financial assistance shall submit to the Maine Human Rights Commission, at its request, information relating to the recipient's operations with regard to race, color, religious creed, sex, national origin, ancestry, age, physical handicap or mental handicap. Such information shall be furnished on a form to be prescribed by the Maine Human Rights Commission. [1985, c. 388, §2 (AMD).]

SECTION HISTORY
1975, c. 153, §1 (NEW). 1985, c. 388, §2 (AMD).

§788. BUREAU OF HUMAN RESOURCES

The Bureau of Human Resources shall take positive steps to insure that the entire civil service examination and testing process, including the development of job specifications and employment qualifications, is free from either conscious or inadvertent bias. Furthermore, the Bureau of Human Resources will have the initial responsibility of resolving civil service conflicts and complaints, changing administrative procedures when necessary and providing assistance for preparing affirmative action programs. It is the responsibility of the State Affirmative Action Coordinator in the Bureau of Human Resources to monitor the civil service affirmative action program and insure compliance with all federal and state regulations. [1985, c. 785, Pt. B, §23 (AMD).]

SECTION HISTORY
1975, c. 153, §1 (NEW). 1985, c. 388, §3 (AMD). 1985, c. 785, §B23 (AMD).

§789. HUMAN RIGHTS COMMISSION

All affirmative action programs, whether part of the civil service or not, shall be subject to the review and comment of the Human Rights Commission. [1975, c. 153, §1 (NEW).]

All powers and duties granted to the Maine Human Rights Commission under sections 4551, et seq., as amended, apply to this section. Complaints of discrimination based on race, color, religious creed, sex, national origin, age, physical handicap or mental handicap should be made to the Maine Human Rights Commission. [1985, c. 388, §3 (AMD).]

SECTION HISTORY
1975, c. 153, §1 (NEW). 1985, c. 388, §3 (AMD).

§790. AFFECTED STATE AGENCIES AND STATE RELATED AGENCIES

All state financed agencies, political subdivisions, quasi-independent agencies, school districts and instrumentalities of State Government are required to implement this Code of Fair Practices and Affirmative Action. [1975, c. 153, §1 (NEW).]

SECTION HISTORY
1975, c. 153, §1 (NEW).

§791. RECORDS CONFIDENTIAL

Records and correspondence utilized by state agencies in the certification of minority business enterprises, women's business enterprises and disadvantaged business enterprises which pertain to the applicant's financial or tax status, to private contracts made by the applicant, to the applicant's trade secrets or to any other matter customarily regarded as confidential business information shall be confidential and shall not be open for public inspection. [1985, c. 587, (NEW).]

Nothing in this section prevents the disclosure of any records, correspondence or other materials to authorized officers and employees of the State Government and Federal Government. [1985, c. 587, (NEW).]

SECTION HISTORY
1985, c. 587, (NEW).

Chapter 67: TAX-DEFERRED ARRANGEMENT

§881. TAX-DEFERRED ARRANGEMENTS

The State or any county, city, town or other political subdivision may, by contract, agree with any employee to defer or contribute a portion of that employee's compensation as part of a tax-deferred arrangement permitted for employees under the provisions of the Internal Revenue Code of 1986, as amended, and subsequently contract for, purchase or otherwise procure for the employee an investment product or products as permitted by applicable law, including, but not limited to, a fixed or variable life insurance or annuity contract from an insurance company licensed to contract business in this State, shares of an investment company registered under the federal Investment Company Act of 1940 or investment products offered by any state or national bank. Any tax deferral program offered by a firm must protect the benefits of employees to the full extent allowed by a plan authorized under the Internal Revenue Code of 1986, as amended. The State, pursuant to section 885, may offer to state employees and state employees may elect to

participate in any tax-deferred arrangement established and made available by the Board of Trustees of the Maine Public Employees Retirement System pursuant to section 17103. [1997, c. 204, §2 (RPR); 2007, c. 58, §3 (REV).]

SECTION HISTORY
1973, c. 491, (NEW). 1983, c. 791, §1 (AMD). 1997, c. 204, §2 (RPR). 2007, c. 58, §3 (REV).

§882. AUTHORIZATION

The director or the principal officer of each state agency, department, board, commission or institution is authorized to enter into such contractual agreements with employees of that particular state agency, department, board, commission or institution on behalf of the State to defer any portion of that employee's compensation as part of a tax-deferred arrangement under this chapter. [1997, c. 204, §3 (AMD).]

SECTION HISTORY
1973, c. 491, (NEW). 1997, c. 204, §3 (AMD).

§883. ADMINISTRATION

Administration of tax-deferred arrangements under this chapter, within state agencies, departments, boards, commissions or institutions, is under the direction of the Department of Administrative and Financial Services. Each county, city, town or other political subdivision may designate an officer to administer tax-deferred arrangements. Payroll deductions must be made in each instance by the appropriate payroll officer. [1997, c. 204, §4 (AMD).]

SECTION HISTORY
1973, c. 491, (NEW). 1985, c. 785, §A39 (AMD). 1997, c. 204, §4 (AMD).

§884. ADVISORY COUNCIL ON TAX-DEFERRED ARRANGEMENTS

The Advisory Council on Tax-deferred Arrangements, established by section 12004-I, subsection 25, shall meet at least once a year, review the operations of the arrangements program and advise the Department of Administrative and Financial Services on matters of policy relating to the activities under the arrangements program. Members of the advisory council are entitled to compensation as provided in chapter 379. All appointed members serve at the pleasure of the appointing authority. The advisory council consists of 12 members as follows. [2007, c. 298, §1 (AMD).]

1. **Ex officio members; chair.** The ex officio members of the Advisory Council on Tax-deferred Arrangements are: the Commissioner of Administrative and Financial Services, or the commissioner's designee; the Superintendent of Insurance, or the superintendent's designee; and the Superintendent of Financial Institutions, or the superintendent's designee. The Commissioner of Administrative and Financial Services, or a designee, is the chair of the advisory council.

[1997, c. 204, §5 (AMD); 2001, c. 44, §11 (AMD); 2001, c. 44, §14 (AFF) .]

2. **Retirement system representative.**

[1997, c. 204, §5 (RP) .]

3. **Employee representatives.** The employee representatives of the advisory council are 9 employees appointed by the Governor as follows:

A. [2007, c. 298, §2 (RP).]

B. [2007, c. 298, §2 (RP).]

C. [2007, c. 298, §2 (RP).]

D. Seven classified state employees, one from each bargaining unit recognized pursuant to Title 26, chapter 9-B in the executive branch, recommended to the Governor by the employee organizations certified to represent the units; [2007, c. 298, §2 (NEW).]

E. One employee from the largest bargaining unit recognized pursuant to Title 26, chapter 9-B in the legislative branch, recommended to the Governor by the employee organization certified to represent the unit; and [2007, c. 298, §2 (NEW).]

F. One employee from the largest bargaining unit recognized pursuant to Title 26, chapter 14 in the judicial branch, recommended to the Governor by the employee organization certified to represent the unit. [2007, c. 298, §2 (NEW).]

Employee representatives are appointed for terms of 3 years.

[2007, c. 298, §2 (AMD) .]

4. **Voting.** All votes of the council must be one vote cast by labor and one vote cast by management. The labor vote must be cast by the labor cochair, who must be chosen by the labor members, and must represent the majority opinion of the labor members of the council. The management vote must be cast by the management cochair, who is the Commissioner of Administrative and Financial Services or the commissioner's designee.

[1997, c. 204, §5 (NEW) .]

SECTION HISTORY
1973, c. 491, (NEW). 1973, c. 585, §§11,12 (AMD). 1983, c. 812, §22 (AMD). 1985, c. 785, §A40 (AMD). 1989, c. 503, §B16 (AMD). 1991, c. 108, (RPR). 1991, c. 780, §§Y32,33 (AMD). 1997, c. 204, §5 (AMD). 2001, c. 44, §11 (AMD). 2001, c. 44, §14 (AFF). 2001, c. 503, §§1,2 (AMD). 2007, c. 298, §§1, 2 (AMD).

§885. SELECTION OF FIRMS

The advisory council shall select up to 7 firms for participation by state employees as the result of investigation and competitive bidding, as outlined in chapter 155. The advisory council may, at any time after the evaluation and study of new programs, replace any previously selected firm with another firm through the process of competitive bidding. Participants in the plan retain the right to continue to invest with a previously selected firm with which they have already established an account in the State of Maine plan. Any firm selected by the advisory council in accordance with this section must be a registered investment advisor under the federal Investment Company Act of 1940 or a bank or insurance company authorized to receive or manage contributions as part of a tax-deferred arrangement under this chapter. [1997, c. 204, §6 (AMD).]

Any county, city, town or other political subdivision wishing to make use of any material relating to evaluation, or competitive bidding compiled by the advisory council, may receive copies on request. [1997, c. 204, §6 (AMD).]

SECTION HISTORY
1973, c. 491, (NEW). 1997, c. 204, §6 (AMD).

§886. DEFINITION

For the purposes of this chapter, "employee" means any person whether appointed, elected or under contract, providing services for the State, county, city, town or other political subdivision, for which compensation is paid. [1973, c. 491, (NEW).]

SECTION HISTORY
1973, c. 491, (NEW).

§887. PAYMENT OF PREMIUMS; PURCHASE OF SHARES; INVESTMENT PRODUCTS

Notwithstanding any other provision of law to the contrary, those persons designated to administer the tax-deferred arrangements are authorized to make payment for investment products acquired as part of a tax-deferred arrangement. The payments are not construed to be a prohibited use of the general assets of the State, county, city or other political subdivision. [1997, c. 204, §6 (AMD).]

SECTION HISTORY
1973, c. 491, (NEW). 1997, c. 204, §6 (AMD).

§888. APPLICATION

Any compensation or portion of compensation reduced by an employee in conjunction with a deferred compensation program and any earnings or income thereon must be held in trust for the exclusive benefit of that participant and that participant's beneficiary as provided in the United States Internal Revenue Code, Section 457. For purposes of this section, custodial accounts, annuity contracts and other contracts described in the United States Internal Revenue Code, Section 457(g) must be treated as trusts. Any compensation or portion of compensation reduced must be considered in calculating any employee benefits and is subject to any withholding imposed on the employee. Any compensation or portion of compensation reduced is not subject to any income taxation until distribution is actually made to the employee. [1997, c. 192, §1 (AMD).]

SECTION HISTORY
1973, c. 491, (NEW). 1973, c. 788, §§16-A (RPR). 1997, c. 192, §1 (AMD).

§889. LIABILITY LIMITED

The financial liability of the State, county, city, town or other political subdivision under a tax-deferred arrangement under this chapter is limited in each instance to the transmittal to the provider of the investment product or products selected by an employee of that portion of the employee's compensation deferred under the tax-deferred arrangement while the enrollee remains an employee of the State, county, city, town or other political subdivision enrolled in the tax-deferred arrangement, and only to the amount of the portion of the employee's compensation. [1997, c. 204, §7 (RPR).]

SECTION HISTORY
1973, c. 491, (NEW). 1997, c. 204, §7 (RPR).

Chapter 68: INDIVIDUAL RETIREMENT ACCOUNT AND SIMPLIFIED EMPLOYEE PENSION PLANS FOR PUBLIC EMPLOYEES

§891. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1983, c. 791, §2 (NEW).]

1. **Employee.** "Employee" means any person whether appointed, elected or under contract, providing services for the State, county, municipality or other political subdivision, for which compensation is paid.

[1983, c. 791, §2 (NEW) .]

2. **Individual retirement account.** "Individual retirement account" means an individual retirement account that is in compliance with the United States Internal Revenue Code.

[1983, c. 791, §2 (NEW) .]

3. **Simplified employee pension plan.** "Simplified employee pension plan" means a simplified employee pension plan that is in compliance with the provisions of the United States Internal Revenue Code of 1954, as amended, as these provisions relate to simplified employee pension plans.

[1983, c. 791, §2 (NEW) .]

SECTION HISTORY
1983, c. 791, §2 (NEW).

§892. INDIVIDUAL RETIREMENT AND PENSION PLANS

The State or any county, municipality or other political subdivision may enter into an agreement with an employee under which all or a portion of that employee's compensation may be transferred into an individual retirement account or simplified employee pension plan in accordance with the United States Internal Revenue Code of 1954, as amended. The State or any county, municipality or other political subdivision may make payroll deductions for individual retirement accounts or simplified employee pension plans from a financial institution as defined in Title 9-B, section 131, subsection 17-A, or any insurance company or investment company licensed to contract business in this State. [1983, c. 791, §2 (NEW).]

SECTION HISTORY
1983, c. 791, §2 (NEW).

§893. ADMINISTRATION

Payroll deductions must be made by the appropriate payroll officer of each county, municipality or other political subdivision. The Commissioner of Administrative and Financial Services is responsible for the administration of this chapter as it applies to state employees. Any costs incurred by the Commissioner of Administrative and Financial Services to administer the state program must be borne equally by state employee participants, and these costs may be compensated by means of payroll deductions. [1991, c. 780, Pt. Y, §34 (AMD).]

SECTION HISTORY
1983, c. 791, §2 (NEW). 1985, c. 785, §A41 (AMD). 1991, c. 780, §Y34 (AMD).

§894. LIABILITY LIMITED

The State, any county, municipality or other political subdivision which transfers employee compensation to an individual retirement account shall have no liability for the funds once a proper transfer has been made. [1983, c. 791, §2 (NEW).]

SECTION HISTORY
1983, c. 791, §2 (NEW).

Chapter 69: ALTERNATIVE WORKING HOURS

§901. LEGISLATIVE FINDINGS AND PURPOSE

The Legislature finds that alternative working hours, including part-time work, job sharing and more flexible work schedules will lead to greater efficiency by state employees. There are many qualified and talented Maine citizens of all ages whose personal responsibilities make it difficult to work full time or during the traditional hours of employment. [1981, c. 270, §4 (NEW).]

SECTION HISTORY
1981, c. 270, §4 (NEW).

§902. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1981, c. 270, §4 (NEW).]

1. **Alternative working hours employment.** "Alternative working hours employment" means employment in the classified or unclassified service capable of being filled through flexible hours, job-sharing or part-time employment, as defined in subsections 2, 3 and 4.

[1981, c. 270, §4 (NEW) .]

2. **Flexible hours employment.** "Flexible hours employment" means employment where the full-time employees of a specific work unit and shift are authorized to set different working hours around a basic core of hours during which all full-time unit employees are to be at work.

[1981, c. 270, §4 (NEW) .]

3. **Job-sharing employment.** "Job-sharing employment" means employment where 2 or more persons share one position.

[1993, c. 707, Pt. G, §1 (AMD) .]

4. **Part-time employment.** "Part-time employment" means employment for less than the standard work week for the class and agency on regularly scheduled hours each week for the position.

[1981, c. 270, §4 (NEW) .]

SECTION HISTORY
1981, c. 270, §4 (NEW). 1993, c. 707, §G1 (AMD).

§903. AUTHORIZATION FOR ALTERNATIVE WORKING HOURS EMPLOYMENT

1. **Employees in collective bargaining units.** The Governor, or his designee who negotiates a collective bargaining agreement, may bargain and conclude agreements, pursuant to Title 26, chapter 9-B, which include provisions for alternative working hours employment. Notwithstanding any other state law, an agreement with any such provision shall provide for the proration of any benefits, including retirement benefits, made available to a person employed for job-sharing and part-time employment, provided that such proration is not prohibited by federal law.

[1981, c. 270, §4 (NEW) .]

2. **Employees not in collective bargaining units.** The Director of Human Resources shall adopt rules to implement alternative working hours employment for persons who are not in collective bargaining units. Notwithstanding any other state law, any such rules shall provide for the proration of any benefits, including retirement benefits, made available to a person employed for job-sharing and part-time employment, provided that the proration is not prohibited by federal law.

[1985, c. 785, Pt. B, §24 (AMD) .]

3. **Further authority.** Any appropriation for personal services, allocation or other resource made available to an account may be used during the biennium to carry out the intent of this section. For the purpose of complying with any appropriation or allocation, one full-time position shared by more than one person shall be considered one full-time position. Continued funding of these costs shall be requested as current services in accordance with chapter 149.

[1981, c. 270, §4 (NEW) .]

4. **Prohibition.** Positions listed in chapter 71 and in Title 2, section 6, may not be filled by persons employed under any job-sharing authority.

[1987, c. 402, Pt. A, §26 (AMD) .]

5. **Report.** The commissioner shall report to the Joint Standing Committee on State Government the state's progress in establishing alternative working hours. The report shall at a minimum contain a specific breakdown of the number of employees seeking and the number of employees working alternative working hours employment by each category of such employment, the increase or decrease in the number of employees from the preceding year by each category, the number of persons over the age of 60 by each category of alternative working hours employment, an estimate of savings achieved or costs imposed and a narrative summary of the efforts taken by the State to encourage the development of alternative working hours employment.

[1981, c. 270, §4 (NEW) .]

SECTION HISTORY
1981, c. 270, §4 (NEW). 1985, c. 785, §B24 (AMD). 1987, c. 402, §A26 (AMD).

Chapter 71: UNCLASSIFIED SERVICE

§931. UNCLASSIFIED SERVICE

The unclassified service comprises positions held by officers and employees as follows. [1983, c. 729, §4 (NEW).]

1. **Officers and employees.** Certain elective, legislative, executive, judicial and other officers and employees as follows:

A. Elective officers, chosen by popular election or appointed to fill an elective office; [1983, c. 729, §4 (NEW).]

B. Officers who, under the Constitution of Maine or statutes, are chosen by the Legislature; [1983, c. 729, §4 (NEW).]

C. Heads of departments and members of boards and commissions required by law to be appointed by the Governor, some bureau directors and the Administrative Director of the Public Utilities Commission; [1983, c. 729, §4 (NEW).]

D. Officers and employees in the judicial service of the State; [1983, c. 729, §4 (NEW).]

E. Officers and employees of the Senate and House of Representatives of the Legislature; [1983, c. 729, §4 (NEW).]

F. Officers and enlisted men in the National Guard and Naval Militia of the State; [1983, c. 729, §4 (NEW).]

G. Employees working in the Governor's office, Governor's Office of Communications, Governor's Energy Office and at the Blaine Mansion; [2011, c. 655, Pt. D, §1 (AMD).]

H. Officers and employees of the unorganized territory school system; the teachers, administrators and professional employees of the state community colleges and the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf; and the teachers, administrators and professional employees of school systems in other state institutions; [2005, c. 279, §2 (AMD).]

I. Deputies, assistants, staff attorneys, research assistants and the secretary to the Attorney General of the Department of Attorney General; [1985, c. 785, Pt. A, §42 (AMD).]

J. Staff attorney, utility analyst and assistant administrative director positions at the Public Utilities Commission; [2007, c. 482, §2 (AMD).]

K. All major policy-influencing positions listed in sections 932 to 952; [1995, c. 465, Pt. A, §4 (AMD); 1995, c. 465, Pt. C, §2 (AFF).]

L. [2007, c. 466, Pt. A, §9 (RP).]

L-1. [1995, c. 625, Pt. A, §4 (RP).]

L-2. [2011, c. 655, Pt. I, §11 (AFF); 2011, c. 655, Pt. I, §4 (RP).]

L-3. The Executive Analyst of the Board of Environmental Protection; and [2003, c. 646, §1 (AMD).]

L-4. [2003, c. 646, §2 (RP).]

M. Other positions in the Executive Branch made unclassified by law. [1987, c. 9, §2 (AMD).]

[2011, c. 655, Pt. D, §1 (AMD); 2011, c. 655, Pt. I, §4 (AMD); 2011, c. 655, Pt. I, §11 (AFF) .]

2. **Employees appointed to major policy - influencing positions.** Except where a term is otherwise provided by law, the appointing authority of the department or agency in which a major policy-influencing position is located may appoint and remove persons to and from these positions at his pleasure.

A. [1989, c. 76, §1 (RP).]

B. [1989, c. 76, §1 (RP).]

C. Any person permanently appointed to a classified position who accepts an appointment to a major policy-influencing position shall have the right, for 12 months subsequent to appointment to the major policy-influencing position, to be restored to the classified position from which he was promoted or to a position equivalent thereto in salary grade in any agency without impairment of his personnel status or the loss of seniority, retirement or other rights to which uninterrupted service in the classified position would entitle him. [1985, c. 785, Pt. A, §45 (NEW).]

D. If a person's service in a major policy-influencing position is terminated for cause, his right to be restored to a position pursuant to paragraph C shall be determined by the Civil Service Appeals Board. [1985, c. 785, Pt. A, §45 (NEW).]

E. During the 12-month period defined in paragraph C, the appointing authority may temporarily appoint a person to the position under the Civil Service Law, provided that funds are available for the appointment and that the appointment is consistent with the law. [1993, c. 1, §8 (COR).]

[1993, c. 1, §8 (COR) .]

SECTION HISTORY
1983, c. 729, §4 (NEW). 1983, c. 862, §10 (AMD). 1985, c. 481, §§A7-A9 (AMD). 1985, c. 618, §3 (AMD). 1985, c. 628, §1 (AMD). 1985, c. 785, §§A42-45 (AMD). 1987, c. 9, §§1,2 (AMD). 1987, c. 76, §1 (AMD). 1987, c. 402, §A27 (AMD). 1987, c. 631, §2 (AMD). 1989, c. 443, §7 (AMD). 1991, c. 376, §§17,18 (AMD). RR 1993, c. 1, §8 (COR). 1993, c. 349, §6 (AMD). 1995, c. 465, §A4 (AMD). 1995, c. 465, §C2 (AFF). 1995, c. 625, §§A3,4 (AMD). 1997, c. 459, §§2,3 (AMD). 1997, c. 586, §1 (AMD). 1999, c. 784, §§2,3 (AMD). 2001, c. 374, §§2,3 (AMD). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF). 2003, c. 646, §§1,2 (AMD). 2005, c. 218, §2 (AMD). 2005, c. 279, §2 (AMD). 2007, c. 466, Pt. A, §9 (AMD). 2007, c. 482, §2 (AMD). 2011, c. 655, Pt. D, §1 (AMD). 2011, c. 655, Pt. I, §4 (AMD). 2011, c. 655, Pt. I, §11 (AFF).

§932. DEPARTMENT OF ATTORNEY GENERAL

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

A. Deputy Attorneys General; and [1983, c. 729, §4 (NEW).]

B. Assistant Attorneys General. [1983, c. 729, §4 (NEW).]

[1983, c. 729, §4 (NEW) .]

SECTION HISTORY
1983, c. 729, §4 (NEW).

§933. DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

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

A. Deputy Commissioner; [2005, c. 337, §1 (AMD); 2005, c. 337, §4 (AFF).]

B. [1997, c. 643, Pt. NN, §1 (RP).]

C. [1997, c. 643, Pt. NN, §1 (RP).]

D. [1997, c. 643, Pt. NN, §1 (RP).]

E. [1997, c. 643, Pt. NN, §1 (RP).]

F. [1997, c. 643, Pt. NN, §1 (RP).]

G. [1997, c. 643, Pt. NN, §1 (RP).]

H. [1995, c. 502, Pt. C, §1 (RP).]

I. [1995, c. 502, Pt. C, §1 (RP).]

J. [2007, c. 1, Pt. S, §1 (RP).]

K. [2009, c. 552, §2 (RP).]

L. [2009, c. 552, §3 (RP).]

M. [2009, c. 462, Pt. K, §2 (RP).]

N. [2015, c. 267, Pt. U, §1 (RP).]

O. [2013, c. 588, Pt. A, §2 (RP).]

P. [2015, c. 267, Pt. U, §2 (RP).]

Q. Natural Resource Marketing and Economic Development Specialist; [2013, c. 405, Pt. A, §5 (NEW).]

(Paragraph Q as enacted by PL 2013, c. 368, Pt. X, §3 is REALLOCATED TO TITLE 5, SECTION 933, SUBSECTION 1, PARAGRAPH T)

R. Director, Bureau of Agriculture, Food and Rural Resources; [2013, c. 1, §9 (COR).]

S. Director, Bureau of Resource Information and Land Use Planning; and [2013, c. 1, §9 (COR).]

T. (REALLOCATED FROM T. 5, §933, sub-§1, ¶Q) Assistant to the Commissioner for Public Information. [2013, c. 1, §8 (RAL).]

[2015, c. 267, Pt. U, §§1, 2 (AMD) .]

SECTION HISTORY
1983, c. 729, §4 (NEW). 1983, c. 862, §11 (AMD). 1991, c. 671, §§O1-3 (AMD). 1995, c. 502, §C1 (RPR). 1997, c. 643, §NN1 (AMD). 2005, c. 337, §§1,2 (AMD). 2005, c. 337, §4 (AFF). 2007, c. 1, Pt. S, §1 (AMD). 2009, c. 462, Pt. K, §§1, 2 (AMD). 2009, c. 552, §§2-6 (AMD). 2011, c. 1, Pt. F, §1 (AMD). 2011, c. 657, Pt. W, §5 (REV). RR 2013, c. 1, §§8, 9 (COR). 2013, c. 368, Pt. X, §§1-3 (AMD). 2013, c. 405, Pt. A, §§3-5 (AMD). 2013, c. 588, Pt. A, §§2, 3 (AMD). 2015, c. 267, Pt. U, §§1, 2 (AMD).

§934. DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

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

A. Superintendent, Bureau of Financial Institutions; [1983, c. 729, §4 (NEW); 2001, c. 44, §11 (AMD); 2001, c. 44, §14 (AFF).]

B. Superintendent, Bureau of Consumer Credit Protection; [1995, c. 309, §29 (AFF); 1995, c. 309, §3 (RPR); 2007, c. 273, Pt. B, §6 (REV); 2007, c. 695, Pt. A, §47 (AFF).]

C. Superintendent, Bureau of Insurance; [2001, c. 182, §2 (AMD).]

D. Assistant to the Commissioner; and [2001, c. 182, §2 (AMD).]

E. Administrator, Office of Securities. [2001, c. 182, §3 (NEW).]

[2001, c. 44, §11 (AMD); 2001, c. 44, §14 (AFF); 2001, c. 182, §§2, 3 (AMD); 2007, c. 273, Pt. B, §6 (REV); 2007, c. 695, Pt. A, §47 (AFF) .]

SECTION HISTORY
1983, c. 729, §4 (NEW). RR 1993, c. 1, §9 (COR). 1995, c. 309, §3 (AMD). 1995, c. 309, §29 (AFF). 2001, c. 44, §11 (AMD). 2001, c. 44, §14 (AFF). 2001, c. 182, §§2,3 (AMD). 2007, c. 273, Pt. B, §7 (AFF). 2007, c. 273, Pt. B, §6 (REV). 2007, c. 695, Pt. A, §47 (AFF).

§934-A. DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

1. Major policy-influencing position. The Deputy Commissioner is a major policy-influencing position within the Department of Economic and Community Development. The Deputy Commissioner is appointed by the Commissioner of Economic and Community Development and serves at the commissioner's pleasure. Notwithstanding any other provision of law, this position and its successor position is subject to this chapter.

A. [1991, c. 622, Pt. F, §1 (RP).]

B. [2005, c. 425, §1 (RP).]

C. [1991, c. 622, Pt. F, §1 (RP).]

D. [1991, c. 622, Pt. F, §2 (RP).]

E. [1991, c. 622, Pt. F, §2 (RP).]

F. [1991, c. 622, Pt. F, §3 (RP).]

G. [2005, c. 425, §1 (RP).]

H. [2005, c. 425, §1 (RP).]

I. [2005, c. 425, §1 (RP).]

J. [2005, c. 425, §1 (RP).]

[2005, c. 425, §1 (RPR) .]

SECTION HISTORY
1987, c. 534, §§A4,A19 (NEW). 1987, c. 816, §§P1,P2 (AMD). 1991, c. 622, §§F1-4 (AMD). 2003, c. 673, §M1 (AMD). 2005, c. 425, §1 (AMD).

§934-B. DIRIGO HEALTH

The position of executive director is a major policy-influencing position within Dirigo Health established pursuant to Title 24-A, chapter 87. Notwithstanding any other provision of law, this position and any successor position are subject to this chapter. [2003, c. 469, Pt. A, §2 (NEW).]

SECTION HISTORY
2003, c. 469, §A2 (NEW).

§935. DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

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

A. [1995, c. 502, Pt. E, §2 (RP).]

A-1. [2005, c. 519, Pt. Y, §1 (RP).]

B. [2013, c. 405, Pt. A, §6 (RP).]

C. Director, Bureau of Forestry; [2013, c. 405, Pt. A, §6 (AMD).]

D. [2013, c. 588, Pt. A, §4 (RP).]

E. Executive Director, Maine Land Use Planning Commission; [1983, c. 729, §4 (NEW); 2011, c. 682, §38 (REV).]

F. Director, Bureau of Parks and Lands; [2013, c. 405, Pt. A, §6 (AMD).]

G. [2013, c. 405, Pt. A, §6 (RP).]

H. [2007, c. 240, Pt. I, §1 (RP).]

I. Assistant to the Commissioner for Public Information; [1987, c. 349, Pt. H, §2 (AMD).]

J. Assistant to the Commissioner; and [1987, c. 349, Pt. H, §2 (AMD).]

K. State Supervisor, Forest Fire Operations. [1987, c. 349, Pt. H, §3 (NEW).]

[2013, c. 588, Pt. A, §4 (AMD) .]

SECTION HISTORY
1983, c. 729, §4 (NEW). 1983, c. 862, §12 (AMD). 1987, c. 349, §§H2,H3 (AMD). 1995, c. 502, §§E2,32 (AMD). 1999, c. 556, §3 (AMD). 2005, c. 519, §Y1 (AMD). 2007, c. 240, Pt. I, §1 (AMD). 2011, c. 655, Pt. KK, §3 (AMD). 2011, c. 655, Pt. KK, §34 (AFF). 2011, c. 657, Pt. W, §5, 7 (REV). 2011, c. 682, §38 (REV). 2013, c. 405, Pt. A, §6 (AMD). 2013, c. 405, Pt. C, §2 (AMD). 2013, c. 588, Pt. A, §4 (AMD).

§936. DEPARTMENT OF CORRECTIONS

1. **Major policy-influencing positions.** The positions of deputy commissioner and 2 associate commissioners are major policy-influencing positions within the Department of Corrections. Notwithstanding any other provision of law, these positions and their successor positions are subject to this chapter.

A. [2013, c. 491, §2 (RP).]

B. [2013, c. 491, §2 (RP).]

C. [2013, c. 491, §2 (RP).]

[2013, c. 491, §2 (RPR) .]

SECTION HISTORY
1983, c. 729, §4 (NEW). 1995, c. 502, §F2 (RPR). 1999, c. 731, §G1 (AMD). 2013, c. 491, §2 (AMD).

§937. DEPARTMENT OF EDUCATION

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; [2011, c. 655, Pt. D, §2 (AMD).]

B. [1997, c. 266, §1 (RP).]

C. [1993, c. 684, §1 (RP); 1993, c. 708, Pt. J, §2 (RP).]

D. [1993, c. 684, §1 (RP); 1993, c. 708, Pt. J, §2 (RP).]

E. [1993, c. 684, §1 (RP); 1993, c. 708, Pt. J, §2 (RP).]

F. Director, Policy and Programs; and [2015, c. 267, Pt. NN, §1 (AMD).]

G. [2001, c. 344, §2 (RP); 2001, c. 439, Pt. H, §2 (RP).]

H. [1997, c. 266, §1 (RP).]

I. [1995, c. 560, Pt. F, §3 (RP).]

J. [2007, c. 1, Pt. D, §1 (RP).]

K. [2015, c. 267, Pt. NN, §1 (RP).]

L. [2015, c. 267, Pt. NN, §1 (RP).]

M. Director, Communications. [2011, c. 655, Pt. D, §4 (NEW).]

[2015, c. 267, Pt. NN, §1 (AMD) .]

SECTION HISTORY
1983, c. 729, §4 (NEW). 1989, c. 414, §§1,2 (AMD). 1989, c. 700, §A14 (AMD). 1991, c. 716, §2 (AMD). 1993, c. 684, §1 (AMD). 1993, c. 708, §J2 (AMD). 1995, c. 462, §A6 (AMD). 1995, c. 560, §§F2,3 (AMD). 1997, c. 266, §1 (AMD). 2001, c. 344, §§1,2 (AMD). 2001, c. 439, §§H1,2 (AMD). 2007, c. 1, Pt. D, §1 (AMD). 2011, c. 380, Pt. PPP, §1 (AMD). 2011, c. 655, Pt. D, §§2-4 (AMD). 2013, c. 1, Pt. S, §1 (AMD). 2015, c. 267, Pt. NN, §1 (AMD).

§938. DEPARTMENT OF ENVIRONMENTAL PROTECTION

1. **Major policy-influencing positions.**

[1995, c. 560, Pt. E, §1 (RP) .]

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

A. Deputy Commissioner; [1995, c. 560, Pt. E, §2 (NEW).]

B. [2005, c. 519, Pt. K, §1 (RP).]

C. Director, Policy Development and Implementation; [1995, c. 560, Pt. E, §2 (NEW).]

D. Director, Education and Outreach; [1995, c. 560, Pt. E, §2 (NEW).]

E. Director, Innovation and Assistance; [1995, c. 560, Pt. E, §2 (NEW).]

F. Director, Bureau of Air Quality Control; [1995, c. 560, Pt. E, §2 (NEW).]

G. Director, Bureau of Remediation and Waste Management; [2015, c. 267, Pt. IIII, §2 (AMD).]

H. Director, Bureau of Water Quality; and [2015, c. 267, Pt. IIII, §3 (AMD).]

I. Director, Bureau of Land Resources. [2015, c. 267, Pt. IIII, §4 (NEW).]

[2015, c. 267, Pt. IIII, §§2-4 (AMD) .]

SECTION HISTORY
1983, c. 729, §4 (NEW). 1983, c. 862, §13 (AMD). 1985, c. 746, §3 (AMD). 1987, c. 419, §2 (AMD). 1987, c. 787, §§2,3 (AMD). 1987, c. 816, §§KK8,KK9 (AMD). 1989, c. 111, (AMD). 1995, c. 368, §§UU2-7 (AMD). 1995, c. 395, §U3 (AFF). 1995, c. 560, §§E1,2 (AMD). 2005, c. 519, §K1 (AMD). 2015, c. 267, Pt. IIII, §§2-4 (AMD).

§938-A. BOARD OF ENVIRONMENTAL PROTECTION

(REPEALED)

SECTION HISTORY
1989, c. 890, §§A2,40 (NEW). 1999, c. 784, §4 (RP).

§939. DEPARTMENT OF FINANCE

(REPEALED)

SECTION HISTORY
1983, c. 729, §4 (NEW). 1985, c. 785, §A46 (AMD). 1991, c. 780, §Y35 (RP).

§939-A. EXECUTIVE DEPARTMENT

(REPEALED)

SECTION HISTORY
1993, c. 410, §LL1 (NEW). 2011, c. 657, Pt. AA, §3 (RP).

§940. DEPARTMENT OF HUMAN SERVICES

(REPEALED)

SECTION HISTORY
1983, c. 729, §4 (NEW). 1989, c. 400, §§1,14 (AMD). 1989, c. 878, §B3 (AMD). 1995, c. 418, §A39 (AMD). 1995, c. 560, §J1 (AMD). 2003, c. 689, §C4 (RP).

§941. MAINE HUMAN RIGHTS COMMISSION

1. **Major policy-influencing positions.** The following positions are major policy-influencing positions within the Maine Human Rights Commission. Notwithstanding any other provisions of law, these positions and their successor positions shall be subject to this chapter:

A. Executive Director; and [1983, c. 729, §4 (NEW).]

B. Chief Compliance Officer. [1983, c. 729, §4 (NEW).]

[1983, c. 729, §4 (NEW) .]

SECTION HISTORY
1983, c. 729, §4 (NEW).

§942. DEPARTMENT OF INLAND FISHERIES AND WILDLIFE

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

A. Deputy Commissioner; [1983, c. 729, §4 (NEW).]

B. Game Warden Colonel; and [1983, c. 862, §14 (AMD).]

C. Assistant to the Commissioner for Public Information. [1983, c. 862, §14 (AMD).]

D. [1983, c. 862, §14 (RP).]

[1983, c. 862, §14 (AMD) .]

SECTION HISTORY
1983, c. 729, §4 (NEW). 1983, c. 862, §14 (AMD).

§942-A. MAINE OUTDOOR HERITAGE FUND BOARD

(REPEALED)

SECTION HISTORY
1995, c. 494, §2 (NEW). 2007, c. 1, Pt. F, §2 (RP).

§943. DEPARTMENT OF LABOR

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

A. [1995, c. 462, Pt. B, §1 (RP).]

B. Director, Bureau of Labor Standards; [1983, c. 729, §4 (NEW).]

C. Executive Director, Maine Labor Relations Board; [1983, c. 729, §4 (NEW).]

D. [2007, c. 1, Pt. D, §2 (RP).]

E. Director of Legislative Affairs; [2011, c. 655, Pt. SS, §1 (AMD).]

F. [1995, c. 560, Pt. G, §3 (RP).]

F-1. Deputy Commissioner; [2005, c. 3, Pt. O, §1 (RPR).]

G. [1995, c. 560, Pt. G, §3 (RP).]

G-1. Director, Bureau of Employment Services; [2013, c. 467, §1 (AMD).]

H. [1995, c. 560, Pt. G, §3 (RP).]

I. [1995, c. 560, Pt. G, §3 (RP).]

J. Director of Operations; [2013, c. 467, §1 (AMD).]

K. Director, Bureau of Rehabilitation Services; [2011, c. 655, Pt. D, §5 (AMD).]

L. Director, Bureau of Unemployment Compensation; and [2011, c. 655, Pt. D, §6 (NEW); 2011, c. 655, Pt. D, §11 (AFF).]

M. Director of Communications. [2013, c. 467, §1 (AMD).]

[2013, c. 467, §1 (AMD) .]

SECTION HISTORY
1983, c. 729, §4 (NEW). 1983, c. 862, §15 (AMD). 1995, c. 462, §B1 (AMD). 1995, c. 560, §G3 (AMD). 2005, c. 3, §O1 (AMD). 2007, c. 1, Pt. D, §2 (AMD). 2011, c. 655, Pt. D, §§5, 6 (AMD). 2011, c. 655, Pt. D, §11 (AFF). 2011, c. 655, Pt. SS, §1 (AMD). 2013, c. 467, §1 (AMD).

§944. MAINE STATE LOTTERY COMMISSION

1. **Major policy-influencing positions.** The following positions are major policy-influencing positions within the Maine State Lottery Commission. Notwithstanding any other provision of law, these positions shall be subject to this chapter:

A. Deputy Director. [1983, c. 729, §4 (NEW).]

[1983, c. 729, §4 (NEW) .]

SECTION HISTORY
1983, c. 729, §4 (NEW).

§945. DEPARTMENT OF MARINE RESOURCES

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

A. Deputy Commissioner; [2005, c. 519, Pt. S, §1 (AMD).]

B. Chief, Bureau of Marine Patrol; [1995, c. 395, Pt. E, §1 (AMD).]

C. [1985, c. 481, Pt. A, §10 (RP).]

D. Assistant to the Commissioner for Public Information; [1995, c. 395, Pt. E, §2 (AMD).]

E. [2007, c. 1, Pt. E, §1 (RP).]

F. [2013, c. 368, Pt. CCC, §1 (RP).]

G. Director, External Affairs; and [2013, c. 368, Pt. CCC, §2 (AMD).]

H. Assistant to the Commissioner for Communications. [2013, c. 368, Pt. CCC, §3 (NEW).]

[2013, c. 368, Pt. CCC, §§1-3 (AMD) .]

SECTION HISTORY
1983, c. 729, §4 (NEW). 1985, c. 481, §A10 (AMD). 1989, c. 348, §1 (AMD). 1995, c. 395, §§E1-3 (AMD). 1997, c. 643, §NN2 (AMD). 2005, c. 519, §§S1-4 (AMD). 2007, c. 1, Pt. E, §1 (AMD). 2013, c. 368, Pt. CCC, §§1-3 (AMD).

§946. DEPARTMENT OF BEHAVIORAL AND DEVELOPMENTAL SERVICES

(REPEALED)

SECTION HISTORY
1983, c. 729, §4 (NEW). 1989, c. 501, §BB3 (AMD). 1993, c. 410, §CCC2 (AMD). 1995, c. 395, §§G1-4 (AMD). 1995, c. 395, §G20 (AFF). 1995, c. 560, §K82 (AMD). 1995, c. 560, §K83 (AFF). 2001, c. 354, §3 (AMD). 2001, c. 439, §§J1-3 (AMD). 2003, c. 689, §C5 (RP).

§946-A. DEPARTMENT OF HEALTH AND HUMAN SERVICES

1. **Major policy-influencing positions.** The positions subject to appointment by the commissioner are major policy-influencing positions within the Department of Health and Human Services.

A. [2007, c. 539, Pt. N, §5 (RP).]

B. [2005, c. 412, §4 (RP).]

C. [2005, c. 412, §4 (RP).]

C-1. [2007, c. 539, Pt. N, §5 (RP).]

C-2. [2007, c. 539, Pt. N, §5 (RP).]

C-3. [2007, c. 539, Pt. N, §5 (RP).]

C-4. [2007, c. 539, Pt. N, §5 (RP).]

C-5. [2007, c. 539, Pt. N, §5 (RP).]

C-6. [2007, c. 539, Pt. N, §5 (RP).]

C-7. [2007, c. 539, Pt. N, §5 (RP).]

C-8. [2007, c. 539, Pt. N, §5 (RP).]

D. [2005, c. 412, §4 (RP).]

E. [2005, c. 412, §4 (RP).]

E-1. [2007, c. 539, Pt. N, §5 (RP).]

F. [2007, c. 539, Pt. N, §5 (RP).]

G. [2007, c. 539, Pt. N, §5 (RP).]

H. [2007, c. 539, Pt. N, §5 (RP).]

I. [2007, c. 539, Pt. N, §5 (RP).]

J. [2007, c. 539, Pt. N, §5 (RP).]

K. [2005, c. 519, Pt. Z, §2 (RP).]

L. [2007, c. 539, Pt. N, §5 (RP).]

[2007, c. 539, Pt. N, §5 (AMD) .]

SECTION HISTORY
2003, c. 689, §C6 (NEW). 2005, c. 236, §3 (REV). 2005, c. 412, §4 (AMD). 2005, c. 519, §§Z1,2 (AMD). 2007, c. 539, Pt. N, §5 (AMD).

§947. DEPARTMENT OF PERSONNEL

(REPEALED)

SECTION HISTORY
1983, c. 729, §4 (NEW). 1985, c. 785, §B25 (RP).

§947-A. DEPARTMENT OF ADMINISTRATION

(REPEALED)

SECTION HISTORY
1985, c. 785, §A47 (NEW). 1991, c. 377, §3 (AMD). 1991, c. 528, §III5 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §III5 (AMD). 1991, c. 780, §Y36 (RP).

§947-B. DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

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

A. [2005, c. 12, Pt. SS, §3 (RP).]

B. Director, Bureau of Human Resources; [1991, c. 780, Pt. Y, §37 (NEW).]

C. [2007, c. 240, Pt. HH, §2 (RP).]

D. Director, Bureau of Alcoholic Beverages and Lottery Operations; [1991, c. 780, Pt. Y, §37 (NEW).]

E. Director, Bureau of General Services; [1991, c. 780, Pt. Y, §37 (NEW).]

F. Deputy Commissioners, Department of Administrative and Financial Services; [2013, c. 1, Pt. D, §1 (AMD).]

G. State Controller; [1991, c. 780, Pt. Y, §37 (NEW).]

H. State Tax Assessor; [1999, c. 731, Pt. F, §2 (AMD).]

I. State Budget Officer; [2003, c. 673, Pt. C, §2 (AMD).]

J. Chief Information Officer; [2011, c. 655, Pt. I, §5 (AMD); 2011, c. 655, Pt. I, §11 (AFF).]

K. Associate Commissioner, Administrative Services; [2013, c. 1, Pt. D, §2 (AMD).]

L. Associate Commissioner for Tax Policy within the Bureau of Revenue Services; and [2013, c. 1, Pt. D, §3 (AMD).]

M. Director, Legislative Affairs and Communications. [2013, c. 1, Pt. D, §4 (NEW).]

[2013, c. 1, Pt. D, §§1-4 (AMD) .]

SECTION HISTORY
1991, c. 780, §Y37 (NEW). 1999, c. 731, §§F2,3 (AMD). 2003, c. 673, §§C2-4 (AMD). 2005, c. 12, §SS3 (AMD). 2007, c. 240, Pt. HH, §2 (AMD). 2011, c. 655, Pt. I, §5 (AMD). 2011, c. 655, Pt. I, §11 (AFF). 2013, c. 1, Pt. D, §§1-4 (AMD).

§948. DEPARTMENT OF PUBLIC SAFETY

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

A. Chief, Bureau of State Police; [1983, c. 729, §4 (NEW).]

B. [2003, c. 20, Pt. R, §5 (RP).]

C. Director, Office of State Fire Marshal; [1983, c. 729, §4 (NEW).]

D. Director, Maine Criminal Justice Academy; [1983, c. 729, §4 (NEW).]

E. Assistant to the Commissioner for Public Information; [1983, c. 729, §4 (NEW).]

F. [2003, c. 20, Pt. R, §6 (RP).]

G. Deputy Chief, Bureau of State Police; [2009, c. 317, Pt. A, §1 (AMD).]

H. Director, Bureau of Highway Safety; [1989, c. 648, §1 (AMD).]

I. Director, Maine Drug Enforcement Agency; [1995, c. 560, Pt. C, §1 (AMD); 1995, c. 560, Pt. C, §4 (AFF).]

J. [2009, c. 317, Pt. A, §1 (RP).]

K. Two majors, Bureau of State Police; [2009, c. 317, Pt. A, §1 (AMD).]

L. Director, Maine Emergency Medical Services; and [2011, c. 633, §1 (AMD).]

M. Director, Bureau of Consolidated Emergency Communications. [2011, c. 633, §2 (AMD).]

N. [2011, c. 633, §3 (RP).]

[2011, c. 633, §§1-3 (AMD) .]

SECTION HISTORY
1983, c. 729, §4 (NEW). 1987, c. 355, (AMD). 1987, c. 666, §§2-4 (AMD). 1989, c. 648, §1 (AMD). 1991, c. 837, §B4 (AMD). 1995, c. 560, §§C1,2 (AMD). 1995, c. 560, §C4 (AFF). 1999, c. 182, §§1-3 (AMD). 2001, c. 559, §EE1 (AMD). 2003, c. 20, §§R5,6 (AMD). 2009, c. 317, Pt. A, §1 (AMD). 2011, c. 633, §§1-3 (AMD).

§949. PUBLIC UTILITIES COMMISSION

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

A. General Counsel - Public Utilities Commission; [1985, c. 618, §4 (AMD).]

B. Director of telephone and water utility industries; [2009, c. 122, §4 (AMD).]

C. Administrative Director; [1985, c. 618, §4 (AMD).]

D. Director of electric and gas utility industries; and [2009, c. 372, Pt. A, §1 (AMD); 2009, c. 372, Pt. A, §10 (AFF).]

D-1. [2009, c. 372, Pt. A, §10 (AFF); 2009, c. 372, Pt. A, §2 (RP).]

E. Director of consumer assistance and safety. [2015, c. 8, §2 (AMD).]

[2015, c. 8, §2 (AMD) .]

SECTION HISTORY
1983, c. 729, §4 (NEW). 1985, c. 618, §4 (AMD). 2007, c. 482, §§3, 4 (AMD). 2009, c. 122, §§4, 5 (AMD). 2009, c. 372, Pt. A, §§1, 2 (AMD). 2009, c. 372, Pt. A, §10 (AFF). 2015, c. 8, §2 (AMD).

§950. DEPARTMENT OF THE SECRETARY OF STATE

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

A. Deputy Secretaries of State; and [1983, c. 729, §4 (NEW).]

B. State Archivist. [1983, c. 729, §4 (NEW).]

[1983, c. 729, §4 (NEW) .]

SECTION HISTORY
1983, c. 729, §4 (NEW).

§951. DEPARTMENT OF TRANSPORTATION

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

A. Deputy Commissioners; [1983, c. 729, §4 (NEW).]

B. Chief Counsel, Bureau of Legal Services; [1983, c. 729, §4 (NEW).]

C. Assistant to the Commissioner; and [1983, c. 729, §4 (NEW).]

D. Assistant to the Commissioner for Public Information. [1983, c. 729, §4 (NEW).]

[1983, c. 729, §4 (NEW) .]

SECTION HISTORY
1983, c. 729, §4 (NEW).

§952. DEPARTMENT OF DEFENSE, VETERANS AND EMERGENCY MANAGEMENT

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

A. Deputy Commissioner; [1997, c. 643, Pt. Q, §4 (AMD).]

B. Director, Maine Emergency Management Agency; and [1997, c. 455, §4 (AMD).]

C. [1991, c. 626, §2 (RP).]

D. Director of the Bureau of Maine Veterans' Services. [1997, c. 455, §5 (NEW).]

[1997, c. 643, Pt. Q, §4 (AMD) .]

SECTION HISTORY
1983, c. 729, §4 (NEW). 1987, c. 370, §2 (AMD). 1987, c. 634, §2 (AMD). 1991, c. 626, §2 (AMD). 1997, c. 455, §§4,5,31 (AMD). 1997, c. 643, §Q4 (AMD).

§953. WORKERS' COMPENSATION COMMISSION

(REPEALED)

SECTION HISTORY
1985, c. 65, §1 (NEW). 1985, c. 372, §A2 (NEW). 1985, c. 601, §1 (RPR). 1991, c. 885, §§A9-11 (AFF). 1991, c. 885, §A4 (RP).

§953-A. MAINE WASTE MANAGEMENT AGENCY

(REPEALED)

SECTION HISTORY
1989, c. 585, §A4 (NEW). 1995, c. 465, §C2 (AFF). 1995, c. 465, §A5 (RP).

§954. BUREAU OF STATE EMPLOYEE HEALTH

(REPEALED)

SECTION HISTORY
1985, c. 785, §C1 (NEW). 1989, c. 483, §A11 (AMD). 1989, c. 857, §18 (AMD). 1989, c. 875, §E5 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 528, §III6 (RP). 1991, c. 591, §III6 (RP).

§955. DIRECTOR OF STATE EMPLOYEE HEALTH; STAFF

(REPEALED)

SECTION HISTORY
1985, c. 785, §C1 (NEW). 1987, c. 731, §8 (AMD). 1989, c. 483, §A12 (AMD). 1989, c. 501, §P8 (AMD). 1989, c. 878, §A10 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 528, §III7 (RP). 1991, c. 591, §III7 (RP).

§956. BUREAU OF STATE EMPLOYEE HEALTH INTERNAL SERVICE FUND ACCOUNT

(REPEALED)

SECTION HISTORY
1985, c. 785, §C1 (NEW). 1989, c. 501, §P9 (AMD). 1989, c. 936, §1 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 528, §III8 (RP). 1991, c. 591, §III8 (RP).

§957. STATE EMPLOYEE ASSISTANCE PROGRAM

The State Employee Assistance Program is a division of the Bureau of Human Resources and is established to promote increased efficiency in the workplace by providing assessment and referral service to those state employees, spouses and dependents of state employees and state retirees whose work performance has been affected by the disorders specified in subsection 1. [1991, c. 528, Pt. III, §9 (RPR); 1991, c. 528, Pt. RRR, (AFF); 1991, c. 591, Pt. III, §9 (RPR).]

1. **Assessment and referral.** The program shall provide assessment and referral services to employees whose work performance has been affected by behavioral or medical disorders including, but not limited to, alcoholism and drug abuse, misuse of other drugs, emotional problems, family disorders and financial, legal, marital and any other stresses. The major elements of the program consist of the following:

A. An assessment interview; [1989, c. 857, §19 (NEW).]

B. Referral to appropriate treatment; [1989, c. 857, §19 (NEW).]

C. Follow-up; [1989, c. 857, §19 (NEW).]

D. Coordination of a benefit package; [1989, c. 857, §19 (NEW).]

E. Continuous care; [1989, c. 857, §19 (NEW).]

F. Maintenance of confidentiality of client records; and [1989, c. 857, §19 (NEW).]

G. Education of state employees. [1989, c. 857, §19 (NEW).]

[1989, c. 857, §19 (NEW) .]

2. **Contract services.** The Director of the Bureau of Human Resources shall contract with a private company or companies to fulfill the purpose of this section. Any contracts for employee assistance services must be awarded on the basis of a competitive bid process.

[1991, c. 528, Pt. MM, §1 (RPR); 1991, c. 528, Pt. RRR, (AFF); 1991, c. 591, Pt. MM, §1 (RPR) .]

3. **Employee participation and leave.** Employee participation in the program is voluntary. Employees who wish to consult with a program counselor must be granted administrative leave without loss of pay or benefits. Employees may use authorized accumulated leave, or leave without pay, for assistance by an outside resource.

[1989, c. 857, §19 (NEW) .]

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

[2005, c. 683, Pt. A, §5 (AMD) .]

5. **Confidentiality of client records.** No records of the identity, assessment, diagnosis, prognosis, referral or treatment of a client of the program may be maintained in the personnel records of individuals who participate in the program. Any such records are confidential.

[1989, c. 857, §19 (NEW) .]

SECTION HISTORY
1989, c. 857, §19 (NEW). 1991, c. 528, §§MM1,III9, 10 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §§MM1,III9, 10 (AMD). 2005, c. 683, §A5 (AMD).

§958. WORKERS' COMPENSATION BOARD

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

A. Executive director; [1993, c. 145, §2 (NEW).]

B. General counsel; and [1993, c. 145, §2 (NEW).]

C. Deputy directors. [1993, c. 145, §2 (NEW).]

[1993, c. 145, §2 (NEW) .]

SECTION HISTORY
1993, c. 145, §2 (NEW).

§959. MAINE COMMISSION ON INDIGENT LEGAL SERVICES

1. **Major policy-influencing positions.** The following positions are major policy-influencing positions within the Maine Commission on Indigent Legal Services. Notwithstanding any other provision of law, these positions and their successor positions are subject to this chapter:

A. Executive director. [2009, c. 419, §3 (NEW).]

[2009, c. 419, §3 (NEW) .]

SECTION HISTORY
2009, c. 419, §3 (NEW).

Part 3: RETIREMENT AND SOCIAL SECURITY

Chapter 101: STATE RETIREMENT SYSTEM

Subchapter 1: GENERAL PROVISIONS

§1001. DEFINITIONS

(REPEALED)

SECTION HISTORY
1965, c. 186, §1 (AMD). 1965, c. 339, §1 (AMD). 1965, c. 513, §7 (AMD). 1967, c. 57, §1 (AMD). 1969, c. 415, §1 (AMD). 1969, c. 504, §§11-A (AMD). 1971, c. 17, §1 (AMD). 1971, c. 139, (AMD). 1971, c. 622, §9 (AMD). 1975, c. 607, (AMD). 1975, c. 622, §§1-5 (AMD). 1977, c. 573, §1 (AMD). 1977, c. 580, §1 (AMD). 1979, c. 16, §1 (AMD). 1979, c. 127, §33 (AMD). 1983, c. 82, (AMD). 1983, c. 146, §1 (AMD). 1983, c. 859, §§J1,J7 (AMD). 1983, c. 863, §§B41,B45 (AMD). 1985, c. 62, §1 (AMD). 1985, c. 216, §1 (AMD). 1985, c. 506, §§B3,4 (AMD). 1985, c. 721, §1 (AMD). 1985, c. 785, §B26 (AMD). 1985, c. 801, §§2,7 (RP). 1987, c. 402, §§A28,A29 (AMD).

§1002. NAME AND DATE OF ESTABLISHMENT

(REPEALED)

SECTION HISTORY
1985, c. 801, §§2,7 (RP).

§1003. EXEMPTION FROM TAXATION AND EXECUTION

(REPEALED)

SECTION HISTORY
1983, c. 782, §1 (AMD). 1985, c. 801, §§2,7 (RP).

§1004. PROTECTION AGAINST FRAUD

(REPEALED)

SECTION HISTORY
1977, c. 696, §37 (AMD). 1983, c. 121, (RPR). 1985, c. 801, §§2,7 (RP).

§1005. PROPOSED AMENDMENTS

(REPEALED)

SECTION HISTORY
1973, c. 764, (NEW). 1975, c. 622, §6 (RPR). 1975, c. 766, §4 (AMD). 1985, c. 785, §B27 (AMD). 1985, c. 801, §§2,7 (RP). 1987, c. 402, §§A30,A31 (AMD).

§1006. MANDATORY RETIREMENT AGE PROHIBITED

(REPEALED)

SECTION HISTORY
1977, c. 580, §2 (NEW). 1985, c. 801, §§2,7 (RP).

§1007. REPORT TO THE LEGISLATURE

(REPEALED)

SECTION HISTORY
1981, c. 124, (NEW). 1985, c. 801, §§2,7 (RP).

Subchapter 2: ADMINISTRATION

§1031. ADMINISTRATION

(REPEALED)

SECTION HISTORY
1967, c. 59, §§1-5 (AMD). 1969, c. 45, §2 (AMD). 1971, c. 17, §§2-7 (AMD). 1973, c. 122, §1 (AMD). 1973, c. 733, §§5-7 (AMD). 1975, c. 622, §§7-14 (AMD). 1975, c. 766, §4 (AMD). 1975, c. 771, §§58-60 (AMD). 1977, c. 78, §§14,72 (AMD). 1977, c. 694, §§19,20 (AMD). 1977, c. 696, §38 (AMD). 1979, c. 533, §§1 TO 4-A (AMD). 1983, c. 812, §§23,24 (AMD). 1985, c. 250, (AMD). 1985, c. 785, §§B28,29 (AMD). 1985, c. 801, §§2,7 (RP). 1987, c. 402, §§A32-A35 (AMD).

§1032. SPECIAL INTENT

(REPEALED)

SECTION HISTORY
1971, c. 17, §8 (AMD). 1975, c. 622, §15 (AMD). 1977, c. 694, §§21,22 (AMD). 1985, c. 801, §§2,7 (RP).

§1033. LIMITATIONS

(REPEALED)

SECTION HISTORY
1969, c. 415, §2 (AMD). 1971, c. 17, §§9,10 (AMD). 1973, c. 625, §22 (AMD). 1975, c. 622, §16 (AMD). 1983, c. 40, §§1,2 (AMD). 1985, c. 801, §§2,7 (RP).

§1034. WITHDRAWAL OF LOCAL DISTRICTS

(REPEALED)

SECTION HISTORY
1981, c. 596, §1 (NEW). 1985, c. 801, §§2,7 (RP).

Subchapter 3: FINANCING

§1061. FUNDS

(REPEALED)

SECTION HISTORY

1967, c. 59, §6 (AMD). 1973, c. 122, §2 (AMD). 1977, c. 694, §23 (AMD). 1979, c. 127, §34 (AMD). 1979, c. 734, §4 (AMD). 1985, c. 801, §§2,7 (RP).

§1062. FINANCING

(REPEALED)

SECTION HISTORY
1965, c. 337, §§1,2 (AMD). 1967, c. 59, §§7,8 (AMD). 1969, c. 45, §§3-7 (AMD). 1971, c. 17, §§11,12 (AMD). 1973, c. 369, §§1,3 (AMD). 1975, c. 622, §§17-20 (AMD). 1977, c. 696, §39 (AMD). 1977, c. 700, §1 (AMD). 1979, c. 541, §A30 (AMD). 1979, c. 663, §§12-14 (AMD). 1981, c. 316, §D1 (AMD). 1981, c. 453, §1 (AMD). 1981, c. 700, §2 (AMD). 1983, c. 45, (AMD). 1985, c. 391, §§5-7 (AMD). 1985, c. 801, §§2,7 (RP).

§1063. LEGISLATIVE FINDINGS AND INTENT

(REPEALED)

SECTION HISTORY
1983, c. 291, (NEW). 1985, c. 801, §§2,7 (RP).

Subchapter 4: MEMBERSHIP AND CONTRIBUTION

§1091. MEMBERSHIP

(REPEALED)

SECTION HISTORY
1971, c. 280, (AMD). 1973, c. 571, §2 (AMD). 1985, c. 244, §§1,2 (AMD). 1985, c. 507, §3 (AMD). 1985, c. 801, §§2,7 (RP).

§1092. EMPLOYEES OF COUNTIES, CITIES AND TOWNS ENTITLED TO MEMBERSHIP

(REPEALED)

SECTION HISTORY
1965, c. 41, (AMD). 1965, c. 49, (AMD). 1965, c. 171, §1 (AMD). 1967, c. 81, (AMD). 1969, c. 208, (AMD). 1969, c. 271, (AMD). 1971, c. 154, §1 (AMD). 1973, c. 115, (AMD). 1973, c. 123, (AMD). 1973, c. 487, (AMD). 1975, c. 622, §§21-27 (AMD). 1975, c. 770, §22 (AMD). 1977, c. 580, §3 (AMD). 1977, c. 658, §1 (AMD). 1977, c. 700, §2 (AMD). 1979, c. 77, (AMD). 1979, c. 126, (AMD). 1979, c. 310, (AMD). 1981, c. 306, (AMD). 1981, c. 590, §§1,2 (AMD). 1981, c. 595, §1 (AMD). 1983, c. 54, (AMD). 1983, c. 480, §A4 (AMD). 1985, c. 19, (AMD). 1985, c. 104, (AMD). 1985, c. 801, §§2,7 (RP).

§1092-A. CETA EMPLOYEES

(REPEALED)

SECTION HISTORY
1979, c. 524, (NEW). 1985, c. 801, §§2,7 (RP).

§1093. LIMITATION ON MEMBERSHIP

(REPEALED)

SECTION HISTORY
1985, c. 801, §§2,7 (RP).

§1094. CREDITABLE SERVICES

(REPEALED)

SECTION HISTORY
1965, c. 314, (AMD). 1965, c. 339, §2 (AMD). 1965, c. 497, (AMD). 1965, c. 509, §§1-4 (AMD). 1967, c. 57, §2 (AMD). 1969, c. 415, §3 (AMD). 1969, c. 449, (AMD). 1971, c. 40, (AMD). 1973, c. 105, (AMD). 1973, c. 571, §3 (AMD). 1973, c. 625, §23 (AMD). 1975, c. 622, §§28 TO 38-A (AMD). 1975, c. 742, §1 (AMD). 1977, c. 564, §§30,31 (AMD). 1979, c. 663, §15 (AMD). 1981, c. 50, (AMD). 1981, c. 217, (AMD). 1981, c. 362, (AMD). 1985, c. 365, §1 (AMD). 1985, c. 365, §§2-7 (AMD). 1985, c. 502, (AMD). 1985, c. 790, (AMD). 1985, c. 798, §1 (AMD). 1985, c. 801, §§2,7 (RP). 1987, c. 769, §A12 (AMD).

§1095. EMPLOYEES' CONTRIBUTIONS

(REPEALED)

SECTION HISTORY
1965, c. 288, §1 (AMD). 1965, c. 337, §3 (AMD). 1965, c. 445, §§1,2 (AMD). 1967, c. 143, §1 (AMD). 1969, c. 415, §§4,4-A (AMD). 1971, c. 39, (AMD). P&SL 1971, c. 179, §E3 (AMD). 1971, c. 482, §1 (AMD). 1971, c. 513, §1 (AMD). 1971, c. 622, §10 (AMD). 1973, c. 412, §2 (AMD). 1973, c. 513, §22 (AMD). 1973, c. 542, §§1-3 (AMD). 1973, c. 625, §§24,25 (AMD). 1975, c. 497, §3 (AMD). 1975, c. 622, §§38-B (RPR). 1977, c. 661, §1 (AMD). 1981, c. 453, §2 (AMD). 1983, c. 751, §§1-4 (AMD). 1985, c. 801, §§2,7 (RP).

§1096. RETURN OF ACCUMULATED CONTRIBUTIONS

(REPEALED)

SECTION HISTORY
1975, c. 622, §39 (AMD). 1979, c. 17, (AMD). 1981, c. 453, §3 (AMD). 1985, c. 71, (AMD). 1985, c. 801, §§2,7 (RP).

Subchapter 5: PAYMENT OF BENEFITS

§1121. SERVICE RETIREMENT

SECTION HISTORY
1965, c. 288, §2 (AMD). 1965, c. 414, (AMD). 1965, c. 439, §§1,2,4 (AMD). 1965, c. 445, §§3,4 (AMD). 1967, c. 143, §2 (AMD). P&SL 1967, c. 154, §D (AMD). 1967, c. 467, §1 (AMD). 1967, c. 544, §§12,13 (AMD). 1969, c. 415, §§5,6 (AMD). 1969, c. 427, (AMD). 1969, c. 574, §1 (AMD). 1969, c. 590, §§4-A (AMD). 1971, c. 154, §§2,3 (AMD). 1971, c. 167, §§1,2 (AMD). P&SL 1971, c. 179, §§E1,E2 (AMD). 1971, c. 482, §2 (AMD). 1971, c. 513, §2 (AMD). 1971, c. 517, (AMD). 1971, c. 520, (AMD).

1971, c. 533, (AMD). 1971, c. 622, §§11-13,13-A (AMD). 1973, c. 191, (AMD). 1973, c. 412, §§3,4 (AMD). 1973, c. 460, §18 (AMD). 1973, c. 513, §22 (AMD). 1973, c. 542, §§4-9 (AMD). 1973, c. 606, (AMD). 1973, c. 619, (AMD). 1973, c. 788, §§17-19 (AMD). 1975, c. 210, (AMD). 1975, c. 497, §3 (AMD). 1975, c. 622, §§40-53 (AMD). 1975, c. 742, §2 (AMD). 1975, c. 766, §4 (AMD). 1975, c. 770, §§23,24 (AMD). 1975, c. 771, §§61-64 (AMD). 1977, c. 78, §15 (AMD). 1977, c. 564, §32 (AMD). 1977, c. 580, §§4-11 (AMD). 1977, c. 661, §2 (AMD). 1977, c. 699, §§1-4 (AMD). 1979, c. 127, §35 (AMD). 1979, c. 624, §§1-3 (AMD). 1981, c. 146, (AMD). 1983, c. 480, §§A5,A6 (AMD). 1983, c. 751, §§5-12 (AMD). 1985, c. 38, §1 (AMD). 1985, c. 365, §8 (AMD). 1985, c. 507, §§4,5 (AMD). 1985, c. 801, §§2,7 (RP).

§1122. DISABILITY RETIREMENT

SECTION HISTORY
1969, c. 415, §§7,8 (AMD). 1971, c. 482, §3 (AMD). 1971, c. 622, §14 (AMD). 1973, c. 122, §3 (AMD). 1973, c. 542, §10 (AMD). 1973, c. 788, §§20-21 (AMD). 1975, c. 622, §§54 TO 54-D (AMD). 1977, c. 450, §§1,2 (AMD). 1977, c. 564, §33 (AMD). 1977, c. 580, §§12,13 (AMD). 1977, c. 696, §40 (AMD). 1979, c. 222, §1 (AMD). 1981, c. 698, §7 (AMD). 1985, c. 722, (AMD). 1985, c. 801, §§2,7 (RP). 1987, c. 402, §A36 (AMD).

§1123. RESTORATION TO SERVICE

SECTION HISTORY
1967, c. 26, (AMD). 1969, c. 206, (AMD). 1971, c. 595, §1 (AMD). 1979, c. 5, (AMD). 1979, c. 92, (AMD). 1979, c. 200, (AMD). 1979, c. 663, §§16,17 (AMD). 1985, c. 62, §2 (RPR). 1985, c. 801, §§2,7 (RP).

§1124. ORDINARY DEATH BENEFITS

SECTION HISTORY
1965, c. 29, §1 (AMD). 1965, c. 171, §2 (AMD). 1965, c. 425, §5 (AMD). 1965, c. 513, §8 (AMD). 1967, c. 509, (AMD). 1969, c. 415, §§9-12 (AMD). 1969, c. 488, (AMD). 1971, c. 511, (AMD). 1973, c. 122, §§4,5 (AMD). 1975, c. 622, §55 (AMD). 1975, c. 778, §1 (AMD). 1977, c. 573, §2 (AMD). 1979, c. 541, §A31 (AMD). 1979, c. 663, §18 (AMD). 1981, c. 519, §1 (AMD). 1983, c. 53, (AMD). 1983, c. 146, §2 (AMD). 1983, c. 480, §A7 (AMD). 1983, c. 583, §2 (AMD). 1985, c. 801, §§2,7 (RP).

§1124-A. ORDINARY DEATH BENEFIT'S OPTION FOR PARTICIPATING LOCAL DISTRICTS

SECTION HISTORY
1977, c. 700, §3 (NEW). 1985, c. 801, §§2,7 (RP).

§1125. ACCIDENTAL DEATH BENEFITS

SECTION HISTORY

1965, c. 390, (AMD). 1971, c. 84, (AMD). 1973, c. 513, §22 (AMD). 1975, c. 622, §§56-59 (AMD). 1975, c. 770, §§25,26 (AMD). 1983, c. 146, §§3,4 (AMD). 1985, c. 38, §2 (AMD). 1985, c. 61, §§1,2 (AMD). 1985, c. 801, §§2,7 (RP).

§1126. PAYMENT OF RETIREMENT ALLOWANCES

SECTION HISTORY
1975, c. 622, §§60,61 (AMD). 1985, c. 387, (AMD). 1985, c. 801, §§2,7 (RP).

§1127. BENEFITS TO EMPLOYEES RETIRED PRIOR TO DATE OF ESTABLISHMENT

SECTION HISTORY
1985, c. 801, §§2,7 (RP).

§1128. COST-OF-LIVING PLAN FOR RETIRED PERSONS

SECTION HISTORY
1965, c. 337, §4 (NEW). 1969, c. 66, (AMD). 1973, c. 122, §6 (AMD). 1973, c. 625, §26 (AMD). 1975, c. 622, §62 (AMD). 1975, c. 742, §3 (AMD). 1975, c. 778, §2 (AMD). 1977, c. 573, §3 (RPR). 1979, c. 663, §19 (AMD). 1983, c. 529, (AMD). 1985, c. 281, §§1,2 (AMD). 1985, c. 801, §§2,7 (RP).

Subchapter 6: GROUP LIFE INSURANCE

§1151. GROUP LIFE INSURANCE FOR STATE EMPLOYEES AND TEACHERS

SECTION HISTORY
1965, c. 34, (AMD). 1965, c. 186, §2 (AMD). 1967, c. 59, §9 (AMD). 1967, c. 189, §§1-3 (AMD). 1967, c. 384, §§1,2 (AMD). 1967, c. 411, §§1-3 (AMD). 1967, c. 544, §§14-17 (AMD). 1971, c. 220, (AMD). 1971, c. 589, §§1-5 (AMD). 1973, c. 584, (AMD). 1973, c. 625, §§27,28 (AMD). 1973, c. 788, §22 (AMD). 1977, c. 694, §§24-26 (AMD). 1977, c. 696, §§41-A (AMD). 1979, c. 437, §§1-8 (AMD). 1983, c. 461, §1 (RP).

§1151-A. GROUP LIFE INSURANCE

SECTION HISTORY
1983, c. 461, §2 (NEW). 1983, c. 530, §§3,4 (AMD). 1985, c. 801, §§2,7 (RP).

§1152. ADMINISTRATION

SECTION HISTORY
1971, c. 589, §§6,7 (AMD). 1977, c. 694, §27 (AMD). 1983, c. 461, §3 (RP).

§1153. PARTICIPATING LOCAL DISTRICTS

SECTION HISTORY
1967, c. 411, §4 (AMD). 1975, c. 622, §63 (AMD). 1983, c. 461, §4 (AMD). 1985, c. 801, §§2,7 (RP).

§1154. WITHDRAWAL OF LOCAL DISTRICTS

SECTION HISTORY
1981, c. 596, §2 (NEW). 1985, c. 801, §§2,7 (RP).

Subchapter 7: APPEALS

§1181. PROCEDURE

SECTION HISTORY
1971, c. 622, §15 (AMD). 1975, c. 622, §§64,65 (AMD). 1977, c. 694, §28 (RPR). 1985, c. 801, §§2,7 (RP).

Chapter 103: SOCIAL SECURITY FOR STATE AND MUNICIPAL EMPLOYEES

§1221. DECLARATION OF POLICY

(REPEALED)

SECTION HISTORY
1965, c. 140, (AMD). 1969, c. 173, (AMD). 1985, c. 801, §§2,7 (RP).

§1222. DEFINITIONS

(REPEALED)

SECTION HISTORY
1979, c. 541, §§A32,A33 (AMD). 1985, c. 779, §14 (AMD). 1985, c. 801, §§2,7 (RP). 1987, c. 402, §A37 (AMD).

§1223. FEDERAL-STATE AGREEMENT

(REPEALED)

SECTION HISTORY
1979, c. 541, §§A34,A35 (AMD). 1985, c. 801, §§2,7 (RP).

§1224. COVERAGE OF EMPLOYEES OF POLITICAL SUBDIVISIONS

(REPEALED)

SECTION HISTORY
1979, c. 541, §A36 (AMD). 1985, c. 801, §§2,7 (RP).

§1225. CONTRIBUTION FUND

(REPEALED)

SECTION HISTORY

1985, c. 801, §§2,7 (RP).

§1226. RULES AND REGULATIONS

(REPEALED)

SECTION HISTORY
1985, c. 801, §§2,7 (RP).

§1227. COST OF ADMINISTRATION

(REPEALED)

SECTION HISTORY
1985, c. 801, §§2,7 (RP).

Part 4: FINANCE

Chapter 141: GENERAL PROVISIONS

§1501. UNIFORM FISCAL YEAR

The fiscal year of the State Government shall commence on the first day of July and end on the 30th day of June each year. The fiscal year shall be followed in making appropriations and in financial reporting, and shall be uniformly adopted by all departments and agencies of the State Government.

§1502. FEDERAL FUNDS

The Governor and every state officer and department head who shall be intrusted with the expenditure of federal funds in this State shall file in the office of the State Controller a detailed report of all disbursements, including the purposes for which such disbursements were made and the persons to whom any money was paid, supported by proper vouchers, said report to be filed within 30 days after the entire fund has been disbursed.

Any state officer excepting the Governor, whether elected or appointed, and any department head who shall fail or neglect to file such report as provided shall be subject to removal from office by authority of the Governor, and if the Governor of the State shall fail or neglect to file such report, he shall be subject to impeachment in the manner provided in the Constitution of Maine, Article IX, section 5.

§1502-A. PAYMENT PRIORITY

Payments made on behalf of the Department of Health and Human Services for Temporary Assistance for Needy Families and for foster care have priority over other payments and must be made without delay whether or not they are pursuant to a state plan or contract under 45 Code of Federal Regulations, Part 23. The Department of Administrative and Financial Services shall cooperate with other state agencies to accomplish priority payments. [1991, c. 747, §2 (NEW); 1997, c. 530, Pt. A, §34 (AMD); 2003, c. 689, Pt. B, §6 (REV).]

SECTION HISTORY
1991, c. 747, §2 (NEW). 1997, c. 530, §A34 (AMD). 2003, c. 689, §B6 (REV).

§1503. ALLOCATIONS FROM THE CONSTRUCTION RESERVE FUND; BALANCE

(REPEALED)

SECTION HISTORY
1969, c. 455, §2 (RP).

§1504. CHARGING OFF ACCOUNTS DUE STATE

The State Controller shall charge off the books of account of the State or any department, institution or agency thereof, such accounts receivable, including all taxes for the assessment or collection of which the State is responsible, and all impounded bank accounts, as are certified to the State Controller as impractical of realization by or for the State, department, institution or agency. Such certification must be by the Attorney General, the Commissioner of Administrative and Financial Services and the head of the department, institution or agency responsible for such account, subject to the approval of the Governor. In each such case, the charging off of such accounts must be recommended by the head of the department, institution or agency originally responsible for such account. [1991, c. 780, Pt. Y, §38 (AMD).]

SECTION HISTORY

1973, c. 701, §3 (AMD). 1975, c. 771, §65 (AMD). 1985, c. 785, §A48 (AMD). 1991, c. 780, §Y38 (AMD).

§1505. PETTY CASH FUNDS

A Petty Cash Fund must be allowed by the Commissioner of Administrative and Financial Services to each state department or agency that in the commissioner's opinion requires such a fund. The fund so established may be reimbursed only upon statements and bills audited by the State Controller. [1991, c. 780, Pt. Y, §39 (AMD).]

SECTION HISTORY
1985, c. 785, §A49 (AMD). 1991, c. 780, §Y39 (AMD).

§1506. RETURN OF WORKING CAPITAL ADVANCES

Whenever a working capital advance, or any part thereof, is no longer required for the purpose for which it was made, such amount must be returned to the state fund from which the advance was made. Such return may be made only on the recommendation of the department or agency head having jurisdiction over the advance and with the approval of the Commissioner of Administrative and Financial Services and the Governor. [1991, c. 780, Pt. Y, §40 (AMD).]

SECTION HISTORY
1975, c. 771, §66 (AMD). 1985, c. 785, §A50 (AMD). 1991, c. 780, §Y40 (AMD).

§1507. CONTINGENT ACCOUNT

The Governor may allocate from the State Contingent Account amounts not to exceed in total the sum of $4,350,000. The Governor may allocate from such account amounts not to exceed in total the sum of $300,000 in any fiscal year in accordance with the purposes specified in subsections 1, 2, 3, 4 and 4-A, an amount not to exceed $1,000,000 in accordance with the purposes specified in subsection 5-A, an amount not to exceed $1,000,000 in accordance with the purposes specified in subsection 5-B and an amount not to exceed $2,000,000 in accordance with the purposes specified in subsection 5-C. [2009, c. 213, Pt. OOO, §1 (AMD).]

1. **Institutions.** The Governor may allocate funds from such account, when need exists and only upon the written request of the Commissioner of Health and Human Services and upon consultation with the State Budget Officer, to those institutions administered by the Department of Health and Human Services where actual average population in a fiscal year exceeds the basic estimates of population upon which the budget was approved and where such relief can not be absorbed within regular legislative appropriations.

[1995, c. 2, §4 (COR); 2001, c. 354, §3 (AMD); 2003, c. 689, Pt. B, §§6, 7 (REV) .]

2. **Construction.** The Governor may allocate funds from such account to provide funds for construction, repairs, equipment, supplies and furnishings, whenever:

A. An increase in construction or equipment costs results in a project cost in excess of the amount appropriated therefor by the Legislature; or [1975, c. 771, §67 (RPR).]

B. A condition arises during the course of a project which necessitates a change in plans, specifications or equipment resulting in a project cost in excess of funds previously made available therefor. [1975, c. 771, §67 (RPR).]

The Governor may make allocations for this purpose only upon the written request of an appropriate officer of the State and upon consultation with the State Budget Officer.

[1975, c. 771, §67 (RPR) .]

3. **Purchase of real estate.** The Governor may allocate funds from such account to provide funds in accordance with Title 1, section 814. Allocations may be made from this fund by the Governor only upon the written request of the Director of the Bureau of General Services and upon consultation with the State Budget Officer.

[2011, c. 691, Pt. B, §7 (AMD) .]

4. **Emergencies.** The Governor may allocate funds from such account to meet any emergency expense necessarily incurred under any requirement of law or for the maintenance, in emergency conditions, of government within the scope existing at the time of the previous session of the Legislature or contemplated by laws enacted thereat, or to pay expenses arising out of an emergency requiring an expenditure or money not provided by the Legislature. The Governor shall determine the necessity for such allocations upon consultation with the State Budget Officer.

[1975, c. 771, §67 (RPR) .]

4-A. **Maine community colleges.** The Governor may allocate funds from such account in amounts not to exceed in total the sum of $100,000 in any fiscal year to provide funds for any unusual and unforeseen needs as may arise in the operation of the Maine community colleges. Allocations may be made from this fund by the Governor only upon the written request of the Board of Trustees of the Maine Community College System and after consultation with the State Budget Officer.

[1989, c. 878, Pt. A, §11 (AMD); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF) .]

5. **Promotion of Maine.** The Governor, upon consultation with the State Budget Officer, may allocate funds from such account in amounts not to exceed in total the sum of $50,000 in any fiscal year for the promotion of Maine outside of the State, after ample evidence is presented that such funds will support such unusual and unforeseen needs as may arise in the promotion of specific projects that bear a direct positive effect on the economy of Maine and only when there is a written request to the Governor for such funds by a private group or by a state officer whose duties are related to such specific projects; and $250,000 in any fiscal year for scientific, experimental and research projects designed to develop new industries, to enhance industrial productivity or to develop, test or transfer new technologies for which federal funding requiring a state match is available.

[1991, c. 528, Pt. E, §6 (AMD); 1991, c. 528, Pt. RRR, (AFF); 1991, c. 591, Pt. E, §6 (AMD) .]

5-A. **Job development training.** The Governor may allocate funds from such account in amounts not to exceed in total the sum of $1,000,000 to provide funds for any unusual, unforeseen or extraordinary needs for state assistance in creating jobs by assisting in meeting the training requirements of labor-intensive new or expanding industries. Allocations for this purpose may be made from this fund by the Governor only upon the written request of the Commissioner of Labor and the Commissioner of Economic and Community Development and after consultation with the State Budget Officer. The commissioners' request to the Governor must be formulated subsequent to their consultation with the Commissioner of Education, the President of the Maine Community College System and the director of the appropriate local workforce investment area designated pursuant to the federal Workforce Investment Act of 1998, Public Law 105-220.

[2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF); 2003, c. 114, §1 (AMD) .]

5-B. **Training fund for job retention.** The Governor may allocate funds from the account in amounts not to exceed in total the sum of $1,000,000 to provide funds to assist with the training needs of stable businesses that utilize new technologies and work processes to remain competitive and would otherwise be reducing their workforce. Allocations for this purpose may be made from this fund by the Governor only upon written request of the Commissioner of Labor and the Commissioner of Economic and Community Development and after consultation with the State Budget Officer. The commissioners' request to the Governor must be formulated subsequent to their consultation with officials and training providers of the business.

[1993, c. 410, Pt. QQQ, §2 (NEW) .]

5-C. **Early childhood investments.** The Governor may allocate funds from the account in amounts not to exceed in total the sum of $2,000,000 to provide funds to assist with the development of an early care and education infrastructure. Allocations for this purpose may be made from this fund by the Governor upon written request of the Commissioner of Education and the Commissioner of Health and Human Services and after consultation with the State Budget Officer.

[2009, c. 213, Pt. OOO, §2 (NEW) .]

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

[2005, c. 683, Pt. A, §6 (AMD) .]

7. **Procedure.** All allocations from the State Contingent Account must be supported by a statement of facts setting forth the necessity for the allocation. A copy of each order for an allocation, together with the statement of facts, must be provided to the Office of Fiscal and Program Review, the joint standing committee having jurisdiction over economic development matters, to the President of the Senate and to the Speaker of the House of Representatives when the allocation is made.

[1993, c. 410, Pt. QQQ, §3 (AMD) .]

The State Controller shall include in his official annual financial report at the close of each fiscal year a statement showing all transfers made from the State Contingent Account for the fiscal period. [1975, c. 771, §67 (RPR).]

After the close of each fiscal year, the Governor may request a General Fund appropriation from the next session of the Legislature in an amount as may be available to bring the total available in the State Contingent Account to a maximum of $4,350,000 for the current fiscal year. [2009, c. 213, Pt. OOO, §3 (AMD).]

At the close of each fiscal year, as the first priority transfer before any other transfer authorized by law, there must be transferred from the General Fund an amount as may be available from time to time until the maximum of $350,000 is achieved to be used for the purposes specified in subsections 1 to 6. [2005, c. 519, Pt. VV, §1 (AMD).]

Notwithstanding any other provision of law, if the funds remaining in the State Contingent Account are not sufficient to address a purpose consistent with the purposes specified in subsection 4, the Governor may upon consultation with the State Budget Officer access any funds available to the State. The Governor shall identify by financial order the account, fund or other source from which payment is made. Funds accessed for this purpose may not exceed $750,000. [2005, c. 12, Pt. CC, §1 (NEW).]

SECTION HISTORY
1969, c. 455, §1 (RPR). 1975, c. 756, §1 (AMD). 1975, c. 771, §67 (RPR). 1977, c. 78, §16 (AMD). 1979, c. 602, §§1,2 (AMD). 1981, c. 493, §2 (AMD). 1985, c. 497, §1 (AMD). 1985, c. 737, §B6 (AMD). 1985,

c. 759, §§1-3 (AMD). 1985, c. 814, §§E1-3 (AMD). 1987, c. 395, §A18 (AMD). 1987, c. 534, §§A5,A19 (AMD). 1987, c. 816, §§N1-N3 (AMD). 1989, c. 443, §§8,9 (AMD). 1989, c. 700, §A15 (AMD). 1989, c. 878, §A11 (AMD). 1989, c. 893, (AMD). 1991, c. 528, §E6 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §E6 (AMD). 1993, c. 349, §7 (AMD). 1993, c. 410, §§QQQ1-4 (AMD). RR 1995, c. 2, §4 (COR). 1995, c. 464, §§1,2 (AMD). 1995, c. 464, §18 (AFF). 1995, c. 560, §K82 (AMD). 1995, c. 560, §K83 (AFF). 1997, c. 24, §C2 (AMD). 2001, c. 354, §3 (AMD). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF). 2003, c. 114, §1 (AMD). 2003, c. 689, §§B6,7 (REV). 2005, c. 12, §CC1 (AMD). 2005, c. 519, §VV1 (AMD). 2005, c. 683, §A6 (AMD). 2009, c. 213, Pt. OOO, §§1-3 (AMD). 2011, c. 691, Pt. B, §7 (AMD).

§1508. STATE FUNDS ELIMINATED

Unless the Legislature otherwise directs, the Commissioner of Administrative and Financial Services, with the approval of the Governor, has authority to discontinue any or all special expendable state funds with the exception of the sinking funds and trust funds and to merge the balance or balances of such fund or funds so discontinued with the General Fund. [1991, c. 780, Pt. Y, §41 (AMD).]

SECTION HISTORY
1975, c. 771, §68 (AMD). 1985, c. 785, §A51 (AMD). 1991, c. 780, §Y41 (AMD).

§1509. RECORDS; COLLECTIONS

It shall be the duty of each department, institution or agency of the State to keep a record of all items of income accruing to it. Each department, institution or agency shall be solely responsible for collections of all accounts receivable accruing to it, including taxes levied by the State. In each instance of an item of income accruing to any department, institution or agency, such department, institution or agency shall immediately begin collection efforts and shall make such repeated collection efforts as may be necessary to promptly satisfy the amount owed to the State. Whenever there shall continue to exist items of income or taxes owed to the State which are not paid within 90 days, it shall be the duty of the department, institution or agency to whom such amount is owed to again attempt promptly to collect same. In cases of failure to pay, the department, institution or agency shall refer the account to the Attorney General for collection. [1973, c. 701, §4 (NEW).]

SECTION HISTORY
1973, c. 701, §4 (NEW).

§1509-A. PAYMENT BY CREDIT CARD

State departments and agencies shall implement, with the approval of the State Controller and the State Treasurer, procedures for accepting payment for goods, services, fines, forfeitures or any other fees by major credit cards or other electronic means. Unless otherwise provided for in law as of the effective date of this section, any administrative expenses or credit card fees incurred in connection with this method of receiving funds must be absorbed within the existing budget of the department or agency as authorized by the Legislature. [1999, c. 762, §1 (AMD); 1999, c. 762, §5 (AFF).]

SECTION HISTORY
1997, c. 643, §U1 (NEW). 1999, c. 401, §E1 (AMD). 1999, c. 762, §1 (AMD). 1999, c. 762, §5 (AFF).

§1510. CERTAIN CLAIMS AGAINST THE STATE

(REPEALED)

SECTION HISTORY
1975, c. 313, (NEW). 1975, c. 771, §69 (RPR). 1977, c. 591, §§1,2 (AMD). 1977, c. 624, §1 (RP).

§1510-A. CERTAIN CLAIMS AGAINST THE STATE

1. **Claims against state agency.** A state agency may hear and decide any claim of $2,000 or less against it, or any of its agents, except a claim that may be submitted under the Maine Tort Claims Act, Title 14, chapter 741, or under another specific statutory provision. Any agency paying all or part of a claim heard under this subsection shall make payment as soon as practicable from currently available agency funds and, if no funds are then available, from agency funds from the following fiscal year. An agency deciding a claim under this subsection shall make its final decision, and reasons for the decision, in writing and shall, as soon as practicable, send a copy of that decision to the claimant by certified mail.

These claims include, but are not limited to, claims for damage or injury caused by patients, inmates, prisoners in the care or custody of the Department of Health and Human Services or of any institution administered by a department or by children in the custody of the Department of Health and Human Services.

[1993, c. 468, §1 (AMD); 1995, c. 560, Pt. K, §82 (AMD); 1995, c. 560, Pt. K, §83 (AFF); 2001, c. 354, §3 (AMD); 2003, c. 689, Pt. B, §6 (REV) .]

2. **Claims against the State decided by the State Claims Commission.** A claim under this section may be submitted to the State Claims Commission and heard and decided by it, if:

A. The claim was submitted under subsection 1 to a state agency which refused to hear it; [1977, c. 624, §2 (NEW).]

B. The claim was submitted under subsection 1 to a state agency and no final decision was made within 90 days of submission; or [1977, c. 624, §2 (NEW).]

C. The claim cannot be submitted under a specific statutory provision other than subsection 1 because the claimant, as a result of an action or omission of a state agency or state agent, has not complied with time limits contained in that specific statutory provision. [1987, c. 395, Pt. A, §19 (AMD).]

Any payment resulting from a decision of the State Claims Commission on a claim submitted to it under this subsection shall be paid as soon as practicable by the state agency or agencies found responsible by the State Claims Commission or, if there is no clearly identifiable responsible state agency, the payment shall be paid from the state contingent fund.

[1987, c. 395, Pt. A, §19 (AMD) .]

3. **Appeal from departmental decisions.** Any claim disapproved in whole or part by a state agency hearing that claim under subsection 1 may be appealed to the State Claims Commission within 30 days from the disapproval or partial disapproval. The State Claims Commission shall hear de novo any claim so appealed.

Any payment resulting from a decision of the State Claims Commission on a claim submitted to it under this subsection shall be paid by the state agency or agencies found responsible by the State Claims Commission or, if there is no clearly identifiable responsible state agency, the payment shall be paid from the state contingent fund.

[1987, c. 395, Pt. A, §19 (AMD) .]

4. **Appeal from State Claims Commission decision.** Any party aggrieved by an award of the State Claims Commission may appeal therefrom to the Superior Court within 30 days after the date of the receipt of the notice of the award. The appeal shall be taken by filing a complaint setting forth, as in other civil matters, substantially the facts upon which the case shall be tried. Service shall be made on the opposing party and the State Claims Commission by sending a true copy of the complaint by registered or certified mail within the time limit set out in this subsection. The complaint shall be filed in the Superior Court for the county where one or more of the parties reside or have their principal place of business or where the activity or property which is the subject of the proceeding is located. The court's determination shall be de novo and without a jury or, if all parties agree, by a referee or referees.

[1987, c. 395, Pt. A, §19 (AMD) .]

5. **Jurisdiction over claims prior to January 4, 1977.** The jurisdiction of the State Claims Commission over claims subject to this section includes those claims which have arisen prior to January 4, 1977, unless they have been ruled upon by the Governor and Executive Council or by the Legislature prior to January 4, 1977.

[1987, c. 395, Pt. A, §19 (AMD) .]

6. **Hearings.** Hearings on claims submitted under subsection 2 or appeals made under subsection 3 shall be held at a time and place which the State Claims Commission shall determine. The chairman shall assign either one or 3 members to hear and determine each claim. Hearings on claims under this section which are properly submitted to the State Claims Commission shall be held in accordance with the Maine Administrative Procedure Act, chapter 375. The decision of the commission shall include the reasons for the findings.

[1987, c. 395, Pt. A, §19 (AMD) .]

7. **Different procedures.** A claim submitted under this section shall not be disapproved solely because a claim based on the same facts was submitted under a different statutory procedure and was disallowed.

[1977, c. 624, §2 (NEW) .]

8. **Rules; report.** The commission may adopt rules to implement this section. The commission shall, on or before January 30th of each year, report to the Legislature on all claims filed pursuant to this section.

[1987, c. 395, Pt. A, §19 (AMD) .]

SECTION HISTORY
1977, c. 624, §2 (NEW). 1979, c. 672, §2 (AMD). 1983, c. 553, §2 (AMD). 1987, c. 395, §A19 (AMD). 1993, c. 468, §1 (AMD). 1995, c. 560, §K82 (AMD). 1995, c. 560, §K83 (AFF). 2001, c. 354, §3 (AMD). 2003, c. 689, §B6 (REV).

§1510-B. NO LIABILITY FOR WILD ANIMAL DAMAGE

The State is not liable for damage done by wild animals to beehives or livestock. Neither state agencies nor the State Claims Commission may accept claims for such wild animal damage. [1987, c. 395, Pt. A, §20 (AMD).]

SECTION HISTORY
1979, c. 672, §3 (NEW). 1981, c. 368, §1 (AMD). 1987, c. 395, §A20 (AMD).

§1511. LOAN INSURANCE RESERVE

The State Controller may, at the close of each fiscal year, as the next priority after the transfers authorized pursuant to section 1507, transfer from the Unappropriated Surplus of the General Fund to the Loan Insurance Reserve amounts as may be available from time to time, up to an amount of $1,000,000 per year after the transfers have been made pursuant to section 1507. The balance of this reserve must be paid to the Finance Authority of Maine if such payment does not cause the balance in the reserve fund maintained by the authority, when added to amounts held in the Finance Authority of Maine Mortgage Insurance Fund that are not committed or encumbered for another purpose, to exceed $40,000,000. Any balance in the Loan Insurance Reserve is appropriated for this purpose. [2011, c. 657, Pt. F, §1 (AMD).]

SECTION HISTORY
P&SL 1975, c. 147, §C7 (NEW). 1981, c. 192, §1 (AMD). 1985, c. 512, §D (AMD). 1985, c. 714, §1 (RPR). 1987, c. 816, §O1 (AMD). 1991, c. 9, §E5 (AMD). 1991, c. 622, §JJ (AMD). 1993, c. 6, §B1 (AMD). 1993, c. 508, §G1 (AMD). 1993, c. 707, §G2 (AMD). 1995, c. 464, §3 (AMD). 2001, c. 559, §V1 (AMD). 2003, c. 451, §X1 (AMD). 2005, c. 2, §A1 (AMD). 2005, c. 2, §A14 (AFF). 2005, c. 519, §VV2 (AMD). 2011, c. 657, Pt. F, §1 (AMD).

§1512. PAYMENT OF ATTORNEYS' FEES AWARDS

Notwithstanding section 1543 or any other statute, attorneys' fees awarded by a court against the State, its departments, agencies, officers or employees, and settlements of attorneys' fees without court award in these cases, may be paid from any funds available to the State. The Governor may identify by financial order the account, fund or other source from which payment of the attorneys' fees award or settlement shall be made. [1981, c. 417, (NEW).]

All property, assets and interests of the State are exempt from any attachment or execution sought for the enforcement of an award of attorneys' fees. [1981, c. 417, (NEW).]

SECTION HISTORY
1981, c. 417, (NEW).

§1513. MAINE RAINY DAY FUND

(REPEALED)

SECTION HISTORY
1985, c. 448, (NEW). 1987, c. 349, §H4 (AMD). 1987, c. 788, §1 (AMD). 1987, c. 793, §A1 (AMD). 1989, c. 502, §§D1,D2 (AMD). 1991, c. 528, §UU1 (AMD). 1991, c. 528, §§UU3,RRR (AFF). 1991, c. 589, §2 (AMD). 1991, c. 591, §UU1 (AMD). 1991, c. 591, §UU3 (AFF). 1993, c. 6, §D1 (AMD). 1993, c. 410, §II1 (AMD). 1993, c. 707, §G3 (AMD). 1995, c. 489, §1 (AMD). 1995, c. 706, §1 (AMD). 1997, c. 455, §31 (AMD). 1997, c. 563, §B1 (AMD). 1997, c. 564, §1 (AMD). 1997, c. 565, §1 (AMD). 1997, c. 643, §§E1,2,GGG1 (AMD). 1997, c. 780, §1 (AMD). RR 1999, c. 1, §2 (COR). RR 1999, c. 2, §1 (COR). 1999, c. 4, §D1 (AMD). 1999, c. 127, §A4 (AMD). 1999, c. 401, §§GGG1,Z1 (AMD). 1999, c. 401, §GGG2 (AFF). 1999, c. 505, §A1 (AMD). 1999, c. 749, §§1,2 (AMD). 1999, c. 749, §3 (AFF). 2001, c. 356, §1 (AMD). 2001, c. 358, §§G1,X1 (AMD). 2001, c. 439, §§T1,CCCCC1 (AMD). 2001, c. 559, §E1 (AMD). 2003, c. 451, §§X2-4 (AMD). 2005, c. 2, §A14 (AFF). 2005, c. 2, §A2 (RP).

§1513-A. GOVERNOR BAXTER SCHOOL FOR THE DEAF COMPENSATION FUND ESTABLISHED

(REPEALED)

SECTION HISTORY
2001, c. 439, §T2 (NEW). 2003, c. 451, §X5 (RP).

§1514. TAX ADJUSTMENT RESERVE FUND

(REPEALED)

SECTION HISTORY
1987, c. 4, §1 (NEW). 1987, c. 504, §1 (AMD). 1987, c. 816, §S (AMD). 1987, c. 819, §1 (AMD). 1987, c. 832, §1 (AMD). 1987, c. 892, §1 (AMD). 1989, c. 502, §§A13,A14 (AMD). 1989, c. 878, §§A12,13 (AMD). 2011, c. 420, Pt. C, §2 (RP).

§1515. CORPORATE INCOME TAX INVESTMENT CREDIT FUND

1. **Corporate Income Tax Investment Credit Fund.** There is established a Corporate Income Tax Investment Credit Fund for the purpose of reserving the money appropriated to it awaiting transfer to fund a one-time tax credit for corporate investments in new, used or leased tangible personal property which is placed in service in Maine during the 1989 calendar year and is directly related to the production of goods and services.

[1987, c. 876, §2 (NEW) .]

2. **Enactment of credit.** The joint standing committee of the Legislature having jurisdiction over taxation shall develop the specific provisions of the tax credit. The committee shall report its findings and any recommended legislation to the First Regular Session of the 114th Legislature. This program shall be finalized by April 30, 1989.

[1987, c. 876, §2 (NEW) .]

3. **Carry-forward.**

[1989, c. 501, Pt. P, §10 (NEW); 1989, c. 530, §1 (NEW); 1989, c. 702, Pt. E, §2 (RP) .]

SECTION HISTORY
1987, c. 876, §2 (NEW). 1989, c. 501, §P10 (AMD). 1989, c. 530, §1 (AMD). 1989, c. 702, §E2 (AMD).

§1516. BLAINE HOUSE RENOVATIONS AND REPAIRS FUND

1. **Blaine House Renovations and Repairs Fund.** There is created the Blaine House Renovations and Repairs Fund which shall be used solely for capital improvements, renovations and repairs to the Blaine House.

[1989, c. 501, Pt. P, §11 (NEW) .]

2. **Nonlapsing fund.** Any unexpended funds appropriated by the Legislature to implement the purposes of this chapter shall not lapse, but shall be carried forward. Any funds in excess of $100,000 shall be transferred to the General Fund.

[1989, c. 501, Pt. P, §11 (NEW) .]

3. **Private contributions.** The Blaine House Renovations and Repairs Fund, Other Special Revenue Funds account, is established in the Executive Department. This account may receive and accept allocations, appropriations, grants and contributions of money to be used for capital improvements, renovations and repairs to and general operations of the Blaine House. This account may not lapse but must be carried forward from year to year.

[2003, c. 451, Pt. N, §1 (NEW) .]

SECTION HISTORY
1989, c. 501, §P11 (NEW). 2003, c. 451, §N1 (AMD).

§1516-A. CAPITAL CONSTRUCTION AND IMPROVEMENTS RESERVE FUND

1. **Capital Construction and Improvements Reserve Fund.** There is created the Capital Construction and Improvements Reserve Fund, referred to in this section as the "fund," that may be used solely for capital projects that construct, renovate or improve state facilities. Money in the fund may not be expended on facility maintenance issues.

[1997, c. 643, Pt. AAA, §1 (NEW) .]

2. **Nonlapsing fund.** Any unexpended money appropriated or allocated to the fund may not lapse, but must be carried forward.

[1997, c. 643, Pt. AAA, §1 (NEW) .]

3. **Investment of funds.** The money in the fund may be invested as provided by law with the earnings credited to the fund.

[1997, c. 643, Pt. AAA, §1 (NEW) .]

4. **Report.** The Commissioner of Administrative and Financial Services shall provide a report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs annually by January 15th that includes the following:

A. The status of any capital projects undertaken or completed during the most recently completed fiscal year and the current fiscal year; [1997, c. 643, Pt. AAA, §1 (NEW).]

B. Money expended during the most recently completed and the current fiscal year, by project; and [1997, c. 643, Pt. AAA, §1 (NEW).]

C. Remaining fund balances at the end of the most recently completed fiscal year. [1997, c. 643, Pt. AAA, §1 (NEW).]

[1997, c. 643, Pt. AAA, §1 (NEW) .]

SECTION HISTORY
1997, c. 643, §AAA1 (NEW).

§1516-B. LEASED SPACE RESERVE FUND

1. **Leased Space Reserve Fund.** There is created the Leased Space Reserve Fund, referred to in this section as "the fund," which may be used for costs related to relocation from leased space to state-owned facilities or relocation from a leased space to a lower-priced leased space and capital projects that construct, renovate or improve state facilities. Money in the fund may not be expended on facility maintenance issues.

[2011, c. 689, §1 (NEW) .]

2. **Nonlapsing fund.** Any unexpended money appropriated or allocated to the fund may not lapse, but must be carried forward.

[2011, c. 689, §1 (NEW) .]

3. **Funding of fund.** The Department of Administrative and Financial Services, Bureau of General Services shall notify the State Controller and the State Budget Officer of a relocation of a state agency from leased space to a state-owned facility or a relocation of a state agency from leased space to a lower-priced leased space. Any balance, net of the value of the state cost allocation program as determined by the State Controller, remaining in General Fund or Other Special Revenue Funds money appropriated or allocated for leased space and all facility-related expenses for that agency during the biennium of the relocation as a result of savings resulting from the relocation must be transferred as provided in this subsection.

A. The State Budget Officer shall transfer 50% of any General Fund or Other Special Revenue Funds money through financial order to the fund. This transfer is considered to be an adjustment to the appropriation or allocation. [2011, c. 689, §1 (NEW).]

B. The remaining balance must be transferred to the General Fund as unappropriated surplus. [2011, c. 689, §1 (NEW).]

[2011, c. 689, §1 (NEW) .]

SECTION HISTORY
2011, c. 689, §1 (NEW).

§1517. TRANSFER TO RETIREMENT ALLOWANCE FUND

(REPEALED)

SECTION HISTORY
1995, c. 464, §4 (NEW). 2003, c. 451, §X6 (AMD). 2005, c. 2, §A14 (AFF). 2005, c. 2, §A3 (RP).

§1518. TAX RELIEF FUND FOR MAINE RESIDENTS

(REPEALED)

SECTION HISTORY
1997, c. 24, §E1 (NEW). 1997, c. 643, §HHH1 (AMD). 1997, c. 643, §§T6,HHH10 (AFF). 1997, c. 643, §T1 (RP). 1997, c. 750, §D1 (AFF).

§1518-A. TAX RELIEF FUND FOR MAINE RESIDENTS

1. **Tax Relief Fund for Maine Residents.** There is created the Tax Relief Fund for Maine Residents, referred to in this section as "the fund," which must be used to provide tax relief to residents of the State. The fund consists of all resources transferred to the fund under subsection 4 and section 1536 and other resources made available to the fund. The fund must be used to reduce the individual income tax rates to 4% pursuant to subsection 1-A.

[2011, c. 692, §1 (AMD) .]

1-A. **Implementation.** By September 1, 2016 and annually thereafter, the State Controller shall inform the State Tax Assessor of the amount available in the fund for the purposes of subsection 1.

A. By November 1st annually, the State Tax Assessor shall calculate the amount by which the income tax rates under Title 36, section 5111, subsections 1-F, 2-F and 3-F may be reduced during the subsequent tax year using the amount available from the fund. Bracket rate reductions must be a minimum of 0.2 percentage points in the first year in which reductions are made and a minimum of 0.1 percentage points in subsequent years. If sufficient funds are not available to pay for the minimum reduction, a rate reduction may not be made until the amount in the fund is sufficient to pay for the reduction. When the amount is sufficient to pay for the reduction, the reduction must first be applied equally to each bracket under Title 36, section 5111, subsections 1-F, 2-F and 3-F until the lower bracket reaches 4%. Funds available from the fund in subsequent years must be applied to reduce the higher bracket rates until there is a single bracket with a rate of 4%, after which future tax relief may be identified. [2015, c. 390, §1 (AMD).]

B. The State Tax Assessor shall provide public notice of new bracket rates calculated under this subsection by November 15th annually. [2011, c. 692, §1 (NEW).]

C. New bracket rates calculated under this subsection apply beginning with tax years that begin on or after January 1st of the calendar year following the determinations made under this subsection. [2011, c. 692, §1 (NEW).]

[2015, c. 390, §1 (AMD) .]

2. **Nonlapsing fund.** Any unexpended balance in the Tax Relief Fund for Maine Residents may not lapse but must be carried forward to be used pursuant to subsection 1-A.

[2011, c. 692, §1 (AMD) .]

3. **Transfer for income tax reduction.** In the fiscal years immediately following the calculation of the income tax rate reduction under subsection 1-A, paragraph A, the State Tax Assessor shall certify to the State Controller the amount of the reduction in General Fund revenue by fiscal year, and the State Controller shall transfer from the fund the amount certified for the reduction in revenue attributable to adjustments made under subsection 1-A to the General Fund unappropriated surplus.

[2011, c. 692, §1 (NEW) .]

4. **Transfer from General Fund revenue growth.** Beginning with fiscal year 2013-14 and before any other transfers from the General Fund, the State Controller shall transfer to the fund at the close of each fiscal year 40% of the amount by which General Fund budgeted revenue for that fiscal year exceeds the General Fund appropriation limitation calculated for that fiscal year under section 1534.

[2011, c. 692, §1 (NEW) .]

SECTION HISTORY

2005, c. 2, §A4 (NEW). 2005, c. 2, §A14 (AFF). 2011, c. 692, §1 (AMD). 2015, c. 390, §1 (AMD).

§1519. RETIREE HEALTH INSURANCE INTERNAL SERVICE FUND

1. **Established.** The Retiree Health Insurance Internal Service Fund is established within the Department of Administrative and Financial Services to accumulate funds to pay the health insurance premiums for retired state employees and teachers.

[1999, c. 731, Pt. DD, §1 (NEW); 1999, c. 731, Pt. DD, §2 (AFF) .]

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

A. "Board" means the Board of Trustees, Maine Public Employees Retirement System established under section 12004-F, subsection 9. [2001, c. 439, Pt. C, §1 (NEW); 2001, c. 439, Pt. C, §4 (AFF); 2007, c. 58, §3 (REV).]

B. "Commissioner" means the Commissioner of Administrative and Financial Services. [2001, c. 439, Pt. C, §1 (NEW); 2001, c. 439, Pt. C, §4 (AFF).]

C. "Fund" means the Retiree Health Insurance Internal Service Fund. [2001, c. 439, Pt. C, §1 (NEW); 2001, c. 439, Pt. C, §4 (AFF).]

[2001, c. 439, Pt. C, §1 (NEW); 2001, c. 439, Pt. C, §4 (AFF); 2007, c. 58, §3 (REV) .]

2. **Funding.**

[2003, c. 451, Pt. X, §7 (RP) .]

3. **Investment of the fund.** The board shall invest the cash assets of the fund that are not required to pay insurance premiums and other operating expenses at the request of the commissioner in the same manner and according to the same investment policy and practices by which the board invests the assets of the Maine Public Employees Retirement System. The board shall treat the fund as held in trust on behalf of the State for the purposes specified in this section and no other and shall separately account for the fund as investment assets, attributing to the fund its proportional share of investment returns and of investment management costs and expenses, including costs and expenses of the retirement system arising because of the board's investment of the fund. The commissioner and the board shall develop jointly a memorandum of understanding that sets out their mutual understanding of the investment of the fund, the related investment accounting and investment return and expense attribution.

[2001, c. 439, Pt. C, §1 (NEW); 2001, c. 439, Pt. C, §4 (AFF); 2007, c. 58, §3 (REV) .]

4. **Audit of the fund.** The commissioner shall ensure adequate audit of the investment management of the fund and the expenditures of the fund each fiscal year within the scope of the annual audit of the Maine Public Employees Retirement System and the State's single audit or through a separate audit as considered appropriate by the board. Any separate audit must be reported to the Governor, the Legislature, the commissioner and the State Controller in as timely a manner as possible after the close of each fiscal year.

[2001, c. 439, Pt. C, §1 (NEW); 2001, c. 439, Pt. C, §4 (AFF); 2007, c. 58, §3 (REV) .]

5. **Use of the fund.** Notwithstanding subsection 1, the fund may be used for necessary audit services, legal expenses, investment management fees and services, general administrative expenses, costs related to the management and administration of the fund and health insurance premium costs.

[2001, c. 439, Pt. C, §1 (NEW); 2001, c. 439, Pt. C, §4 (AFF) .]

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 Insurance 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 for retiree health benefits. Transfers to the fund may also include appropriations and allocations of the Legislature and revenue from 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 for retiree health benefits.

[2015, c. 267, Pt. L, §1 (NEW) .]

SECTION HISTORY
1999, c. 731, §DD1 (NEW). 1999, c. 731, §DD2 (AFF). 2001, c. 439, §C1 (AMD). 2001, c. 439, §C4 (AFF). 2003, c. 451, §X7 (AMD). 2007, c. 58, §3 (REV). 2015, c. 267, Pt. L, §1 (AMD).

§1520. STATEWIDE RADIO AND NETWORK SYSTEM RESERVE FUND

1. **Fund established.** The Statewide Radio and Network System Reserve Fund, referred to in this section as the "fund," is established as an internal service fund in the Department of Administrative and Financial Services, Office of Information Technology, referred to in this section as the "office," for the purposes of managing the fund and acquiring, expanding, upgrading and replacing a statewide radio and network system for use by state agencies. The office may charge a fee to agencies using the statewide radio and network system in accordance with an established rate structure. Revenues derived from operations must be used to pay the costs of the lease-purchase to acquire a system, expand, upgrade and replace the system, and to manage the fund.

A. The office shall work closely with all departments and agencies to identify radio and network requirements for the statewide system to ensure that agency program requirements are met to the maximum extent possible. The office shall:

(1) Ensure that the annual costs of the lease or lease-purchase are paid in a timely manner and that the financial affairs of the fund are properly managed;

(2) Maintain records of radio and network system requirements for all agencies using the system and make this information available to state agencies;

(3) Require state agencies to become part of the statewide radio and network system when replacing their current systems or purchasing new systems;

(4) Acquire, expand, upgrade or replace the statewide radio and network system in accordance with an established replacement plan; and

(5) Transfer radio equipment and network infrastructure into the fund from agencies using the system, purchase, lease, lease-purchase or enter into other financing agreements, in accordance with section 1587, for the acquisition, expansion, upgrade or replacement of the system or any of its components in accordance with paragraph B when it can be demonstrated that any such action or agreement provides a clear cost or program advantage to the State. [2005, c. 12, Pt. SS, §4 (AMD).]

B. The Chief Information Officer, in conjunction with the agencies using the statewide radio and network system, operating as a board that may be referred to as "the Statewide Radio Network Board," shall establish the following:

(1) Standards for statewide radio and network system operations;

(2) Specifications for systems and components to be acquired by the State; and

(3) Standards for the exemption or waiver of state agencies from the requirements of this section.

By January 15, 2002, standards must be developed for statewide radio and network system usage by all state agencies not exempted under subparagraph (3). [2005, c. 634, §3 (AMD).]

C. The office shall establish, through the Department of Administrative and Financial Services, Office of the State Controller, the Statewide Radio and Network System Reserve Fund account. The funds deposited in the account may include, but are not limited to, appropriations made to the account, funds transferred to the account from within the Department of Administrative and Financial Services, funds received from state departments and agencies using the services provided by the office, earnings by the fund from the Treasurer of State's pool and proceeds from the sale of system assets under the administrative control of the fund by the state surplus property program in the Department of Administrative and Financial Services, Bureau of General Services in accordance with paragraph B and other provisions of law. [2005, c. 12, Pt. SS, §4 (AMD).]

D. The fund may levy charges according to a rate schedule recommended by the Chief Information Officer and approved by the Commissioner of Administrative and Financial Services against all departments and agencies using the services of the statewide radio and network system. [2005, c. 12, Pt. SS, §4 (AMD).]

E. Service charges for the statewide radio and network system must be calculated to provide for system acquisition costs, expansion costs, upgrade costs, necessary capital investment and fund management costs, replacement costs and sufficient working capital for the fund. [2001, c. 439, Pt. U, §1 (NEW).]

F. Each department or agency using the services of the statewide radio and network system must budget adequate funds to pay for costs described in paragraph E. [2001, c. 439, Pt. U, §1 (NEW).]

[2007, c. 240, Pt. PP, §1 (AMD) .]

SECTION HISTORY
2001, c. 439, §U1 (NEW). RR 2003, c. 2, §2 (COR). 2005, c. 12, §SS4 (AMD). 2005, c. 634, §3 (AMD). 2007, c. 240, Pt. PP, §1 (AMD).

§1521. APPLICATION TO LEGISLATIVE BRANCH

Unless the language in this Part specifically states that it applies to the legislative branch, the legislative branch may not be required to comply with the provisions of this Part unless determined relevant and applicable by the Legislative Council pursuant to Title 3, section 162. [2005, c. 12, Pt. LL, §2 (NEW).]

SECTION HISTORY
2005, c. 12, §LL2 (NEW).

§1522. RESERVE FOR RETIREMENT COSTS

1. **Reserve for retirement benefits established.** The State Controller shall, at the close of the fiscal years ending June 30, 2012, June 30, 2013 and June 30, 2014, as the next priority after the transfers authorized pursuant to section 1507 and section 1511, and after all required deductions of appropriations, budgeted financial commitments and adjustments considered necessary by the State Controller have

been made, transfer from the available balance in the unappropriated surplus of the General Fund up to $15,000,000 for the fiscal year ending June 30, 2012, up to $4,100,000 for the fiscal year ending June 30, 2013 and up to an amount certified by the Executive Director of the Maine Public Employees Retirement System to the State Controller as the estimated amount needed to fully fund the total cost of the benefit calculated for fiscal year 2014-15 pursuant to Public Law 2011, chapter 380, Part T, section 22 for the fiscal year ending June 30, 2014 to a reserve account within the General Fund established for the purpose of providing the resources to fund retirement payments for retired state employees and teachers.

[2013, c. 1, Pt. E, §1 (AMD) .]

2. **Transfer of unused balance in reserve account.** At the close of the fiscal year ending June 30, 2015, the State Controller shall transfer any balance remaining in the reserve account under subsection 1 to the Maine Budget Stabilization Fund established by section 1532.

[2011, c. 380, Pt. X, §1 (NEW) .]

SECTION HISTORY
2011, c. 380, Pt. X, §1 (NEW). 2013, c. 1, Pt. E, §1 (AMD).

Chapter 142: MAINE BUDGET STABILIZATION FUND

§1531. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2005, c. 2, Pt. A, §5 (NEW); 2005, c. 2, Pt. A, §14 (AFF).]

1. **Average population growth.**

[2015, c. 267, Pt. L, §2 (RP) .]

2. **Average personal income growth.** "Average 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. The average personal income growth is determined by October 1st, annually, by the Governor's Office of Policy and Management.

[2015, c. 267, Pt. L, §3 (AMD) .]

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.

[2005, c. 621, §2 (AMD) .]

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

A. For the 2018-2019 biennium, the General Fund appropriation enacted for fiscal year 2016-17 as of December 1, 2016; and [2015, c. 267, Pt. L, §4 (AMD).]

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. [2005, c. 2, Pt. A, §5 (NEW); 2005, c. 2, Pt. A, §14 (AFF).]

[2015, c. 267, Pt. L, §4 (AMD) .]

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

[2005, c. 2, Pt. A, §5 (NEW); 2005, c. 2, Pt. A, §14 (AFF) .]

6. **Forecasted inflation.**

[2015, c. 267, Pt. L, §5 (RP) .]

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.

[2005, c. 2, Pt. A, §5 (NEW); 2005, c. 2, Pt. A, §14 (AFF) .]

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

[2005, c. 2, Pt. A, §5 (NEW); 2005, c. 2, Pt. A, §14 (AFF) .]

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.

[2005, c. 2, Pt. A, §5 (NEW); 2005, c. 2, Pt. A, §14 (AFF) .]

SECTION HISTORY
2005, c. 2, §A5 (NEW). 2005, c. 2, §A14 (AFF). 2005, c. 621, §§1,2 (AMD). 2011, c. 655, Pt. DD, §§1, 2 (AMD). 2011, c. 655, Pt. DD, §24 (AFF). 2013, c. 368, Pt. Q, §2 (AMD). 2015, c. 267, Pt. L, §§2-5 (AMD).

§1532. MAINE BUDGET STABILIZATION FUND

1. **Generally; stabilization fund established.** The Maine Budget Stabilization Fund is hereby established. Amounts in the stabilization fund may not exceed 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.

[2015, c. 267, Pt. L, §6 (AMD) .]

2. **Expenditures from fund.** Except as otherwise provided in this section, amounts in the stabilization fund may be expended only to offset a General Fund revenue shortfall.

[2005, c. 2, Pt. A, §5 (NEW); 2005, c. 2, Pt. A, §14 (AFF) .]

3. **Fund to be nonlapsing.** The balance of the stabilization fund may not lapse but must be carried forward to carry out the purposes of this chapter.

[2005, c. 2, Pt. A, §5 (NEW); 2005, c. 2, Pt. A, §14 (AFF) .]

4. **Investment of funds.** The money in the stabilization fund may be invested as provided by law with the earnings credited to the stabilization fund.

[2005, c. 2, Pt. A, §5 (NEW); 2005, c. 2, Pt. A, §14 (AFF) .]

5. **Investment proceeds; exception.** At the close of every month during which the stabilization fund is at the 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.

[2015, c. 267, Pt. L, §6 (AMD) .]

6. **Death benefits.** The Governor shall allocate funds from the stabilization fund as needed to pay benefits due pursuant to Title 25, chapter 195-A. Allocations may be made upon written request of the Chief of the State Police, the State Fire Marshal or the Director of Maine Emergency Medical Services and after consultation with the State Budget Officer.

[2005, c. 2, Pt. A, §5 (NEW); 2005, c. 2, Pt. A, §14 (AFF) .]

7. **State valuation adjustments.**

[2013, c. 368, Pt. O, §1 (RP); 2013, c. 544, §§6, 7 (AFF) .]

8. **Emergency management assistance compact transfers.** The State Controller may transfer up to $1,000,000 from the stabilization fund to the Military Training and Operations program within the Department of Defense, Veterans and Emergency Management based on amounts certified by the Commissioner of Defense, Veterans and Emergency Management to be necessary to fulfill the responsibilities of the department under the emergency management assistance compact under Title 37-B, section 921 or the International Emergency Management Assistance Compact under Title 37-B, section 935. These transfers are authorized only if the Legislature has adjourned sine die and only to the extent needed to meet the obligations of the department within that fiscal year that are in excess of available appropriations and any other funding sources. These funds must be allotted by financial order upon the recommendation of the State Budget Officer and approval of the Governor. Any amounts transferred from the stabilization fund must be returned to the stabilization fund upon receipt of reimbursement from the affected state or province.

[2011, c. 655, Pt. O, §1 (NEW) .]

SECTION HISTORY
2005, c. 2, §A5 (NEW). 2005, c. 2, §A14 (AFF). 2007, c. 322, §1 (AMD). 2011, c. 655, Pt. O, §1 (AMD). 2013, c. 368, Pt. O, §1 (AMD). 2013, c. 368, Pt. O, §11 (AFF). 2013, c. 385, §§1, 3 (AFF). 2013, c. 544, §§6, 7 (AFF). 2015, c. 267, Pt. L, §6 (AMD).

§1533. DECLARATION OF BUDGET EMERGENCY

If the Legislature has adjourned sine die prior to the close of a fiscal year and the commissioner has provided notification as required by section 1668 that indicates that available General Fund resources will not be sufficient to meet General Fund expenditures, the commissioner may declare a budget emergency. At the close of the fiscal year, the State Controller may transfer from the available balance in the stabilization fund to the General Fund Unappropriated Surplus up to the amount necessary to increase total General Fund

resources for that fiscal year to be equal to General Fund expenditures. For the purposes of this section, the Governor may reduce the stabilization fund below the 1% minimum threshold established by section 1532. The Governor shall inform the Legislative Council and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs immediately upon such transfers from the stabilization fund. [2005, c. 2, Pt. A, §5 (NEW); 2005, c. 2, Pt. A, §14 (AFF).]

SECTION HISTORY
2005, c. 2, §A5 (NEW). 2005, c. 2, §A14 (AFF).

§1534. GENERAL FUND APPROPRIATION LIMITATION

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. [2005, c. 2, Pt. A, §5 (NEW); 2005, c. 2, Pt. A, §14 (AFF).]

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. [2005, c. 621, §3 (AMD).]

[2005, c. 683, Pt. M, §1 (AMD) .]

2. **Growth limitation factor.** The growth limitation factor is the average personal income growth.

A. [2015, c. 267, Pt. L, §7 (RP).]

B. [2015, c. 267, Pt. L, §7 (RP).]

[2015, c. 267, Pt. L, §7 (AMD) .]

3. **Exceeding General Fund appropriation limitation; extraordinary circumstances.** The General Fund appropriation limitation established in subsection 1 may be exceeded for extraordinary circumstances only under the following circumstances.

A. The extraordinary circumstances must be circumstances outside the control of the Legislature, including:

(1) Catastrophic events such as natural disaster, terrorism, fire, war and riot;

(2) Unfunded or underfunded state or federal mandates;

(3) Citizens' initiatives or other referenda;

(4) Court orders or decrees; or

(5) Loss of federal funding.

Extraordinary circumstances do not include changes in economic conditions, revenue shortfalls, increases in salaries or benefits, new programs or program expansions that go beyond existing program criteria and operation. [2005, c. 2, Pt. A, §5 (NEW); 2005, c. 2, Pt. A, §14 (AFF).]

B. The appropriation limitation in subsection 1 may be exceeded only by a vote of both Houses of the Legislature in a separate measure that identifies the extraordinary circumstance and the intent of the Legislature to exceed the appropriation limitation. [2005, c. 2, Pt. A, §5 (NEW); 2005, c. 2, Pt. A, §14 (AFF).]

C. Exceeding the appropriation limitation established in subsection 1 permits appropriations to exceed the appropriation limitation only for the period necessary to address the extraordinary circumstance and does not increase the base for purposes of calculating the appropriation limitation for future years. [2005, c. 2, Pt. A, §5 (NEW); 2005, c. 2, Pt. A, §14 (AFF).]

[2005, c. 2, Pt. A, §5 (NEW); 2005, c. 2, Pt. A, §14 (AFF) .]

4. **Increase in appropriation limitation.** The appropriation limitation established in subsection 1 may be increased for other purposes only by a vote of both Houses of the Legislature in a separate measure that identifies the intent of the Legislature to exceed the appropriation limitation.

[2005, c. 2, Pt. A, §5 (NEW); 2005, c. 2, Pt. A, §14 (AFF) .]

SECTION HISTORY
2005, c. 2, §A5 (NEW). 2005, c. 2, §A14 (AFF). 2005, c. 621, §3 (AMD). 2005, c. 636, §A4 (AMD). 2005, c. 683, §M1 (AMD). 2015, c. 267, Pt. L, §7 (AMD).

§1535. GENERAL FUND TRANSFERS TO STABILIZATION FUND

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. [2005, c. 621, §4 (AMD).]

SECTION HISTORY
2005, c. 2, §A5 (NEW). 2005, c. 2, §A14 (AFF). 2005, c. 519, §VV3 (AMD). 2005, c. 621, §4 (AMD).

§1536. EXCESS GENERAL FUND REVENUES

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, the transfers pursuant to section 1522, a transfer of $2,500,000 for the Reserve for General Fund Operating Capital and the transfers to the Retiree Health Insurance 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. Eighty percent to the stabilization fund; and [2015, c. 267, Pt. L, §8 (AMD).]

B. [2013, c. 1, Pt. E, §2 (RP).]

C. [2015, c. 267, Pt. L, §8 (RP).]

D. [2015, c. 267, Pt. L, §8 (RP).]

E. [2015, c. 267, Pt. L, §8 (RP).]

F. Twenty percent to the Tax Relief Fund for Maine Residents established in section 1518-A. [2011, c. 692, §2 (NEW); 2011, c. 692, §3 (AFF).]

[2015, c. 267, Pt. L, §8 (AMD) .]

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 had the Reserve for General Fund Operating Capital not been at its statutory limit of $50,000,000.

[2015, c. 267, Pt. L, §8 (AMD) .]

3. **Exceptions; stabilization fund at limit.** If the stabilization fund is at its limit of 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 1 and 2 must be transferred to the Tax Relief Fund for Maine Residents established in section 1518-A.

[2015, c. 267, Pt. L, §8 (AMD) .]

SECTION HISTORY
RR 2005, c. 1, §1 (COR). 2005, c. 2, §A5 (NEW). 2005, c. 2, §A14 (AFF). 2005, c. 519, §VV4 (AMD). 2011, c. 380, Pt. X, §2 (AMD). 2011, c. 692, §2 (AMD). 2011, c. 692, §3 (AFF). 2013, c. 1, Pt. E, §2 (AMD). 2015, c. 267, Pt. L, §8 (AMD).

Chapter 143: ACCOUNTS AND CONTROL

§1541. POWERS AND DUTIES RELATING TO ACCOUNTING

The Department of Administrative and Financial Services, through the Office of the State Controller, has authority: [2003, c. 600, §2 (AMD).]

1. **Official system of general accounts.** To maintain an official system of general accounts, unless otherwise provided by law, embracing all the financial transactions of the State Government;

2. **Approve contracts and orders.** To examine and approve all contracts, orders and other documents, the purpose of which is to incur financial obligations against the State Government, to ascertain that moneys have been duly appropriated and allotted to meet such obligations and will be available when such obligations will become due and payable;

3. **Audit.** To audit and approve bills, invoices, accounts, payrolls and all other evidences of claims, demands or charges against the State Government; and to determine the regularity, legality and correctness of such claims, demands or charges. The State Controller may elect to audit electronically based systems for adequate safeguards and procedural controls. Notwithstanding any other provision of law, the State Controller may engage through sole source contracts auditors, accountants and investigators the State Controller considers necessary for special audits, financial audits and investigations to monitor and ensure adherence to contracts and to ensure proper financial controls. This subsection may not be construed to limit the powers and duties conferred and imposed by law upon the State Auditor as provided in Title 5, chapter 11;

[2005, c. 3, Pt. L, §1 (AMD) .]

4. **Inspect materials and labor.** To inquire into and cause an inspection to be made of articles and materials furnished, or work and labor performed, for the purpose of ascertaining that the prices, quality and amount of such articles or materials are fair, just and reasonable, and that all the requirements expressed or implied pertaining thereto have been complied with, and to reject or disallow any excess;

5. **Reports.** To make monthly reports on all receipts and expenditures of the State Government to the Governor and the State Auditor; to make monthly reports on appropriations, allotments, encumbrances and authorized payments to the Governor, to the State Auditor and to the head of the department or agency directly concerned;

6. **Forms.** To prescribe the forms of receipts, vouchers, bills or claims to be filed by departments and agencies with the Department of Administrative and Financial Services;

[2007, c. 466, Pt. A, §10 (AMD) .]

7. **Subsidiary accounts.** To prescribe such subsidiary accounts, including cost accounts, for the various departments and agencies as may be desired for the purposes of administration, supervision and financial control;

8. **Examine accounts.** To examine the accounts of every department or agency receiving appropriations from the State;

9. **Illegality of expenditures.** To report to the Attorney General for such action, civil or criminal, as he may deem necessary, all facts showing illegality in the expenditure of public moneys or the misappropriation of public properties;

10. **Other rights, powers and duties.** To exercise the rights, powers and duties conferred and imposed by law upon the State Auditor that were effective November 9, 1931 insofar as these relate to financial administration and general accounting control of the State Government, involving the keeping of general accounts, the auditing before payment of bills or vouchers and the authorizing of all claims against the State for which appropriations have been made. The State Controller may delegate authority for final approval of bills and vouchers to state agencies subject to adequate safeguards. This delegation of authority may be revoked by the State Controller at any time. The State Controller shall set up and maintain special accounts with respect to money received for designated purposes from the Federal Government.

[1993, c. 410, Pt. C, §1 (AMD) .]

10-A. **Internal control standards.** To implement the following internal control standards that define the minimum level of quality acceptable for internal control systems in operation throughout the various state agencies and departments and constitute the criteria against which such internal control systems must be evaluated by the State Controller. Internal control systems for the various state agencies and departments must be developed in accordance with the following internal control guidelines established by the State Controller.

A. Internal control systems of state agencies and departments are to be clearly documented and readily available for examination. Documentation of a state agency's or department's internal control systems must include internal control procedures, internal control accountability systems and identification of the operating cycles. Documentation of the state agency's or department's internal control systems must appear in management directives, administrative policy, procedures and manuals. [2003, c. 451, Pt. F, §1 (NEW).]

B. All transactions and other significant events involving state agencies or departments must be promptly recorded, clearly documented and properly classified as to amount, account, fund and fiscal year. Documentation of a transaction or event must include the entire process or life cycle of the transaction or event, including the initiation or authorization of the transaction or event, all aspects of the transaction while in process and the classification in the accounting records. [2003, c. 451, Pt. F, §1 (NEW).]

C. Transactions and other significant events involving state agencies or departments may be authorized and executed only by persons acting within the scope of their authority. Authorizations must be clearly communicated to managers and employees and must include the specific conditions and terms under which authorizations may be made. [2003, c. 451, Pt. F, §1 (NEW).]

D. Key duties and responsibilities involving state agencies or departments, including authorizing, approving and recording transactions; issuing and receiving assets; making payments; and reviewing or monitoring transactions, must be assigned systematically to a number of individuals to ensure that effective checks and balances exist. [2003, c. 451, Pt. F, §1 (NEW).]

E. Qualified and continuous supervision of all transactions and significant events must be provided by state agencies or departments to ensure that internal control objectives are achieved. The duties of a supervisor in carrying out this responsibility include clearly communicating the duties, responsibilities and accountabilities assigned to each staff member, systematically reviewing each member's work to the extent necessary and approving work at critical points to ensure that work flows as intended. [2003, c. 451, Pt. F, §1 (NEW).]

F. Access to resources and records must be limited to authorized individuals as determined by the state agency or department head, except that the powers and duties of the State Auditor may not be limited by this subsection. Restrictions on access to resources depend upon the vulnerability of the resource and the perceived risk of loss, both of which must be periodically assessed. The state agency or department head is responsible for maintaining accountability for the custody and use of resources and shall assign qualified individuals for that purpose. Periodic comparison must be made between the resources and the recorded accountability of the resources to reduce the risk of unauthorized use or loss and protect against waste and wrongful acts. The vulnerability and value of the state agency or department resources determine the frequency of this comparison.

Within each state agency or department there must be a qualified employee whose responsibility, in addition to the employee's regularly assigned duties, is to ensure that the state agency or department has written documentation of its internal accounting and administrative control system on file. The employee shall, annually, or more often as conditions warrant, evaluate the effectiveness of the state agency's or department's internal control system and establish and implement changes necessary to ensure the continued integrity of the system. The employee shall:

(1) Ensure that the documentation of all internal control systems is readily available for examination by the State Controller, Commissioner of Administrative and Financial Services and State Auditor;

(2) Certify to the State Controller that the appropriate updates have been made and implemented by the state agency or department;

(3) Ensure that the results of audits and recommendations to improve state agency or department internal controls are promptly evaluated by the state agency or department management;

(4) Ensure that timely and appropriate corrective actions are effected by the state agency or department management in response to an audit;

(5) Ensure that all actions determined by the state agency or department management as necessary to correct or otherwise resolve matters are addressed by the state agency or department in its budgetary request to the Legislature; and

(6) Immediately notify the State Controller when an auditor, inspector general or other representative from the Federal Government or another nonstate organization requests access to state agency resources and records related to internal controls. The State Controller shall notify the State Auditor, the Office of Program Evaluation and Government Accountability and other interested parties of the audits and investigations in a timely manner.

All unaccounted for variances, losses, shortages or thefts of funds or property must be immediately reported to the State Controller, who shall review the matter to determine the amount involved that must be reported to the appropriate state agency or department management, law enforcement officials and the State Auditor. The State Controller shall also determine the internal control weakness that contributed

to or caused the condition. The State Controller shall then make recommendations to the state agency or department official overseeing the internal control system and other appropriate management officials. The recommendations of the State Controller must address the correction of the conditions found and the necessary internal control policies and procedures that must be modified. The state agency or department oversight official and the appropriate management officials shall immediately implement policies and procedures necessary to prevent a recurrence of the problems identified and report the steps taken to the State Controller. From time to time the State Controller shall examine the policies and procedures implemented to ensure that the relevant policies and procedures are functioning appropriately. [2005, c. 490, §1 (AMD).]

G. Notwithstanding any other provision of law relating to confidentiality of information, the State Controller is granted access to all information in the files of any department or agency of the State as necessary to carry out the duties of the State Controller under this subsection; [2003, c. 451, Pt. F, §1 (NEW).]

[2005, c. 490, §1 (AMD) .]

10-B. **Confidentiality of internal audit working papers belonging to the Office of the State Controller.** Prior to the release of a final audit or investigation report and in the sole discretion of the State Controller, to disclose internal audit working papers to the department, commission or agency subject to the audit or investigation and to other auditors or law enforcement when such disclosure will not prejudice the audit or investigation. Except as provided in this subsection, internal audit working papers are confidential and may not be disclosed to any person. After release of the final audit or investigation report, internal audit working papers may be released as necessary to:

A. The department, commission or agency that was subject to the audit or investigation; [2007, c. 539, Pt. S, §1 (NEW).]

B. A federal agency providing a grant to the audited entity; [2007, c. 539, Pt. S, §1 (NEW).]

C. Law enforcement agencies for the purpose of criminal law enforcement or investigations; and [2007, c. 539, Pt. S, §1 (NEW).]

D. Other auditors in their work, including but not limited to the State Auditor; [2007, c. 539, Pt. S, §1 (NEW).]

[2007, c. 539, Pt. S, §1 (NEW) .]

11. **Definition.** The words, "the State Government," as used in this section shall include the judiciary and the Executive Department of the Governor.

[1967, c. 427, §3 (NEW) .]

12. **Central data procession service.**

[1975, c. 322, §2 (RP) .]

12-A. **Conference fee accounts.**

[1995, c. 316, §1 (RP) .]

13. **Travel expense reimbursement.** Through the State Controller, with the approval of the Commissioner of Administrative and Financial Services, to establish policies for travel expense reimbursement and carrying out this chapter. Those policies determining which expenses are reimbursable and levels of reimbursement are deemed rules, and must be adopted, modified and repealed, only in accordance with procedures set forth in the Maine Administrative Procedure Act, Title 5, chapter 375.

A. Notwithstanding any other provision of law, a state agency, as defined in section 8002, subsection 2, may not authorize reimbursement for travel by any person at a rate greater than the rate established in section 8 for state employees, except that a community action agency as defined in Title 22, section 5321 and the Maine State Housing Authority may reimburse at a greater rate if:

(1) The employee of the agency being reimbursed is not a state employee for the purpose of collective bargaining;

(2) The source of funds to pay for the reimbursement for travel is a nonstate source, including funds from a federal agency that are passed through the State for distribution; and

(3) The rate of reimbursement for travel does not exceed the standard mileage rate for that year, as established by the United States Department of Treasury. [1997, c. 601, §1 (AMD).]

[1997, c. 601, §1 (AMD) .]

14. **Fixed assets.** To maintain an official statewide system for fixed assets for all state agencies to update and reconcile annually.

[1997, c. 90, §1 (NEW) .]

SECTION HISTORY
1967, c. 427, §3 (AMD). P&SL 1969, c. 251, §C1 (AMD). 1975, c. 322, §2 (AMD). 1977, c. 248, (AMD). 1979, c. 70, (AMD). 1979, c. 312, §2 (AMD). 1983, c. 209, (AMD). 1985, c. 761, §G9 (AMD). 1985, c. 785, §§A52,53 (AMD). 1987, c. 402, §A38 (AMD). 1991, c. 780, §§Y42,43 (AMD). 1993, c. 410, §C1 (AMD). 1995, c. 316, §1 (AMD). 1997, c. 90, §1 (AMD). 1997, c. 601, §1 (AMD). 2003, c. 451, §F1 (AMD). 2003, c. 600, §§2,3 (AMD). 2003, c. 600, §3 (AMD). 2005, c. 3, §L1 (AMD). 2005, c. 490, §1 (AMD). 2007, c. 466, Pt. A, §10 (AMD). 2007, c. 539, Pt. S, §1 (AMD).

§1541-A. FINANCIAL MANAGEMENT AND ACCOUNTING PRACTICES

The Commissioner of Administrative and Financial Services and the State Controller shall: [2003, c. 83, §1 (NEW).]

1. **Develop manual.** Develop a financial management and accounting practices manual for the purpose of promulgating systemwide uniform financial management practices for state agencies. The manual must be updated on an annual basis; and

[2003, c. 83, §1 (NEW) .]

2. **Develop program.** Develop and implement a program to provide training on a periodic basis to appropriate financial and accounting personnel across department lines in State Government on uniform financial management and accounting practices.

[2003, c. 83, §1 (NEW) .]

SECTION HISTORY
2003, c. 83, §1 (NEW).

§1542. SIGNATURE OF OUTGOING CONTROLLER VALID

The facsimile signature of the State Controller who is leaving office shall be valid until new signature plates for the signing of checks have been obtained for his successor.

§1543. DISBURSEMENTS; EXCEPTIONS

Money may not be drawn from the State Treasury except in accordance with appropriations duly authorized by law. Every disbursement from the State Treasury must be upon the authorization of the State Controller and the Treasurer of State, as evidenced by their facsimile signatures, except that the Treasurer of State may authorize interbank and intrabank transfers for purposes of pooled investments. Disbursements must be in the form of a check or an electronic transfer of funds against a designated bank or trust company acting as a depository of the State Government. [1993, c. 680, Pt. A, §9 (RPR).]

The State Controller and the Treasurer of State are authorized to issue rules, policies or procedures to limit the number of disbursements made for less than $5. [1993, c. 410, Pt. UU, §1 (NEW).]

Notwithstanding the foregoing paragraph, the Commissioner of Labor is authorized to prepare and sign warrants for the payment of benefits to eligible unemployed persons and allowances to persons eligible under federally sponsored human resources development programs that authorize the Department of Labor to designate the recipients of allowances from federal funds granted or allocated to the department under these programs, which warrants, upon being delivered to the payee, become a check against a designated bank or trust company acting as a depository of the State Government. The authority of the commissioner to prepare and sign the warrants is limited solely to the payment of benefits to eligible unemployed persons and to allowances to persons eligible under these federal programs. The facsimile signature of the commissioner who is leaving office is valid until a new signature plate for the signature authorized has been obtained for the commissioner's successor. [1995, c. 462, Pt. B, §2 (AMD).]

Notwithstanding the foregoing paragraphs, the treasurer of the 3 Indian school committees is authorized to prepare and sign warrants for the payment of Indian school payrolls and bills. [1973, c. 571, §3-A (NEW); 1973, c. 625, §29 (NEW).]

SECTION HISTORY
1969, c. 186, §1 (AMD). 1973, c. 571, §§3-A (AMD). 1973, c. 625, §29 (AMD). 1979, c. 312, §3 (AMD). 1993, c. 410, §UU1 (AMD). 1993, c. 445, §1 (AMD). 1993, c. 477, §D1 (AMD). 1993, c. 477, §F1 (AFF). 1993, c. 680, §A9 (AMD). 1995, c. 462, §B2 (AMD).

§1543-A. DIRECT DEPOSIT OF CERTAIN DISBURSEMENTS

1. **Electronic funds transfer system.** The State Controller and the Treasurer of State shall establish an electronic funds transfer system for the purpose of transferring directly into payees' accounts held at accredited financial institutions the payment of any amount or obligation owed by the State. Beginning with the payroll after the effective date of this section that is closest to January 1, 2008, the State shall pay all state employees' wages and salaries through an electronic funds transfer system. Except as set forth in subsection 2, all wages and salaries of state employees must be transferred by means of electronic funds transfer directly into an employee's account in an accredited financial institution designated by the employee, and each state employee shall complete a direct deposit application on such forms as the State Controller shall prescribe. The direct deposit application authorizes the State Controller to initiate credit and debit entries and to correct erroneous credit entries to the employee's designated account. The State Controller shall develop policies and procedures to allow the employee to change the designated account at any time.

[2007, c. 539, Pt. E, §1 (NEW) .]

2. **Waiver provisions.** The State may waive the mandatory direct deposit of the wages or salary for a state employee in subsection 1 if the State Controller determines that:

A. The employee has a physical or mental disability that would impede the employee's ability to gain access to electronically deposited funds; [2007, c. 539, Pt. E, §1 (NEW).]

B. The employee has religious convictions that preclude the use of direct deposits; or [2007, c. 539, Pt. E, §1 (NEW).]

C. The facts of the particular case warrant a waiver of the mandatory direct deposit of the employee's wages or salary. [2007, c. 539, Pt. E, §1 (NEW).]

[2007, c. 539, Pt. E, §1 (NEW) .]

3. **Transfers to multiple payees.** A single transfer may contain payments to multiple payees.

[2007, c. 539, Pt. E, §1 (NEW) .]

4. **System administration.** The State Controller and the Treasurer of State shall establish the standards and procedures for administering the electronic funds transfer system.

[2007, c. 539, Pt. E, §1 (NEW) .]

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

[2011, c. 477, Pt. G, §1 (NEW) .]

SECTION HISTORY
2007, c. 539, Pt. E, §1 (NEW). 2011, c. 477, Pt. G, §1 (AMD).

§1544. UNAPPROPRIATED SURPLUS; REPORT; PURCHASE OF REAL ESTATE ADJACENT TO STATE HOUSE

The State Controller shall maintain on the books of the State an account to be known as "Unappropriated Surplus." The balances of all revenue and appropriation accounts not otherwise provided for by law, together with any other necessary adjustments of balances previously closed to the Unappropriated Surplus Account, shall be closed to this account at the end of each fiscal year. Any amounts authorized for allocation by the Governor or representing permanent working capital advances shall be removed from Unappropriated Surplus and set up in separate accounts so that the balance of the Unappropriated Surplus Account shall be the amount of free and unencumbered surplus according to generally accepted accounting principles. [1975, c. 771, §70 (AMD).]

The State Controller shall include in his official annual financial report a statement of the Unappropriated Surplus Account reflecting all changes in this account during the fiscal year and the balance of this account at the close of the fiscal period.

SECTION HISTORY
1969, c. 455, §3 (AMD). 1975, c. 771, §70 (AMD).

§1545. REPRODUCTION OF CERTAIN DOCUMENTS AUTHORIZED

The State Controller is authorized to cause to be made, at the expense of the State, by any photostatic, photographic, microfilm or other mechanical process that produces a clear, accurate and permanent copy or reproduction thereof, copies of any part or all of the state cancelled checks, vouchers and other documents on file in the Office of the State Controller or the Office of the Treasurer of State. Any records created by or provided to the State containing information about outstanding, unpaid checks issued by the State are

confidential and not available for public inspection to the extent that the State Controller and the Treasurer of State determine that confidentiality is necessary to protect the interests of the payee, the State and the public welfare. [1997, c. 124, §1 (AMD); 2003, c. 600, §4 (REV).]

SECTION HISTORY
1997, c. 124, §1 (AMD). 2003, c. 600, §4 (REV).

§1546. RECORDS OPEN TO PUBLIC INSPECTION

The books, accounts, vouchers, affidavits and other records and papers in the office of the State Controller relating to the public business shall be open for inspection to the citizens of this State at all reasonable times and for all proper purposes.

§1547. ANNUAL FINANCIAL REPORT OF THE STATE

The State Controller shall prepare a comprehensive annual financial report in accordance with standards established by a governmental accounting standards board. This report is the official annual financial report of the State Government as defined in section 1541, subsection 11. [1999, c. 731, Pt. RRR, §1 (RPR).]

1. **Office of the State Controller shall complete financial statements, notes and other documentation.** Following the official close of the State's fiscal year ending on June 30th, the Department of Administrative and Financial Services, Office of the State Controller, under the direction of the State Controller, shall prepare and complete all financial statements, notes and other documentation as considered necessary by the State Controller in accordance with all governing rules, statutes and generally accepted accounting principles. This information must be made available to the Office of the State Auditor no later than November 1st of that year.

[1999, c. 731, Pt. RRR, §1 (NEW); 2003, c. 600, §4 (REV); 2013, c. 16, §10 (REV) .]

2. **State agencies shall adhere to guidelines and procedures.** In order to ensure compliance with subsection 1, all state departments, agencies and component units as described in subsection 3 shall adhere to all established guidelines and procedures set forth by the State Controller to ensure the accurate reporting of the State's financial condition to the Office of the State Auditor.

[1999, c. 731, Pt. RRR, §1 (NEW); 2013, c. 16, §10 (REV) .]

3. **Component units.** Component units of the State include, but are not limited to, the following organizations: the Loring Development Authority of Maine; the Finance Authority of Maine; the Maine Municipal Bond Bank; the Maine Health and Higher Education Facilities Authority; the Maine Governmental Facilities Authority; the Maine Maritime Academy; the Maine State Housing Authority; the University of Maine System; the Maine Community College System; and the Maine Public Employees Retirement System. The State Controller may identify additional component units in accordance with standards established by a governmental accounting standards board.

[2015, c. 170, §2 (AMD); 2015, c. 170, §30 (AFF) .]

4. **State departments and agencies shall submit financial statements.** All state departments and agencies shall submit to the Department of Administrative and Financial Services, Office of the State Controller, no later than September 1st following the official close of the State's fiscal year, all financial statements and schedules of expenditures of federal awards and any other materials considered necessary by the State Controller.

[1999, c. 731, Pt. RRR, §1 (NEW); 2003, c. 600, §4 (REV) .]

5. **Component units shall submit audited financial statements.** All component units, as described in subsection 3, shall submit audited financial statements to the Department of Administrative and Financial Services, Office of the State Controller no later than October 15th following the official close of the State's fiscal year.

[1999, c. 731, Pt. RRR, §1 (NEW); 2003, c. 600, §4 (REV) .]

6. **Maine Turnpike Authority.** Notwithstanding any other provision of law, the Maine Turnpike Authority, beginning on July 1, 2012 and every July 1st thereafter, is directed to submit its annual financial report to the Department of Administrative and Financial Services, Office of the State Controller, the Office of the State Auditor and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over transportation matters in accordance with all governing rules, statutes and generally accepted accounting principles.

[1999, c. 731, Pt. RRR, §1 (NEW); 2003, c. 600, §4 (REV); 2013, c. 16, §10 (REV) .]

7. **Other related organizations.** All legislatively created public instrumentalities and related organizations for which the State is financially accountable or that have a significant relationship with the State as defined by a governmental accounting standards board that are not included in subsection 3, including but not limited to eligible institutions as defined in section 13103, that receive funds from bond issues must comply with the fiscal reporting policies established by the State Controller. The fiscal and reporting policies must include:

A. Internal control standards required by section 1541, subsection 10-A; [2003, c. 451, Pt. F, §2 (NEW).]

B. Quarterly reporting to the State Controller that includes a detail of transactions and reconciliation of all accounts; [2003, c. 451, Pt. F, §2 (NEW).]

C. No later than October 15th annually, submission to the Department of Administrative and Financial Services, Office of the State Controller of all financial statements and schedules of expenditures of federal awards; [2003, c. 451, Pt. F, §2 (NEW); 2003, c. 600, §4 (REV).]

D. Financial statements that are prepared in accordance with the standards and requirements established by a governmental accounting standards board; and [2003, c. 451, Pt. F, §2 (NEW).]

E. Submission annually to the Department of Administrative and Financial Services, Office of the State Controller of a copy of the independent auditor's report, including any findings, recommendations and management letter comments, and any other materials considered necessary by the State Controller. [2003, c. 451, Pt. F, §2 (NEW); 2003, c. 600, §4 (REV).]

Legislatively created public instrumentalities and other related organizations required to comply under this subsection who must also comply with the federal Office of Management and Budget circulars, regulations issued by a governmental accounting standards board or other accounting, auditing and reporting requirements may submit that information to the State Controller to satisfy the requirements of this subsection.

[2003, c. 451, Pt. F, §2 (NEW); 2003, c. 600, §4 (REV) .]

8. **Code of ethics for component units, public instrumentalities, related organizations and independent agencies.** All component units and related organizations as defined by the governmental accounting standards board and legislatively created public instrumentalities and independent agencies are each required to develop a code of ethics to guide the operations and financial administration of each particular entity. The code of ethics must be disseminated to each employee of such an entity and be available

for inspection by the State Controller and State Auditor and the general public. The code of ethics adopted by the executive branch may serve as a model. The State Controller may from time to time ensure that each entity is in compliance with its code of ethics as it applies to financial administration of the entity.

[2007, c. 107, §1 (NEW) .]

SECTION HISTORY
P&SL 1969, c. 236, §C (AMD). 1999, c. 731, Pt. RRR, §1 (RPR). 2003, c. 20, Pt. OO, §2 (AMD). 2003, c. 20, Pt. OO, §4 (AFF). 2003, c. 451, Pt. F, §2 (AMD). 2003, c. 600, §4 (REV). 2007, c. 58, §3 (REV). 2007, c. 107, §1 (AMD). 2013, c. 16, §10 (REV). 2015, c. 170, §2 (AMD). 2015, c. 170, §30 (AFF).

§1548. CLAIMS AND ACCOUNTS AGAINST STATE OR MUNICIPALITIES MUST BE VERIFIED

A person, presenting an account or claim against any town, village, corporation, city, county or the State for services rendered, articles furnished or expenses incurred, shall cause said account or claim to be verified by oath, if required by any person whose duty it is to audit the same. If said claimant refuses so to verify, his claim shall be rejected.

§1549. CONTRACTORS TO NOTIFY STATE OF JOB OPENINGS

The Department of Administrative and Financial Services, Office of the State Controller, shall ensure that a contract with a nonstate contractor that is approved under section 1541 requires the contractor to notify the Additional Support for People in Retraining and Employment Program within the Department of Health and Human Services when the contractor has an employment opening for which members of the public may apply. [1995, c. 1, §1 (COR); 2003, c. 600, §4 (REV); 2003, c. 689, Pt. B, §6 (REV).]

SECTION HISTORY
1993, c. 385, §1 (NEW). RR 1995, c. 1, §1 (COR). 2003, c. 600, §4 (REV). 2003, c. 689, §B6 (REV).

§1550. CONFERENCE FEE ACCOUNTS

If a state agency conducts a conference, workshop or seminar for which fees are charged to defray the costs of the conference, workshop or seminar, including information disseminated at these programs, the state agency must establish an account for the sole purpose of receiving and expending reasonable fees for the operation of the conference, workshop or seminar. Conference fee accounts are subject to the following. [1995, c. 316, §2 (NEW).]

1. **Prior approval required.** Any conference fee account must receive prior approval by the Department of Administrative and Financial Services through the Office of the State Controller.

[1995, c. 316, §2 (NEW); 2003, c. 600, §4 (REV) .]

2. **Certain uses prohibited.** Expenditures from the personal services category and transfers to other accounts are not permitted from a conference fee account. Any item, equipment or other property purchased from the capital expenditure category is state property.

[1995, c. 316, §2 (NEW) .]

3. **Account balance to carry forward once.** At the end of the fiscal year, any balance remaining for a given event may carry forward once and other balances lapse to the General Fund undedicated revenue.

[1995, c. 316, §2 (NEW) .]

4. **Misapplication from a conference fee account.** A person is guilty of misapplication from a conference fee account if that person intentionally or knowingly violates any of the restrictions contained in this section. Misapplication from a conference fee account is a Class E crime.

[1995, c. 316, §2 (NEW) .]

SECTION HISTORY
1995, c. 316, §2 (NEW). 2003, c. 600, §4 (REV).

§1550-A. SERVICES TO NONSTATE AGENCIES

Notwithstanding any other provision of law, the Department of Administrative and Financial Services, Office of the State Controller may establish an account within Other Special Revenue funds to recover the cost of providing accounting, payroll and other services provided by the office to the Maine Military Authority established in Title 37-B, section 391. [2001, c. 559, Pt. F, §2 (NEW); 2003, c. 600, §4 (REV).]

SECTION HISTORY
2001, c. 559, §F2 (NEW). 2003, c. 600, §4 (REV).

Chapter 144: PAYMENT OF INVOICES RECEIVED FROM BUSINESS CONCERNS

§1551. PURPOSE

The purpose of this chapter is to promote prompt payment of obligations incurred by agencies of State Government. It is the intent of the Legislature to prevent hardship for any business concern due to late payment of proper invoices for obligations incurred by state agencies. It is also the intent of the Legislature to encourage business concerns to provide prompt, dependable services and products of a high quality and at a reasonable cost to State Government. [1983, c. 655, (NEW).]

SECTION HISTORY
1983, c. 655, (NEW).

§1552. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1983, c. 655, (NEW).]

1. **Business concern.** "Business concern" means a person, partnership or corporation engaged in providing property, products or services for the purpose of gain, benefit or advantage, either direct or indirect, whether or not the concern is organized for profit or not for profit.

[1983, c. 655, (NEW) .]

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

[1991, c. 780, Pt. Y, §44 (AMD) .]

3. **Controller.** "Controller" means the State Controller.

[1983, c. 655, (NEW) .]

4. **Improper invoice.** "Improper invoice" means an invoice which is:

A. Incorrectly calculated; [1983, c. 655, (NEW).]

B. Received for property, products or services that are unsatisfactory with respect to quantity or quality; or [1983, c. 655, (NEW).]

C. Received for property, products or services for which there is no request. [1983, c. 655, (NEW).]

[1983, c. 655, (NEW) .]

5. **Proper invoice.** "Proper invoice" means an invoice for property, products or services deemed to be satisfactory in quality and quantity, in conformance with the request of the state agency and on which the amount due has been correctly calculated.

[1983, c. 655, (NEW) .]

6. **State agency.** "State agency" means any body of State Government authorized by law to adopt rules, to issue licenses or to take final action in adjudicatory proceedings, including, but not limited to, every authority, board, bureau, commission, department or officer of the State Government so authorized; but the term does not include the Governor, courts, University of Maine System, Maine Maritime Academy, school districts, special purpose districts or municipalities, counties or other political subdivisions of the State.

[1985, c. 779, §15 (AMD) .]

SECTION HISTORY
1983, c. 655, (NEW). 1985, c. 779, §15 (AMD). 1985, c. 785, §A54 (AMD). 1991, c. 780, §Y44 (AMD).

§1553. STANDARDS

The commissioner shall require state agencies to assure prompt payment by means of the following standards. [1983, c. 655, (NEW).]

1. **Required payment date.** The required payment date for any proper invoice for which a state agency has incurred an obligation to a business concern shall be no more than 25 working days from the date the state agency receives a proper invoice or from the date of receipt of the property, products or services, whichever is later, unless the agency and the business concern have agreed to another payment date.

[1983, c. 655, (NEW) .]

2. **Notice of receipt of improper invoice.** In the event the state agency receives an improper invoice, the agency shall immediately notify the business concern in writing. This written notice shall reasonably describe why the invoice is deemed to be improper. Disputes shall be handled under section 1510-A.

[1983, c. 655, (NEW) .]

3. **Specifications of a required payment date for corrected invoices.** In the event that an improper invoice is received by a state agency, it shall be returned within 15 days of receipt to the business concern for correction. Upon receiving a corrected invoice, payment shall be made in accordance with subsection 1.

[1983, c. 655, (NEW) .]

4. **Procedure for submitting invoices to controller.** An expeditious procedure shall be developed for the submission of invoices received by a state agency to the controller. In the event that obligations of an agency are not paid through the controller, a procedure shall be developed by the commissioner to ensure prompt payment.

[1983, c. 655, (NEW) .]

5. **Duties of the state agency.** It shall be the responsibility of the state agency that incurs a late fee pursuant to this chapter to calculate the amount of the late fee and add that fee to the amount of the invoice prior to submission of the invoice to the controller. In calculating the amount of the late fee which will be added to the invoice, the state agency shall assume and calculate an additional late fee equivalent to the 10 working days necessary for the invoice to be processed by the controller.

[1983, c. 655, (NEW) .]

SECTION HISTORY
1983, c. 655, (NEW).

§1554. PAYMENT OF LATE FEES

In the event that a proper invoice is not paid within 25 working days after receipt of the invoice, or within 15 days following another date agreed to by the state agency and the business concern, the agency shall be liable to pay a reasonable late fee that shall not exceed the normal late charge that the business concern levies on the amount due on the invoice. [1983, c. 655, (NEW).]

In the event that federal moneys are the budgeted source of funds for payment to business concerns for state agency purchases of goods, property or services, and these moneys are unexpectedly withheld and delayed from reaching the State in time to pay proper invoices without incurring a late fee, the state agency which made the purchases and the State of Maine shall not be liable for any late fees on overdue payments. [1983, c. 655, (NEW).]

SECTION HISTORY
1983, c. 655, (NEW).

§1555. PERIOD OF TIME FOR WHICH LATE FEES ARE IMPOSED

The late fee shall apply to the period beginning on the day after the required payment date and ending on the date on which payment of the amount due on the invoice is made. An amount of a late fee which remains unpaid at the end of any 30-day period, after the required payment date, shall be added to the principal amount of the debt and, thereafter, late fees shall accrue on the added amount. [1983, c. 655, (NEW).]

SECTION HISTORY
1983, c. 655, (NEW).

§1556. SOURCE OF PAYMENT FOR LATE FEES

Any late fee authorized by this chapter to be applied to a proper invoice shall be paid from funds made available for the administration or operation of the program or state agency for which the obligation was incurred. [1983, c. 655, (NEW).]

SECTION HISTORY
1983, c. 655, (NEW).

§1557. LATE FEES AND IMPROPER INVOICES

With respect to an improper invoice, the late fee shall apply to the period beginning on the day after the required payment date is due as specified on the corrected and proper invoice and ending on the date on which payment of the amount due on the invoice is made. [1983, c. 655, (NEW).]

SECTION HISTORY
1983, c. 655, (NEW).

§1558. ANNUAL REPORT

The State Controller shall annually report on the amount of late fees incurred by the various state agencies. [1983, c. 655, (NEW).]

SECTION HISTORY
1983, c. 655, (NEW).

Chapter 145: APPROPRIATIONS

§1581. FORM OF APPROPRIATION BILL

The General Fund appropriation bill provided for in section 1664 must be drawn so as to authorize the appropriation to be made to each department or agency of the State Government for each fiscal year of the biennium. The appropriation must provide specific amounts for personal services, capital expenditures and amounts for all other departmental expenses. Appropriations for the acquisition of property must be in such detail under each department or agency as the Governor-elect or the Governor determines. Those appropriations may not be segregated in greater detail than the major classes or projects for which they are expendable during each fiscal year of the biennium. The Law and Legislative Reference Library established under Title 3, chapter 7, subchapter II must be a separate appropriation not included under any other department or agency in the General Fund appropriation bill. [1991, c. 780, Pt. EEE, §1 (AMD).]

The Reserve Fund for State House Preservation and Maintenance, established under Title 3, section 162, subsection 12-A, must be a separate appropriation not included under any other department or agency in the General Fund appropriation bill. [1997, c. 24, Pt. FF, §3 (NEW).]

The Centers for Innovation program, established under section 13141, must be a separate appropriation not included under any other department or agency in the General Fund appropriation bill. [2001, c. 1, §8 (COR).]

The Maine Humanities Council must be a separate appropriation not included under any other department or agency in the General Fund appropriation bill. [1999, c. 706, §2 (NEW).]

The Office of Program Evaluation and Government Accountability, established under Title 3, section 991, must be a separate appropriation not included under any other department or agency in the General Fund appropriation bill. [2001, c. 702, §3 (NEW).]

SECTION HISTORY
1991, c. 780, §EEE1 (AMD). 1997, c. 24, §FF3 (AMD). 1999, c. 420, §1 (AMD). 1999, c. 706, §2 (AMD). RR 2001, c. 1, §8 (COR). 2001, c. 702, §3 (AMD).

§1582. HANDLING APPROPRIATIONS

Appropriations to any state department or agency do not become available for expenditure until allotted upon the basis of the work program duly approved by the Governor as provided. [2005, c. 12, Pt. T, §1 (AMD).]

1. **New or expanded programs.** A state department may not establish a new program or expand an existing program beyond the scope of the program already established, recognized and approved by the Legislature until the program and the method of financing are submitted to the Department of Administrative and Financial Services, Bureau of the Budget for evaluation and recommendation to the Legislature and until the funds are made available for the program by the Legislature.

[2005, c. 12, Pt. T, §1 (NEW) .]

2. **Significant action recommended by State Budget Officer.** The Department of Administrative and Financial Services, Bureau of the Budget shall inform the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs, through the Office of Fiscal and Program Review, of significant action recommended by the bureau in the performance of assigned budget responsibilities.

[2005, c. 12, Pt. T, §1 (NEW) .]

3. **Personal Services funding.** The total number of positions and the costs appropriated or allocated in any program may not, during any fiscal year, vary either from the positions included in computing the total dollars appropriated or allocated for Personal Services or in the specific cost of each position upon which the appropriations and allocations are based. This subsection does not apply to positions funded by the Maine Military Authority Enterprise Fund. The State Budget Officer shall take the action necessary to ensure compliance with this section except as provided for in this section and section 1583-B.

[2005, c. 12, Pt. T, §1 (NEW) .]

4. **Use of savings; personal services funds.** Savings accrued from unused funding of employee benefits may not be used to increase services provided by employees. Accrued salary savings generated within an appropriation or allocation for Personal Services may be used for the payment of nonrecurring Personal Services costs only within the account where the savings exist. Accrued savings generated from vacant positions within a General Fund account's appropriation for Personal Services may be used to offset Personal Services shortfalls in other General Fund accounts that occur as a direct result of Personal Services appropriation reductions for projected vacancies, and accrued savings generated within a Highway Fund account's allocations for Personal Services may be used to offset Personal Services shortfalls in other Highway Fund accounts that occur as a direct result of Personal Services allocation reductions for projected vacancies; except that the transfer of such accrued savings is subject to review by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. Costs related to acting capacity appointments and emergency, unbudgeted overtime for which it is impractical to budget in advance may be used with the approval of the appointing authority. Other actions such as retroactive compensation for reclassifications or reallocations and retroactive or one-time settlements related to arbitrator or court decisions must be recommended by the department or agency head and approved by the State Budget Officer. Salary and employee benefits savings may not be used to fund recurring Personal Services actions either in the account where the savings exist or in another account. At the close of each fiscal year, except for the forest protection unit account within the Department of Agriculture, Conservation and Forestry, the Disproportionate Share - Riverview Psychiatric Center and the Disproportionate Share - Dorothea Dix Psychiatric Center accounts within the Department of Health and Human Services, the Education in the Unorganized Territory account within the Department of Education and the Chief Medical Examiner account within the Department of the Attorney General, any unexpended General Fund Personal Services

appropriations to executive branch agencies including accounts that are authorized to carry unexpended balances forward must lapse to the Salary Plan program, General Fund account in the Department of Administrative and Financial Services.

[2013, c. 368, Pt. DD, §1 (AMD) .]

SECTION HISTORY
1975, c. 771, §71 (AMD). 2005, c. 12, §T1 (AMD). 2009, c. 213, Pt. BB, §1 (AMD). 2009, c. 462, Pt. G, §1 (AMD). 2009, c. 571, Pt. GGGG, §1 (AMD). 2011, c. 1, Pt. S, §1 (AMD). 2011, c. 657, Pt. X, §2 (AMD). 2013, c. 368, Pt. DD, §1 (AMD).

§1583. EXCEEDING APPROPRIATIONS PROHIBITED

No agent or officer of the State or any department or agency thereof, whose duty it is to expend money under an appropriation by the Legislature, shall contract any obligation on behalf of the State in excess of the appropriation. Whoever exceeds in his expenditure said appropriation shall not have any claim for reimbursement.

Any person who knowingly violates this section shall be guilty of a Class E crime. All prosecutions under this section shall be by indictment and the fines inure to the State. [1977, c. 696, §42 (RPR).]

SECTION HISTORY
1977, c. 696, §42 (AMD).

§1583-A. CREATION OF POSITIONS

Notwithstanding any other provision of law, limited-period, project or other temporary positions may be established by financial order for a period not to exceed 2 years. Temporary positions established by financial order may not be continued for more than 2 years unless the Legislature specifically appropriates or allocates funds to continue those positions. [2005, c. 519, Pt. E, §1 (AMD).]

1. **Prohibition.**

[1993, c. 70, §1 (RP) .]

2. **Workers' compensation positions.** Limited-period positions may be established for former regular employees of the State who are presently receiving workers' compensation payments from the State when that action enables those employees to return to productive employment with the State. These positions may be established, if funds are available, only until those employees can be returned to regular positions. Notwithstanding any other restrictions on funds appropriated or allocated, the State Budget Officer may, after determining that funds are available, either approve the use of these funds or recommend appropriate action to the Governor when the Governor's approval is required. Available funds may include amounts appropriated or allocated for Personal Services, including funds in any salary account or special account for state employee salary increases, All Other, Capital Expenditures and unallocated.

[2005, c. 12, Pt. T, §2 (NEW) .]

3. **Number of necessary employees.** The Governor and the State Budget Officer when preparing the budget proposals for the Legislature may at their discretion make the necessary adjustments to reflect the number of limited-period positions that, in their opinion, are necessary to the proper operation of each department, institution or agency.

[2005, c. 12, Pt. T, §2 (NEW) .]

4. **Federally funded programs.** If federal funds are not available as anticipated for programs, there is no obligation to provide state funds in excess of those appropriated or allocated by the Legislature. Positions entirely or partially funded by federal or nonstate sources of funds are considered limited-period positions.

[2005, c. 12, Pt. T, §2 (NEW) .]

SECTION HISTORY
1991, c. 780, §OO1 (NEW). 1993, c. 6, §N1 (AMD). 1993, c. 70, §1 (RPR). 1993, c. 241, §H1 (AMD). 1993, c. 414, §F1 (AMD). 1993, c. 707, §G4 (AMD). 1993, c. 707, §G5 (AFF). 1997, c. 643, §Y1 (AMD). 1999, c. 127, §A5 (AMD). 1999, c. 401, §J1 (AMD). 2005, c. 12, §T2 (AMD). 2005, c. 519, §E1 (AMD).

§1583-B. PERSONAL SERVICES POLICY

1. **Personal services policy and review.** The Department of Administrative and Financial Services, Bureau of the Budget shall continually review with all state departments the status of their staffing levels and patterns for the purpose of determining whether funds and positions are being utilized and managed in the most economical and efficient manner to accomplish the intent of the Legislature. Permanent positions for which funds are appropriated or allocated must be classified positions unless specifically designated otherwise by the Legislature. It is the responsibility of the Director of the Bureau of Human Resources within the Department of Administrative and Financial Services to ensure that classified and unclassified positions are assigned to the proper pay grade and of the State Budget Officer to ensure that the positions are within authorized headcount and funds.

[2005, c. 12, Pt. T, §3 (NEW) .]

2. **Personal services flexibility.** Any classification or reclassification of a position and any allocation or reallocation of a position within the compensation plan made by the Director of the Bureau of Human Resources within the Department of Administrative and Financial Services pursuant to the Civil Service Law and applicable rules becomes effective on the first day of the fiscal year following approval by the State Budget Officer and the appropriation or allocation of funds therefore, except that the State Budget Officer may, if the officer determines that sufficient funds exist, authorize an effective date prior to the first day of the ensuing fiscal year.

[2005, c. 12, Pt. T, §3 (NEW) .]

SECTION HISTORY
2005, c. 12, §T3 (NEW).

§1583-C. SEASONAL OR TEMPORARY EMPLOYEES

All appointing authorities in State Government shall inform all employees who are hired for or appointed to seasonal, temporary or time-limited positions of the approximate date of termination of employment at the time of hire or appointment. [2005, c. 12, Pt. T, §3 (NEW).]

SECTION HISTORY
2005, c. 12, §T3 (NEW).

§1584. CONSTRUCTION AND IMPROVEMENT APPROPRIATIONS CARRIED OVER

All appropriations by the Legislature for the construction of buildings, structures, highways and bridges shall constitute continuous carrying accounts for the purposes designated by the Legislature in such appropriations. The State Controller is authorized to carry forward all such appropriations to the succeeding fiscal year, provided the construction shall have been begun by the letting of a contract or contracts or by actually starting the work during the year for which the appropriations were made. Any balance remaining after the completion of the object of the appropriations shall revert to the General Fund in the State Treasury or to the fund from which it was apportioned under existing provisions of law.

§1585. TRANSFER OF UNEXPENDED APPROPRIATIONS

1. **Transfer procedures.** Any balance of any appropriation or subdivision of an appropriation made by the Legislature for any state department or agency, which at any time may not be required for the purpose named in such appropriations or subdivision, may be transferred at any time prior to the closing of the books to any other appropriation or subdivision of an appropriation made by the Legislature for the use of the same department or agency for the same fiscal year subject to review by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. Financial orders describing such transfers must be submitted by the Bureau of the Budget to the Office of Fiscal and Program Review 30 days before the transfer is to be implemented. In case of extraordinary emergency transfers, the 30-day prior submission requirement may be waived by vote of the committee. Positions, or funding for those positions, that are currently funded with federal or other funds may not be transferred by financial order to the General Fund. Financial orders proposing to transfer 4th or 3rd quarter allotments to the 3rd, 2nd or 1st quarters that result from trends that will cause financial commitments to exceed current appropriations or allocations are subject to the provisions of this section. The Department of Health and Human Services is authorized to transfer funds within the TANF program account to the ASPIRE-TANF program account as often as necessary in order to support and assist participants in obtaining or retaining employment during the fiscal year. In making a transfer of TANF program funds to the ASPIRE-TANF program account, the department does not need to submit a financial order to the committee in advance of the transfer. For purposes of this subsection, "TANF" and "ASPIRE-TANF program" have the same meaning as in Title 22, section 3762, subsection 1, paragraph E and Title 22, section 3781-A, subsection 1, respectively.

[2009, c. 291, §1 (AMD) .]

2. **Governor.**

[1981, c. 702, Pt. T, (RP) .]

3. **Governor and Legislature.**

[1981, c. 702, Pt. T, (RP) .]

4. **Reorganization of departments.** A state department or agency may not transfer Positions or Personal Services, All Other or Capital Expenditures funding between accounts when the expenditures will allow an action to take place that will cause an increased appropriation or allocation request in the Part I current services budget for any program.

[2005, c. 12, Pt. T, §4 (NEW) .]

SECTION HISTORY

1975, c. 771, §72 (AMD). 1977, c. 8, (AMD). 1977, c. 576, §1 (RPR). 1977, c. 696, §43 (RPR). 1981, c. 294, (AMD). 1981, c. 702, §T (RPR). 1983, c. 477, Pt. E, Subpt. 11, (AMD). 1985, c. 737, §B7 (AMD). 1991, c. 9, §E6 (AMD). 1999, c. 731, §BB1 (AMD). 2005, c. 12, §T4 (AMD). 2009, c. 291, §1 (AMD).

§1586. TRANSFER OF FUNDS GENERALLY

Whenever the Governor shall find that the State or any of its departments, divisions or bureaus is incurring expense and using funds of the State in connection with the carrying on of the work of any board or commission which collects fees from the persons so supervised and licensed, including salaries, travel and the expense of office equipment and supplies, they are authorized and empowered to transfer from any funds now or hereafter held by any such board or commission, such sums of money as shall reimburse the State or any department or bureau thereof for such expense so incurred, including a reasonable charge for office space, light and heat. Such sums so transferred shall be added to and become a part of the funds of the department, bureau or division incurring such expense. [1975, c. 771, §73 (AMD).]

SECTION HISTORY
1975, c. 771, §73 (AMD).

§1587. LEASE-PURCHASE AGREEMENTS

Notwithstanding any other provision of law, no agent or officer of the State or any department or agency thereof may enter into a lease-purchase or other similar agreement whereby the State would become the ultimate owner of buildings or equipment, if the outright purchase price of such capital items is more than $2,000, or $40,000 for telecommunications related equipment, without specific prior approval of the Legislature through the usual budget procedure. That request for approval shall be submitted as a separate line item. All agreements relating to telecommunications equipment that are $40,000 or less shall be subject to review by a subcommittee of the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. All lease-purchase agreements submitted for review or approval shall include the total amount of interest charged. [1989, c. 237, §1 (AMD).]

Upon execution of any lease-purchase agreements that exceed the amounts listed above, all departments and agencies shall provide information to the Treasurer of State pertaining to the actual amount of the lease-purchase, including the term and the interest cost of the lease-purchase agreement. [1989, c. 923, §1 (NEW).]

SECTION HISTORY
1981, c. 702, §Q (NEW). 1983, c. 32, §F (AMD). 1985, c. 826, §1 (AMD). 1989, c. 237, §1 (AMD). 1989, c. 923, §1 (AMD).

§1588. DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES COORDINATION OF MASTER LEASE-PURCHASE PROGRAM

1. **Authority of Department of Administrative and Financial Services; central records.** The Department of Administrative and Financial Services may develop, negotiate and administer master lease-purchase financing programs, in accordance with the provisions of section 1587, to facilitate advantageous lease-purchase terms and economies of scale. Upon final legislative approval of agency lease-purchase proposals, state agencies, except for programs supported by the Highway Fund or the Federal Expenditure Fund in the Department of Transportation, shall participate in the Department of Administrative and Financial Services master lease-purchase program, unless participation is not feasible. The Department of Administrative and Financial Services, in conjunction with the relevant state agency, may negotiate and execute lease-purchase or financial contracts on behalf of the State. These master lease-purchase financing agreements may include the refinancing or consolidation of any state agency lease-purchase agreements. The

Department of Administrative and Financial Services shall maintain central records on each lease-purchase financing agreement and each master lease-purchase program the department administers on behalf of a benefiting department or agency.

[1995, c. 562, §1 (AMD) .]

2. **State agency participation.** Except for the Department of Transportation when implementing a program supported by the Highway Fund or the Federal Expenditure Fund, all state agencies that seek to construct, improve or repair long-term capital assets or to acquire real property or equipment by a lease-purchase or other financing agreement shall notify the Commissioner of the Department of Administrative and Financial Services and shall cooperate with the commissioner or a designee in developing the agency's proposal for submission to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. Each requesting agency shall submit a justification for each proposal to the commissioner or to the commissioner's designee. The justification must include a benefit-cost analysis or cost-effective analysis in a form and content prescribed by the commissioner or the commissioner's designee. Programs supported by the Highway Fund or the Federal Expenditure Fund in the Department of Transportation may participate on the same terms as other agencies in any master lease-purchase financing agreement developed, negotiated and administered by the Department of Administrative and Financial Services.

[1993, c. 92, §8 (NEW) .]

3. **Fund accounting protocol.** Funds for master lease-purchase programs or specific lease-purchase arrangements approved by the Legislature in accordance with subsection 1 and section 1587 must be appropriated or allocated to an account or accounts established by the State Budget Officer with authorization for the transfer of other than General Fund resources from the account or accounts of the benefiting departments or agencies. Funds appropriated or allocated for this purpose may not lapse but must be carried forward from year to year to meet the principal and interest obligations of the master lease-purchase program or specific lease-purchase arrangement. Any appropriated or allocated balances remaining after the conclusion of a specific lease-purchase arrangement must lapse to the fund or account from which the lease-purchase obligations were appropriated or allocated.

[1993, c. 92, §8 (NEW) .]

SECTION HISTORY
1993, c. 92, §8 (NEW). 1995, c. 562, §1 (AMD).

§1589. APPROPRIATIONS AND ALLOCATION BALANCES

The State Controller may close the books as soon as practicable after the close of the fiscal year. Any bills or invoices presented after that date may be paid from appropriations or allocations for the ensuing year on the recommendation of the State Controller if within the amounts of approved allotments. At the end of each fiscal year, unencumbered appropriation and allocation balances lapse into the appropriate fund and are not available unless authorized by law. Encumbered balances may not be carried forward more than once at the end of a fiscal year, except that all encumbered balances and accounts for financial assistance and regional planning grants in accordance with Title 30-A, chapter 187 may be carried forward for 2 years beyond the year in which those balances are encumbered. [2005, c. 12, Pt. T, §5 (AMD).]

1. **Carry-forward and transfer authorized.**

[1995, c. 464, §6 (RP) .]

1-A. **Total quality management efforts.** Notwithstanding any other provision of law, upon the approval of the department or agency head, non-General Fund and non-Highway Fund accounts may contribute resources on an allocated basis to an administrative account for the support of department or agency total quality management efforts except that the provisions of section 1585 and Public Law 1993, chapter 410, Part A, section 25 or its successor apply.

[1995, c. 464, §7 (NEW) .]

2. **General Fund Total Quality Management accounts; Highway Fund Total Quality Management accounts.** After the close of each fiscal year, the Governor may request a General Fund appropriation, Highway Fund allocation or allocation from other available resources to a specific department, agency or to a statewide Total Quality Management account to carry out total quality management efforts in accordance with subsection 3.

[1995, c. 464, §8 (RPR) .]

2-A. **Nonlapsing.**

[1995, c. 464, §9 (RP) .]

2-B. **Interdepartmental transfers authorized.**

[1995, c. 464, §9 (RP) .]

3. **Total quality management initiatives.** Amounts appropriated or allocated to each departmentwide and statewide account in accordance with subsection 2 must be used for the payment of nonrecurring expenditures representing total quality management initiatives in the same department or agency or on a statewide basis, respectively.

[2005, c. 397, Pt. A, §3 (RPR) .]

3-A. **Office of State Quality Management General Fund account established.**

[2005, c. 397, Pt. A, §4 (RP) .]

3-B. **General Fund positions; legislative count established.**

[1995, c. 368, Pt. HH, §4 (RP) .]

3-C. **Funding; general.**

[2005, c. 397, Pt. A, §5 (RP) .]

4. **Copies of proposals to Bureau of the Budget and Office of Fiscal and Program Review.** Copies of each approved proposal for the expenditure of funds available in each departmentwide and statewide account in accordance with subsection 2 must be submitted from each department's or agency's quality management council to the Bureau of the Budget and the Office of Fiscal and Program Review.

[1999, c. 668, §5 (AMD) .]

5. **Payments in accordance with allotments.** Payments from each departmentwide and statewide account established in accordance with subsection 2 representing expenditures in support of approved proposals submitted to the Bureau of the Budget in accordance with subsection 4 will be authorized by the State Controller on the basis of allotments approved by the Governor in accordance with established law.

[1993, c. 476, §2 (NEW) .]

6. **Report required.** The Department of Administrative and Financial Services shall report to the joint standing committees of the Legislature having jurisdiction over state and local government matters and appropriations and financial affairs annually no later than February 1st, the following:

A. The total amount appropriated or allocated, by department, under this section; [1999, c. 668, §6 (RPR).]

B. A description of initiatives submitted under subsection 4; and [1999, c. 668, §6 (RPR).]

C. A recommendation from the Department of Administrative and Financial Services on any changes needed to further total quality management efforts in State Government. [1999, c. 668, §6 (RPR).]

[1999, c. 668, §6 (RPR) .]

7. **Sunset.**

[1993, c. 707, Pt. BB, §6 (RP) .]

SECTION HISTORY
1993, c. 476, §2 (NEW). 1993, c. 707, §§BB2-6 (AMD). 1995, c. 368, §§HH3-5 (AMD). 1995, c. 464, §§5-13 (AMD). 1999, c. 668, §§5,6 (AMD). 2003, c. 641, §1 (AMD). 2005, c. 12, §T5 (AMD). 2005, c. 397, §§A3-5 (AMD).

§1590. NONLAPSING FUNDS

(REPEALED)

SECTION HISTORY
1999, c. 401, §E2 (NEW). 2005, c. 12, §GGGG1 (RP).

§1591. REMAINING BALANCES OF NONLAPSING FUNDS

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 [2005, c. 12, Pt. GGGG, §2 (NEW).]

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. [2005, c. 12, Pt. GGGG, §2 (NEW).]

[2005, c. 12, Pt. GGGG, §2 (NEW) .]

2. **Department of Health and Human Services.** The Department of Health and Human Services must apply:

A. Any balance remaining in the accounts of the Department of Health and Human Services appropriated for the purposes of homemaker or home-based care services at the end of any fiscal year to be carried forward for use by either program in the next fiscal year; [2011, c. 657, Pt. BB, §1 (AMD).]

B. Any balance remaining in the Traumatic Brain Injury Seed program, General Fund account at the end of any fiscal year to be carried forward for use in the next fiscal year; [2011, c. 655, Pt. V, §1 (AMD).]

C. Any balance remaining in the General Fund account of the Department of Health and Human Services, Bureau of Medical Services appropriated for All Other line category expenditures at the end of any fiscal year to be carried forward for use in the next fiscal year; [2013, c. 1, Pt. V, §1 (AMD).]

D. Any balance remaining in the accounts of the Department of Health and Human Services, Mental Health Services - Community program appropriated for the purposes of rental assistance, shelter services and consent decree activities at the end of any fiscal year to be carried forward for use in the next fiscal year for the same purpose; [2013, c. 368, Pt. MMM, §1 (AMD).]

E. Any balance remaining in the Consent Decree program, General Fund account at the end of any fiscal year to be carried forward for use in the next fiscal year; [2013, c. 368, Pt. MMM, §2 (AMD).]

F. Any balance remaining in the Medicaid Waiver for Brain Injury Residential/Community Services program, General Fund account at the end of any fiscal year to be carried forward for use in the next fiscal year; [2015, c. 267, Pt. VV, §1 (AMD).]

G. Any balance remaining in the Medicaid Waiver for Other Related Conditions program, General Fund account at the end of any fiscal year to be carried forward for use in the next fiscal year; [2015, c. 267, Pt. VV, §2 (AMD).]

H. Any balance remaining in the Bridging Rental Assistance Program, General Fund account at the end of any fiscal year to be carried forward for use in the next fiscal year for the same purpose; and [2015, c. 267, Pt. VV, §3 (NEW).]

I. Any balance remaining in the Consumer-directed Services program, General Fund account at the end of any fiscal year to be carried forward for use by this program in the next fiscal year. [2015, c. 267, Pt. VV, §3 (NEW).]

[2015, c. 267, Pt. VV, §§1-3 (AMD) .]

3. **Judicial branch.** The judicial branch must apply:

A. Any balance remaining in the debt service program of the judicial branch at the end of any fiscal year to be carried forward for use by the judicial branch in the next fiscal year. [2009, c. 213, Pt. QQ, §3 (NEW).]

(Subsection 3 as enacted by PL 2009, c. 213, Pt. HHH, §1 and affected by §3 is REALLOCATED TO TITLE 5, SECTION 1591, SUBSECTION 4)

[2009, c. 213, Pt. QQ, §3 (NEW) .]

4. (REALLOCATED FROM TITLE 5, SECTION 1591, SUBSECTION 3) **State Board of Corrections.**

[2015, c. 335, §3 (RP) .]

5. **Executive Department.** The Executive Department shall carry forward any General Fund balances remaining in the Administration - Executive - Governor's Office program, the Blaine House program, the Governor's Office of Communications program, the Office of Policy and Management program and the Governor's Energy Office program at the end of any fiscal year for use in the next fiscal year.

[2011, c. 655, Pt. Q, §1 (NEW) .]

SECTION HISTORY
2005, c. 12, §GGGG2 (NEW). RR 2009, c. 1, §6 (COR). 2009, c. 213, Pt. HHH, §1 (AMD). 2009, c. 213, Pt. HHH, §3 (AFF). 2009, c. 213, Pt. QQ, §3 (AMD). 2011, c. 1, Pt. O, §§1, 2 (AMD). 2011, c. 380, Pt. UUU, §§1-3 (AMD). 2011, c. 655, Pt. Q, §1 (AMD). 2011, c. 655, Pt. V, §1 (AMD). 2011, c. 657, Pt. BB, §1 (AMD). 2011, c. 657, Pt. II, §1 (AMD). 2013, c. 1, Pt. V, §1 (AMD). 2013, c. 368, Pt. MMM, §§1-4 (AMD). 2013, c. 598, §2 (AMD). 2015, c. 267, Pt. VV, §§1-3 (AMD). 2015, c. 335, §3 (AMD).

Chapter 147: AUDITING

§1621. AUTHORIZATION OF AUDIT

Whenever it seems advisable to the Governor, the Governor may cause the books and accounts of the State or any department or agency thereof to be audited and for that purpose may employ auditors other than those employed by the Office of the State Auditor. [1993, c. 410, Pt. C, §2 (AMD); 2013, c. 16, §10 (REV).]

SECTION HISTORY
1975, c. 771, §74 (AMD). 1993, c. 410, Pt. C, §2 (AMD). 2013, c. 16, §10 (REV).

§1622. RECOVERY OF CERTAIN STATE AGENCY OVERPAYMENTS

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

A. "Overpayment" means a payment made to a vendor:

(1) In duplicate for a single invoice;

(2) In the amount of a discount available from the vendor that was not applied;

(3) For a late payment penalty that was improperly applied by the vendor;

(4) For shipping costs that were computed incorrectly or incorrectly included in an invoice;

(5) For any commodities billed at an amount higher than negotiated in a contract or master agreement;

(6) For a state tax imposed pursuant to Title 36; or

(7) For a good or service the vendor did not provide. [2011, c. 21, §1 (NEW).]

B. "State agency" means a department, commission, board, office or other entity that is in the executive branch of State Government. [2011, c. 21, §1 (NEW).]

[2011, c. 21, §1 (NEW) .]

2. **Recovery audits for certain overpayments.** In addition to the audit authorized pursuant to section 1621, at least once every 10 years the State Controller shall contract with one or more consultants to conduct recovery audits of payments made by state agencies to vendors. The audits must be designed to detect and recover overpayments to the vendors and to recommend improved state agency accounting operations. A state agency shall provide the recovery audit consultant all information necessary for the audit.

A. A contract under this subsection:

(1) May provide for reasonable compensation for services provided under the contract, including compensation determined by the application of a specified percentage of the total amount recovered because of the consultant's audit activities or recommendations as a fee for services; and

(2) To allow time for the performance of existing state payment auditing procedures, may not allow a recovery audit of a payment during the 180-day period after the date the payment was made. [2011, c. 21, §1 (NEW).]

B. Notwithstanding any law to the contrary, the State Controller or a state agency whose payments are being audited may provide a person acting under a contract authorized by this subsection with any confidential information in the custody of the State Controller or state agency that is necessary for the performance of the audit or the recovery of an overpayment, to the extent the State Controller and state agency are not prohibited from sharing the information under an agreement with another state or the Federal Government. A person acting under a contract authorized by this subsection, and each employee or agent of that person, is subject to all prohibitions against the disclosure of confidential information obtained from the State in connection with the contract that apply to the State Controller or applicable state agency or an employee of the State Controller or applicable state agency. A person acting under a contract authorized by this subsection or an employee or agent of the person who discloses confidential information in violation of a prohibition under this subsection is subject to the same sanctions and penalties that would apply to the State Controller or applicable state agency or an employee of the State Controller or applicable state agency for that disclosure. [2011, c. 21, §1 (NEW).]

[2011, c. 21, §1 (NEW) .]

3. **Funds recovered and payments to consultants.** The State Controller shall deposit all recovered money in a nonlapsing Other Special Revenue Funds audit recovery account within the Department of Administrative and Financial Services. From the audit recovery account, the State Controller shall make payment to a consultant that conducts a recovery audit under subsection 2 according to the negotiated contract and refund amounts in accordance with state or federal regulations. Any amounts not refunded or paid to the consultant must be identified in the report pursuant to subsection 4.

[2011, c. 21, §1 (NEW) .]

4. **Reports.** The State Controller shall provide the following reports.

A. Within 7 days of receipt, the State Controller shall provide copies of any reports, including those in electronic form, received from a consultant contracted with pursuant to subsection 2 to:

(1) The Governor;

(2) The State Auditor; and

(3) The Legislative Council. [2011, c. 21, §1 (NEW).]

B. Not later than December 1st of each odd-numbered year, the State Controller shall issue a report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over state and local

government matters summarizing the contents of all reports received from a consultant contracted pursuant to subsection 2 during the state fiscal biennium ending June 30th of that year. [2011, c. 21, §1 (NEW).]

[2011, c. 21, §1 (NEW) .]

5. **Rules.** The State Controller may adopt rules to implement the provisions of this section. Rules adopted under this subsection are major substantive rules pursuant to chapter 375, subchapter 2-A.

[2011, c. 21, §1 (NEW) .]

SECTION HISTORY
2011, c. 21, §1 (NEW).

Chapter 148: HUMAN SERVICE COMMUNITY AGENCY ACCOUNTING PRACTICES ACT

§1631. SHORT TITLE

(REPEALED)

SECTION HISTORY
1977, c. 541, (NEW). 1983, c. 716, §1 (RP).

§1632. DECLARATION

(REPEALED)

SECTION HISTORY
1977, c. 541, (NEW). 1983, c. 716, §1 (RP).

§1633. DEFINITIONS

(REPEALED)

SECTION HISTORY
1977, c. 541, (NEW). 1983, c. 716, §1 (RP).

§1634. ACCOUNTING PRACTICES

(REPEALED)

SECTION HISTORY
1977, c. 541, (NEW). 1983, c. 716, §1 (RP).

§1635. IMPLEMENTATION AND RULES

(REPEALED)

SECTION HISTORY
1977, c. 541, (NEW). 1983, c. 716, §1 (RP).

§1636. APPLICABILITY OF CHAPTER

(REPEALED)

SECTION HISTORY
1977, c. 541, (NEW). 1983, c. 716, §1 (RP).

Chapter 148-A: SOCIAL SERVICES PLANNING AND EXPENDITURES

§1641. LEGISLATIVE FINDINGS AND INTENT

The Legislature finds that the many social service needs of the citizens of this State are varied and often complex. State Government agencies have been organized to provide the most efficient delivery system possible to meet these social service needs. The Legislature recognizes that any governmental structure requires a coordinated and cooperative effort on the part of the various state agencies to ensure that the social services programs of the State adequately meet the social services needs of the citizens and to avoid needless duplication of effort on the part of these agencies. [1985, c. 96, (RPR).]

The Legislature further finds that, because of the complexity of the social service needs of the citizens and the multiplicity of funding sources available to meet those needs, it is difficult to gain a complete understanding of the overall scope of the social service system and of the specific programs within that system. Without this understanding, the legislative and executive branches of government are hindered in their efforts to provide a coordinated social services program. [1985, c. 96, (NEW).]

It is the intent of this chapter to make available the necessary factual and fiscal information that will assist the Governor, the executive agencies, the Legislature, the recipients of social services, the providers of social services and the general public in reviewing and evaluating the overall scope of the social services system in this State and in participating on an informed basis in developing public policy concerning the social services needs of our citizens. [1985, c. 96, (NEW).]

SECTION HISTORY
1983, c. 495, (NEW). 1985, c. 96, (RPR).

§1642. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1985, c. 96, (RPR).]

1. **Department.** "Department" means the Department of Health and Human Services.

[2003, c. 2, §3 (COR) .]

2. **Division.** "Division" means the Executive Department, Division of Community Services.

[1985, c. 96, (RPR) .]

3. **Income supplementation programs.** "Income supplementation programs" means programs designed to supplement the income of a person or family and includes Temporary Assistance for Needy Families, food stamps, food distribution, general assistance, supplemental security income or any other income related program utilizing state-administered funds.

[1985, c. 96, (RPR); 1997, c. 530, Pt. A, §34 (AMD) .]

4. **Related health and medical services.** "Related health and medical services" means all health or medical services utilizing state-administered funds, including Medicaid and health block grants.

[1985, c. 96, (RPR) .]

5. **Report.** "Report" means the State's social services report.

[1985, c. 96, (RPR) .]

6. **Social service.** "Social service" means any children's, youth, adult or elderly service and alcoholism, community action, developmental disability, drug or substance abuse, home-heating assistance, juvenile, mental health, intellectual disability, older Americans, poverty, rehabilitation, transportation, weatherization or other social service that may be defined in the future and that is operated by the departments or the division utilizing state-administered funds, including related health and medical services and income supplementation programs.

[2011, c. 542, Pt. A, §2 (AMD) .]

7. **State - administered funds.** "State - administered funds" means all General Fund money, dedicated funds, federal funds, fees, grants, 3rd-party reimbursements, vendor payments or other funds or revenues available for expenditure by the departments or the division in support of the provision of a social service.

[1985, c. 96, (NEW) .]

SECTION HISTORY
1983, c. 495, (NEW). 1985, c. 96, (RPR). 1995, c. 560, §K82 (AMD). 1995, c. 560, §K83 (AFF). 1997, c. 530, §A34 (AMD). 2001, c. 354, §3 (AMD). RR 2003, c. 2, §3 (COR). 2011, c. 542, Pt. A, §2 (AMD).

§1643. STATE'S SOCIAL SERVICES REPORT

The departments and the division shall prepare a written report of the State's social service programs. This report shall be presented to the Governor and the Legislature, widely distributed to community social service agencies and made available to the public no later than December 1st of each year. [1985, c. 96, (RPR).]

The report in each even-numbered year shall provide an update of information for the current biennium, indicating adjustments, additions and anticipated changes in programs and service delivery to the extent that information is available. [1985, c. 96, (RPR).]

1. **General.** The report shall be a single, concise document presenting a descriptive and fiscal summary of social service programs in an easily understood manner.

[1985, c. 96, (RPR) .]

2. **Format.** The report shall utilize a uniform format focusing on target populations grouped by major program areas. Characteristic data of the target populations shall be included to the extent that information is available. The report shall contain an integrated description of the operations of the departments and the division in each program area, describing the social services as a coordinated and cooperative plan when a service is provided by more than one department or division. When appropriate, the fiscal information shall be displayed by account by department, and when applicable by subdivision of that department, and by the division and shall also be displayed as a total expenditure.

[1985, c. 96, (RPR) .]

3. **Contents.** The report shall contain:

A. Program descriptions, including the social service need being met, the goals and objectives of the program, the services provided and the priorities for those services; [1985, c. 96, (RPR).]

B. State-administered funds expended during the immediately preceding biennium; [1985, c. 96, (RPR).]

C. State-administered funds available for the current biennium, including anticipated federal funding to the extent that information is available or can be anticipated; [1985, c. 96, (NEW).]

D. Policy issues including major changes in program emphasis and trends and continuum of care offered; and [1985, c. 96, (NEW).]

E. Fiscal information and service statistics for each fiscal year of the current biennium, compared with the corresponding information of each fiscal year of the immediately preceding biennium. [1985, c. 96, (NEW).]

[1985, c. 96, (RPR) .]

4. **Other state agencies.** The report shall include social service programs administered by state agencies other than the departments and the division to the extent that those social services are related to the programs described in the report. Those agencies shall participate in preparing the report to the extent necessary to ensure the program descriptions accurately portray how those services fit into the overall social service system and to provide the necessary fiscal information.

[1985, c. 96, (NEW) .]

SECTION HISTORY
1983, c. 495, (NEW). 1985, c. 96, (RPR).

Chapter 148-B: MAINE UNIFORM ACCOUNTING AND AUDITING PRACTICES ACT FOR COMMUNITY AGENCIES

§1651. SHORT TITLE

(REPEALED)

SECTION HISTORY
1983, c. 716, §2 (NEW). 1995, c. 402, §C1 (RP).

§1652. DECLARATION OF PROBLEM

(REPEALED)

SECTION HISTORY
1983, c. 716, §2 (NEW). 1995, c. 402, §C1 (RP).

§1653. DEFINITIONS

(REPEALED)

SECTION HISTORY
1983, c. 716, §2 (NEW). 1985, c. 785, §A55 (AMD). 1985, c. 792, §§1,2 (AMD). 1989, c. 700, §A16 (AMD). RR 1991, c. 2, §8 (COR). 1991, c. 611, §1 (AMD). 1991, c. 780, §Y45 (AMD). 1995, c. 402, §C1 (RP).

§1654. MAINE ACCOUNTING AND AUDITING PRACTICES ACT

(REPEALED)

SECTION HISTORY
1983, c. 716, §2 (NEW). 1985, c. 792, §§3-6 (AMD). RR 1991, c. 1, §3 (COR). 1995, c. 402, §C1 (RP).

§1655. TRANSITION FOR IMPLEMENTATION

(REPEALED)

SECTION HISTORY
1983, c. 716, §2 (NEW). 1985, c. 792, §7 (AMD). 1995, c. 402, §C1 (RP).

§1656. APPEALS PROCEDURE

(REPEALED)

SECTION HISTORY
1983, c. 716, §2 (NEW). 1995, c. 402, §C1 (RP).

§1657. APPLICATION OF CHAPTER

(REPEALED)

SECTION HISTORY
1983, c. 716, §2 (NEW). 1985, c. 785, §A56 (AMD). 1995, c. 402, §C1 (RP).

§1658. ADVISORY COMMITTEE ON SINGLE STATE AUDITS

(REPEALED)

SECTION HISTORY
1985, c. 792, §8 (NEW). 1989, c. 503, §B17 (AMD). 1991, c. 780, §Y46 (AMD). 1995, c. 402, §C1 (RP).

§1659. EXCEPTIONS TO CRITERIA

(REPEALED)

SECTION HISTORY
RR 1991, c. 1, §4 (COR). 1991, c. 528, §II1 (NEW). 1991, c. 528, §RRR (AFF). 1991, c. 591, §II1 (NEW). 1991, c. 611, §2 (NEW). 1995, c. 402, §C1 (RP).

§1660. INDEPENDENT PUBLIC ACCOUNTANT AUDITS

(REPEALED)

SECTION HISTORY
1991, c. 611, §2 (NEW). 1995, c. 402, §C1 (RP).

§1660-A. REPORT

(REPEALED)

SECTION HISTORY
1991, c. 611, §2 (NEW). 1995, c. 402, §C1 (RP).

§1660-B. LIMITATIONS ON DEPARTMENT FUNDING OF ADMINISTRATIVE COSTS

(REPEALED)

SECTION HISTORY
RR 1991, c. 1, §4 (RNU). 1991, c. 591, §II1 (NEW).

Chapter 148-C: MAINE UNIFORM ACCOUNTING AND AUDITING PRACTICES ACT FOR COMMUNITY AGENCIES

§1660-C. SHORT TITLE

This chapter may be known and cited as the "Maine Uniform Accounting and Auditing Practices Act for Community Agencies." [1995, c. 402, Pt. C, §2 (NEW).]

SECTION HISTORY
1995, c. 402, §C2 (NEW).

§1660-D. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1995, c. 402, Pt. C, §2 (NEW).]

1. **Agreement.** "Agreement" means a legally binding written document between 2 or more parties, including, but not limited to, a document commonly referred to as an accepted application, proposal, prospectus, contract, grant, joint or cooperative agreement, purchase of service or state aid.

[1995, c. 402, Pt. C, §2 (NEW) .]

2. **Agreement funds; agreement funding.** "Agreement funds" or "agreement funding" means all agreement funds received by a community agency from the department. It includes state and federal pass-through funds.

[1995, c. 402, Pt. C, §2 (NEW) .]

3. **Commissioner.** "Commissioner" means the Commissioner of Health and Human Services, who has responsibility for the administration of this chapter.

[2005, c. 397, Pt. A, §6 (AMD) .]

4. **Community agency.** "Community agency" means any public or private nonprofit organization, firm, individual, partnership or business corporation operated for profit that:

A. Operates a social service program at the community level; [1995, c. 402, Pt. C, §2 (NEW).]

B. Receives public funds, either directly or indirectly, from one or more state departments or agencies; [1995, c. 402, Pt. C, §2 (NEW).]

C. Is not an administrative unit of the Federal Government or State Government; and [1995, c. 402, Pt. C, §2 (NEW).]

D. Is not exclusively a health care facility within the meaning of Title 22, section 382, subsection 6. [1995, c. 402, Pt. C, §2 (NEW).]

[1995, c. 402, Pt. C, §2 (NEW) .]

5. **Community agency fiscal year.** "Community agency fiscal year" means the fiscal year of a community agency commencing on or after July 1, 1995.

[1995, c. 402, Pt. C, §2 (NEW) .]

6. **Department.** "Department" means the Department of Health and Human Services as well as other departments and agencies of State Government approved for inclusion in this chapter by the commissioner.

[2003, c. 2, §4 (COR) .]

7. **Department examination.** "Department examination" means actions determined to be necessary by the department's audit division, including, but not limited to, analyses or testing of reported agreement balances and transactions, provision of internal control systems and compliance with rules. Examinations conducted by the department may be of a limited scope basis and need not be done in accordance with government auditing standards.

[1995, c. 402, Pt. C, §2 (NEW) .]

8. **Department review.** "Department review" means a review by the department of a community agency's submitted annual financial statement report. Review may include desk or quality control reviews or such other reviews as the department may establish by rule. Reviews are done for the purpose of accepting or rejecting the audit submission for federal and state department purposes or for the purpose of financially closing out the agreements for the department.

[1995, c. 402, Pt. C, §2 (NEW) .]

9. **Dollar threshold.** "Dollar threshold" means a funding limit that is set to determine how a community agency will be held accountable for agreement receipts of state and federal funds from the department. This term governs the community agency's annual reporting requirements for agreement expenditures and it is measured on an entitywide basis based on the community agency fiscal year.

[2005, c. 519, Pt. SS, §1 (AMD) .]

10. **Entitywide financial reporting.** "Entitywide financial reporting" means financial statements and agreement supplemental schedules of a community agency prepared based on its fiscal year. At a minimum, the supplemental schedules of the agreements must identify revenues and expenditures for each agreement.

[2005, c. 519, Pt. SS, §1 (AMD) .]

11. **Federal audit.** "Federal audit" means an audit made pursuant to the federal Office of Management and Budget Circular A-133 or any subsequent revisions.

[2005, c. 519, Pt. SS, §1 (AMD) .]

12. **Federal funds.** "Federal funds" means all federal funds received by a community agency and not just those agreements received from the department. It includes federal direct, indirect and pass-through funds from all sources.

[1995, c. 402, Pt. C, §2 (NEW) .]

13. **Generally accepted accounting principles.** "Generally accepted accounting principles" means uniform minimum standards and guidelines for financial accounting and reporting ordinarily employed by skilled accountants and agreed upon by authoritative practitioners of recognized professional standing, such as the American Institute of Certified Public Accountants and other recognized professional bodies.

[1995, c. 402, Pt. C, §2 (NEW) .]

14. **Government auditing standards.** "Government auditing standards" means auditing standards promulgated by the Comptroller General of the United States that are applicable to financial audits.

[2005, c. 519, Pt. SS, §1 (AMD) .]

15. **Independent public accountant.** "Independent public accountant" means a person who complies with government auditing standards and who is one of the following:

A. A licensed certified public accountant or person working for a licensed certified public accounting firm; or [1995, c. 402, Pt. C, §2 (NEW).]

B. A public accountant licensed on or before December 31, 1970 or a person working for a public accounting firm licensed on or before December 31, 1970. [1995, c. 402, Pt. C, §2 (NEW).]

[1995, c. 402, Pt. C, §2 (NEW) .]

16. **Nonparticipating department.** "Nonparticipating department" means a department or division of State Government other than one defined as a department in this section that has not been approved for inclusion in this chapter by the commissioner.

Nonparticipating departments may not impose audit requirements or agreement compliance and cost criteria to an agreement with a community agency that do not conform to the requirements of this subsection and its subsequent rules.

[1995, c. 402, Pt. C, §2 (NEW) .]

17. **Nonprofit organization.** "Nonprofit organization" means any agency, institution or organization that consists of or is owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

[1995, c. 402, Pt. C, §2 (NEW) .]

18. **Public.** "Public" means a municipal, county or other governmental body that is a political subdivision within the State.

[1995, c. 402, Pt. C, §2 (NEW) .]

19. **Risk pool.** "Risk pool" means utilizing and assessing risk factors for determining the need for an examination of an agreement. Such risk factors may include the value of the agreement and the prior and current community agency historical profile.

[1995, c. 402, Pt. C, §2 (NEW) .]

20. **Social service.** "Social service" means any social services program funded in whole or in part through an agreement issued by the department. Medicaid funding is excluded unless specifically identified as a social service program in an agreement award.

[1995, c. 402, Pt. C, §2 (NEW) .]

SECTION HISTORY
RR 1995, c. 2, §5 (COR). 1995, c. 402, §C2 (NEW). 1997, c. 393, §A8 (AMD). 2001, c. 354, §3 (AMD). RR 2003, c. 2, §4 (COR). 2005, c. 397, §A6 (AMD). 2005, c. 519, §SS1 (AMD).

§1660-E. REPORT

The commissioner shall report annually to the joint standing committee of the Legislature having jurisdiction over state and local government matters on the implementation of this chapter. [1995, c. 402, Pt. C, §2 (NEW).]

SECTION HISTORY
1995, c. 402, §C2 (NEW).

§1660-F. STANDARD ACCOUNTING PRACTICES

The commissioner shall adopt rules no later than 180 days after July 3, 1995 that must contain the requirements for the state report for the department and, at a minimum, the following requirements. [1997, c. 2, §9 (COR).]

1. **Accounting systems and reporting.** Community agencies shall maintain an accounting system in accordance with rules adopted by the commissioner. The rules must require annual financial reporting to the department. The annual reporting requirements and the related dollar thresholds of accountability are as follows.

A. If the community agency expends less than $500,000, the agency shall comply with the terms of financial reporting contained in the individual social service agreements with the department. [2005, c. 519, Pt. SS, §2 (AMD).]

B. If the community agency expends $500,000 or more of agreement funding from the department, the agency must have an entitywide financial and compliance audit of the agency's financial statements and agreement supplemental schedules prepared by a qualified independent public accountant in accordance with the reporting requirements for the department and comply with the terms of financial reporting contained in the individual social service agreements with the department. [2005, c. 519, Pt. SS, §2 (AMD).]

[2005, c. 519, Pt. SS, §2 (AMD) .]

2. **Internal control structures.** A community agency shall maintain and utilize internal control structures adequate to provide reasonable assurance that federal, state and other funds are managed and expended in compliance with applicable laws, rules and agreement terms.

[1995, c. 402, Pt. C, §2 (NEW) .]

3. **Access to records.** A community agency shall permit independent private and governmental auditors to have access to the agency's records and financial statements to ensure compliance with applicable laws, rules and agreement terms.

[1995, c. 402, Pt. C, §2 (NEW) .]

4. **Record retention.** A community agency shall retain accounting and operational records for at least 3 years after expiration of the agency's fiscal year or longer if required by circumstances such as appeals or litigation.

[1995, c. 402, Pt. C, §2 (NEW) .]

SECTION HISTORY
1995, c. 402, §C2 (NEW). RR 1997, c. 2, §9 (COR). 2005, c. 519, §SS2 (AMD).

§1660-G. STANDARD AUDIT PRACTICES

The commissioner shall adopt rules no later than 180 days after July 3, 1995 containing at least the following requirements for audit practices. [1997, c. 2, §10 (COR).]

1. **Federal requirement.** All federal audits prepared for agencies to which section 1660-F, subsection 1, paragraphs A and B apply must be performed by qualified independent public accountants. Agencies to which section 1660-F, subsection 1, paragraphs A and B apply must obtain audits that satisfy the federal audit requirement. Department auditors shall oversee these federal audit report submissions.

[1995, c. 402, Pt. C, §2 (NEW) .]

2. **Department requirement.**

[2005, c. 519, Pt. SS, §3 (RP) .]

SECTION HISTORY
1995, c. 402, §C2 (NEW). RR 1997, c. 2, §10 (COR). 2005, c. 519, §SS3 (AMD).

§1660-H. RULEMAKING

The commissioner shall adopt rules, as necessary to comply with this section, establishing uniform standards when administering agreements with a community agency. These rules must address the following subjects: community agency accounting, reporting and auditing standards; department program responsibilities; program compliance requirements; standard administrative requirements and cost principles; agreement register; audit responsibilities; standards and procedures for departmental examinations; appeals and resolution process; and sanctions and timetables for accountability. [2005, c. 519, Pt. SS, §4 (AMD).]

SECTION HISTORY
1995, c. 402, §C2 (NEW). RR 1997, c. 2, §11 (COR). 2005, c. 519, §SS4 (AMD).

§1660-I. RESPONSIBILITIES OF PARTIES

The responsibilities of the parties under this chapter are as follows. [1995, c. 402, Pt. C, §2 (NEW).]

1. **Community agency.** A community agency shall:

A. Design and operate an internal control system reasonably sufficient to ensure that the community agency meets acceptable standards in the areas of financial reporting reliability, operating efficiency and effectiveness and compliance with applicable laws and regulations. [2005, c. 519, Pt. SS, §5 (RPR).]

B. Prepare and submit financial reports as required by the department's social services agreements and, if applicable, annual entity financial statements and agreement supplemental schedules in accordance with department rules; and [2005, c. 519, Pt. SS, §6 (AMD).]

C. Meet the federal and department audit requirement. [1995, c. 402, Pt. C, §2 (NEW).]

[2005, c. 519, Pt. SS, §§5, 6 (AMD) .]

2. **Department.** The department shall:

A. Adopt rules consistent with the provisions of Title 22, section 41-B establishing accounting and auditing practices for community agencies, including, but not limited to, agreement reporting as part of the annual entitywide financial statement presentation; standards of accountability for community agencies; and audit requirements and standards for the department; [2005, c. 588, §1 (AMD).]

B. Provide community agencies the necessary training concerning the requirements of this chapter; [1995, c. 402, Pt. C, §2 (NEW).]

C. Review federal audits done by qualified independent public accountants in accordance with the applicable and prevailing federal Office of Management and Budget circulars. These reviews must be desk reviews of audit report submissions and quality control reviews of independent public accountant workpapers when necessary; [1995, c. 402, Pt. C, §2 (NEW).]

D. Review state audit reports performed for the department by qualified independent public accountants; [1995, c. 402, Pt. C, §2 (NEW).]

E. Review community agency financial reports required by the department's social services agreements and determine the need for department examination; and [2005, c. 519, Pt. SS, §7 (AMD).]

F. [2005, c. 519, Pt. SS, §8 (RP).]

G. Provide technical advice and act as a liaison between all interested parties. [1995, c. 402, Pt. C, §2 (NEW).]

[2005, c. 519, Pt. SS, §§7, 8 (AMD); 2005, c. 588, §1 (AMD) .]

3. **Other.**

[2005, c. 519, Pt. SS, §9 (RP) .]

SECTION HISTORY
1995, c. 402, §C2 (NEW). 2005, c. 519, §§SS5-9 (AMD). 2005, c. 588, §1 (AMD).

§1660-J. NONPARTICIPATING DEPARTMENT

A nonparticipating department may not authorize agreement compliance and cost principles to be administered or conduct audits of community agencies unless the department has informed the commissioner that the department will adopt all provisions of this chapter and the department demonstrates the ability to do so. All audits performed in accordance with the provisions of this chapter and rules adopted pursuant to it must satisfy all department requirements. [1995, c. 402, Pt. C, §2 (NEW).]

SECTION HISTORY
1995, c. 402, §C2 (NEW).

§1660-K. EMERGENCY PROVISION

(REPEALED)

SECTION HISTORY
1995, c. 402, §C2 (NEW). RR 1997, c. 2, §11 (COR). 2005, c. 519, §SS10 (RP).

§1660-L. ADVISORY COMMITTEE TO THE COMMISSIONER

There is established the Advisory Committee to the Commissioner, referred to in this section as the "advisory committee." The advisory committee must be appointed by the commissioner and consists of 7 members. Three members must represent the Department of Health and Human Services. Three members must represent community agencies. One member must represent the independent audit community. The chair must be elected by the committee from its members. All members of the advisory committee serve without compensation or reimbursement for expenses. The advisory committee must prepare an annual written report to the Legislature on the experience of the department with this chapter. [2003, c. 2, §5 (COR).]

SECTION HISTORY
1995, c. 402, §C2 (NEW). 1997, c. 393, §A9 (AMD). 2001, c. 354, §3 (AMD). RR 2003, c. 2, §5 (COR).

§1660-M. APPEALS

Any person aggrieved under this chapter is entitled to judicial review, as provided in the Maine Administrative Procedure Act. The commissioner shall consult with the Advisory Committee to the Commissioner about additional appeal procedures and may adopt rules providing for such procedures. [1995, c. 402, Pt. C, §2 (NEW).]

SECTION HISTORY
1995, c. 402, §C2 (NEW).

Chapter 149: BUDGET

§1661. DEFINITION

The words "Governor-elect," whenever used in this chapter and chapter 145, shall be held to mean the candidate most recently elected to the office of Governor of the State of Maine in the November election for choice of Governor, or his successor. [1987, c. 402, Pt. A, §39 (AMD).]

The words "Fund for a Healthy Maine," whenever used in this chapter, mean the Other Special Revenue account within the Department of Administrative and Financial Services established pursuant to Title 22, section 1511. [2001, c. 559, Pt. AA, §1 (NEW).]

SECTION HISTORY
1987, c. 402, §A39 (AMD). 2001, c. 559, §AA1 (AMD).

§1662. POWERS AND DUTIES

The Department of Administrative and Financial Services, through the Bureau of the Budget, has the duty and authority: [1991, c. 780, Pt. Y, §47 (AMD).]

1. **State budget document.** To prepare and submit to the Governor-elect, or the Governor, biennially, a state budget document in accordance with chapters 141 to 155;

1-A. **Federal expenditure budget.**

[1979, c. 711, Pt. F, §2 (RP) .]

2. **Work program and allotments.** To examine and recommend for approval the work program and quarterly allotments of each department and agency of the State Government, before the appropriations or other funds of such department or agency shall become available for expenditure;

3. **Changes.** To examine and recommend for approval any changes in the work program and quarterly allotments of any department or agency of the State Government during the fiscal year;

4. **Review, plans and report.** To constantly review the administrative activities of other departments and agencies of the State, study organization and administration, investigate duplication of work and to formulate plans for better and more efficient management, and report periodically to the Governor and on request to the Legislature;

5. **Rules.** To make rules, subject to the approval of the Commissioner of Administrative and Financial Services, for the carrying out of this chapter and chapter 145; and

[1991, c. 780, Pt. Y, §48 (AMD) .]

6. **Necessary data.** To require all departments and other agencies in the Executive, Legislative and Judicial Departments of State Government to prepare and submit for review such data, information or records as may be deemed necessary by the State Budget Officer to facilitate the Bureau of the Budget's efforts regarding this section. Copies of these materials shall be made available to the Office of Fiscal and Program Review by the Bureau of the Budget upon request of the Director of Fiscal and Program Review.

[1985, c. 737, Pt. B, §8 (AMD) .]

SECTION HISTORY
1977, c. 583, §3 (AMD). 1979, c. 711, §F2 (AMD). 1985, c. 174, §§J1,J2 (AMD). 1985, c. 737, §B8 (AMD). 1985, c. 785, §§A57,58 (AMD). 1987, c. 402, §A40 (AMD). 1991, c. 780, §§Y47,48 (AMD).

§1663. SCOPE OF BUDGET

The budget of the State Government shall present a complete financial plan for each fiscal year of the ensuing biennium. It shall set forth all proposed expenditures for the administration, operation and maintenance of the departments and agencies of the State Government; all interest and debt redemption charges during each fiscal year and all expenditures for capital projects to be undertaken and executed during each fiscal year of the biennium. In addition thereto, the state budget shall set forth the anticipated revenues of the State Government and any other additional means of financing expenditures proposed for each fiscal year of the biennium.

§1664. FORM OF BUDGET DOCUMENT

1. **Form.** The state budget document, setting forth a 4-year financial plan for the State Government for each fiscal year of the ensuing biennium and the following biennium, must:

A. Consist of a budget message by the Governor-elect or the Governor that outlines the 4-year financial plan of State Government for the ensuing biennium and the following biennium; [2005, c. 601, §1 (NEW).]

B. Embrace a general budget summary setting forth the aggregate figures of the budget in such a manner as to show the balanced relationship between the total proposed expenditures and the total anticipated revenues together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted with the corresponding figures for the last completed fiscal year and the fiscal year in progress. The general budget summary must:

(1) Be supported by explanatory schedules or statements, classifying the expenditures contained therein by organization units, objects and funds and the income by organization units, sources and funds; and

(2) Include a summary and details of programs funded through the Fund for a Healthy Maine, presenting the allocation requirements and projected revenues and other available resources shown in a budget fund flow statement and a comparative statement that presents income sources for revenue projections and allocation estimates by program categories; [2005, c. 601, §1 (NEW).]

C. Include a financial plan for the following biennium with forecasted General Fund, Highway Fund and Fund for a Healthy Maine appropriation requirements and projected revenues by income sources as provided in chapter 151-B and other available resources shown in a budget fund flow statement and a comparative statement that presents income sources for revenue projections and appropriation estimates by major program categories; [2005, c. 601, §1 (NEW).]

D. [2007, c. 1, Pt. P, §1 (RP).]

E. [2013, c. 368, Pt. R, §1 (RP).]

F. Include statements of the bonded indebtedness of the State Government showing the debt redemption requirements, the debt authorized and unissued and the condition of the sinking funds; [2007, c. 613, §1 (AMD).]

G. Contain any statements relative to the financial plan that the Governor-elect or the Governor considers desirable or that may be required by the Legislature; and [2007, c. 613, §2 (AMD).]

H. Include a long-range plan for State Government. The long-range plan must describe the vision of the Governor-elect or the Governor for State Government for the upcoming biennium and the 2 succeeding biennia and how the proposed biennial budget fits into and moves State Government toward this long-range vision. [2007, c. 613, §3 (NEW).]

[2013, c. 368, Pt. R, §1 (AMD) .]

2. **Judicial Department appropriations or allocations.** If the Governor submits legislation setting forth appropriations or allocations for the Judicial Department that differ from the full budget request submitted by the Judicial Department under Title 4, section 24, the Governor shall simultaneously submit a report to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and judiciary matters explaining why the Governor's budget legislation differs from the Judicial Department's budget submission.

[2005, c. 601, §1 (NEW) .]

3. **Office of Program Evaluation and Government Accountability appropriations or allocations.** If the Governor submits legislation setting forth appropriations or allocations for the Office of Program Evaluation and Government Accountability that differ from the budget request presented by the Legislative Council on behalf of that office, the Governor shall simultaneously submit a report to the Legislative Council and the Office of Program Evaluation and Government Accountability explaining why the Governor's budget legislation differs from the Legislative Council's budget request.

[2005, c. 601, §1 (NEW) .]

3-A. **Funding for research and development.** Beginning in fiscal year 2008-09, the Governor, when submitting the budget document to the Legislature pursuant to section 1666, shall submit a funding level recommendation for research and development. The recommendation must be transmitted to the Legislature within the time schedules set forth in section 1666. It is the intent of the Legislature that beginning in fiscal year 2009-10 the biennial budget submitted by the Governor must set forth appropriations for research and

development that are the equivalent of not less than 1% of total actual General Fund revenue of the previous fiscal year. For each successive year for the next 10 fiscal years, the funding level must increase by at least 2/10 of 1% until funding for research and development is the equivalent to not less than 3% of total actual General Fund revenue of the previous fiscal year. If the Governor's budget sets forth recommendations for research and development that differ from the levels described in this subsection, the Governor shall explain the funding difference in the biennial budget document.

[2007, c. 420, §1 (NEW) .]

3-B. **Maine Indian Tribal-State Commission appropriations or allocations.** If the Governor submits legislation setting forth appropriations or allocations for the Maine Indian Tribal-State Commission that differ from the full budget proposal developed under Title 30, section 6212, subsection 6, the Governor shall simultaneously submit a report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over judiciary matters explaining why the Governor's budget legislation differs from that proposal.

[2009, c. 636, Pt. C, §1 (NEW) .]

4. **Position identification.** The Governor, when submitting the budget to the Legislature, shall submit the budget document and the budget bills in a manner that identifies positions authorized by the Legislature for less than 52 weeks in a fiscal year as "Positions - Full-time Equivalent," or "FTE," and positions authorized by the Legislature for 52 weeks in a fiscal year as "Positions - Legislative Count" for all funds. The State Budget Officer shall implement and administer procedures to ensure sufficient FTE and appropriation or allocation control for positions authorized by the Legislature for less than 52 weeks in a fiscal year.

[2005, c. 601, §1 (NEW) .]

5. **Limit on General Fund appropriation.** The total General Fund appropriation for each fiscal year of the biennium in the Governor's budget submission to the Legislature may not exceed the General Fund appropriation limitation established in section 1534.

[2005, c. 601, §1 (NEW) .]

SECTION HISTORY
1973, c. 744, (AMD). 1975, c. 515, (AMD). 1981, c. 271, (AMD). 1981, c. 444, §1 (AMD). 1981, c. 702, §N (AMD). 1983, c. 526, §1 (AMD). 1987, c. 735, §9 (AMD). 1989, c. 439, §§2,8 (AMD). 1989, c. 501, §P12 (AMD). 1989, c. 934, §C1 (AMD). 1991, c. 376, §19 (AMD). 1993, c. 410, §§C3,4 (AMD). 1993, c. 675, §C11 (AMD). 1995, c. 368, §§EE1,2 (AMD). 1995, c. 502, §G1 (AMD). 1995, c. 665, §S1 (AMD). 1997, c. 655, §1 (AMD). 2001, c. 559, §AA2 (AMD). 2001, c. 702, §4 (AMD). 2003, c. 451, §X8 (AMD). 2005, c. 2, §A6 (AMD). 2005, c. 2, §A14 (AFF). 2005, c. 601, §1 (RPR). 2007, c. 1, Pt. P, §1 (AMD). 2007, c. 420, §1 (AMD). 2007, c. 613, §§1-3 (AMD). 2009, c. 636, Pt. C, §1 (AMD). 2013, c. 368, Pt. R, §1 (AMD).

§1665. BUDGET ESTIMATES

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 personal income growth rate. 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.

[2015, c. 267, Pt. L, §9 (AMD) .]

2. **Inclusion in estimate.**

[2005, c. 601, §3 (RP) .]

3. **Revenue estimates.** The State Budget Officer shall use the revenue projections recommended by the Revenue Forecasting Committee in setting revenue estimates for inclusion in the budget. The revenue estimates must be classified so as to show the income by organization units, sources and funds, or in any other manner, at the discretion of the State Budget Officer.

[1997, c. 655, §2 (AMD) .]

4. **Additional data.** Upon receipt of the budget estimates submitted in accordance with this section, the State Budget Officer may require the heads of departments and other agencies of the State Government and officers of organizations and associations receiving or desiring to receive state funds under the provisions of law to appear before said officer and present such additional data in support of their budget estimates as said officer may deem necessary.

[1989, c. 501, Pt. P, §13 (NEW) .]

5. **Maine Community College System; public improvements budgetary estimate.**

[2013, c. 368, Pt. R, §2 (RP) .]

6. **Fiscal impact statements.** Fiscal impact statements prepared by departments or agencies at the request of the State Budget Officer in response to legislative documents must include revenue and expenditure forecasts for each fiscal year of the current fiscal biennium and the following fiscal biennium in a form and method prescribed by the State Budget Officer.

[1995, c. 368, Pt. EE, §3 (NEW) .]

7. **General Fund and Highway Fund revenue and expenditure forecasts.** By September 30th of each even-numbered year, the State Budget Officer shall prepare and deliver a report to the Governor, the Legislature and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs containing a forecast of revenue and expenditures for the following biennium. The forecast must assume the continuation of current laws and include reasonable and predictable estimates of growth in revenues and expenditures based on national and local trends and program operations. General Fund and Highway Fund revenue must be forecasted by income source as provided in chapter 151-B. Expenditure forecasts for the General Fund and the Highway Fund must be forecasted on the basis of current law and

assumed inflation variables related to program operations. The forecast for the General Fund and the Highway Fund must be presented in a budget fund flow statement and a comparative statement showing each income source for revenue projections and expenditure estimates for each major program category.

[1999, c. 127, Pt. A, §7 (AFF); 1999, c. 127, Pt. A, §6 (RPR) .]

SECTION HISTORY
1989, c. 501, §P13 (RPR). RR 1991, c. 2, §9 (COR). 1991, c. 376, §20 (AMD). 1995, c. 368, §EE3 (AMD). 1995, c. 560, §K82 (AMD). 1995, c. 560, §K83 (AFF). 1995, c. 665, §S2 (AMD). 1997, c. 643, §E3 (AMD). 1997, c. 655, §§2,3 (AMD). 1999, c. 127, §A6 (AMD). 1999, c. 127, §A7 (AFF). 2001, c. 354, §3 (AMD). RR 2003, c. 2, §6 (COR). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF). 2003, c. 451, §X9 (AMD). 2005, c. 2, §A7 (AMD). 2005, c. 2, §A14 (AFF). 2005, c. 601, §§2,3 (AMD). 2009, c. 636, Pt. C, §2 (AMD). 2011, c. 691, Pt. B, §8 (AMD). 2013, c. 368, Pt. R, §2 (AMD). 2015, c. 267, Pt. L, §9 (AMD).

§1666. REVIEW AND REVISION OF ESTIMATES

The Governor-elect or the Governor, with the assistance of the State Budget Officer, shall review the budget estimates, altering, revising, increasing or decreasing the items of the estimates as may be determined necessary in view of the needs of the various departments and agencies and the total anticipated income of the State Government during the ensuing biennium. This review must cover all budgets regardless of source of funds, including, but not limited to, budgets related to the Highway Fund, the Federal Revenue Sharing Fund and other special revenue funds. The State Budget Officer, at the direction of the Governor-elect or the Governor shall then prepare a state budget document in the form required by law. The Governor-elect or the Governor is fully responsible for all budgetary recommendations made to the Legislature. The Governor shall transmit the budget document to the Legislature not later than the Friday following the first Monday in January of the first regular legislative session. At that time the Governor shall also transmit any emergency bills that authorize additional appropriations or allocations in the current fiscal year that the Governor may wish to propose. A Governor-elect elected to a first term of office shall transmit the budget document to the Legislature not later than the Friday following the first Monday in February of the first regular legislative session. At that time the Governor-elect shall also transmit any emergency bills that authorize additional appropriations or allocations in the current fiscal year that the Governor may wish to propose. [2005, c. 601, §4 (AMD).]

The Governor, when submitting the budget to the Legislature, shall submit the budget document and the General Fund and Highway Fund bills in a manner that identifies the gross amount of resources for each program. The gross unified budget bills and budget document encompass resources from the General Fund, Highway Fund, Federal Expenditures Fund, Federal Block Grant Fund, Other Special Revenue Funds, internal service funds and enterprise funds. Separate gross unified budget bills must be submitted for the General Fund and the Highway Fund. All funds except trust and agency funds, bond funds and costs of goods sold expenditures in internal service funds and enterprise funds are subject to legislative allocation. All programs with Highway Fund allocations and all internal service funds, enterprise funds and Other Special Revenue Funds accounts of the Department of Transportation and the TransCap Trust Fund in the Maine Municipal Bond Bank are subject to legislative allocations and are presented for informational purposes only in the budget document and General Fund budget bills unless a separate Highway Fund budget is not enacted. [2007, c. 538, Pt. K, §1 (AMD).]

A budget document transmitted by the Governor or Governor-elect must include a part that asks the Legislature whether it wishes to continue funding each individual tax expenditure provided in the statutes. For purposes of this paragraph, "tax expenditures" means those state tax revenue losses attributable to provisions of Maine tax laws that allow a special exclusion, exemption or deduction or provide a special credit, a preferential rate of tax or a deferral of tax liability. The part must include for each tax expenditure a statutory section reference, a brief description of each tax expenditure and the loss of revenue estimated to be incurred

by funding source and fiscal year. The joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs shall consider any reports regarding the evaluation of tax expenditures completed during the previous 2 years pursuant to Title 3, sections 999 and 1000 and shall hold at least one public hearing to receive public comment regarding those tax expenditures when reviewing the continuation of tax expenditures pursuant to this section. This paragraph applies with respect to the preparation of the budget document for the 2008-2009 biennium and thereafter. [2015, c. 344, §5 (AMD).]

The Department of Public Safety, Bureau of State Police shall annually identify and quantify the activities of the Department of Public Safety, Bureau of State Police that may be eligible for funding from the Highway Fund pursuant to the Constitution of Maine, Article IX, Section 19. Starting March 1, 2018 and every 4 years thereafter, the Department of Public Safety, Bureau of State Police shall report the average annual percentage for the previous 4 years of activities eligible for funding from the Highway Fund pursuant to the Constitution of Maine, Article IX, Section 19 to the Governor, the joint standing committee of the Legislature having jurisdiction over transportation matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. The Governor or Governor-elect shall use such reports as a guide in developing budgets for the Department of Public Safety, Bureau of State Police. [2013, c. 354, Pt. F, §2 (AMD).]

SECTION HISTORY
1973, c. 732, (RPR). 1981, c. 316, §G (AMD). 1987, c. 735, §10 (AMD). 1989, c. 7, §O1 (AMD). 1989, c. 934, §C2 (AMD). 1993, c. 707, §R1 (AMD). 1995, c. 464, §14 (AMD). 2005, c. 12, §T6 (AMD). 2005, c. 386, §D1 (AMD). 2005, c. 457, §GGG1 (AMD). 2005, c. 601, §4 (AMD). 2007, c. 1, Pt. P, §2 (AMD). 2007, c. 537, §1 (AMD). 2007, c. 538, Pt. K, §1 (AMD). 2013, c. 354, Pt. F, §2 (AMD). 2015, c. 344, §5 (AMD).

§1666-A. ENACTMENT OF BUDGET

The Legislature shall review a biennial or supplemental budget submitted to it in accordance with this chapter and enact a budget no later than 30 days prior to the date of adjournment prescribed in Title 3, section 2, except that, during the first year in office of a Governor-elect, the Legislature shall enact a budget no later than the first Friday in June. [1995, c. 113, §1 (NEW).]

SECTION HISTORY
1995, c. 113, §1 (NEW).

§1667. WORK PROGRAM AND ALLOTMENTS

Not later than June 1st of each year, the Governor shall require the head of each department and agency of the State Government to submit to the Bureau of the Budget a work program for the ensuing fiscal year. Such work program shall include all appropriations, revenues, transfers and other funds, made available to said department or agency for its operation and maintenance and for the acquisition of property, and it shall show the requested allotments of said sums by quarters for the entire fiscal year, classified to show allotments requested for specific amounts for personal services, capital expenditures and amounts for all other departmental expenses. The Department of Health and Human Services shall further break down its budget to include institutional food expenditures. Funds not expended for this budget item may not be transferred between line categories. The Governor, with the assistance of the State Budget Officer, shall review the requested allotments with respect to the work program of each department or agency and shall, if the Governor determines it necessary, revise, alter or change such allotments before approving the same. The Governor may authorize the State Budget Officer to approve quarterly allotments not to exceed $45,000 in any account. The aggregate of such allotments may not exceed the total sums made available to said department or agency for the fiscal year in question. The State Budget Officer shall transmit a copy of the allotments as approved by the Governor to the head of the department or agency concerned and also a copy to

the State Controller. The State Controller shall thereupon authorize all expenditures to be made from the sums available on the basis of such allotments and not otherwise. [2001, c. 213, §1 (AMD); 2001, c. 354, §3 (AMD); 2003, c. 689, Pt. B, §6 (REV).]

The head of any department or agency of the State Government, whenever he shall deem it necessary by reason of changed conditions, may revise the work program of his department or agency at the beginning of any quarter during the fiscal year, and submit such revised program to the Bureau of the Budget with his request for a revision of the allotments of the remaining quarters of that fiscal year. If, upon such re-examination of the work program, the State Budget Officer, with the approval of the Governor, shall decide to grant the request for the revision of the allotments, the same procedure, so far as it relates to review, approval and control shall be followed as in the making of the original allotments. [1975, c. 771, §76 (AMD).]

SECTION HISTORY
1973, c. 745, (AMD). 1975, c. 771, §§75-77 (AMD). 1977, c. 712, §F1 (AMD). 1981, c. 316, §I (AMD). 1995, c. 560, §K82 (AMD). 1995, c. 560, §K83 (AFF). 2001, c. 213, §1 (AMD). 2001, c. 354, §3 (AMD). 2003, c. 689, §B6 (REV).

§1667-A. ACCESS TO BUDGET MANAGEMENT SYSTEM DATA

Notwithstanding any other provision of law, the State Budget Officer shall provide the Office of Fiscal and Program Review with electronic access, including report-writing capabilities, to those aspects of the budget management system presently referred to as the "budget analyst tool," except for those specific aspects of the system involved in budget recommendations that have been made or are being considered by the Governor or Governor-elect but have not yet been transmitted to the Legislature. For purposes of this section, "budget management system" and "budget analyst tool" include information used by the Bureau of the Budget to develop, analyze and review budgeted and actual revenue and expenditure information. [1995, c. 41, §1 (NEW).]

Notwithstanding any other provision of law, the Legislative Council shall provide the Bureau of the Budget, upon the bureau's request, with enacted budget bills in a data processing form that permits the electronic conversion of data to the budget management system. [1995, c. 41, §1 (NEW).]

SECTION HISTORY
1995, c. 41, §1 (NEW).

§1667-B. ALLOTMENT IN EXCESS OF LEGISLATIVELY AUTHORIZED ALLOCATIONS

Allotments in Other Special Revenue funds accounts, internal service fund accounts and enterprise funds, except the State Lottery Fund and the Dirigo Health Enterprise Fund, may exceed current year allocations and the unused balance of allocations authorized to carry forward by law under the following conditions, except that funds in Other Special Revenue funds accounts, internal service fund accounts and enterprise funds must be expended in accordance with the statutes that establish the accounts and for no other purpose: [2005, c. 386, Pt. D, §2 (AMD).]

1. **Sufficient cash.** Sufficient cash is available from the Other Special Revenue funds accounts, the internal service fund accounts or the unencumbered balance authorized to carry forward by law;

[2005, c. 12, Pt. T, §7 (NEW) .]

2. **Recommendation and approval.** Allotment of the funds under subsection 1 is recommended by the State Budget Officer and approved by the Governor by financial order as an allotment increase in the annual work program;

[2005, c. 12, Pt. T, §7 (NEW) .]

3. **Legislative review.** Excluding the State - Municipal Revenue Sharing program, Other Special Revenue Funds account, the Disproportionate Tax Burden Fund program, Other Special Revenue Funds account in the Office of the Treasurer of State and accounts when allotting funds to pay death benefits pursuant to Title 25, chapter 195-A, allotment of the funds under subsection 1 is subject to review by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs;

[2011, c. 655, Pt. K, §1 (AMD) .]

4. **30-day wait.** Excluding the State - Municipal Revenue Sharing program, Other Special Revenue Funds account, the Disproportionate Tax Burden Fund program, Other Special Revenue Funds account in the Office of the Treasurer of State and accounts when allotting funds to pay death benefits pursuant to Title 25, chapter 195-A, allotment of the funds under subsection 1 does not take effect until 30 days after the approval by the Governor; and

[2011, c. 655, Pt. K, §1 (AMD) .]

5. **Collective bargaining; detrimental effect.** Either one of the following:

A. Allotment of the funds under subsection 1 is required to provide for the costs of approved collective bargaining agreements; or [2005, c. 12, Pt. T, §7 (NEW).]

B. Failure to allot the funds under subsection 1 could have a significant detrimental impact on current programs. [2005, c. 12, Pt. T, §7 (NEW).]

[2005, c. 12, Pt. T, §7 (NEW) .]

In case of extraordinary emergency situations, the requirements of subsection 4 may be waived by vote of the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. [2005, c. 12, Pt. T, §7 (NEW).]

SECTION HISTORY
2005, c. 12, §T7 (NEW). 2005, c. 386, §D2 (AMD). 2011, c. 655, Pt. K, §1 (AMD).

§1668. TEMPORARY CURTAILMENT OF ALLOTMENTS

Whenever it appears to the Commissioner of Administrative and Financial Services that the anticipated income and other available funds of the State will not be sufficient to meet the expenditures authorized by the Legislature, the commissioner shall so report in writing to the Governor, and shall send a copy of the report to the President of the Senate and the Speaker of the House and the majority and minority leaders of the Senate and House. After receiving the report, the Governor may temporarily curtail allotments equitably so that expenditures will not exceed the anticipated income and other available funds. No allotment may be terminated pursuant to this section. Any curtailment of allotments must, insofar as practicable, be made consistent with the intent of the Legislature in authorizing these expenditures. [1991, c. 780, Pt. Y, §49 (AMD).]

The Governor shall immediately upon the curtailment of any allotment, notify the President of the Senate and the Speaker of the House and the majority and minority leaders of the Senate and House of the specific allotments curtailed, the extent of curtailment of each allotment and the effect of each curtailment on the objects and purposes of the program so affected. [1975, c. 771, §77-A (NEW).]

SECTION HISTORY
1975, c. 771, §§77-A (NEW). 1985, c. 785, §A59 (AMD). 1991, c. 780, §Y49 (AMD).

§1669. FEDERAL FUNDS

A state department or agency may not make expenditures of any federal funds or expenditures in anticipation of receipt of federal funds for any new or expanded programs in the Federal Expenditures Fund or federal block grant funds, unless such federal funds are approved by the Legislature. The expenditure of such federal funds may be authorized for a period not to exceed 12 calendar months in accordance with sections 1585 and 1667. [2001, c. 213, §2 (AMD).]

All departments and agencies that receive federal funds from the Federal Expenditures Fund or federal block grant funds shall, within 10 working days of receipt of any official notification from the Federal Government concerning the potential or actual increase or reduction in present funding, submit a copy of that notification to the Director of the Office of Fiscal and Program Review. In addition, departments and agencies shall, within 25 working days of that notification, submit in writing to the Director of the Office of Fiscal and Program Review their proposed plan of action to address the notification that may include an appeal or an outline of the options that will be examined in detail and a time frame for the examination. [2001, c. 213, §2 (AMD).]

SECTION HISTORY
1979, c. 711, §F3 (NEW). 1983, c. 824, §L (AMD). 1985, c. 737, §B9 (AMD). 1989, c. 7, §O2 (AMD). 2001, c. 213, §2 (AMD).

§1669-A. BLOCK GRANTS

(REPEALED)

SECTION HISTORY
1995, c. 707, §C1 (NEW). 1995, c. 707, §C2 (AFF). 2001, c. 213, §3 (RP).

§1670. NOTIFICATION PROCEDURE FOR NEW FEDERAL MANDATES

Every agency and department of the State shall submit to the State Budget Officer a list of any new laws, new regulations or other actions that may require the State to comply with any new federal mandate in the current biennium or the next biennium. [1995, c. 591, §1 (NEW).]

Each item listed must include how the mandate is funded, the required implementation date, the citations or rulings authorizing the mandate and a brief description of the intended purpose of the mandate. [1995, c. 591, §1 (NEW).]

On or before January 1st of each year, the State Budget Officer shall compile a complete list of new federal mandates and distribute it to each member of the Legislature and to the Director of the Office of Fiscal and Program Review. [1995, c. 591, §1 (NEW).]

1. Procedure for changes.

[1995, c. 591, §1 (RP) .]

2. **Allocation.**

[1995, c. 591, §1 (RP) .]

3. **Reductions.**

[1995, c. 591, §1 (RP) .]

4. **Budget approval.** All budget recommendations pertaining to federal block grants must be submitted as part of the unified current services budget legislation in accordance with sections 1663 to 1666.

[1997, c. 424, Pt. B, §1 (NEW) .]

SECTION HISTORY
1981, c. 316, §K (NEW). 1981, c. 534, §D (RPR). 1995, c. 591, §1 (RPR). 1997, c. 424, §B1 (AMD).

§1671. FEDERAL GRANTS FROM SETTLEMENTS

1. **Application.** This section shall apply to federal grants that are the result of class action or other litigation that involves the citizens of the State.

[1983, c. 261, §1 (NEW) .]

2. **Allocation.** No expenditure may be made from any such grants unless allocation of the funds is recommended by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and approved by the Legislature.

§1671. Dedicated revenue accounts (As enacted by PL 1983, c. 477, Pt. E, Subpt. 19 is REALLOCATED TO TITLE 5, SECTION 1672)

[1983, c. 261, §1 (NEW) .]

SECTION HISTORY
1983, c. 261, §1 (NEW). 1983, c. 477, Pt. E, Subpt. 19, (NEW). 1983, c. 583, §3 (RAL).

§1672. DEDICATED REVENUE ACCOUNTS

(REPEALED)
(REALLOCATED FROM TITLE 5, SECTION 1671)

SECTION HISTORY
1983, c. 477, §E19 (NEW). 1983, c. 583, §3 (RAL). 1983, c. 824, §N1 (RP).

§1673. ALLOCATION BILLS

All allocation bills shall be submitted in the same manner as required for the General Fund in section 1581 and shall be subject to the transfer provisions of section 1585. [1983, c. 824, Pt. N, §2 (NEW).]

SECTION HISTORY
1983, c. 824, §N2 (NEW).

§1674. DEPARTMENTAL INDIRECT COST ALLOCATION PROPOSAL

Each department or agency of State Government that is authorized to expend more than $25,000 on a single project in any fiscal year on the construction, repair or improvement of state-owned real property shall prepare and submit a departmental indirect cost allocation proposal to the Commissioner of Administrative and Financial Services prior to that expenditure. These proposals must be on file in the Department of Administrative and Financial Services. [1991, c. 780, Pt. Y, §50 (AMD).]

The commissioner may promulgate rules necessary to carry out this section. [1985, c. 195, §§1,2 (NEW).]

SECTION HISTORY
1985, c. 195, §§1,2 (NEW). 1985, c. 785, §A60 (AMD). 1991, c. 780, §Y50 (AMD).

§1675. ACCEPTANCE OF FUNDS FOR ALTERNATIVE-FUELED VEHICLES PROGRAM

An agency or agencies of the State designated by the Governor to establish an alternative-fueled vehicle demonstration program under the National Energy Policy Act of 1992, Public Law 102-486, Section 409 may accept funds to implement that program from the Federal Government or from any person. [1993, c. 466, §1 (NEW).]

SECTION HISTORY
1993, c. 466, §1 (NEW).

§1676. TRANSFER FROM SALARY PLAN

Notwithstanding section 1585, available balances in the General Fund Salary Plan program in the Department of Administrative and Financial Services that are no longer required for the purposes for which they were appropriated may be made available by financial order upon the recommendation of the State Budget Officer and approval of the Governor to be used to meet the fixed obligation of the General Fund for the unfunded actuarial liability in each fiscal year. Any other available balances in the General Fund Salary Plan may only be used or made available in accordance with legislative authorization. [2001, c. 219, §1 (AMD).]

SECTION HISTORY
1997, c. 24, §EE1 (NEW). 2001, c. 219, §1 (AMD).

§1676-A. TRANSFER FROM HIGHWAY FUND SALARY PLAN

Notwithstanding section 1585, available balances in the Highway Fund Salary Plan program in the Department of Administrative and Financial Services that are no longer required for the purposes for which they were allocated may be made available by financial order upon the recommendation of the State Budget Officer and approval of the Governor to be used to meet the fixed obligation of the Highway Fund for the unfunded actuarial liability in each fiscal year. Any other available balances in the Highway Fund Salary Plan may only be used or made available in accordance with legislative authorization. [2001, c. 219, §2 (AMD).]

SECTION HISTORY
1997, c. 25, §M1 (NEW). 2001, c. 219, §2 (AMD).

§1677. MUNICIPAL BUDGET ANALYSIS COMMITTEE; ESTABLISHED; MEMBERSHIP

(REPEALED)

SECTION HISTORY
2003, c. 712, §1 (NEW). 2009, c. 213, Pt. WW, §1 (RP).

Chapter 150: FEDERAL EXPENDITURE BUDGET

§1681. DEFINITIONS

(REPEALED)

SECTION HISTORY
1977, c. 583, §4 (NEW). 1979, c. 541, §A37 (AMD). 1979, c. 711, §F4 (RP).

§1682. BUDGET PREPARATION

(REPEALED)

SECTION HISTORY
1977, c. 583, §4 (NEW). 1979, c. 711, §F4 (RP).

§1683. REVIEW BY GOVERNOR

(REPEALED)

SECTION HISTORY
1977, c. 583, §4 (NEW). 1979, c. 711, §F4 (RP).

§1683-A. INCORPORATION OF FEDERAL EXPENDITURE BUDGET DOCUMENT IN STATE BUDGET DOCUMENT

(REPEALED)

SECTION HISTORY
1977, c. 556, §2 (NEW). 1979, c. 711, §F4 (RP).

§1684. DOCUMENTATION REQUIRED FOR FEDERAL EXPENDITURE BUDGET DOCUMENTS

(REPEALED)

SECTION HISTORY
1977, c. 583, §4 (NEW). 1979, c. 711, §F4 (RP).

§1685. SPECIFIC LEGISLATIVE APPROVAL REQUIRED BEFORE EXPENDITURE

(REPEALED)

SECTION HISTORY
1977, c. 583, §4 (NEW). 1979, c. 711, §F4 (RP).

§1686. ACTION WHEN LEGISLATURE NOT IN SESSION

(REPEALED)

SECTION HISTORY
1977, c. 583, §4 (NEW). 1979, c. 711, §F4 (RP).

Chapter 151: INSURANCE ON PUBLIC BUILDINGS

§1701. AUTHORIZATION; DEPOSIT OF POLICIES

(REPEALED)

SECTION HISTORY
1965, c. 514, §1 (RP).

§1702. INSURANCE MONEY AVAILABLE FOR REPLACEMENT

(REPEALED)

SECTION HISTORY
1965, c. 514, §1 (RP).

Chapter 151-A: LEGISLATIVE REVIEW

§1705. LEGISLATIVE REVIEW OF FEDERAL GRANT APPLICATIONS

The director of a state agency shall submit, at the same time that a federal grant application is submitted to the Federal Government, a copy of each such application to the Director of Fiscal and Program Review. [1985, c. 737, Pt. B, §10 (AMD).]

SECTION HISTORY
1977, c. 378, (NEW). 1985, c. 737, §B10 (AMD).

§1706. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings: [1977, c. 378, (NEW).]

1. **Federal grant application.** "Federal grant application" shall mean any request or proposal for financial assistance made by a state agency or by an employee of such an agency acting in his official capacity to the United States Government, whether for a loan, grant, subsidy, augmentation, advance, reimbursement, or any other form where such financial assistance will be expended by the state agency or employee acting in his official capacity. The definition shall include initial requests or proposals and subsequent amendment requests or proposals. The definition shall not include federal pass-through funds which are received by the State Government and passed directly to local governments in those cases where the State is permitted no discretion with respect to disposition of the funds to local governments under the terms of the grant and federal law.

[1977, c. 378, (NEW) .]

2. **State agency.** "State agency" shall mean each department and agency of State Government required to comply with chapter 149, except that the term "state agency" shall not include the University of Maine System or the Maine Maritime Academy.

[1985, c. 779, §16 (AMD) .]

SECTION HISTORY
1977, c. 378, (NEW). 1985, c. 779, §16 (AMD).

Chapter 151-B: CONSENSUS REVENUE FORECASTING

§1710. CONSENSUS ECONOMIC FORECASTING COMMISSION; MEMBERSHIP

The Consensus Economic Forecasting Commission established by Title 5, section 12004-I, subsection 29-B, to provide the Governor, the Legislature and the Revenue Forecasting Committee with analyses, findings and recommendations representing state economic assumptions relevant to revenue forecasting, and referred to in this chapter as the "commission," consists of 5 members appointed as follows: two members appointed by the Governor; one member recommended for appointment to the Governor by the President of the Senate; one member recommended for appointment to the Governor by the Speaker of the House of Representatives; and one member appointed by the other members of the commission. One of the 5 members must be selected by a majority vote of the committee members to serve as the chair of the commission. Commission members must be appointed within 15 days of the effective date of this section and serve until January 1997. Thereafter, the commission members are appointed in January of odd-numbered years. A member may not be a Legislator or an employee of the Executive Department, the Legislature or the Judicial Department. Each commission member must have professional credentials and demonstrated expertise in economic forecasting. [1995, c. 368, Pt. J, §1 (NEW).]

All members are appointed for terms to coincide with the legislative biennium. Vacancies must be filled in the same manner as the original appointments for the balance of the unexpired term, except as otherwise provided in this section. [1995, c. 368, Pt. J, §1 (NEW).]

If one or more positions on the commission remains unfilled on the 16th day after the effective date of this section or the expeditious filling of a vacancy is required to enable the commission to perform its duties in an efficient and timely manner, the Governor shall make those appointments at such times and in such a manner as the Governor determines necessary. [1995, c. 368, Pt. J, §1 (NEW).]

SECTION HISTORY
1995, c. 368, §J1 (NEW).

§1710-A. DUTIES OF COMMISSION

1. **Duties.** The Consensus Economic Forecasting Commission shall develop 5-year and 10-year macroeconomic secular trend forecasts and one-year, 2-year and 4-year economic forecasts.

[1995, c. 368, Pt. J, §1 (NEW) .]

2. **Biennial economic assumptions.** The commission shall submit recommendations for state economic assumptions for the next fiscal biennium and analyze economic assumptions for the current fiscal biennium, which must be approved by a majority of the commission members. No later than November 1st of each even-numbered year, the commission shall submit to the Governor, the Legislative Council, the Revenue Forecasting Committee and the joint standing committee of the Legislature having jurisdiction

over appropriations and financial affairs a report that presents the analyses, findings and recommendations for economic assumptions related to revenue forecasting for the next fiscal biennium. In its report, the commission shall fully describe the methodology employed in reaching its recommendations.

[1997, c. 643, Pt. W, §1 (AMD) .]

3. **Current biennium adjustments.** No later than April 1st and November 1st of each odd-numbered year and no later than February 1st and November 1st of each even-numbered year the commission shall submit to the Governor, the Legislative Council, the Revenue Forecasting Committee and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs a report that presents the commission's findings and recommendations for adjustments to the economic assumptions for the current fiscal biennium. In each report the commission shall fully describe the methodology employed in reaching its recommendations.

[2007, c. 539, Pt. Q, §1 (AMD) .]

SECTION HISTORY
1995, c. 368, §J1 (NEW). 1997, c. 643, §W1 (AMD). 2007, c. 539, Pt. Q, §1 (AMD).

§1710-B. CONTRACTS

The commission may enter into contractual arrangements subject to state purchasing procedures for the procurement of economic forecasting models, data, assumptions and assistance in analyzing the data. [1995, c. 368, Pt. J, §1 (NEW).]

SECTION HISTORY
1995, c. 368, §J1 (NEW).

§1710-C. MEETINGS

The commission shall meet at least 4 times a year. Additional meetings may be called by the chair or by any 3 members. All meetings are open to the public. [1995, c. 368, Pt. J, §1 (NEW).]

SECTION HISTORY
1995, c. 368, §J1 (NEW).

§1710-D. STAFFING

The commission may receive staff support from the Governor's Office of Policy and Management. [2011, c. 655, Pt. DD, §3 (AMD); 2011, c. 655, Pt. DD, §24 (AFF).]

SECTION HISTORY
1995, c. 368, §J1 (NEW). 2011, c. 655, Pt. DD, §3 (AMD). 2011, c. 655, Pt. DD, §24 (AFF).

§1710-E. REVENUE FORECASTING COMMITTEE; ESTABLISHED; MEMBERSHIP

There is established the Revenue Forecasting Committee, referred to in this chapter as the "committee," for the purpose of providing the Governor, the Legislature and the State Budget Officer with analyses, findings and recommendations relating to the projection of revenues for the General Fund and the Highway Fund based on economic assumptions recommended by the Consensus Economic Forecasting Commission. The committee includes the State Budget Officer, the Associate Commissioner for Tax Policy, the State Economist, an economist on the faculty of the University of Maine System selected by the chancellor, the

Director of the Office of Fiscal and Program Review and another member of the Legislature's nonpartisan staff familiar with revenue estimating issues appointed by the Legislative Council. One of the 6 members must be selected by a majority vote of the committee members to serve as the chair of the committee.
[2011, c. 655, Pt. I, §6 (AMD); 2011, c. 655, Pt. I, §11 (AFF).]

SECTION HISTORY
1995, c. 368, §J1 (NEW). 1997, c. 655, §4 (AMD). 1999, c. 127, §A8 (AMD). 2001, c. 2, §1 (AMD). 2011, c. 655, Pt. I, §6 (AMD). 2011, c. 655, Pt. I, §11 (AFF).

§1710-F. DUTIES OF COMMITTEE

1. **Duties; use of economic assumptions.** The committee shall develop current fiscal biennium and 2 ensuing fiscal biennia revenue projections using the economic assumptions recommended by the Consensus Economic Forecasting Commission.

[1997, c. 157, §1 (AMD) .]

2. **Biennial revenue projections.** The committee shall submit recommendations for state revenue projections for the next 2 fiscal biennia and analyze revenue projections for the current fiscal biennium, which must be approved by a majority of the committee members. No later than December 1st of each even-numbered year, the committee shall submit to the Governor, the Legislative Council, the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the State Budget Officer a report that presents the analyses, findings and recommendations for General Fund and Highway Fund revenue projections for the next 2 fiscal biennia. In its report the committee shall fully describe the methodology employed in reaching its recommendations. Revenue projections for other funds of the State may be included in the report at the discretion of the committee.

[2011, c. 655, Pt. L, §1 (AMD) .]

3. **Current and ensuing biennium adjustments.** No later than May 1st and December 1st of each odd-numbered year and no later than March 1st and December 1st of each even-numbered year the committee shall submit to the Governor, the Legislative Council, the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the State Budget Officer a report that presents the analyses, findings and recommendations for adjustments to General Fund revenue and Highway Fund revenue for the current and ensuing fiscal biennia. In each report the committee shall fully describe the methodology employed in reaching its recommendations. Revenue adjustments for other funds of the State may be included in the report at the discretion of the committee.

[2007, c. 539, Pt. Q, §2 (AMD) .]

4. **Appropriation limitation.** The committee shall make all determinations necessary to make the appropriation limitation calculations required under chapter 142.

[2005, c. 2, Pt. A, §8 (NEW); 2005, c. 2, Pt. A, §14 (AFF) .]

SECTION HISTORY
1995, c. 368, §J1 (NEW). 1997, c. 157, §1 (AMD). 2005, c. 2, §A8 (AMD). 2005, c. 2, §A14 (AFF). 2007, c. 539, Pt. Q, §2 (AMD). 2009, c. 461, §1 (AMD). 2011, c. 655, Pt. L, §1 (AMD).

§1710-G. USE OF REVENUE FORECASTS

The State Budget Officer shall use the revenue projections recommended by the committee in setting revenue estimates in accordance with section 1665, subsection 3. The State Budget Officer shall use the revenue projections of the committee in preparing General Fund and Highway Fund revenue and expenditure forecasts in accordance with section 1664 and section 1665, subsection 7. If new information becomes available and the State Budget Officer wishes to recommend an adjustment to the revenue projections already recommended by the committee, the State Budget Officer shall convene a meeting of the committee as soon as practicable so that the committee may review any new data and make any additional recommendations it feels necessary. [1997, c. 655, §5 (AMD).]

SECTION HISTORY
1995, c. 368, §J1 (NEW). 1997, c. 157, §1 (AMD). 1997, c. 655, §5 (AMD).

§1710-H. MEETINGS

The committee shall meet at least 4 times a year. Additional meetings may be called by a majority vote of the committee or by the State Budget Officer as specified in section 1710-G. [1997, c. 655, §6 (AMD).]

SECTION HISTORY
1995, c. 368, §J1 (NEW). 1997, c. 655, §6 (AMD).

§1710-I. STAFFING

The committee may receive staff assistance from the Bureau of the Budget, the Governor's Office of Policy and Management, the Bureau of Revenue Services and, at the discretion of the Legislature, the Office of Fiscal and Program Review. The committee may also utilize other professionals having revenue forecasting, economic and fiscal expertise. [2011, c. 655, Pt. DD, §4 (AMD); 2011, c. 655, Pt. DD, §24 (AFF).]

SECTION HISTORY
1995, c. 368, §J1 (NEW). 1997, c. 526, §14 (AMD). 2011, c. 655, Pt. DD, §4 (AMD). 2011, c. 655, Pt. DD, §24 (AFF).

§1710-J. ACCESS TO INFORMATION

In order to assist the committee, the Department of Administrative and Financial Services shall provide information and data to the committee on request. The committee members are bound by the confidentiality restrictions concerning certain tax records described in Title 36, chapter 7. The State Tax Assessor may disclose any corporate or individualized income tax data, sales and use tax data, business tax data, property tax data or other tax data to the committee or its staff. This information may be requested in any form, including paper records, computerized data or summary statistics, but may not be transmitted with any identification by taxpayer name, number or address and must be aggregated to include at least 3 taxpayers. The State Tax Assessor shall provide information annually to the committee before the committee's December 1st report pursuant to section 1710-F concerning the amount of actual capital gains and losses experienced by taxpayers filing income tax returns in the State under Title 36, Part 8 for tax years ending in the previous calendar year. Data reported concerning capital gains and losses may be distributed by decile or quartile. In the absence of actual data, the State Tax Assessor may provide estimates of the capital gains or loss experience. [2001, c. 652, §1 (AMD).]

SECTION HISTORY
1995, c. 368, §J1 (NEW). 2001, c. 652, §1 (AMD).

Chapter 151-C: COMMISSION ON PERFORMANCE BUDGETING

§1710-K. PERFORMANCE BUDGETING; DEFINITIONS

(REPEALED)

SECTION HISTORY
1995, c. 395, §B1 (NEW). 1995, c. 705, §1 (RPR). 1997, c. 184, §§1-3 (AMD). 1997, c. 764, §1 (AMD). MRSA T. 5, §1710-Q (RP).

§1710-L. COMMISSION ON PERFORMANCE BUDGETING ESTABLISHED; MEMBERSHIP; APPOINTMENT

(REPEALED)

SECTION HISTORY
1995, c. 395, §B1 (NEW). RR 1997, c. 2, §12 (COR). 1997, c. 184, §4 (AMD). 1997, c. 764, §§2,3 (AMD). 1999, c. 561, §1 (AMD). MRSA T. 5, §1710-Q (RP).

§1710-M. DUTIES OF COMMISSION

(REPEALED)

SECTION HISTORY
1995, c. 395, §B1 (NEW). 1997, c. 184, §5 (AMD). 1997, c. 764, §4 (AMD). 1999, c. 561, §2 (AMD). MRSA T. 5, §1710-Q (RP).

§1710-N. STAFFING

(REPEALED)

SECTION HISTORY
1995, c. 395, §B1 (NEW). 1997, c. 764, §5 (AMD). MRSA T.5, §1710-Q (RP).

§1710-O. MEETINGS

(REPEALED)

SECTION HISTORY
1995, c. 395, §B1 (NEW). 1997, c. 184, §6 (AMD). MRSA T. 5, §1710-Q (RP).

§1710-P. PERFORMANCE BUDGETING

(REPEALED)

SECTION HISTORY
1995, c. 705, §2 (NEW). 1997, c. 184, §§7-10 (AMD). 1997, c. 764, §6 (AMD). MRSA T. 5, §1710-Q (RP).

§1710-Q. REPEAL

(REPEALED)

SECTION HISTORY
1995, c. 705, §2 (NEW). 1997, c. 764, §7 (AMD). MRSA T. 5, §1710-Q (RP).

Chapter 152: INSURANCE ON STATE-OWNED PROPERTY

§1711. THE MAINE INSURANCE ADVISORY BOARD

(REPEALED)

SECTION HISTORY
1965, c. 514, §2 (NEW). 1971, c. 239, §1 (RP).

§1712. MEETINGS; COMPENSATION

(REPEALED)

SECTION HISTORY
1965, c. 514, §2 (NEW). 1971, c. 239, §1 (RP). 1971, c. 514, (AMD). 1971, c. 622, §16 (RP).

§1713. PERSONNEL; SELECTION; DUTIES

(REPEALED)

SECTION HISTORY
1965, c. 514, §2 (NEW). 1971, c. 239, §1 (RP).

§1714. POWERS AND DUTIES OF THE BOARD

(REPEALED)

SECTION HISTORY
1965, c. 514, §2 (NEW). 1971, c. 239, §1 (RP).

§1715. REMOVAL OF MEMBERS; VACANCIES

(REPEALED)

SECTION HISTORY
1965, c. 514, §2 (NEW). 1971, c. 239, §1 (RP).

§1716. RECORDS; AUDIT

(REPEALED)

SECTION HISTORY
1965, c. 514, §2 (NEW). 1971, c. 239, §1 (RP).

§1717. REPORTS

(REPEALED)

SECTION HISTORY
1965, c. 514, §2 (NEW). 1971, c. 239, §1 (RP).

§1718. RESERVE FUND FOR UNINSURED LOSSES

(REPEALED)

SECTION HISTORY
1965, c. 514, §2 (NEW). 1971, c. 239, §1 (RP).

§1719. PAYMENTS; AMOUNT

(REPEALED)

SECTION HISTORY
1965, c. 514, §2 (NEW). 1971, c. 239, §1 (RP).

§1720. FUND LIMITATIONS

(REPEALED)

SECTION HISTORY
1965, c. 514, §2 (NEW). 1967, c. 171, (AMD). 1971, c. 239, §1 (RP).

§1721. ADMINISTRATION; UNINSURED LOSSES

(REPEALED)

SECTION HISTORY
1965, c. 514, §2 (NEW). 1971, c. 239, §1 (RP).

§1722. SIZE OF DEDUCTIBLE

(REPEALED)

SECTION HISTORY
1965, c. 514, §2 (NEW). 1971, c. 239, §1 (RP).

§1723. DEPOSIT

(REPEALED)

SECTION HISTORY
1965, c. 514, §2 (NEW). 1971, c. 181, §9 (RPR). 1971, c. 239, §1 (RP).
1971, c. 544, §14 (RP).

§1725. THE MAINE INSURANCE ADVISORY BOARD

(REPEALED)

SECTION HISTORY
1971, c. 239, §2 (NEW). 1983, c. 349, §3 (RP).

§1725-A. RISK MANAGEMENT

1. **Creation and authority.** The Department of Administrative and Financial Services is designated as the agency through which this chapter is administered. The Director of the Bureau of General Services, in this chapter called the "director," is empowered with such authority as necessary to carry out the purposes of this chapter.

Risk management responsibilities are under the supervision and administrative control of the Director of the Bureau of General Services.

[1991, c. 780, Pt. Y, §51 (AMD) .]

2. **Director of General Services.** The commissioner shall appoint the Director of the Bureau of General Services, in this chapter called the "director," to administer the State's policy on insurance management, as developed through the authority of this chapter. The director or the director's designee must be knowledgeable of insurance practices and principles and must be qualified by actual experience in the field of risk management to carry out the purposes of this chapter.

[1991, c. 780, Pt. Y, §51 (AMD) .]

3. **Personnel.** The director may employ such assistants and employees as are necessary, and distribute the risk management duties among such persons as the director considers necessary for economy and efficiency of administration. Employees are subject to the Civil Service Law.

[1991, c. 780, Pt. Y, §51 (AMD) .]

SECTION HISTORY
1983, c. 349, §4 (NEW). 1985, c. 785, §A61 (AMD). 1985, c. 785, §B30 (AMD). 1991, c. 780, §Y51 (AMD).

§1726. MEETINGS; COMPENSATION

(REPEALED)

SECTION HISTORY
1971, c. 239, §2 (NEW). 1971, c. 622, §17 (AMD). 1983, c. 349, §5 (RP).

§1727. PERSONNEL; SELECTION; DUTIES

(REPEALED)

SECTION HISTORY
1971, c. 239, §2 (NEW). 1983, c. 349, §6 (RP). 1983, c. 489, §6 (AMD). 1983, c. 816, §B1 (RP).

§1727-A. CONFLICT OF INTEREST PROHIBITED

The director or any other employee of the division shall not be financially interested, directly or indirectly, in any insurer, agency or insurance transaction, except as a policyholder or claimant under a policy, nor shall the director or any other employee be licensed under Title 24-A, as an agent, broker, consultant or adjuster. [1983, c. 349, §7 (NEW).]

SECTION HISTORY
1983, c. 349, §7 (NEW).

§1728. POWERS AND DUTIES OF THE BOARD

(REPEALED)

SECTION HISTORY
1971, c. 239, §2 (NEW). 1977, c. 71, (AMD). 1979, c. 14, (AMD). 1983, c. 349, §8 (RP).

§1728-A. POWERS AND DUTIES OF THE DIRECTOR

1. **Duties.** The director shall provide insurance advice and services for all forms of insurance for State Government and any department or agency of State Government except for those departments or agencies and those types of insurance otherwise provided for by law through the self-insurance fund and to other entities designated as entitled to advice and services through the state-administered fund pursuant to section 1737. The director is responsible for the acquisition and administration of all insurance purchased by the State, including the authority to purchase insurance for the State for automobile, fire, liability and any other type of coverage necessary to protect the State from financial loss. The director may enter into contracts for various types of claims management services in order to ensure the most economically advantageous insurance protection in the operation of the State's insurance coverage program. In these regards, the director has the following duties:

A. To review annually the entire subject of insurance as it applies to all state property and activities and other persons pursuant to this section, and to provide to the Commissioner of Administrative and Financial Services a statement of its activities during the year ending the preceding June 30th. This report must include:

(1) An evaluation of the state insurance program;

(2) A complete statement of all types and costs of insurance in effect;

(3) Names of agents and companies of record; and

(4) Such other matters as the director determines appropriate and necessary or as the commissioner may request; [1993, c. 470, §1 (AMD).]

B. To recommend to the Commissioner of Administrative and Financial Services such insurance protection as the director considers necessary or desirable for the protection of all state property or activities or other insureds under this section; [1993, c. 470, §1 (AMD).]

C. Pursuant to programs approved by the Commissioner of Administrative and Financial Services, to provide insurance protection for property and liability in accordance with the Maine Tort Claims Act, Title 14, section 8116, and premises liability, when required by a state lease or private property approved by the Attorney General, by self-insured retention or purchase of insurance from companies or agents licensed to do business in this State, or by both, to effect the best possible contracts as to services, coverages and costs. The purchase of insurance under this section normally must be made upon competitive bidding, except that the director may, in appropriate circumstances, purchase insurance by negotiation; [1993, c. 470, §1 (AMD).]

D. To determine and review the values of property in which the State has an insurable or legal interest and recommend limits and types of insurance protection for that property; [1987, c. 778, §1 (AMD).]

E. To establish and promote safety and other loss prevention programs; [1987, c. 778, §1 (AMD).]

F. To receive and, with the assistance of the Attorney General, administer all claims for personal injury and property damage against the State; [1993, c. 470, §1 (AMD).]

G. With the assistance of the Attorney General, to pursue all claims against 3rd parties in all cases in which the State may be subrogated to the rights of injured employees or where damage to state property may have resulted from the negligence of a 3rd party; [1993, c. 470, §1 (AMD).]

H. To administer the funds established by sections 1731 and 1737. In performing the functions authorized by this chapter, the funds, the Commissioner of Administrative and Financial Services and the director are not subject to the provisions of Title 24-A; and [1993, c. 470, §1 (NEW).]

I. On or before December 31, 1996 and every 3 years thereafter, to submit to the Commissioner of Administrative and Financial Services a report on the availability and affordability of insurance advice and services to those entities participating in the state-administered fund pursuant to section 1737 and to make specific recommendations for the removal from the state-administered fund of those entities that do not qualify. [1993, c. 470, §1 (NEW).]

[1993, c. 470, §1 (AMD) .]

2. **Appraisal.** In case an agreement as to the amount of loss sustained to any building or property insured under this chapter can not be arrived at between the insured entity and the director, the loss must be referred to appraisal as provided by Title 24-A, section 3002.

[1993, c. 470, §1 (AMD) .]

3. **Rejection of risk.** In the event that the director determines that a risk may be prejudicial to the State's insurance program or to the state-administered fund established by section 1737 because of an actual or expected adverse loss ratio, the director may refuse to include that risk in the program until the time that the hazards of the risk have been removed or ameliorated to a satisfactory degree.

When coverage is declined by the director, the department, agency or entity in charge of the risk may request that the director procure separate insurance from any authorized insurance company, and the premium for that separate insurance is a proper charge against the department, agency or entity responsible for the property.

[1993, c. 470, §1 (AMD) .]

4. **Forms and rules.** The director may prescribe forms of policies, proofs of loss and other forms and may adopt rules as are necessary or expedient for the proper administration of this chapter.

[1993, c. 470, §1 (AMD) .]

5. **Actuarial review.** Once every 3 years, and more frequently if determined prudent by the Commissioner of Administrative and Financial Services, the director shall arrange for a review of the reserves of the state-administered fund by a qualified actuary who is a member in good standing of the Casualty Actuarial Society. The actuary shall issue an opinion on the adequacy of reserves of the state-administered fund to cover the estimated ultimate liability of the state-administered fund. Costs for this service must be paid from the Risk Management Fund.

[1993, c. 470, §1 (NEW) .]

SECTION HISTORY
1983, c. 349, §9 (NEW). 1987, c. 778, §1 (AMD). 1989, c. 94, (AMD). 1991, c. 376, §21 (AMD). 1993, c. 470, §1 (AMD).

§1729. REMOVAL OF MEMBERS; VACANCIES

(REPEALED)

SECTION HISTORY
1971, c. 239, §2 (NEW). 1983, c. 349, §10 (RP).

§1730. RECORDS; AUDIT

The division shall keep a record of all its proceedings. [1983, c. 349, §11 (AMD).]

The division shall have an audit made of its accounts annually covering the last complete fiscal year by the Office of the State Auditor. [1983, c. 349, §11 (AMD); 2013, c. 16, §10 (REV).]

The policies for all insurance placed shall be kept on file with the division. [1983, c. 349, §11 (AMD).]

SECTION HISTORY
1971, c. 239, §2 (NEW). 1983, c. 349, §11 (AMD). 2013, c. 16, §10 (REV).

§1731. RESERVE FUND FOR SELF-INSURED RETENTION LOSSES

A reserve fund, referred to in this chapter as the "self-insurance fund," is created to indemnify the State or the State's designated payee for self-insured retention losses and related loss adjustment expenses from those perils insured against under a deductible or self-insured retention program, as recommended by the director and approved by the Commissioner of Administrative and Financial Services. With the approval of the commissioner, the self-insurance fund may be used for loss prevention programs administered by either the risk management division within the Bureau of General Services or the Bureau of Human Resources. The total amount of the self-insurance fund provided for loss prevention programs in any given year may not exceed 5% of the self-insurance fund as of July 1st of that fiscal year. The self-insurance fund is a continuing fund and does not lapse. Funds provided from the self-insurance fund to the Bureau of Human Resources are similarly nonlapsing and are carried forward through the Bureau of Human Resources' Dedicated Revenue Account. [1993, c. 470, §2 (AMD).]

As approved by the Commissioner of Administrative and Financial Services, up to 10% of the amount of the self-insurance fund as of July 1st of each fiscal year may be used to ensure the prompt payment of workers' compensation claims for state agencies as required by law. Any funds so transferred must be repaid to the self-insurance fund by use of a written agreement that specifies reimbursement within the same biennium in which the transfer was made. [1993, c. 470, §2 (AMD).]

SECTION HISTORY
1971, c. 239, §2 (NEW). 1983, c. 349, §12 (AMD). 1985, c. 785, §C2 (RPR). 1989, c. 483, §A13 (AMD). 1989, c. 501, §P14 (AMD). 1989, c. 857, §20 (AMD). 1989, c. 875, §E6 (AMD). 1989, c. 878, §§D1,2 (AMD). 1991, c. 528, §III11 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §III11 (AMD). 1993, c. 470, §2 (AMD).

§1731-A. LIMITATION AND PROVISION FOR STOP-LOSS INSURANCE

Deductible or self-insured retention provisions hereunder may not exceed 25% of the self-insurance fund as of July 1st of the current fiscal year per occurrence with respect to any risk of loss. [1993, c. 470, §3 (AMD).]

The director may purchase such reinsurance of the deductible or self-insured retentions hereunder as he may deem necessary or desirable. The director may purchase such reinsurance protection from companies or agents licensed or approved by the Superintendent of Insurance to do business in the State. [1983, c. 349, §13 (AMD).]

SECTION HISTORY
1971, c. 239, §2 (NEW). 1983, c. 349, §13 (AMD). 1985, c. 534, (AMD). 1989, c. 857, §21 (AMD). 1993, c. 470, §3 (AMD).

§1732. ADMINISTRATION

The self-insurance fund must be administered by the Commissioner of Administrative and Financial Services. The commissioner shall deposit the self-insurance fund with the Treasurer of State for investment. All proceeds of that investment accrue to the self-insurance fund. [1993, c. 470, §4 (AMD).]

SECTION HISTORY
1971, c. 239, §2 (NEW). 1983, c. 349, §14 (AMD). 1985, c. 785, §A62 (AMD). 1991, c. 780, §Y52 (AMD). 1993, c. 470, §4 (AMD).

§1733. CAPITALIZATION OF SELF-INSURANCE FUND

The self-insurance fund is capitalized by legislative appropriations, payments from state departments and agencies, investment income accruing to the self-insurance fund and by such other means as the Legislature approves. [1993, c. 470, §5 (AMD).]

Payments to the self-insurance fund from its participants must be calculated on a pro rata basis as determined by the director and based on the prior claims experience of the departments or agencies. [1993, c. 470, §5 (AMD).]

SECTION HISTORY
1971, c. 239, §2 (NEW). 1983, c. 349, §15 (AMD). 1989, c. 857, §22 (AMD). 1993, c. 470, §5 (AMD).

§1734. SELF-INSURANCE FUND LIMITATION

The self-insurance fund may not exceed 2% of the then current value of all state-insured or self-insured retention property protected by the self-insurance fund as determined by the director. [1993, c. 470, §6 (AMD).]

If the self-insurance fund reaches or exceeds the maximum amount specified in this section, payments to the self-insurance fund, as specified in section 1733, must cease and any excess must be transferred into the General Fund not later than the end of the first quarter of the next fiscal year. [1993, c. 470, §6 (AMD).]

Payments to the self-insurance fund may not begin again until such time as the amount in the self-insurance fund drops below the maximum amount specified in this section. [1993, c. 470, §6 (AMD).]

SECTION HISTORY
1971, c. 239, §2 (NEW). 1983, c. 349, §16 (AMD). 1993, c. 470, §6 (AMD).

§1735. DEPLETION OF SELF-INSURANCE FUND

In the event that payments from the self-insurance fund should reduce it below $1,000,000, the Commissioner of Administrative and Financial Services shall recommend to the Legislature that funds be appropriated to restore the self-insurance fund up to the maximum amount it had previously attained. [1993, c. 470, §7 (AMD).]

SECTION HISTORY
1971, c. 239, §2 (NEW). 1971, c. 622, §§17-A (AMD). 1983, c. 349, §17 (AMD). 1993, c. 470, §7 (AMD).

§1736. PAYMENT OF LOSSES

Pursuant to the recommendation of the director, the Commissioner of Administrative and Financial Services may cause payments from the self-insurance fund or proceeds of insurance purchased in accordance with this chapter, or both, to be made available for repair or replacement of insured property and payment of losses and loss adjustment expenses. [1993, c. 470, §8 (AMD).]

SECTION HISTORY
1971, c. 239, §2 (NEW). 1983, c. 349, §18 (AMD). 1989, c. 857, §23 (AMD). 1993, c. 470, §8 (AMD).

§1737. STATE-ADMINISTERED FUND

1. **Creation of state-administered fund.** A reserve fund, referred to in this chapter as the "state-administered fund," is created to indemnify persons and entities eligible for participation pursuant to subsection 2 for losses and related loss adjustment expenses from those perils insured against under a deductible or self-insured retention program as recommended by the director and approved by the Commissioner of Administrative and Financial Services. With the approval of the commissioner, the state-administered fund may be used for loss prevention programs administered by the risk management division within the Bureau of General Services. The total amount of the state-administered fund provided for loss prevention programs in any given year may not exceed 5% of the state-administered fund as of July 1st of that fiscal year. The state-administered fund is a continuing fund and does not lapse.

[1993, c. 470, §9 (NEW) .]

2. **Eligibility for participation in state-administered fund.** The director may offer insurance advice and services to persons or entities other than state departments or agencies if:

A. The director has been authorized to do so by law; [1993, c. 470, §9 (NEW).]

B. The Governor has approved that person or entity for insurance advice and service; [1993, c. 470, §9 (NEW).]

C. Coverage is unavailable or is offered only at unreasonable cost to that person or entity; and [1993, c. 470, §9 (NEW).]

D. That person or entity has demonstrated a strong public need for the services provided by that person or entity. [1993, c. 470, §9 (NEW).]

[1993, c. 470, §9 (NEW) .]

3. **Interim coverage.** The director may offer insurance advice and services for no more than 6 months when the Governor, in the absence of the Legislature, determines that it is appropriate to do so based on consideration of the risks involved and the governmental objectives served by that coverage.

[1993, c. 470, §9 (NEW) .]

4. **Directed services.** Notwithstanding the provisions of subsection 2, the director may provide insurance advice or services for family foster homes as defined in Title 22, section 8101, subsection 3; specialized children's homes, as defined in Title 22, section 8101, subsection 5; respite care providers as defined in Title 34-B, section 6201, subsection 2-A; the Casco Bay Island Transit District created by Private and Special Law 1981, chapter 22; the University of Maine System; the Maine Community College System; the Maine Maritime Academy; and the State's local workforce investment areas designated under the federal

Workforce Investment Act of 1998, Public Law 105-220. The director may provide insurance services for public schools as defined in Title 20-A, section 1, subsection 24 if the provisions of subsection 2 are met. Notwithstanding subsection 2, the director may provide insurance advice for public schools.

[2007, c. 84, §1 (AMD) .]

5. **Capitalization of state-administered fund.** The state-administered fund is capitalized by payments from persons or entities insured by the fund, by returned premiums or claims proceeds paid pursuant to terms of any insurance contract and by other means the Legislature approves. In establishing the initial capitalization of the state-administered fund, the Commissioner of Administrative and Financial Services may transfer from the self-insurance fund established by section 1731 to the state-administered fund an amount that the commissioner determines to be the existing balance attributable to any risks formerly covered by the self-insurance fund that must be covered in the future by the state-administered fund. The commissioner shall deposit the state-administered fund with the Treasurer of State for investment. All proceeds of that investment accrue to the state-administered fund. The commissioner shall comply with applicable federal circulars and has the discretion to include public instrumentalities in the state-administered fund if the commissioner determines that the inclusion of these instrumentalities is necessary to allow the state-administered fund as a whole to offer insurance at affordable rates.

[1993, c. 470, §9 (NEW) .]

6. **Limitation on use of state-administered fund.** The state-administered fund may be used only for insurance purposes in accordance with this chapter and the assets of the state-administered fund may not be transferred to meet a budgetary shortfall or pay uninsured expenses.

[1993, c. 470, §9 (NEW) .]

7. **No expansion of liability under the Maine Tort Claims Act.** The insurance advice and services provided by the state-administered fund do not expand the limits of liability or abrogate immunities contained in the Maine Tort Claims Act or any other state or federal law.

[1993, c. 470, §9 (NEW) .]

8. **Payments from state-administered fund.** Pursuant to the recommendation of the director, the Commissioner of Administrative and Financial Services may cause payments from the state-administered fund or proceeds of insurance purchased in accordance with this section, or both, to be made available for repair or replacement of insured property and payment of losses and loss adjustment expenses. The rights of a person or entity insured under this section are limited to the extent specified in the contractual agreements or policies of insurance entered into between those persons or entities and the director and any involved insurance companies. Notwithstanding any contractual agreements or policies of insurance, persons or entities participating in the state-administered fund do not have a right of recovery except against the assets of the state-administered fund and do not have recourse against the General Fund, the assets of the State or the commissioner, the director or any other state employee. The commissioner shall establish procedures to ensure adequate disclosure of this limitation on rights of recovery to the entities insured under this section.

[1993, c. 470, §9 (NEW) .]

SECTION HISTORY
1993, c. 470, §9 (NEW). 1993, c. 619, §1 (AMD). 1997, c. 46, §1 (AMD). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF). 2003, c. 114, §2 (AMD). 2007, c. 84, §1 (AMD).

Chapter 153: PUBLIC IMPROVEMENTS

Subchapter 1: POWERS; BIDS AND CONTRACTS GENERALLY

§1741. DEFINITIONS

Whenever the words "public improvement" or "public improvements" appear in chapters 141 to 155, those words mean and include the construction, major alteration or repair of buildings or public works now owned or leased or constructed, acquired or leased by the State or any department, officer, board, commission or agency of the State, or constructed, acquired or leased, in whole or in part with state funds, and including the construction, major alteration or repair of school buildings, in excess of $25,000, by any school administrative unit and for which state school construction aid is to be paid, except that sections 1743 and 1745 are not applicable to construction, major alteration or repair of school buildings. This subchapter does not apply to contracts for transportation-related services and contracts for construction and maintenance that, by law, are under the supervision of the Department of Transportation or the Maine Turnpike Authority. [2015, c. 5, §1 (AMD).]

The word "person" as used in this section and sections 1745 to 1749 means and includes any individual, copartnership, association, corporation or joint stock company and their lessees, trustees or receivers appointed by any court whatsoever. [2005, c. 313, §1 (AMD).]

SECTION HISTORY
1971, c. 542, §1 (AMD). 1971, c. 593, §22 (AMD). 1973, c. 154, §1 (AMD). 1979, c. 541, §A38 (AMD). 1985, c. 130, (AMD). 2005, c. 313, §1 (AMD). 2015, c. 5, §1 (AMD).

§1742. POWERS AND DUTIES

The Department of Administrative and Financial Services, through the Bureau of General Services, has authority: [1991, c. 780, Pt. Y, §53 (AMD).]

1. **Programs.** To require the development of overall long range public improvement programs for all departments and agencies of the State Government and to coordinate and present recommendations pertaining thereto to the Governor, the Governor-elect, the State Budget Officer and the Legislature;

2. **Inspection.** To regularly inspect state-owned and leased buildings in the State and report to the controlling department head whatever construction, repairs, alterations and improvements are determined necessary. If the Commissioner of Administrative and Financial Services considers it advisable, the commissioner shall make a similar report to the Governor;

[1991, c. 780, Pt. Y, §54 (AMD) .]

3. **Advise.** Upon request to advise all state departments, agencies and school administrative units in connection with engineering and architectural questions and matters pertaining to any and all public improvements;

[1971, c. 542, §2 (AMD) .]

4. **Review.** To review the operation and maintenance of state-owned and leased buildings and property and to make recommendations with respect thereto to the Commissioner of Administrative and Financial Services and controlling department or agency head concerned;

[1991, c. 780, Pt. Y, §55 (AMD) .]

5. **Data.** To prepare, at the request of the Governor or the Legislature, data pertaining to existing or proposed public improvements;

[1975, c. 771, §79 (AMD) .]

6. **Approve selection of architects and engineers and other professionals.** To approve the selection of architects and engineers registered in Maine and other professionals in the planning, design and monitoring of construction of public improvements consistent with the policy of this State that proposals for professional, architectural and engineering services for public improvements be publicly announced, and that contracts for those services be negotiated by the contracting authority on the basis of evaluation of professional competency and qualifications required for the type of services contemplated at fair and reasonable prices.

The bureau shall adopt procedures for the procurement of any professional, architectural and engineering services for public improvements as defined in section 1741. The procedures must be adopted pursuant to Title 5, chapter 375 and be deemed a rule.

The procedure must contain a provision that, prior to initiating the process of selecting an architect or engineer or other professional for any project, the contracting authority shall advertise in a daily newspaper that serves the area in which the project is likely to be located. The advertisement must state, at a minimum, that the selection is to take place and describe the procedures that an engineer or architect or other professional may use to be considered as a candidate in the selection process.

Notwithstanding this subsection, the bureau may select a person or persons to perform professional, architectural or engineering services from the list described in this subsection without advertising or competitive selection if the cost of the services does not exceed $25,000. The bureau shall solicit names for placement on a list by placing a general advertisement for professional, architectural or engineering services in newspapers that taken together have general circulation throughout the State. The bureau may substitute advertisement in professional journals or other publications that it finds equally effective in reaching the intended audience. The bureau may require persons responding to the advertisement to complete a qualifying questionnaire designed to address experience and expertise in performing the type of work advertised. The bureau shall prepare a list of respondents that it determines qualified and update the list at least every 2 years.

If the bureau determines that a person is not qualified for placement on the list of providers of professional, architectural or engineering services, the person may appeal that decision in writing to the Commissioner of Administrative and Financial Services within 15 days of the bureau's decision. The commissioner shall complete the appeal process and issue a decision within 15 days of the filing of the appeal. The decision of the commissioner is final;

[2013, c. 1, §10 (COR) .]

6-A. **Building code.** To adopt for design purposes for all public improvements the most recent version of one of the following published compilations of rules that has been prepared by the International Code Council, the American Insurance Association, the Building Officials and Code Administrators International, the International Conference of Building Officials, the National Fire Protection Association or the Southern Building Code Congress, except that, where an administrative unit has adopted one of the above codes, that code must be used for the design of a school building in that administrative unit.

The bureau has discretion to determine which portions of the building codes used in this subsection are applicable to public improvement projects. This determination must be adopted by rule and applies to all public improvement projects covered by those codes. Rules adopted pursuant to this subsection are routine technical rules as defined in chapter 375, subchapter II-A;

[2001, c. 607, §1 (AMD) .]

7. **Approve plans for public improvements.** To approve all proposals, plans, specifications and contracts for public improvements that the State or any of its agencies hold in fee or by leasehold interest and for school administrative unit projects costing in excess of $100,000. The commissioner shall, upon the request of a school administrative unit, provide consultation for any public improvement regardless of cost. The Bureau of General Services shall furnish a quarterly report to the project unit school board that details the

services provided to the project during the time period covered by the report. The Bureau of General Services shall submit to the State Board of Education an annual report that summarizes the services provided each project;

[2005, c. 386, Pt. L, §1 (AMD) .]

8. **Inspection.** To inspect materials, equipment, methods used and changes in plans in making public improvements, and inspect public improvements during the course of construction or repair, and make such recommendations as may be indicated to the architect or engineer, when employed, to the controlling department or agency head, or school administrative unit. The architect or engineer when employed shall provide adequate inspection of materials, equipment, methods and changes in plans on all projects under his supervision;

[1971, c. 542, §4 (AMD) .]

9. **Recommendations.** To require prompt inspection upon the completion of any public improvement and to make recommendations promptly for the acceptance or rejection thereof to the authority which approved the execution of the project;

10. **Inventory.**

[1997, c. 90, §2 (RP) .]

11. **Listing of real estate.** To require the listing of real estate belonging to or under lease to the State Government, showing controlling agency, location, metes and bounds, cost or rental rate and when acquired or rented;

12. **Demolish obsolete buildings.** To demolish or otherwise dispose of buildings and appurtenances, excluding land, belonging to the State that have become hazards, obsolete or are unjustifiably expensive to maintain. Such demolition or other disposal shall be on the recommendation of the department or agency head having jurisdiction over the buildings and appurtenances concerned and under such terms and conditions as deemed by the Governor to be in the best interests of the State;

[1975, c. 771, §80 (AMD) .]

13. **File of plans.** To collect and maintain a complete and accurate file of drawings showing plans of location and situation of all public improvements;

14. **Records.** To collect and maintain records of construction costs and progress of all public improvements;

15. **Supervision of State House and grounds.** To have general supervision of the State House and the grounds specified in Title 3, section 902-A, subsection 2, and to make repairs and alterations in and about such grounds and buildings at the direction of the Legislative Council or the Executive Director of the Legislative Council, as provided in Title 3, section 902, subsection 3;

[1989, c. 410, §18 (AMD) .]

16. **Maintain public park in Augusta.** To maintain all that portion of the state lands specified in Title 3, section 902, subsection 2, in accordance with the official plans proposed by the State House and Capitol Park Commission to the Legislative Council and adopted by the Legislature pursuant to Title 3, section 902, subsection 1;

[1989, c. 410, §18 (AMD) .]

17. **Food service.** To provide, with the consent of the Governor, food service in the state office buildings located at the seat of government and elsewhere in the State as may be determined by the Governor;

[1975, c. 771, §81 (AMD) .]

18. **Assign rooms.** To assign rooms in all buildings used by the State for offices and determine the occupancy thereof in such manner as the public service may require;

19. **Facilities required by State.**

[1991, c. 9, Pt. L, §1 (RP) .]

19-A. **Real property leases required by State.** Except as provided in section 1742-D, to locate, negotiate and manage all real property leases required by departments and agencies of State Government;

[1991, c. 9, Pt. L, §2 (NEW) .]

19-B. **Real property interests acquired by State.**

[2007, c. 488, §1 (NEW); T. 5, §1742, sub-§19-B (RP) .]

20. **Utility services.**

[1985, c. 785, Pt. A, §66 (RP); 1987, c. 402, Pt. A, §§41, 42 (AMD) .]

20-A. **Utility services.** To purchase or contract or approve the purchasing or contracting for electric, water, sewerage and gas services for any department and agency of State Government and to grant necessary easements for utilities;

A. [1987, c. 282, §1 (RP).]

B. [1987, c. 282, §1 (RP).]

C. [1987, c. 282, §1 (RP).]

[1991, c. 780, Pt. Y, §56 (AMD) .]

21. **Rules.** To make rules, subject to the approval of the Commissioner of Administrative and Financial Services for the purposes of carrying out this subchapter;

[1991, c. 780, Pt. Y, §57 (AMD) .]

22. **Drug-related seized property.**

[1989, c. 483, Pt. A, §15 (RP) .]

23. **Inventory of land.** To periodically inventory all land owned by any state agency and, together with other state agencies, determine land that is needed by state agencies for other uses and land that is surplus. Prior to offering any land for sale, the commissioner shall review with the Maine State Housing Authority and other state agencies the information derived from the inventory.

A. By February 1, 1988, the commissioner shall provide an initial report on the status of the land inventory to the joint standing committees of the Legislature having jurisdiction over economic development; state and local government; and appropriations and financial affairs. [1987, c. 407, §3 (NEW).]

B. Notwithstanding any other provision of law, the procedure for the distribution of surplus state property for the purpose of this subsection shall take priority over any other procedure for the disbursement of surplus state land. [1987, c. 407, §2 (NEW).]

C. Nothing in this subsection shall be construed to pertain to public reserved lands which are exempt from this subsection. [1989, c. 502, Pt. A, §15 (AMD).]

D. The department shall work closely with the Maine State Housing Authority to develop a procedure by which surplus state-owned land and structures are held in trust for the purpose set forth in this section and Title 30-A, chapter 201, subchapters III-A and XI; [1989, c. 502, Pt. A, §16 (AMD).]

[1989, c. 502, Pt. A, §§15, 16 (AMD) .]

24. **Application of minimum air ventilation standards.** Beginning September 1, 1988, to apply ASHRAE Standard 62-1989 entitled, Ventilation for Acceptable Indoor Air Quality, as prepared by the American Society of Heating, Refrigeration and Air Conditioning Engineers, Inc. or more stringent standards to buildings occupied by state employees during normal working hours. These standards must be applied to buildings that are constructed or substantially renovated by the State after September 1, 1988 and to buildings for which the State enters into new leases or renews leases following the date in this subsection. For the purpose of this subsection, "substantial renovation" means any renovation for which the cost exceeds 50% of the buildings' value.

A. The bureau, in cooperation with a labor-management committee established to look at this issue, shall develop a plan by which priorities are established for improving indoor air quality and ventilation standards in buildings occupied by state employees. This plan must include data gathering and analysis of air quality in a sample number of buildings by which reasonable projections and estimates concerning air quality can be established. The bureau shall report its findings to the joint standing committee of the Legislature having jurisdiction over state and local government no later than January 16, 1989. This report, at a minimum, must contain the following:

(1) A description of the extent of the problem, if any, with respect to air quality and ventilation in buildings occupied by state employees;

(2) Priorities of locations for which the improvement of air quality is necessary. These locations must be areas occupied by state employees during normal working hours;

(3) A timetable by which these priorities could be addressed;

(4) A description of what may be necessary to address these priorities, including feasible alternatives;

(5) The costs of addressing these priorities; and

(6) If possible, locations leased by the State that may not meet the air quality standards defined in this subsection.

Nothing in this paragraph may be construed to require the bureau to conduct an in depth analysis for each building or to present technical data for each building occupied by state employees. [2005, c. 634, §4 (AMD).]

B. The indoor air quality and ventilation standards applied by the bureau remain in effect until the Board of Occupational Safety and Health adopts air quality and ventilation standards; [2005, c. 634, §4 (AMD).]

[2005, c. 634, §4 (AMD) .]

25. **Sites for child care programs.** To review, in cooperation with the Office of Child Care Coordination in the Department of Health and Human Services, feasible sites for child care programs offered primarily as a service to state employees pursuant to Title 22, section 8307, subsection 2;

[2013, c. 1, §11 (COR) .]

26. **Rental income.** To credit income from the rental of facilities in Limestone to the Department of Administrative and Financial Services, Bureau of General Services, Other Special Revenue Funds account. These funds must be used for repairs, capital improvements and other costs of managing the facilities operated by the Maine Military Authority in Limestone.

Notwithstanding any other provision of law and except when the Governor in the case of an emergency pursuant to Title 37-B, section 742 or 744 needs money for disaster relief the Governor may transfer no more than 10% of the balance of the rental income, the department also may recommend that:

A. Part of the rental income collected by the Department of Administrative and Financial Services, Bureau of General Services pursuant to this subsection be transferred to the General Fund as undedicated revenue; [2005, c. 519, Pt. W, §1 (NEW).]

B. Part of the rental income collected by the Department of Administrative and Financial Services, Bureau of General Services pursuant to this subsection be transferred to the Department of Defense, Veterans and Emergency Management, Maine National Guard Education Assistance Pilot Program, Other Special Revenue Funds account for tuition assistance; [2005, c. 634, §6 (AMD).]

C. Part of the rental income collected by the Department of Administrative and Financial Services, Bureau of General Services pursuant to this subsection be transferred to the Department of Defense, Veterans and Emergency Management, Maine National Guard Education Assistance Pilot Program, Other Special Revenue Funds account for the reimbursement of the purchase of supplemental life insurance as provided for in the provisions of Title 37-B, section 390-B; [2009, c. 1, Pt. CC, §2 (AMD).]

D. Beginning July 1, 2007, part of the rental income collected by the Department of Administrative and Financial Services, Bureau of General Services pursuant to this subsection be transferred to the Department of Defense, Veterans and Emergency Management for maintenance and repair of National Guard armories in the State; and [2005, c. 634, §6 (NEW).]

E. Part of the rental income collected by the Department of Administrative and Financial Services, Bureau of General Services pursuant to this subsection be transferred to the Department of Defense, Veterans and Emergency Management, Disaster Assistance Relief, Other Special Revenue Funds account for disaster assistance; and [2011, c. 2, §2 (COR).]

[2011, c. 2, §2 (COR) .]

27. **Disaster assistance.**

[2009, c. 1, Pt. CC, §4 (RP) .]

28. **State landfills.** To own, design, develop or operate, or contract with private parties to operate, solid waste disposal facilities, as provided in Title 38, chapter 24, subchapter 4.

[2011, c. 655, Pt. GG, §1 (NEW); 2011, c. 655, Pt. GG, §70 (AFF) .]

The head of any agency, board, commission, department of the State Government or school administrative unit, not otherwise exempted by law, who contemplates any public improvement, must first obtain the approval of the Director of the Bureau of General Services for such work. This paragraph is not intended to restrict the head of any agency, board, commission or department of the State Government from making emergency repairs to any state-owned building, public work or property or any property under lease to the State Government or to restrict any school administrative unit under like conditions that is under that

person's supervision and control whenever it appears that such repairs are immediately necessary to prevent injury to persons or further damage to such buildings or property. [1991, c. 780, Pt. Y, §58 (AMD).]

SECTION HISTORY
1967, c. 307, (AMD). 1967, c. 409, §1 (AMD). 1971, c. 542, §§2-5 (AMD). 1973, c. 154, §2 (AMD). 1973, c. 741, (AMD). 1975, c. 771, §§78-81 (AMD). 1979, c. 223, (AMD). 1983, c. 824, §Y (AMD). 1985, c. 340, (AMD). 1985, c. 457, §4 (AMD). 1985, c. 481, §§A11,12 (AMD). 1985, c. 501, §§B15,16 (AMD). 1985, c. 737, §A16 (AMD). 1985, c. 785, §§A63-68 (AMD). 1985, c. 785, §B31 (AMD). 1987, c. 282, §1 (AMD). 1987, c. 402, §§A41,A42 (AMD). 1987, c. 407, §§1-3 (AMD). 1987, c. 733, §§1-3 (AMD). 1987, c. 741, §§1-3 (AMD). 1987, c. 820, §1 (AMD). 1989, c. 410, §18 (AMD). 1989, c. 483, §§A14,A15 (AMD). 1989, c. 502, §§A15-18 (AMD). 1989, c. 596, §N2 (AMD). 1991, c. 9, §§L1,2 (AMD). 1991, c. 780, §§Y53-58 (AMD). 1995, c. 665, §G1 (AMD). 1997, c. 90, §2 (AMD). 1997, c. 499, §1 (AMD). 2001, c. 506, §1 (AMD). 2001, c. 606, §1 (AMD). 2001, c. 607, §1 (AMD). 2003, c. 689, §B6 (REV). 2005, c. 386, §L1 (AMD). 2005, c. 519, §W1 (AMD). 2005, c. 634, §§4-7 (AMD). 2007, c. 488, §1 (AMD). 2009, c. 1, Pt. CC, §§1-4 (AMD). RR 2011, c. 2, §2 (COR). 2011, c. 655, Pt. GG, §1 (AMD). 2011, c. 655, Pt. GG, §70 (AFF). RR 2013, c. 1, §§10, 11 (COR).

§1742-A. SECURITY; REGULATIONS

(REPEALED)

SECTION HISTORY
1971, c. 622, §§17-B (NEW). 1977, c. 138, §1 (RP).

§1742-B. MUNICIPAL BUILDING ORDINANCES

The Department of Administrative and Financial Services, Bureau of General Services, referred to as "the bureau" in this section, shall provide written notification to the municipal manager or, in the absence of a manager, the first selectman of a state construction project or public improvement within the boundaries of that municipality as soon as practicable after beginning the schematic design process. If a municipality intends to review and issue building permits on state construction projects and public improvements, the municipality must file a notice of intent with the bureau no later than 45 days following receipt of notification by the bureau of the state construction project or public improvement. Once the required notice is filed, the projects and improvements to state-owned or leased buildings must comply with municipal ordinances governing the construction and alteration of buildings, provided that the municipal building code standards are as stringent as, or more stringent than, the code for state buildings. Prior to requesting bids, the bureau shall obtain or it shall require the project designer to obtain municipal approval of the project plans and specifications. Contractors and subcontractors shall obtain all necessary municipal building permits and the project must be subject to municipal inspections. [2005, c. 489, §1 (AMD).]

Fees may be assessed for any permit obtained for any state construction project or public improvements to state-owned buildings. [2005, c. 489, §1 (AMD).]

If a proposed public improvement is for new construction only and is not reviewed by a municipality, the state agency responsible for the new construction shall provide public notice of the project in the same manner as is required for notice of similar projects by ordinance of the municipality. Public notice under this paragraph must be provided as soon as development of the schematic design for the project is complete. [2001, c. 615, §1 (NEW).]

For purposes of this section, "schematic design" means the phase of the project or public improvement when the scale, proportions and relationships of the major project components are defined and the major building systems, construction materials, cost estimate and schedule of the project or public improvement are identified. Documents that are a part of the schematic design include a site plan and floor plan and building sections and elevations. [2005, c. 489, §1 (NEW).]

SECTION HISTORY
1985, c. 625, (NEW). 1987, c. 91, (AMD). 1991, c. 577, (AMD). 2001, c. 615, §1 (AMD). 2005, c. 489, §1 (AMD).

§1742-C. INSTITUTIONS OF HIGHER EDUCATION

The Department of Administrative and Financial Services, through the Bureau of General Services, shall provide the following services to institutions of higher education. [2007, c. 466, Pt. A, §11 (AMD).]

1. **University of Maine System.** Notwithstanding section 1742, the Bureau of General Services is not required to provide services to the University of Maine System.

[2011, c. 691, Pt. B, §9 (AMD) .]

2. **Maine Community College System; Maine Maritime Academy.** The Bureau of General Services shall provide any of the services set out in section 1742, subsections 1 to 9, 12 to 14, 19 and 23 to the Maine Community College System and the Maine Maritime Academy. Application of section 1742, subsection 23 to these institutions is limited to all public improvements:

A. Costing $25,000 or more; or [1989, c. 483, Pt. A, §16 (NEW).]

B. Costing less than $25,000 when building codes or other legal requirements exist. [1989, c. 483, Pt. A, §16 (NEW).]

[2001, c. 667, Pt. B, §1 (AMD); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF) .]

3. **Public improvements budget submission; Maine Community College System.** In accordance with Title 20-A, section 12706, subsection 4-A, the Bureau of General Services shall advise and assist the Maine Community College System in developing a prioritized public improvements budget for the system. This budget must be presented to the Governor and the Legislature as separate from the public improvements budget developed by the Bureau of General Services for the departments and agencies of State Government.

[2013, c. 368, Pt. R, §3 (AMD) .]

SECTION HISTORY
1989, c. 483, §A16 (NEW). 1991, c. 376, §22 (AMD). 2001, c. 667, §B1 (AMD). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF). 2007, c. 466, Pt. A, §11 (AMD). 2011, c. 691, Pt. B, §§9, 10 (AMD). 2013, c. 368, Pt. R, §3 (AMD).

§1742-D. BUREAU OF GENERAL SERVICES; REAL PROPERTY LEASES

1. **Work closely with all departments and agencies.** The Bureau of General Services shall work closely with all departments and agencies in locating real property leases to ensure that agency program requirements are met to the maximum extent possible. The bureau shall:

A. Maintain records of state agency real property leasing needs and all available space owned, leased and potentially available for lease, and make this information available to all state agencies; [1991, c. 9, Pt. L, §3 (NEW).]

B. Monitor market prices for real property leases on a regional basis and establish rates to be charged to state agencies on an annual basis; and [1991, c. 9, Pt. L, §3 (NEW).]

C. Hold all real property leases to ensure they are negotiated and managed to the best economic advantage of the State. [1991, c. 9, Pt. L, §3 (NEW).]

[1991, c. 780, Pt. Y, §59 (AMD) .]

2. **Establish standards; waiver.** The Bureau of General Services shall establish the following:

A. Standards for occupant safety and comfort in leased space that are consistent with law and all applicable building, fire, handicapped accessibility and environmental codes; and [1999, c. 776, §1 (AMD).]

B. By July 1, 1991, standards for space use for all state facilities that ensure the equitable and efficient distribution of available floor space, including common areas, consistent with cost, program and functional objectives. [1991, c. 9, Pt. L, §3 (NEW).]

The Director of the Bureau of General Services may provide a waiver of the standards and criteria established under this section if the director concludes that the unique conditions of location, program or employee function require such a waiver or in order to meet the purpose of Title 30-A, section 4349-A, subsection 2, relating to priority locations for state office buildings, courts and other state civic buildings.

[1999, c. 776, §1 (AMD) .]

3. **Real Property Lease Internal Service Fund Account established.** The Bureau of General Services shall establish, through the Office of the State Controller, the Real Property Lease Internal Service Fund Account. The funds deposited in the account must include, but not be limited to, appropriations made to the account, funds transferred to the account from within the Department of Administrative and Financial Services and funds received from state departments and agencies using leasing services provided by the bureau.

[1991, c. 780, Pt. Y, §59 (AMD); 2003, c. 600, §4 (REV) .]

4. **Charges for leasing services.** The Bureau of General Services may levy charges according to a rate schedule recommended by the Director of the Bureau of General Services and approved by the Commissioner of Administrative and Financial Services against all departments and agencies using leasing services pursuant to this section.

[1991, c. 780, Pt. Y, §59 (AMD) .]

5. **Submission of budget.** The Bureau of General Services shall submit a budget of estimated revenues and costs incurred by the account in connection with the leasing services established in this section.

[1991, c. 780, Pt. Y, §59 (AMD) .]

6. **Staff.** The Director of the Bureau of General Services shall appoint, subject to the Civil Service Law, staff necessary to carry out the purposes of this section.

[1991, c. 780, Pt. Y, §59 (AMD) .]

7. **Payment by department or agency.** Each department or agency using the services of this program must budget adequate funds to pay the leasing services provided by the Bureau of General Services.

[1991, c. 780, Pt. Y, §59 (AMD) .]

8. **Report.** The Director of the Bureau of General Services shall report to the joint standing committees of the Legislature having jurisdiction over state and local government matters and appropriations and financial affairs matters by January 31st of each year with respect to the status of current leases, projected real property leasing requirements and anticipated costs for each fiscal year.

[1991, c. 780, Pt. Y, §59 (AMD) .]

9. **Exception.** The land leases of the various departments and agencies of State Government are exempted from the provisions of this section.

[1993, c. 272, §1 (NEW) .]

10. **Downtown Leasehold Improvement Fund.** The Downtown Leasehold Improvement Fund, referred to in this subsection as the "fund," is established within the Bureau of General Services to assist state agencies in securing suitable space in downtowns whenever possible by providing for capital improvements to real property leased by the State in downtowns necessary to meet public health, safety and accessibility requirements of federal, state and local statutes and codes.

The fund is a nonlapsing fund consisting of sums that are appropriated by the Legislature or transferred to the fund from time to time by the Treasurer of State, the proceeds of notes or bonds issued by the State for the purpose of deposit in the fund, grants and awards made to the State or an instrumentality of the State by the Federal Government for the purpose for which the fund has been established and other funds from any public or private source received for use for the purpose for which the fund has been established.

The bureau shall invest in leasehold improvements from this fund only when it determines that the length and other terms of the lease will provide for reasonable use of and return on the investments for the State.

The bureau may establish accounts and subaccounts as it determines desirable to effectuate the purpose of the fund.

[1999, c. 776, §2 (NEW) .]

SECTION HISTORY
1991, c. 9, §L3 (NEW). 1991, c. 780, §Y59 (AMD). 1993, c. 272, §1 (AMD). 1999, c. 776, §§1,2 (AMD). 2003, c. 600, §4 (REV).

§1742-E. BUREAU OF GENERAL SERVICES; ASBESTOS, LEAD AND INDOOR AIR QUALITY ASSESSMENT AND MITIGATION SERVICES

1. **Asbestos, lead and indoor air quality assessment and mitigation services.** The Department of Administrative and Financial Services, through the Bureau of General Services, Division of Safety and Environmental Services, shall provide asbestos, lead and indoor air quality assessment and mitigation oversight services for public schools and state facilities. The Division of Safety and Environmental Services is the lead agency of the State for asbestos, lead and indoor air quality matters.

[1997, c. 499, §2 (NEW) .]

SECTION HISTORY
1997, c. 499, §2 (NEW).

§1742-F. CAPITAL CONSTRUCTION AND IMPROVEMENT RESERVE FUND *(REPEALED)*

SECTION HISTORY
2001, c. 83, §E1 (NEW). 2013, c. 36, §1 (RP).

§1743. PUBLIC IMPROVEMENT CONSTRUCTION CONTRACTS

The Department of Administrative and Financial Services through the Bureau of General Services shall award a contract in accordance with this section for any public improvement that the State or any of its agencies hold in fee involving a total cost in excess of $100,000, except contracts for professional, architectural and engineering services. The bureau may reject any public improvement bid, qualification package or proposal when it determines that to do so is in the best interests of the State. The contract must be awarded by competitive bid as provided in subsection 2 or by the bid method provided in subsections 3 to 7 for alternative methods of project delivery. [2001, c. 271, §1 (RPR).]

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

A. "Bureau" means the Bureau of General Services. [2001, c. 271, §1 (NEW).]

B. "Construction-manager-advisor method" means a method of project delivery in which the bureau engages a single firm for a fee to advise and consult with the bureau as to design and construction and may include consultation as to the selection of one or more design professionals to furnish the design when trade contracts for performance are held directly by the bureau. The firm is contractually bound to manage the schedule and budget to ensure adherence to both by the trade contractors. [2001, c. 271, §1 (NEW).]

C. "Construction-manager-at-risk method" means a method of project delivery in which the bureau engages a single firm for a fee to advise and consult with the bureau as to design and construction and separately engages one or more design professionals to furnish the design, and in which the firm is responsible to the bureau for schedule and price. The firm engaged to act as construction manager at-risk may perform all or a portion of the work on the project at the bureau's discretion. [2001, c. 271, §1 (NEW).]

D. "Design-build method" means a method of project delivery in which a single firm is contractually responsible to perform design, construction and related services. [2001, c. 271, §1 (NEW).]

E. "Design-build team" means representatives of an individual, firm, corporation, limited liability company, partnership, joint venture, sole proprietorship or other entity that submits a prequalification package in response to a request for qualifications under subsection 5, paragraph A, subparagraph (2). [2001, c. 271, §1 (NEW).]

F. "Director" means the Director of the Bureau of General Services. [2001, c. 271, §1 (NEW).]

G. "Proposer" means an individual, firm, corporation, limited liability company, partnership, joint venture, sole proprietorship or other entity that submits a proposal. [2001, c. 271, §1 (NEW).]

H. "Quality" means those features that the bureau determines are most important to the project. "Quality" includes design quality; feasibility of construction; long-term maintenance costs; life-cycle costs, particularly energy efficiency; service life; and other factors the bureau determines in the best interest of the State. [2001, c. 271, §1 (NEW).]

I. "Review panel" means the Alternative Delivery System Review Panel established in subsection 4. [2001, c. 271, §1 (NEW).]

[2001, c. 271, §1 (NEW) .]

2. **Competitive bids.** A public improvement contract may be awarded under a system of competitive bidding in accordance with this Part and such other conditions as the Governor may prescribe. The competitive bidding process may be waived in individual cases involving emergency circumstances with the written approval of the director.

[2007, c. 9, §1 (AMD); 2007, c. 466, Pt. C, §2 (AMD) .]

3. **Alternative methods of project delivery.** As an alternative to the competitive bid method provided in subsection 2, a public improvement contract may be undertaken using the construction-manager-advisor, construction-manager-at-risk or design-build method of construction.

A. To the extent the provisions of this section do not address specific alternative delivery procurement, award or administration issues, the provisions may be supplemented at the discretion of the director with the concepts contained in the Bureau's architect-engineer selection procedures that are designed to achieve quality-based selection and with policies and procedures adopted by rule of the bureau with the advice of the review panel. [2001, c. 271, §1 (NEW).]

B. After award of a contract or contracts for a project under an alternative method of delivery, the bureau shall notify all unsuccessful proposers in writing within a reasonable amount of time of the final selection and award, and make available to them all scoring information used in the selection process. Upon award of the contract or contracts and after resolution of any procurement disputes, the bureau shall return documents submitted by unsuccessful proposers upon request. [2001, c. 271, §1 (NEW).]

C. Using the time frames and procedures established in section 1749, this paragraph governs appeals from decisions on alternative methods of project delivery.

(1) Resolution of disputes must be by appeal to the director, whose decision is the final administrative appeal.

(2) Nothing in this paragraph prevents an aggrieved party from seeking judicial review, which may include a request for stay of award pursuant to applicable laws, judicial decisions, rules and any other applicable procedures. [2001, c. 271, §1 (NEW).]

D. The director may adopt rules necessary to implement the provisions for alternative project delivery methods set out in this section in accordance with the Maine Administrative Procedure Act. Prior to the procurement or award of any contract under an alternative delivery method, the director shall adopt by rule policies and procedures to implement that method. Rules adopted under this subsection are routine technical rules pursuant to chapter 375, subchapter II-A. [2001, c. 271, §1 (NEW).]

[2001, c. 271, §1 (NEW) .]

4. **Alternative Delivery System Review Panel.** The director shall establish the Alternative Delivery System Review Panel to advise the director in developing alternative project delivery policies, procedures and rules and in selecting public improvement projects for construction under an alternative delivery method.

A. The review panel is composed of 6 members as follows:

(1) Two representatives of the bureau designated by the Commissioner of Administrative and Financial Services;

(2) Two representatives of the construction trade, one of whom is a building contractor designated by the president of a state-based organization that represents building contractors and one of whom is designated by the president of a state-based organization that represents specialty contractors;

(3) One representative designated by the president of a state-based organization that represents architects; and

(4) One representative designated by the president of a state-based organization that represents consulting engineers.

The private sector members serve terms of 3 years each and each appointing authority shall designate an alternate who shall serve in the event of a conflict of interest. [2001, c. 271, §1 (NEW).]

B. In making a recommendation on selection of projects to the bureau, the review panel shall consider the following criteria:

(1) Technical complexity of the project;

(2) Substantial time or schedule savings that are necessary to the success of the project;

(3) Project cost control;

(4) The bureau's capacity to plan and manage the selected alternative project delivery method of construction, either in house or through outside contract;

(5) Consistency and fairness in the procurement process;

(6) Assurance of competition; and

(7) Advancement of the public interest. [2001, c. 271, §1 (NEW).]

[2001, c. 271, §1 (NEW) .]

5. **Design-build method.** The design-build method must be consistent with guidelines approved by a national architect, general contractor or design-build organization or a combined or modified version of the guidelines approved by those entities, with the final design-build procedures and documents to be determined at the discretion of the bureau. The bureau may prequalify design-build teams using criteria that must include at a minimum those set forth in section 1747 and may also include additional criteria considered appropriate by the director.

A. Selection of the design-build teams is governed by this paragraph.

(1) Prior to publication of a request for qualifications, the bureau shall develop concept and schematic designs incorporating a detailed set of program requirements for the project using the services of a qualified architect, engineer or other professional who is selected using the bureau's architect-engineer selection rules. Individuals who are involved in developing the project's program requirements may not participate in the design-build teams.

(2) For each project, the bureau shall publish a request for qualifications in at least 2 newspapers distributed in the State, one of which must be the Kennebec Journal. The bureau shall issue a request-for-qualifications package to all firms requesting one in accordance with the notice. The bureau shall evaluate and rate all firms submitting a responsive statement of qualifications and select the most qualified firms to receive a request for proposals. Selection criteria at this stage include at a minimum the ability of the competitor to satisfactorily carry out the project design and construction requirements, past performance, relevant experience and financial capacity to perform. The bureau may select a short list of 3 to 5 firms. The bureau may pay a reasonable stipend to all responsive proposers who were not selected. The amount of the stipend must be published together with the evaluation criteria in the request for proposals.

(3) The request for proposals must set forth the scope of work, design parameters, construction requirements, time constraints and all other requirements that the bureau determines have a substantial impact on the cost or quality of the project and the project development process. The request for proposals must include the criteria for acceptable proposals and state clearly what weight will be assigned to each criterion. A description of the scoring process and quality criteria to be used to judge the proposals must also be contained in the request for proposals. As part of the selection process, proposers must make oral presentations to the selection panel established under subparagraph (4).

(4) The director shall appoint members of a selection panel for each project. The selection panel in both the request-for-qualifications and request-for-proposals phases must include design and construction professionals from within the bureau, design and construction professionals from outside the bureau and individuals who will use the facility.

(5) Each proposal must be submitted to the bureau in 2 separate components: a sealed technical proposal and a sealed price proposal. These 2 components must be submitted simultaneously. The selection panel shall first open and evaluate and score each responsive technical proposal based on the quality criteria contained in the request for proposals. Nonresponsive proposals must be rejected. During this evaluation process, the price proposals must remain sealed and all technical proposals are confidential. After completion of the evaluation of the technical proposals, the selection panel shall publicly open and read each price proposal. The bureau shall award the contract to the proposer with the lowest price per quality score point, as long as that proposal meets all request-for-proposals requirements. The bureau shall be permitted to modify the scoring of price and quality in accordance with rules adopted by the bureau. [2001, c. 271, §1 (NEW).]

[2001, c. 271, §1 (NEW) .]

6. **Construction-manager-at-risk method.** The construction-manager-at-risk method must be consistent with the concepts set forth in a standard form of agreement between an owner and a construction manager when the construction manager is also the constructor as established by national architect or general contractor organizations. The final procedures and documents for this method of delivery are determined at the discretion of the director.

A. The bureau shall publish in at least 2 newspapers distributed in the State, one of which must be the Kennebec Journal, a request for qualifications that must contain the evaluation criteria upon which proposals are evaluated. Evaluation criteria include project size and scope, and relevant experience and financial and staff capability of proposers. The bureau shall evaluate the proposals and determine which proposers, if any, are qualified to perform the project. The bureau may select a short list of 3 to 5 firms. [2001, c. 271, §1 (NEW).]

B. Proposers determined to be qualified must be invited to submit a fee proposal. The bureau shall, in advance of soliciting a fee proposal, publish the evaluation criteria upon which the proposers are evaluated. Evaluation criteria at a minimum must include the following:

(1) Fee;

(2) Technical capacity;

(3) Management plan and project schedule if available;

(4) Experience;

(5) Past performance;

(6) Technical approach; and

(7) Composition and qualifications of the proposers' workforce.

As part of the selection process, proposers must make oral presentations to the selection panel established under paragraph C. [2001, c. 271, §1 (NEW).]

C. The director shall appoint members of a selection panel for each project. The selection panel must include representatives of the owner, designer, if selected, and individuals who will use the facility. From among the proposals submitted, the bureau shall select the most advantageous proposal that meets the published evaluation criteria. [2001, c. 271, §1 (NEW).]

D. Subcontractors must be selected in accordance with the following provisions. The bureau shall create a subcontractor prequalification panel, composed of a representative from the designer, the construction manager and the bureau. The construction manager shall develop detailed bid packages based on the industry standard practice. The bureau shall advertise in at least 2 newspapers distributed

in the State, one of which must be the Kennebec Journal, for requests for qualifications for each trade. The subcontractor prequalification panel shall, from the qualifications submitted, determine a short list of trade contractors who must be permitted to submit bids in accordance with the bid package requirements, pursuant to a publicly advertised process and deadline. Bids must be opened publicly and be awarded to the lowest responsive eligible bidder. [2001, c. 271, §1 (NEW).]

[2001, c. 271, §1 (NEW) .]

7. **Construction-manager-advisor method.** The construction-manager-advisor method must be consistent with the standard scope of services employed by the bureau in public improvement projects.

A. The bureau shall publish in at least 2 newspapers distributed in the State, one of which must be the Kennebec Journal, a request for proposals that identifies the evaluation criteria upon which proposers are evaluated. Evaluation criteria must include:

(1) Fee;

(2) Technical capacity;

(3) Management plan;

(4) Experience;

(5) Past performance; and

(6) Composition of the project team, with individual resumes.

As part of the selection process, proposers must make oral presentations to the selection panel established under paragraph B. [2001, c. 271, §1 (NEW).]

B. The director shall appoint members of a selection panel for each project. The selection panel must include representatives of the owner, designer, if selected, and individuals who will use the facility. From among the proposals submitted, the bureau shall select the most advantageous proposal according to the published evaluation criteria. [2001, c. 271, §1 (NEW).]

C. The position of general contractor must be awarded to the lowest responsive and eligible bidder. Additional trade contracts, if any, must be awarded to the lowest responsive and eligible bidder or bidders. [2001, c. 271, §1 (NEW).]

[2001, c. 271, §1 (NEW) .]

8. **Owner's representative.** The bureau may employ a qualified individual to represent the owner on any public improvement project awarded under the competitive bid process provided in subsection 2 or an alternative method of project delivery provided in subsection 3. Owner's representative services must be consistent with the standard scope of services employed by the bureau. The services of the owner's representative must be procured in a manner consistent with the bureau's rules governing selection of architects and engineers or with policies and procedures adopted by rule of the bureau with the advice of the review panel.

[2001, c. 271, §1 (NEW) .]

SECTION HISTORY
1967, c. 409, §2 (AMD). 1973, c. 274, §1 (AMD). 1975, c. 771, §82 (AMD). 1977, c. 303, §1 (RPR). 1985, c. 785, §A69 (AMD). 1989, c. 596, §N3 (AMD). 2001, c. 271, §1 (RPR). 2007, c. 9, §1 (AMD). 2007, c. 466, Pt. C, §2 (AMD).

§1743-A. COMPETITIVE BIDS; ADVERTISEMENT

Any contract for the construction, major alteration or repair of school buildings involving a total cost in excess of $250,000, except contracts for professional, architectural and engineering services and contracts for energy conservation services in accordance with Title 20-A, section 15915, must be awarded by competitive bids. The school district directors, school committee, building committee or whatever agency has responsibility for the construction, major alteration or repair shall, after consultation with the Director of the Bureau of General Services, seek sealed proposals. Sealed proposals must be addressed to the responsible agency and must remain sealed until publicly opened in the presence of the responsible agency or a committee of the responsible agency at such time as the responsible agency may direct. Competitive bids may be waived in individual cases involving unusual circumstances with the written approval of the Director of the Bureau of General Services and the Commissioner of Education. [2011, c. 691, Pt. B, §11 (AMD).]

When a contract requires that maintenance and service following completion of a project be provided by the person responsible for the construction, major alteration or repair of that project, the cost for the ongoing maintenance and service must be included in determining the total cost of the project and the need to award the project by competitive bid. When a school administrative unit enters into 2 or more contracts for construction, major alteration or repair of school buildings within a 6-month period and the total of those projects exceeds $250,000, the contracts for those projects must be awarded by competitive bid. [2011, c. 352, §1 (NEW).]

§1743-A. Design of buildings

(As enacted by PL 1973, c. 176 was REPEALED by PL 1973, c. 625, §30)

SECTION HISTORY
1973, c. 154, §3 (NEW). 1973, c. 176, (NEW). 1973, c. 625, §30 (RP). 1989, c. 483, §A17 (AMD). 1989, c. 700, §A17 (AMD). 2011, c. 352, §1 (AMD). 2011, c. 691, Pt. B, §11 (AMD).

§1743-B. DESIGN OF BUILDINGS

On projects for the design of buildings, the State of Maine and all political subdivisions thereof may select, without prejudice and on an equal basis, a prime professional who may be either an engineer or an architect. The professional so retained for a project shall perform only those services for which he is competent and shall utilize the services of other qualified professionals as required to provide a proper and complete professional service to the State or subdivision thereof consistent with applicable law. [1973, c. 625, §31 (NEW).]

SECTION HISTORY
1973, c. 625, §31 (NEW).

§1743-C. INFORMATION TO BIDDERS ON PUBLIC IMPROVEMENT PROJECTS

A public improvement project for the construction, altering, repairing, furnishing or equipping of a building or public works must meet the requirements of this section. [1995, c. 524, §1 (NEW).]

1. **Information to potential bidders.** The Bureau of General Services or the procuring agency shall ensure that the bidding documents provided to potential bidders state that information concerning the availability of state subcontractors and suppliers, including women-owned businesses, is available from the Bureau of General Services or the Department of Economic and Community Development. The statement must indicate that the use of subcontractors and suppliers and women-owned businesses in the State in the procurement of its goods and services is encouraged where possible.

[1995, c. 524, §1 (NEW) .]

2. **Notice to businesses.** The Bureau of General Services shall adopt policies to promote the participation by enterprises doing business in this State and residents of this State in procurement contracts where possible. Policies must include, but are not limited to, providing for the notification of enterprises doing business in this State of opportunities to participate as subcontractors and suppliers on procurement contracts in an amount estimated to be equal to or greater than $100,000.

[1995, c. 524, §1 (NEW) .]

3. **Notice to economic development organizations.** The Bureau of General Services or the procuring state agency shall provide notice of all anticipated competitive contracting opportunities to an automated supplier matching service identified as appropriate by the Department of Economic and Community Development.

[1995, c. 524, §1 (NEW) .]

4. **Annual education session.** The Bureau of General Services shall sponsor an annual education session on procedures to procure contracts with the State. The Bureau of General Services shall notify business enterprises in this State who have demonstrated an interest in opportunities to participate as contractors, subcontractors or suppliers on procurement contracts of the time and place of this annual education session.

[1995, c. 524, §1 (NEW) .]

5. **Annual report.** On or before the first business day of July of each year, each state agency or department shall report to the Department of Economic and Community Development with information pertaining to the procurement contracts entered into in an amount equal to or greater than $50,000 by that agency or department during the previous year. The information must include the subject matter and value of the contracts, designation of each contractor as a business enterprise of this State or a foreign business enterprise, the process used to select the contractors and the status of each contract.

[1995, c. 524, §1 (NEW) .]

6. **Federal funds.** The provisions in this section apply to contracts involving funds obtained from the Federal Government unless expressly prohibited by federal law or regulations adopted pursuant to those laws.

[1995, c. 524, §1 (NEW) .]

SECTION HISTORY
1995, c. 524, §1 (NEW).

§1744. PREFERENCE FOR MAINE GRANITE

(REPEALED)

SECTION HISTORY
1977, c. 240, §4 (RP).

§1745. ADVERTISEMENT FOR SEALED PROPOSALS; BONDS

The trustees, commissioners or other persons in charge of any public improvement in an amount in excess of $100,000, which is subject to chapters 141 to 155 shall, after consultation with the Director of the Bureau of General Services, advertise for sealed proposals not less than 2 weeks in such papers as the Governor may direct. The last advertisement must be at least one week before the time named in the advertisement for the closing of such bids. Sealed proposals for any public improvements must be addressed

to the trustees, commissioners or such other persons having the construction in charge and remain sealed until opened at the time and place stated in the advertisement or as the Governor may direct. [2011, c. 691, Pt. B, §12 (AMD).]

If a public improvement has been properly advertised in accordance with this chapter, and no proposals have been received from a qualified person who has been bonded in accordance with the requirements of Title 14, section 871, the Director of the Bureau of General Services is authorized to accept proposals from persons that are not bonded in accordance with the requirements of Title 14, section 871. The Director of the Bureau of General Services is authorized to set reasonable standards to ensure the interest of the State in the consideration of persons mentioned in this paragraph. [2011, c. 691, Pt. B, §12 (AMD).]

SECTION HISTORY
1967, c. 409, §3 (AMD). 1973, c. 274, §2 (AMD). 1975, c. 771, §83 (AMD). 1977, c. 303, §2 (RPR). 1985, c. 554, §1 (AMD). 1989, c. 483, §A18 (AMD). 2011, c. 691, Pt. B, §12 (AMD).

§1746. RETENTION OF PART OF CONTRACT PRICE

In any contract awarded for any public improvement the State shall withhold 5% of the money due the contractor until the project under the contract has been accepted by or for the State, except that when the contract has been substantially completed the State may, upon request, further reduce the amounts withheld if it deems it desirable and prudent.

Under any contract made or awarded by the State or by any public department or official thereof, including the construction, improvement or repair of any and all ways, roads or bridges with appurtenances which, by law, are under the supervision of the Department of Transportation, the contractor may, from time to time, withdraw the whole or any portion of the amount retained for payments to the contractor pursuant to the terms of the contract, upon depositing with the Treasurer of State: A negotiable certificate of deposit, United States treasury bonds, United States treasury notes, United States treasury certificates of indebtedness, United States treasury bills, or bonds or notes of the State of Maine or bonds of any political subdivision in the State of Maine. No amount shall be withdrawn in excess of the market value of the securities at the time of deposit or of the par value of such securities, whichever is lower. [1971, c. 593, §22 (AMD).]

The Treasurer of State shall collect all interest or income when due on the obligations so deposited and shall pay the same, when and as collected, to the contractor who deposited the obligations. If the deposit is in the form of coupon bonds, the Treasurer of State shall deliver each coupon as it matures to the contractor. The Treasurer of State shall have the power to enter into a contract or agreement with any national bank, trust company or safe deposit company located in New England or New York City for custodial care and servicing of any securities deposited with him pursuant to this section. Such services shall consist of the safekeeping of said securities and of all services required to effectuate the purposes of this section. [1967, c. 437, (NEW).]

Any amount deducted by the State, or by any public department or official thereof, pursuant to the terms of the contract, from the retained payments due the contractor, shall be deducted, first from that portion of the retained payments for which no security has been substituted, then from the proceeds of any deposited security. In the latter case, the contractor shall be entitled to receive interest, coupons or income only from those securities which remain after such amount has been deducted. [1967, c. 437, (NEW).]

Any assignment of retained payments made by the contractor shall be honored by the Treasurer of State as part of the procedure to accomplish the substitution of securities under this section, provided that such assignment will not be made without prior notification to the contracting agency of the State and the Treasurer of State. Such assignment shall not impair the equitable rights of the contractor's surety in the retained payments or in the securities substituted therefor in the event of the contractor's default in the performance of the contract or in the payment of labor and material bills or other obligations covered by said surety's bond. [1967, c. 437, (NEW).]

Any contract made or awarded by the State, political subdivision or department or official thereof shall include the cost of necessary pollution control, if any, which will be required during the execution of the contract; provided the cost of pollution control activity which is required by legislation or regulation, passed or promulgated after the date on which bids are received for the project for which such contract is made or awarded, shall be paid for in an equitable manner. [1973, c. 223, (NEW).]

The Director of the Bureau of General Services may approve contracts with a provision for daily financial incentive for projects completed before the scheduled date when it can be demonstrated that the early completion will result in a financial savings to the owner or to the State. The financial incentive may not be greater than the projected daily rate of savings to the owner or the State. [2011, c. 691, Pt. B, §13 (AMD).]

SECTION HISTORY
1967, c. 437, (AMD). 1969, c. 322, §1 (AMD). 1971, c. 593, §22 (AMD). 1973, c. 223, (AMD). 1989, c. 483, §A19 (AMD). 2011, c. 691, Pt. B, §13 (AMD).

§1747. QUESTIONNAIRE AS PREBID QUALIFICATION

The public official may require, from a firm proposing to bid on public work duly advertised, a standard qualification statement and a letter from a licensed bonding company confirming that the firm has the financial capacity to perform the work before furnishing that person with plans and specifications for the proposed public work advertised. [1997, c. 295, §1 (AMD).]

The Director of General Services, after consultation with the appropriate department head or superintendent of schools, may refuse to release plans and specifications to a contractor for the purpose of bidding on a project: [1997, c. 295, §1 (AMD).]

1. **Untimely completion.** If, in the opinion of the director, there is evidence the contractor has not completed in a timely manner a prior construction project or projects and the resulting noncompletion clearly reflects disregard for the completion date and has created a hardship for the owner;

[1997, c. 295, §1 (AMD) .]

2. **Incomplete work.** If, in the opinion of the director, there is evidence the contractor has a history of inability to complete similar work;

[1997, c. 295, §1 (AMD) .]

3. **Insufficient resources.** If, in the opinion of the director, there is evidence the contractor does not have sufficient resources to successfully complete the work. The director may require additional information about the contractor's resources, including identification of major claims or litigation pending and whether the contractor has sought protection under the bankruptcy laws in the past 5 years. That information is confidential and not subject to disclosure under Title 1, chapter 13, subchapter 1. In evaluating the resources of a contractor, the director may consider the contractor's prior experience, including any significant disparity between the size and type of prior projects and the project or projects under consideration;

[2003, c. 589, §1 (AMD) .]

4. **Misconduct.** If the contractor has been convicted of collusion or fraud or any other civil or criminal violation relating to construction projects;

[2001, c. 271, §3 (AMD) .]

5. **Safety record.** If, in the opinion of the director, there is evidence of a history of inadequate safety performance and lack of formal safety procedures;

[2001, c. 271, §4 (NEW) .]

6. **Material misrepresentation.** If, in the opinion of the director, there is evidence of a material misrepresentation on the contractor's prebid qualification statement; or

[2001, c. 271, §4 (NEW) .]

7. **Termination, suspension, defaults.** If, in the opinion of the director, there is evidence that the contractor through its own fault has been terminated, has been suspended for cause, has been debarred from bidding, has agreed to refrain from bidding as part of a settlement or has defaulted on a contract or had a contract completed by another party.

[2001, c. 271, §4 (NEW) .]

If a contractor is disqualified for any of the reasons stated in subsection 1, 2, 4, 5, 6 or 7, the director may disallow the contractor from bidding on any similar public improvements for a period not to exceed one year. [2001, c. 271, §5 (AMD).]

SECTION HISTORY
1989, c. 483, §A20 (RPR). 1993, c. 324, §1 (AMD). 1997, c. 295, §1 (AMD). 2001, c. 271, §§2-5 (AMD). 2003, c. 589, §1 (AMD).

§1748. PROCEDURE IF ANSWERS UNSATISFACTORY

Whenever the public official is not satisfied with the sufficiency of the answers contained in such standard questionnaire and the financial statement of such persons, he may refuse to furnish such persons with plans and specifications on public work duly advertised, and the bid of any person to whom plans and specifications have not been issued may be disregarded.

§1749. PROCEDURE FOR CONTRACTOR

Any contractor dissatisfied with the Director of the Bureau of General Services' decision under section 1747 may appeal the decision to the Commissioner of Administrative and Financial Services within 5 calendar days of the receipt of notice from the director that the contractor has been excluded from receiving plans and specifications or the director has refused to accept the contractor's bid. The appeal process must be conducted at the discretion of the commissioner, but must be completed and a final decision rendered within 5 calendar days after the contractor's written notice of appeal unless extended by the commissioner. The decision of the commissioner is final and binding. Any contractor who requests a hearing under this section must be allowed to receive plans and specifications for a particular duly advertised public improvement and bid on that improvement. The bid of any contractor submitted under this section may be disallowed upon final decision of the commissioner. [1991, c. 780, Pt. Y, §60 (AMD).]

If, in the construction of any public work, including buildings, highways, bridges, dams and drainage structures that the State does by contract, there arises a dispute between the State and the contractor that can not be settled, this dispute must be submitted, at the discretion of the Director of the Bureau of General Services, to alternative dispute resolution or to binding arbitration. Either the State or the contractor may, if unsatisfied by the alternative dispute resolution process, submit the dispute to binding arbitration. [1993, c. 49, §1 (AMD).]

Nothing in this section may apply to the construction, improvement or repair of any and all ways, roads and bridges with appurtenances or other public improvements which, by law, are under the supervision of the Department of Transportation. [1989, c. 165, §1 (AMD).]

SECTION HISTORY

1967, c. 203, (AMD). 1971, c. 593, §22 (AMD). 1989, c. 165, §1 (AMD). 1989, c. 483, §A21 (AMD). 1991, c. 780, §Y60 (AMD). 1993, c. 49, §§1,2 (AMD).

§1750. PENALTIES

(REPEALED)

SECTION HISTORY
1977, c. 696, §44 (RP).

§1751. EMPLOYMENT OF A CLERK-OF-THE-WORKS

A clerk-of-the-works must be employed to assist in the inspection of the construction of a public improvement when directed by the director. The clerk shall report directly to the professional architect-engineer of record for the project. In addition, the clerk shall provide a report of all correspondence sent or received by the clerk to the owner. The budget for the public improvement must include funding for the clerk. The clerk must be hired through an open advertising and interview process by the owner and the architect-engineer. The clerk candidate recommended by the architect-engineer is subject to approval by both the owner and the director before being hired. The architect-engineer may terminate or impose disciplinary action on the clerk after consultation with the owner. The clerk must possess qualifications of education and experience in construction technology and administration compatible with the needs of the public improvement. The director may adopt rules relative to this section. [1993, c. 606, §1 (AMD).]

SECTION HISTORY
1983, c. 187, (NEW). 1983, c. 480, §B1 (AMD). 1993, c. 339, §1 (AMD). 1993, c. 606, §1 (AMD).

§1752. CENTRALLY LEASED SPACE AND FOOD VENDING

The Bureau of General Services may establish a dedicated revenue account for the management of space leased by the bureau for state offices and facilities. Charges levied to state agencies for centrally leased space must be deposited to the dedicated revenue account. A dedicated revenue account may be established for operations related to food vending services. [2011, c. 691, Pt. B, §14 (AMD).]

SECTION HISTORY
1989, c. 501, §P15 (NEW). 2011, c. 691, Pt. B, §14 (AMD).

§1753. EMPLOYMENT OF OWNER'S REPRESENTATIVE

An owner's representative may be employed to facilitate the construction of a school project under Title 20-A, chapter 609. For purposes of this section, "owner" means the school building committee. [1993, c. 606, §2 (NEW).]

1. **Representative's relationship to owner.** The owner's representative may be an employee of the Bureau of General Services, an employee of the owner or an independent contractor. The owner's representative's responsibility is to act as an advisor to the owner. It is the responsibility of the owner's representative to facilitate open communications among all parties, to help to avoid adversarial interactions and to promote a sense of trust and teamwork in order to accomplish the smooth execution of the project and to see that the project is completed at the lowest possible cost and highest degree of quality and workmanship that are consistent with the plans and specifications for the project.

[1993, c. 606, §2 (NEW) .]

2. **Owner's representative qualifications.** The owner's representative must be hired by the owner through an open advertising and interview process and is subject to final approval by the Director of the Bureau of General Services.

[1993, c. 606, §2 (NEW) .]

3. **Representative's responsibilities.** The responsibilities of the owner's representative are, without limitation, to:

A. Prepare for and attend meetings with the owner or a committee representing the owner, prepare minutes of those meetings, maintain a noncommercial history of the building project, submit comments on the budget for the project and maintain project files; [1993, c. 606, §2 (NEW).]

B. Provide guidance to the owner in the selection of an architect or an engineer in accordance with the architect and engineering services procurement process as administered by the Bureau of General Services; [1993, c. 606, §2 (NEW).]

C. Attend a preplanning orientation with the owner, architect and engineer; [1993, c. 606, §2 (NEW).]

D. Attend and participate in meetings with the owner, architect and engineer concerning space requirements, design considerations, cost-containment strategies, energy efficiency considerations, any special requirements and also the review of schematic designs and preliminary and final plans; [1993, c. 606, §2 (NEW).]

E. Assist the owner in securing the necessary governmental permits or approvals; [1993, c. 606, §2 (NEW).]

F. Assist the owner in reviewing bid responses; [1993, c. 606, §2 (NEW).]

G. Assist the owner in contract negotiations; and [1993, c. 606, §2 (NEW).]

H. Meet with the owner regularly to review and discuss project progress. [1993, c. 606, §2 (NEW).]

The owner may expand or reduce the scope of the owner's representative's responsibilities through a contract, so long as that contract conforms to the overall relationship established in subsection 1.

[1993, c. 606, §2 (NEW) .]

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

[2005, c. 683, Pt. B, §1 (AMD) .]

5. **Report required.** A school unit employing an owner's representative under this section shall provide a report to the Bureau of General Services describing the effectiveness of an owner's representative to a project. The Bureau of General Services shall provide the joint standing committee of the Legislature having jurisdiction over state and local government matters with an annual report on the employment of an owner's representative, including the written comments from each school unit that has chosen to employ an owner's representative under this section.

[1997, c. 186, §1 (AMD) .]

6. **Sunset.**

[1997, c. 186, §2 (RP) .]

SECTION HISTORY

1993, c. 606, §2 (NEW). 1997, c. 186, §§1,2 (AMD). 2005, c. 683, §B1 (AMD).

Subchapter 1-A: ENERGY CONSERVATION IN BUILDINGS ACT

§1761. SHORT TITLE

This subchapter may be cited as the "Energy Conservation in Buildings Act." [1977, c. 563, §2 (RPR).]

SECTION HISTORY
1977, c. 320, (NEW). 1977, c. 563, §1 (RP). 1977, c. 563, §2 (REEN).

§1762. NO FACILITY CONSTRUCTED WITHOUT LIFE-CYCLE COSTS

No public improvement, as defined in this chapter, public school facility or other building or addition constructed or substantially renovated in whole or in part with public funds or using public loan guarantees, with an area in excess of 5,000 square feet, may be constructed without having secured from the designer a proper evaluation of life-cycle costs, as computed by a qualified architect or engineer. The requirements of this section with respect to substantial renovation shall pertain only to that portion of the building being renovated. Construction shall proceed only upon disclosing, for the design chosen, the life-cycle costs as determined in section 1764 and the capitalization of the initial construction costs of the facility or building. The life-cycle costs shall be a primary consideration in the selection of the design. As a minimum, the design shall meet the energy efficiency building performance standards promulgated by the Department of Economic and Community Development. [1989, c. 501, Pt. DD, §1 (AMD).]

SECTION HISTORY
1977, c. 320, (NEW). 1977, c. 563, §1 (RP). 1977, c. 563, §2 (REEN).
1981, c. 353, §1 (RPR). 1989, c. 501, §DD1 (AMD).

§1762-A. WATER CONSERVATION IN STATE FACILITIES

After January 1, 1992, unless otherwise required by law, or for reasons of health or safety, the Bureau of General Services and the following departments and agencies may not purchase or install any faucet, shower head, toilet or urinal that is not a low-flow faucet, a low-flow shower head, a water-saving toilet or a water-saving urinal: [2011, c. 691, Pt. B, §15 (AMD).]

1. **Bureau of Purchases.** The Bureau of Purchases under chapter 155;

[1991, c. 246, §1 (NEW) .]

2. **University of Maine System.** The University of Maine System under Title 20-A, chapter 411;

[1991, c. 246, §1 (NEW) .]

3. **Maine Community College System.** The Maine Community College System under Title 20-A, chapter 431; and

[1991, c. 246, §1 (NEW); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF) .]

4. **Maine State Housing Authority.** The Maine State Housing Authority under Title 30-A, chapter 201.

[1991, c. 246, §1 (NEW) .]

By January 1, 1992, the Bureau of General Services shall adopt rules defining a "low-flow faucet," a "low-flow shower head," a "water-saving toilet" and a "water-saving urinal" that minimize water use to the maximum extent economically and technologically feasible. [2011, c. 691, Pt. B, §15 (AMD).]

SECTION HISTORY
1991, c. 246, §1 (NEW). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF). 2011, c. 691, Pt. B, §15 (AMD).

§1763. NO FACILITY LEASED WITHOUT LIFE-CYCLE COSTS

No public improvement, as defined in this chapter, or public school facility, with an area in excess of 10,000 square feet within a given building boundary, may be leased until a life-cycle costs analysis has been performed and a lease may only be approved when the life-cycle costs analysis compare favorably to available like facilities. [1997, c. 541, §1 (AMD).]

In the event of an emergency such as a building destroyed by fire, this requirement may be waived by the Bureau of General Services. [1997, c. 541, §1 (AMD).]

SECTION HISTORY
1977, c. 320, (NEW). 1977, c. 563, §1 (RP). 1977, c. 563, §2 (REEN). 1997, c. 541, §1 (AMD).

§1764. LIFE-CYCLE COSTS

1. **Bureau of General Services to adopt rules and procedures.** The Bureau of General Services shall adopt rules, including energy conservation guidelines that conform as a minimum to the energy efficiency building performance standards adopted by the Department of Economic and Community Development for conducting an energy-related life-cycle costs analysis of alternative architectural or engineering designs, or both, and shall evaluate the efficiency of energy utilization for designs in the construction and lease of public improvements and public school facilities. Any rules adopted take effect 90 days after the enactment of this subchapter.

[1997, c. 541, §2 (AMD) .]

2. **Life-cycle costs.** Any life-cycle costs must include:

A. The reasonably expected energy costs over the life of the building, as determined by the designer, that are required to maintain illumination, power, temperature, humidity and ventilation and all other energy-consuming equipment in a facility; [1997, c. 541, §2 (AMD).]

B. The reasonable energy-related costs of probable maintenance, including labor and materials and operation of the building, replacement costs over the expected life of the facility and any other ownership cost issues identified by the Bureau of General Services; and [1997, c. 541, §2 (AMD).]

C. A comparison of energy-related and economic-related design alternatives. The Bureau of General Services may direct the designer to select, include and develop life-cycle costs for any viable alternatives that should be considered. [1997, c. 541, §2 (NEW).]

[1997, c. 541, §2 (AMD) .]

3. **Determination of life-cycle costs.** To determine the life-cycle costs, the Bureau of General Services shall adopt rules that include but are not limited to:

A. The orientation and integration of the facility with respect to its physical site; [1977, c. 563, §2 (RPR).]

B. The amount and type of glass employed in the facility and the directions of exposure; [1977, c. 563, §2 (RPR).]

C. The effect of insulation incorporated into the facility design and the effect on solar utilization to the properties of external surfaces; [1977, c. 563, §2 (RPR).]

D. The variable occupancy and operating conditions of the facility and subportions of the facility; [2007, c. 671, §1 (AMD).]

E. Energy consumption analysis of the major equipment of the facility's heating, ventilating and cooling system, lighting system, hot water system and all other major energy-consuming equipment and systems as appropriate. This analysis must include:

(1) The comparison of alternative systems;

(2) A projection of the annual energy consumption of major energy-consuming equipment and systems for a range of operations of the facility over the life of the facility; and

(3) The evaluation of the energy consumption of component equipment in each system, considering operation of the components at other than full or rated outputs; and [2007, c. 671, §2 (AMD).]

F. The cost-effectiveness of integrating wind or solar electricity generating equipment into the design and construction of the facility. [2007, c. 671, §3 (NEW).]

[2007, c. 671, §§1-3 (AMD) .]

4. **Annual updating of rules.** Rules must be based on the best currently available methods of analysis and provisions must be made for an annual updating of rules and standards as required.

[1997, c. 541, §2 (AMD) .]

SECTION HISTORY
1977, c. 320, (NEW). 1977, c. 563, §1 (RP). 1977, c. 563, §2 (REEN). 1981, c. 353, §2 (AMD). 1989, c. 501, §DD2 (AMD). 1997, c. 541, §2 (AMD). 2007, c. 671, §§1-3 (AMD).

§1764-A. IMPROVEMENT OF ENERGY EFFICIENCY IN STATE-FUNDED CONSTRUCTION

1. **Definition.** For purposes of this section, "substantially renovated" means any renovation for which the cost exceeds 50% of the building's current value prior to renovation.

[2003, c. 497, §1 (NEW); 2003, c. 497, §5 (AFF) .]

2. **Rules.** The Bureau of General Services, in consultation with the Public Utilities Commission, shall by rule require that all planning and design for the construction of new or substantially renovated state-owned or state-leased buildings and buildings built with state funds, including buildings funded through state bonds or the Maine Municipal Bond Bank:

A. Involve consideration of architectural designs and energy systems that show the greatest net benefit over the life of the building by minimizing long-term energy and operating costs; [2003, c. 497, §1 (NEW); 2003, c. 497, §5 (AFF).]

B. Include an energy-use target that exceeds by at least 20% the energy efficiency standards in effect for commercial and institutional buildings pursuant to Title 10, section 1415-D; and [2003, c. 497, §1 (NEW); 2003, c. 497, §5 (AFF).]

C. Include a life-cycle cost analysis that explicitly considers cost and benefits over a minimum of 30 years and that explicitly includes the public health and environmental benefits associated with energy-efficient building design and construction, to the extent they can be reasonably quantified. [2003, c. 497, §1 (NEW); 2003, c. 497, §5 (AFF).]

Rules adopted pursuant to this section apply to all new or substantially renovated state-owned or state-leased buildings and buildings built with state funds, including buildings funded through state bonds or the Maine Municipal Bond Bank, regardless of whether the planning and design for construction is subject to approval by the department.

Rules adopted pursuant to this section may provide for exemptions, waivers or other appropriate consideration for buildings with little or no energy usage, such as unheated sheds or warehouses.

The Bureau of General Services shall adopt rules pursuant to this section by July 1, 2004. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2011, c. 420, Pt. A, §3 (AMD) .]

3. **Approval.** A state agency responsible for approving the construction of a new or substantially renovated state-owned or state-leased building and buildings built with state funds, including buildings funded through state bonds or the Maine Municipal Bond Bank, may not grant such approval unless the agency or other entity or organization proposing the construction can show that it has duly considered the most energy-efficient and environmentally efficient designs suitable in accordance with rules adopted pursuant to this section.

[2013, c. 424, Pt. A, §2 (AMD) .]

SECTION HISTORY
RR 2003, c. 1, §2 (COR). 2003, c. 497, §1 (NEW). 2003, c. 497, §5 (AFF). 2011, c. 420, Pt. A, §3 (AMD). 2013, c. 424, Pt. A, §2 (AMD).

§1765. APPLICATION OF SUBCHAPTER TO CERTAIN PUBLIC SCHOOL BUILDINGS

Sections 1762 to 1764 do not apply to any public school facility approved by the State Board of Education prior to July 23, 1977. [1997, c. 2, §13 (COR).]

SECTION HISTORY
1977, c. 563, §2 (NEW). RR 1997, c. 2, §13 (COR).

§1766. USE OF BIOMASS AND SOLID WASTE FUELS IN STATE FACILITIES

For the purposes of the installation, development or operation of any energy production improvement at or in connection with a state facility, and notwithstanding any other provision of law, any department or agency of the State, subject to approval of the Bureau of General Services, may enter into an agreement with a private party under which the private party may, for consideration, lease or otherwise acquire property interest, exclusive of ownership in fee, in land, buildings or other existing heating facilities and right of access thereto; as long as any improvement to the land, buildings or other existing heating facility installed, erected, owned, developed or operated by the private party utilizes biomass, solid waste or some combination of biomass and solid waste for at least 50% of its total energy input. The duration of the agreement may not exceed 20 years. [2011, c. 691, Pt. B, §16 (AMD).]

The private party undertaking the installation, erection, ownership, development or operation of such an improvement may cogenerate thermal energy and electricity and may sell thermal energy to a state facility located at or near the site of the improvement. The private party may sell thermal energy in excess of the requirements of the state facility to any other customer and may sell cogenerated electricity to the state facility. [1999, c. 657, §1 (AMD).]

A forest harvest operation to supply biomass fuel to the improvement shall be conducted in accordance with a landowner's forest management plan approved by a registered professional forester. The private party undertaking the improvement shall make available the services of a registered professional forester at no cost to a landowner whose land will be harvested to provide biomass fuel to the improvement. [1983, c. 803, (NEW).]

Any department or agency of the State, subject to approval by the Bureau of General Services, at the termination of the agreement with the private party pursuant to this section, may acquire, operate and maintain the improvement, may renew the agreement with the private party or may make an agreement with another private party to operate and maintain the improvement. [2011, c. 691, Pt. B, §16 (AMD).]

All agreements made with private parties as contemplated in this section shall be subject to review by a subcommittee of the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. [1983, c. 803, (NEW).]

The provisions of section 1587 shall not apply to an agreement with a private party as contemplated in this section except, in the event that the state department or agency chooses to exercise an option to purchase energy production improvements, the department or agency before or at the time of the exercise of the option shall submit the proposed purchase of the energy production improvements for approval by the Legislature through the usual budget procedure. [1983, c. 803, (NEW).]

SECTION HISTORY
1983, c. 803, (NEW). 1999, c. 657, §1 (AMD). 2011, c. 691, Pt. B, §16 (AMD).

§1766-A. ELECTRICITY PURCHASES FOR STATE BUILDINGS

No later than January 1, 2010, all electricity consumed in state-owned buildings must be supplied by renewable resources. For purposes of this section, "renewable resource" has the same meaning as in Title 35-A, section 3210, subsection 2, paragraph C. In purchasing electricity for state-owned buildings, the State may give preference to electricity generated by community-based renewable energy projects, as defined in Title 35-A, section 3602, subsection 1. [2009, c. 329, Pt. A, §1 (AMD).]

SECTION HISTORY
2007, c. 52, §1 (NEW). 2009, c. 329, Pt. A, §1 (AMD).

§1767. ENERGY SERVICE COMPANIES AND 3RD-PARTY FINANCING

Any department or agency of the State, subject to approval of the Bureau of General Services, may enter into an agreement with a private party such as an energy service or 3rd-party financing company for the design, installation, operation, maintenance and financing of energy conservation improvements at state facilities. [2007, c. 539, Pt. O, §1 (AMD).]

Any department or agency of the State, subject to approval by the Bureau of General Services, at the termination of the agreement with the private party pursuant to this section, may acquire, operate and maintain the improvement, may renew the agreement with the private party or may make an agreement with another private party to operate and maintain the improvement. [2007, c. 539, Pt. O, §1 (AMD).]

All agreements made with private parties as contemplated in this section are subject to review by a subcommittee of the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. [2007, c. 539, Pt. O, §1 (AMD).]

The provisions of section 1587 do not apply to an agreement with a private party as contemplated in this section, except in the event that the state department or agency chooses to exercise an option to purchase energy conservation improvements, the department or agency before or at the time of the exercise of the option shall submit the proposed purchase of the energy conservation improvements for approval by the Legislature through the usual budget procedure. [2007, c. 539, Pt. O, §1 (AMD).]

The Bureau of General Services on behalf of any department or agency of the State is authorized to enter into agreements with private parties to study, plan, design, install, operate, maintain, finance and secure other services as may be necessary for the delivery of energy conservation projects at state facilities and projects to generate or cogenerate energy at state facilities for use on site and elsewhere. Nothing in this section may be construed to compel the Bureau of General Services to enter into such agreements. An agreement made subject to this section must be submitted to the Legislature for approval through the usual budget procedure if the agreement would require a new expenditure beyond existing appropriations or allocations. [2007, c. 539, Pt. O, §1 (NEW).]

SECTION HISTORY
1985, c. 128, (NEW). 2007, c. 539, Pt. O, §1 (AMD).

§1768. SHARED SAVINGS PROGRAM; STATE AGENCIES

The Bureau of General Services shall develop an energy efficiency incentive program in which an eligible department or agency of the State may retain a portion of any first-year energy cost savings demonstrably attributable to energy efficiency improvements undertaken by that department or agency. A condition of the program is that the portion of energy cost savings not retained by the department or agency must be credited to the General Fund. The bureau shall submit the proposed program to the joint standing committee of the Legislature having jurisdiction over state and local government matters by January 1, 1992. [2011, c. 691, Pt. B, §17 (AMD).]

SECTION HISTORY
RR 1991, c. 1, §6 (COR). 1991, c. 246, §2 (NEW). 1991, c. 481, §1 (NEW). 2011, c. 691, Pt. B, §17 (AMD).

§1769. OUTDOOR LIGHTING

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

A. "Direct light" means light emitted directly from a lamp off a reflector or through a refractor of a luminaire. [1991, c. 481, §1 (NEW).]

B. "Fixture" means the assembly that holds the lamp and may include an assembly housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror and a refractor or lens. [1991, c. 481, §1 (NEW).]

C. "Footcandle" means an illuminance equal to one lumen per square foot. [1991, c. 481, §1 (NEW).]

D. "Full cutoff luminaire" means a luminaire that allows no direct light emissions above a horizontal plane through the luminaire's lowest light-emitting part. [1991, c. 481, §1 (NEW).]

E. "Glare" means direct light emitting from a luminaire that causes reduced vision or momentary blindness. [1991, c. 481, §1 (NEW).]

F. "Illuminance" means the level of light measured at a surface. [1991, c. 481, §1 (NEW).]

G. "Lamp" means the component of a luminaire that produces the light. [1991, c. 481, §1 (NEW).]

H. "Light trespass" means light emitted by a luminaire that shines beyond the boundaries of the property on which the luminaire is located. [1991, c. 481, §1 (NEW).]

I. "Lumen" means a unit of measurement of luminous flux. [1991, c. 481, §1 (NEW).]

J. "Luminaire" means the complete lighting system, including the lamp and the fixture. [1991, c. 481, §1 (NEW).]

K. "Permanent outdoor luminaire" means any luminaire or system of luminaires that is outdoors and that is intended to be used for 7 days or longer. [1991, c. 481, §1 (NEW).]

L. "State funds" means any bond revenues or any money appropriated or allocated by the Legislature. [1991, c. 481, §1 (NEW).]

[1991, c. 481, §1 (NEW) .]

2. **Permanent outdoor luminaires.** A person may not use any state funds to install or replace any permanent outdoor luminaire unless:

A. The luminaire is a full cutoff luminaire when the rated output of the luminaire is greater than 1,800 lumens; [1991, c. 481, §1 (NEW).]

B. The luminaire's maximum illuminance does not exceed the minimum illuminance recommended for that purpose by the Illuminating Engineering Society of America or the federal Department of Transportation; and [1991, c. 481, §1 (NEW).]

C. The Director of the Bureau of General Services ensures that consideration is given to minimizing glare and light trespass. [2011, c. 691, Pt. B, §18 (AMD).]

[2011, c. 691, Pt. B, §18 (AMD) .]

3. **Exceptions.** Exceptions from the provisions of this section are permitted only when:

A. Federal laws, rules and regulations take precedence over these provisions; or [1991, c. 481, §1 (NEW).]

B. The Director of the Bureau of General Services determines that there is a compelling safety interest that can not be addressed by any other method. [2011, c. 691, Pt. B, §19 (AMD).]

[2011, c. 691, Pt. B, §19 (AMD) .]

SECTION HISTORY
RR 1991, c. 1, §6 (RNU). 1991, c. 481, §1 (NEW). 2011, c. 691, Pt. B, §§18, 19 (AMD).

§1770. ENERGY SAVINGS PILOT PROGRAM

1. **Goal.** The Legislature finds it is in the best interests of the State to significantly reduce its energy consumption to the extent possible without interfering with other goals, plans and policies of the State. The energy reduction goal, referred to in this section as the "goal," for facilities owned by the State is, by 2010, a 25% reduction in energy consumption relative to baseline consumption in 1998, as long as the achievement of the goal is accomplished in a manner that:

A. Is consistent with all applicable laws; and [1999, c. 735, §1 (NEW).]

B. Does not interfere with other goals, plans or policies of the State. [1999, c. 735, §1 (NEW).]

For purposes of this subsection, "facilities owned by the State" includes all facilities that consume energy and that are owned by the legislative, judicial or executive branches of government, any state department, agency or authority, the University of Maine System or the Maine Community College System.

[1999, c. 735, §1 (NEW); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF) .]

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

A. "Department" means the Department of Administrative and Financial Services. [1999, c. 735, §1 (NEW).]

B. "Energy service company" means a company with the technical, operational, financial and managerial capabilities to implement performance-based contracts that result in energy and operational cost savings including the capability:

(1) To design, implement and install energy efficiency and facility improvement measures;

(2) To secure necessary financial measures to support energy savings guarantees; and

(3) To ensure energy and operational cost savings. [1999, c. 735, §1 (NEW).]

C. "Performance-based contract" means a contract with an energy service company for evaluation, recommendation or implementation of one or more energy-saving measures. A performance-based contract may be structured as:

(1) A guaranteed energy savings performance contract that includes the design and installation of equipment and, if applicable, operation and maintenance of any of the energy-saving measures implemented and that guarantees annual savings that meet or exceed the total annual contract payments made by the State under the contract;

(2) A shared savings contract that includes provisions mutually agreed upon by the State and the energy service company as to the negotiated rate of payments based upon energy and operational cost savings and a stipulated maximum energy consumption level over the life of the contract; or

(3) Any other form of performance-based contract established by the department by rule. [1999, c. 735, §1 (NEW).]

[1999, c. 735, §1 (NEW) .]

3. **Pilot project.** The department shall develop an energy savings pilot project, referred to in this section as the "pilot project," designed to achieve by 2010 a 25% reduction in energy consumption relative to baseline consumption in 1998 by facilities included in the pilot project. The department shall use performance-based contracts to achieve the energy savings. By September 1, 2000, the department shall:

A. Identify at least 10 facilities that are over 40,000 square feet for inclusion in the pilot project. The 10 facilities may include facilities that through modifications or renovations could achieve reduced energy consumption and facilities that could be replaced by new facilities that will consume less energy; and [1999, c. 735, §1 (NEW).]

B. Establish a process for soliciting proposals from energy service companies and for selecting energy service providers. The process must include a requirement that an energy service provider who submits a proposal to undertake a project provide a feasibility analysis for that project. The process may also include a requirement that an energy service company initially selected to undertake a project provide, prior to contracting, a financial-grade energy audit. [1999, c. 735, §1 (NEW).]

[1999, c. 735, §1 (NEW) .]

4. **Plan development and implementation.** The department shall use available data, including data collected from life-cycle cost evaluations undertaken pursuant to this chapter, and shall consult with agencies with relevant expertise to develop the pilot project and to choose facilities for inclusion in the pilot project.

[1999, c. 735, §1 (NEW) .]

5. **Reporting.** The department shall report annually to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters by the first business day in February on:

A. The status of plans or efforts to achieve the goal and the extent of projected or actual energy savings relative to the goal; and [1999, c. 735, §1 (NEW).]

B. The status of the pilot project, including projected and actual energy savings for each facility included in the pilot project and the number and a description of the energy service companies that responded to the request for proposals and descriptions of all contracts entered into pursuant to the pilot project. [1999, c. 735, §1 (NEW).]

[1999, c. 735, §1 (NEW) .]

6. **Rules.** The department may establish by rule procedures and policies that facilitate the implementation of the pilot project, including, but not limited to, a process for prequalifying energy service companies and procedures that encourage a comprehensive approach to the achievement of energy savings. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A. The department shall submit to the Legislature provisionally adopted rules no later than the first business day in February 2001.

[1999, c. 735, §1 (NEW) .]

SECTION HISTORY
1999, c. 735, §1 (NEW). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF).

Subchapter 2: PUBLIC WAYS AND PARKING AREAS

§1771. DEFINITIONS

(REPEALED)

SECTION HISTORY
1971, c. 49, §1 (RPR). 1977, c. 138, §2 (RP).

§1772. RULES AND REGULATIONS

(REPEALED)

SECTION HISTORY
1971, c. 49, §2 (AMD). 1977, c. 138, §2 (RP).

§1772-A. USER FEES

(REPEALED)

SECTION HISTORY
1971, c. 544, §§15-A (NEW). 1975, c. 771, §84 (AMD). 1977, c. 138, §2 (RP).

§1773. SPECIAL OFFICERS; POWERS AND DUTIES; COOPERATION

(REPEALED)

SECTION HISTORY
1973, c. 528, (AMD). 1977, c. 138, §2 (RP).

§1774. JURISDICTION

(REPEALED)

SECTION HISTORY
1977, c. 138, §2 (RP).

§1775. FINES AND COSTS OF COURT

(REPEALED)

SECTION HISTORY
1965, c. 260, (AMD). 1977, c. 138, §2 (RP).

§1776. OFFENSES NOT COVERED BY RULES AND REGULATIONS

(REPEALED)

SECTION HISTORY
1977, c. 138, §2 (RP).

Chapter 154: LEASE OF STATE-OWNED FACILITIES

§1781. PURPOSE

There are a large number of state-owned facilities throughout the State, a number of which have some unused space or which are currently leasing space to organizations other than state agencies. Since some state agencies may have negotiated contracts with tenants that may violate constitutional and other statutory provisions, it is the intent of the Legislature to establish a policy governing the leasing of state-owned facilities that complies with constitutional and legal principles. [1985, c. 758, §1 (NEW).]

It is the purpose of this chapter to provide for uniform procedures and a standard policy for the leasing of state-owned facilities. A decentralized procedure and many differing policies lead to confusion and misunderstanding. [1985, c. 758, §1 (NEW).]

SECTION HISTORY
1985, c. 758, §1 (NEW).

§1782. DEFINITIONS

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [1985, c. 758, §1 (NEW).]

1. **Agency of jurisdiction.** "Agency of jurisdiction" means the state agency which has use of and jurisdiction over the facility.

[1985, c. 758, §1 (NEW) .]

2. **Available facility.** "Available facility" means a facility in which all or a part of the facility is unused and available for leasing.

[1985, c. 758, §1 (NEW) .]

3. **Director.** "Director" means the Director of the Bureau of General Services.

[2001, c. 525, §1 (AMD) .]

4. **Other organization.** "Other organization" means any not-for-profit, sole proprietorship, partnership, corporation or association that is not a state agency.

[1985, c. 758, §1 (NEW) .]

5. **State agency.** "State agency" means an agency of State Government as defined in section 8002, subsection 2.

[1985, c. 758, §1 (NEW) .]

SECTION HISTORY
1985, c. 758, §1 (NEW). 2001, c. 525, §1 (AMD).

§1783. LEASE OF STATE-OWNED FACILITIES

The director shall negotiate and have final approval of any lease or rental contract for all or a portion of any available state-owned building or facility. No available state-owned facility or building may be leased except as provided in this section, Title 12, Title 23, Title 30, chapter 233, and Resolve 1986, chapter 68. [1985, c. 758, §1 (NEW).]

1. **Unused state facilities.** In the event that an agency of jurisdiction finds that it has no need for an available facility, for a period of at least one year, the director may lease the available facility.

[1985, c. 758, §1 (NEW) .]

2. **State agencies to be given priority.** In providing for the lease of an available facility, the director shall first offer the available facility to state agencies in the following order:

A. State agencies or sub-units of state agencies which are not located in state-owned facilities; and [1985, c. 758, §1 (NEW).]

B. State agencies located in state-owned facilities. [1985, c. 758, §1 (NEW).]

[1985, c. 758, §1 (NEW) .]

3. **Lease of state-owned facilities to other organizations.** In the event that no state agency leases the available facility as provided in subsections 1 and 2, the director, with the approval of the commissioner or director of the agency of jurisdiction, may, by competitive bid, offer to lease the facility to any other organization.

A. Whenever the director offers to lease the available facility pursuant to this subsection, the director shall offer the lease to only those types of organizations that the agency of jurisdiction finds to be compatible with or conducive to the operation and services of the agency of jurisdiction. [1985, c. 758, §1 (NEW).]

B. Notwithstanding this subsection, the director may lease an available facility or portion of an available facility to a type of organization described in paragraph A without competitive bidding if:

(1) A total of 2,500 square feet or less in the available facility is unused and therefore available for lease; or

(2) The space leased is limited to 50% or less of the available facility up to a total of 20,000 square feet. [2001, c. 525, §2 (NEW).]

[2001, c. 525, §2 (AMD) .]

4. **Standards.** In offering a lease under the provisions of subsection 3, the director shall include standards and conditions in the lease as determined by the commissioner or director of the agency of jurisdiction which, at a minimum, include the following:

A. The types of uses compatible with and conducive to the activities of the agency of jurisdiction; and [1985, c. 758, §1 (NEW).]

B. The types of activities in which the lessee may engage which, at a minimum, shall include the following:

(1) Any services or programs that the lessee is required to provide or offer;

(2) Termination of lease provisions, to include 60-day notice by either the State or the lessee;

(3) Capital improvements to be made or equipment to be provided by the lessee;

(4) The length of the lease not to exceed 2 years, except when the director, with the approval of the commissioner or director of the agency of jurisdiction, finds that a longer term lease will accrue benefit to the State;

(5) Following notice as provided in this subsection, termination of the lease by the State to accommodate the needs of a state agency; and

(6) Any other provisions deemed necessary by the agency of jurisdiction or the director. [1985, c. 758, §1 (NEW).]

[1985, c. 758, §1 (NEW) .]

SECTION HISTORY
1985, c. 758, §1 (NEW). 2001, c. 525, §2 (AMD).

§1784. RENT AND FEES

In providing a lease under this chapter, the director shall require payment of fees or charges that, at a minimum, cover the costs of utilities, including heat, custodial services and any other costs generated by the lessee. In addition, a monthly rental fee shall be charged to the user which need not necessarily be the current rate charged in the private sector for similar facilities. [1985, c. 758, §1 (NEW).]

1. **Provision of services to the State.** If the lessee provides services or assistance to the State at no charge or at significantly reduced charges or the lessee provides in-kind contributions, the monthly rental fee may be reduced or waived by mutual agreement of the director and the commissioner or director of the agency of jurisdiction.

[1985, c. 758, §1 (NEW) .]

SECTION HISTORY
1985, c. 758, §1 (NEW).

§1785. ADOPTION OF RULES

1. **Rules of implementation.** The director shall adopt rules to implement this chapter. At a minimum, these rules shall include:

A. Provisions for offering available state facilities to state agencies; [1985, c. 758, §1 (NEW).]

B. Provisions for offering, by competitive bidding, available facilities to other organizations; [1985, c. 758, §1 (NEW).]

C. Standards for determining user created costs to state agencies for use of state-owned facilities to be reimbursed to the State; and [1985, c. 758, §1 (NEW).]

D. Standards for determining rental fees based on the location of the facilities, accessibility, local market rates, services or in-kind contributions provided by the user or lessee and any other standards deemed necessary by the director. [1985, c. 758, §1 (NEW).]

[1985, c. 758, §1 (NEW) .]

SECTION HISTORY
1985, c. 758, §1 (NEW).

§1786. EXEMPTION OF STATE FROM LIABILITY

Whenever a lease is offered to or signed by another organization pursuant to this chapter, the lease conditions shall clearly state that the State or any state employee shall not be liable for any personal injury or death or any property damage sustained as a result of the lease of the available facility in accordance with this chapter. The State shall not be liable for any actions of the lessee or the employees of the lessee. [1985, c. 758, §1 (NEW).]

SECTION HISTORY
1985, c. 758, §1 (NEW).

Chapter 155: PURCHASES

Subchapter 1: GENERAL PROVISIONS

§1811. POWERS AND DUTIES

The Department of Administrative and Financial Services, through the Bureau of General Services, has authority: [1991, c. 780, Pt. Y, §61 (AMD).]

1. **Purchases.** To purchase all services, supplies, materials and equipment required by the State Government or by any department or agency thereof, subject to chapters 141 to 155;

A. The Director of the Bureau of General Services may establish dates by which departments and agencies of State Government must order standard forms that each department or agency requires, and to determine the quantity of each standard form to be printed in order to obtain savings resulting from volume purchasing; [1991, c. 780, Pt. Y, §62 (AMD).]

[1991, c. 780, Pt. Y, §62 (AMD) .]

2. **Specifications.** To adopt and enforce, subject to chapters 141 to 155, specifications which shall apply to services, supplies, materials and equipment purchased for the use of the State Government or any department or agency thereof;

3. **Postal service.**

[2005, c. 386, Pt. H, §2 (RP) .]

4. **Central duplicating service.**

[2005, c. 386, Pt. H, §3 (RP) .]

5. **Storerooms.**

[2005, c. 386, Pt. H, §4 (RP) .]

6. **Surplus property.**

[2005, c. 386, Pt. H, §5 (RP) .]

7. **Central mailing room.**

[2005, c. 386, Pt. H, §6 (RP) .]

8. **Cooperative purchasing.** To permit any political subdivision or school administrative district in the State or nonprofit free health care clinic that provides free primary or preventative services to make purchases of foodstuffs, materials, equipment and supplies through the Bureau of General Services, subject to such procedures, rules and regulations as may be prescribed by the director. This subsection applies to a municipality notwithstanding any provision in its municipal charter to the contrary;

[2005, c. 12, Pt. T, §8 (AMD) .]

9. **Central Motor Pool.**

[2005, c. 386, Pt. H, §7 (RP) .]

10. **Equipment to be reviewed.** To choose a designee to conduct a thorough review of all types of equipment, including automobiles, pickups and vans, owned, leased or otherwise available to the departments and agencies of the State, regardless of the source of supporting funds, and to make recommendations via the budgetary process for combining the uses of the equipment, providing centralized facilities or eliminating existing equipment and facilities, as believed to be most economical and efficient for the State. The department may also develop and institute review and control mechanisms considered necessary to ensure that capital equipment purchases authorized by the Legislature are consistent with the intent for which funds were recommended and made available; and

[2005, c. 12, Pt. T, §10 (NEW) .]

11. **Motor vehicle replacement policy.** To require that requisitions for replacement motor vehicles include the age and total mileage of the motor vehicles being replaced. For the purposes of this subsection, "motor vehicles" means passenger cars and panel and pickup trucks, excluding those vehicles authorized and assigned for pursuit purposes. Under no circumstances are any state vehicles to be used for commuting purposes. It is the intent of the Legislature that motor vehicles be in service for at least 5 years or 75,000 miles, whichever occurs first, before they are replaced. This policy must also be adopted by the State Budget Officer when preparing a budget document. Exceptions to this replacement policy require the prior approval of the Commissioner of Administrative and Financial Services. The Commissioner of Administrative and

Financial Services may also set appropriate standards with regard to motor vehicle type, size and equipment and direct that all motor vehicles be purchased in accordance with a commodity calendar established by the Director of the Bureau of General Services.

[2005, c. 12, Pt. T, §10 (NEW) .]

SECTION HISTORY
1967, c. 492, (AMD). 1983, c. 25, (AMD). 1983, c. 608, §1 (AMD). 1985, c. 158, §1 (AMD). 1985, c. 785, §§A70,71 (AMD). 1991, c. 129, (AMD). 1991, c. 528, §§III12-14 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §§III12-14 (AMD). 1991, c. 780, §§Y61-66 (AMD). 1993, c. 707, §G6 (AMD). 1995, c. 562, §§2,3 (AMD). RR 2003, c. 1, §3 (COR). 2003, c. 79, §1 (AMD). 2003, c. 600, §4 (REV). 2005, c. 12, §§T8-10 (AMD). 2005, c. 386, §§H2-7 (AMD).

§1811-A. STANDARDS

(REPEALED)

SECTION HISTORY
1991, c. 622, §OO (NEW). 1991, c. 780, §PP2 (AFF). 1991, c. 780, §PP1 (RP).

§1812. SCOPE OF PURCHASING AUTHORITY

The terms "services," "supplies," "materials" and "equipment" as used in this chapter mean any and all services, articles or things that are used by or furnished to the State or any department or agency thereof, and any and all printing, binding, publication of laws, journals and reports. Except as provided in chapters 141 to 155, any and all services, supplies, materials and equipment needed by one or more departments or agencies of the State Government must be directly purchased or contracted for by the Director of the Bureau of General Services, as may be determined from time to time by rules adopted pursuant to chapters 141 to 155, which rules the Department of Administrative and Financial Services is authorized and empowered to make. It is the intent and purpose of this chapter that the Director of the Bureau of General Services purchase collectively all services, supplies, materials and equipment for the State or any department or agency thereof in a manner that will best secure the greatest possible economy consistent with the grade or quality of the services, supplies, materials and equipment best adapted for the purposes for which they are needed. Whenever supplies and materials are available for purchase that are composed in whole or in part of recycled materials and are shown by the seller, supplier or manufacturer to be equal in quality and are competitively priced, except for paper and paper products, the Director of the Bureau of General Services shall purchase such recycled supplies and materials. The Director of the Bureau of General Services shall also review procurement procedures and bid specifications for the purchase of products and materials to ensure, to the maximum extent feasible, the purchase of products or materials that are made with recycled materials or may be recycled or reused once discarded. For the purposes of this section and section 1812-B, "recycled materials" means materials that are composed in whole or in part of elements that are reused or reclaimed. [1991, c. 780, Pt. Y, §67 (AMD).]

The Trustees of the University of Maine System may authorize the Department of Administrative and Financial Services to act for them in any purchases. [1991, c. 780, Pt. Y, §67 (AMD).]

The word "services," when used in this chapter, means any and all window cleaning services, elevator repair and maintenance services, laundry service, linen supply service, dry cleaning service, janitor service, floor maintenance service, rubbish and garbage disposal service, tree surgeon service, all types of office machine repair and maintenance service, exterminator service, refrigerator repair and maintenance service and oil burner repair and maintenance service when any such service is performed by an independent contractor. The Director of the Bureau of General Services may, with the approval of the Commissioner of

Administrative and Financial Services add to or eliminate from the various types of service set forth in this paragraph such services performed by independent contractors as may be considered by the director to be in the best interests of the State. [1991, c. 780, Pt. Y, §67 (AMD).]

SECTION HISTORY
1969, c. 300, §1 (AMD). 1975, c. 739, §1 (AMD). 1985, c. 779, §17 (AMD). 1985, c. 785, §A72 (AMD). 1987, c. 402, §A43 (AMD). 1989, c. 585, §C1 (AMD). 1991, c. 374, §1 (AMD). 1991, c. 780, §Y67 (AMD).

§1812-A. REPORT ON PURCHASE OF RECYCLED PRODUCTS

The State Purchasing Agent shall report on or before January 1st of the First Regular Session of each Legislature to the joint standing committee of the Legislature having jurisdiction over natural resources on the State's efforts to purchase supplies and materials composed in whole or in part of recycled materials. The State Purchasing Agent shall also report on any procurement policies, incentives, educational programs, promotional efforts or other activities undertaken by the Bureau of Purchases to encourage the purchase of those supplies and materials. The State Purchasing Agent shall include in the report any recommendations to increase or facilitate the purchase of those supplies and materials. [1989, c. 585, Pt. C, §2 (AMD).]

SECTION HISTORY
1987, c. 517, §1 (NEW). 1989, c. 585, §C2 (AMD).

§1812-B. PURCHASING OF PAPER AND PAPER PRODUCTS

1. **Purchase of paper and paper products with recycled material content.** Subject to subsection 3, the State Purchasing Agent shall provide that of the total dollar amount spent in each fiscal year on paper and paper products purchased by the State:

A. On or after October 1, 1989, not less than 15% shall be spent on paper and paper products with recycled material content; [1989, c. 585, Pt. C, §3 (NEW).]

B. On or after October 1, 1991, not less than 30% shall be spent on paper and paper products with recycled material content; and [1989, c. 585, Pt. C, §3 (NEW).]

C. On or after October 1, 1993, not less than 50% shall be spent on paper and paper products with recycled material content. [1989, c. 585, Pt. C, §3 (NEW).]

[1989, c. 585, Pt. C, §3 (NEW) .]

2. **Federal guidelines and cooperative purchases.** To qualify as having recycled material content, paper or paper products must have recycled material content which meets or exceeds the standards established for that paper or paper product category in Table 1 of the Guideline for Federal Procurement of Paper and Paper Products, 40 Code of Federal Regulations, Part 250. The State Purchasing Agent shall determine whether a paper or paper product qualifies. The State Purchasing Agent may join with other states in making cooperative requests for bids to supply paper and paper products.

[1989, c. 585, Pt. C, §3 (NEW) .]

3. **Bids; price preference.** A person who submits a bid for a contract to supply paper or paper products shall certify the percentage and nature of any recycled materials content in the product subject to bid. Bids offering paper or paper products with recycled material content that are within 10% of the lowest bid that meets all other specifications may receive up to a 10% price preference. Any bids to supply paper or paper products with recycled material content that exceed by more than 10% the low bid which meets all other

specifications shall not be considered. If no bids are received on a request for bids which offer paper or paper products with recycled material content, the State Purchasing Agent may award the contract to a bidder whose paper or paper product has substandard percentages of or no recycled materials content.

[1989, c. 585, Pt. C, §3 (NEW) .]

SECTION HISTORY
1989, c. 585, §C3 (NEW).

§1812-C. USE OF COMPOSTED AND RECYCLED ORGANIC MATERIALS AND RECLAIMED SOIL AND RESIDUALS

1. **Activities.** All state agencies shall, to the maximum extent practical and consistent with sound environmental practices, use composted and recycled organic materials and reclaimed soil and residuals in the following activities:

A. All land maintenance activities that are paid for by public funds; [1991, c. 374, §2 (NEW).]

B. All construction activities that are paid for by public funds; and [1991, c. 374, §2 (NEW).]

C. All land maintenance and construction activities that are awarded through grant-in-aid-programs to municipalities. [1991, c. 374, §2 (NEW).]

[1991, c. 374, §2 (NEW) .]

2. **Standards.** The Department of Agriculture, Conservation and Forestry shall develop standards for fertilizers and soil conditioners made from different mixes of compostible wastes that could be used by state agencies involved in land preparation and improvement work. These standards must be adopted by rule by January 1, 1990.

[1991, c. 374, §2 (NEW); 2011, c. 657, Pt. W, §5 (REV) .]

SECTION HISTORY
1989, c. 585, §C3 (NEW). 1991, c. 374, §2 (RPR). 2011, c. 657, Pt. W, §5 (REV).

§1812-D. COORDINATION OF PROCUREMENT INFORMATION AND POLICIES

The Bureau of Purchases shall coordinate with the Department of Transportation, the Department of Agriculture, Conservation and Forestry, the Department of Environmental Protection and the Office of Waste Reduction and Recycling to develop a central data base of information including, but not limited to, procurement policies, market information, technical data and demonstration project results. This data shall be compiled annually and provided to local public agencies by the Office of Waste Reduction and Recycling. [1989, c. 585, Pt. C, §3 (NEW); 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY
1989, c. 585, §C3 (NEW). 2011, c. 657, Pt. W, §5 (REV).

§1812-E. PURCHASING OF VEHICLES; FUEL EFFICIENCY

Except for cars and light duty trucks purchased for law enforcement and other special use purposes as designated by the State Purchasing Agent, the State Purchasing Agent may not purchase or lease any car or light duty truck for use by the State or any department or agency of the State unless: [1991, c. 207, (NEW).]

1. **1993 standards.** Beginning January 1, 1993, the car has a manufacturer's estimated highway mileage rating of at least 30 miles per gallon and the light duty truck has a manufacturer's estimated highway mileage rating of at least 24 miles per gallon;

[1991, c. 207, (NEW) .]

2. **1997 standards.** Beginning January 1, 1997, the car has a manufacturer's estimated highway mileage rating of at least 38 miles per gallon and the light duty truck has a manufacturer's estimated highway mileage rating of at least 30 miles per gallon; and

[1991, c. 207, (NEW) .]

3. **2000 standards.** Beginning January 1, 2000, the car has a manufacturer's estimated highway mileage rating of at least 45 miles per gallon and the light duty truck has a manufacturer's estimated highway mileage rating of at least 35 miles per gallon.

[1991, c. 207, (NEW) .]

For the purposes of this section, the terms "car" and "light duty truck" have the same meaning as in the federal Department of Energy Publication DOE/CE-0019/10, or any successor publication. [1991, c. 207, (NEW).]

SECTION HISTORY
RR 1991, c. 1, §8 (COR). 1991, c. 207, (NEW). 1991, c. 246, §3 (NEW).

§1812-F. WATER CONSERVATION DEVICES; PURCHASE AND INSTALLATION

The purchase and installation of faucets, shower heads, toilets and urinals is subject to section 1762-A. [1991, c. 246, §3 (NEW).]

SECTION HISTORY
RR 1991, c. 1, §8 (RNU). 1991, c. 246, §3 (NEW).

§1812-G. PAYMENT FOR HOTEL ROOMS

A hotel, motel or other establishment that provides lodging may directly bill a state agency in connection with a state employee who travels on state business. A state agency may use a purchase order to procure lodging. [2001, c. 120, §1 (NEW).]

SECTION HISTORY
2001, c. 120, §1 (NEW).

§1813. RULES AND REGULATIONS

The Director of the Bureau of General Services, with the approval of the Commissioner of Administrative and Financial Services, may adopt, modify or abrogate rules for the following purposes: [1991, c. 780, Pt. Y, §68 (AMD).]

1. **Direct purchases.** Authorizing any state department or agency to purchase directly certain specified services, supplies, materials and equipment, limiting their powers in relation thereto, and describing the manner in which purchases shall be made;

2. **Purchase and distribution of supplies.** Prescribing the manner in which the supplies, materials and equipment shall be purchased, delivered, stored and distributed;

3. **Monthly reports.** Requiring monthly reports by state departments or agencies of stocks of supplies, materials and equipment on hand and prescribing the form of such reports;

4. **Requisitions and estimates.** Prescribing the dates for making requisitions and estimates, the periods for which they are to be made, the form thereof and the manner of authentication;

5. **Inspection and tests.** Prescribing the manner of inspecting all deliveries of supplies, materials and equipment, and making chemical and physical tests of samples submitted with bids and samples from deliveries;

6. **Surplus property.** Providing for transfer of supplies, materials and equipment that are surplus from one state department or agency to another that may need them, and for the disposal by private and public sale of supplies, materials and equipment that are obsolete and unusable. Political subdivisions, educational institutions, fire departments or qualifying nonprofit organizations as defined in section 1828, subsection 1, must be given an opportunity to purchase the surplus items through private sale. If 2 or more political subdivisions, educational institutions, fire departments or qualifying nonprofit organizations are interested in any item, the sale must be the result of competitive bid. Any equipment so purchased must be retained for a period of at least one year in a current ongoing program. Any item purchased by a political subdivision, educational institution, fire department or qualifying nonprofit organization under this section may not be sold or transferred by that political subdivision, educational institution, fire department or qualifying nonprofit organization for a period of 6 months from the date of the private sale, except that a qualifying nonprofit organization that contracts with the Department of Health and Human Services to provide vehicles to low-income families may resell a passenger vehicle or light truck purchased in the private sale to a low-income family to assist it in participating in work, education or training pursuant to the qualifying nonprofit organization's contract with the Department of Health and Human Services. The State reserves the right to refuse to sell additional equipment to a political subdivision, educational institution, fire department or qualifying nonprofit organization if it is determined that the political subdivision, educational institution, fire department or qualifying nonprofit organization has not retained the equipment for the required period of 6 months;

[2005, c. 386, Pt. H, §8 (AMD) .]

7. **Deposit or bond with bids.** Prescribing the amount of deposit or bond to be submitted with a bid on a contract and the amount of bond to be given for the faithful performance of a contract;

8. **Other matters.** Providing for such other matters as may be necessary to give effect to the foregoing rules and to chapters 141 to 155.

SECTION HISTORY
1975, c. 161, (AMD). 1985, c. 158, §2 (AMD). 1985, c. 785, §A73 (AMD). 1987, c. 395, §A21 (AMD). 1989, c. 596, §O1 (AMD). 1991, c. 418, §1 (AMD). 1991, c. 780, §Y68 (AMD). 2001, c. 529, §1 (AMD). 2003, c. 37, §1 (AMD). 2003, c. 689, §B6 (REV). 2005, c. 386, §H8 (AMD).

§1813-A. SALE OF SURPLUS PROPERTY

(REPEALED)

SECTION HISTORY
1985, c. 158, §3 (NEW). 1985, c. 785, §A74 (AMD). 1989, c. 596, §O2 (RPR). 1991, c. 418, §§2,3 (AMD). 1991, c. 716, §6 (AMD). RR 2001, c. 2, §A7 (COR). 2001, c. 529, §2 (AMD). 2003, c. 37, §§2,3 (AMD). 2003, c. 545, §5 (REV). 2003, c. 689, §B6 (REV). 2005, c. 386, §H9 (RP).

§1813-B. COST-SAVINGS INFORMATION AVAILABLE THROUGH THE INTERNET

The Director of the Bureau of General Services shall make cost-savings information for the award winners of all competitively bid contracts for services for the State available through the department's publicly accessible site on the Internet. For a contract with a new contractor, the cost-savings information must, where applicable, include projected savings of the contract over the State's costs of providing the same service and include the amount of savings over the previous contractor's contract. For a contract with a contractor renewing or extending a contract for the first time, the cost-savings information must, where applicable, include details of cost-savings for the expiring contract over the previous contractor's costs and details of continued cost-savings at or below costs in the current contract adjusted for inflation. For a contract with a contractor renewing or extending a contract beyond a first renewal or extension, the cost-savings information must include details on continued cost-savings at or below costs in the current contract adjusted for inflation. The Director of the Bureau of General Services shall coordinate with all departments and agencies in the State to ensure the collection of the cost-savings information described in this section. The Director of the Bureau of General Services, with the approval of the Commissioner of Administrative and Financial Services, shall establish by rule practices and procedures to make the cost-savings information available on the department's publicly accessible site on the Internet. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2015, c. 345, §1 (NEW).]

SECTION HISTORY
2015, c. 345, §1 (NEW).

§1814. STANDARDIZATION COMMITTEE

(REPEALED)

SECTION HISTORY
1969, c. 300, §§2,3 (AMD). 1977, c. 332, (RPR). 1983, c. 812, §§25,26 (AMD). 1985, c. 785, §A75 (AMD). 1989, c. 503, §B18 (AMD). 1991, c. 622, §S4 (RP).

§1815. REQUISITIONS REQUIRED

Except as otherwise provided in chapters 141 to 155 and the rules and regulations adopted hereunder, services, supplies, materials and equipment shall be purchased by or furnished to the State Government or any department or agency thereof only upon requisition to the State Purchasing Agent. The State Purchasing Agent, or his authorized representative, shall examine each requisition submitted to him by any department or agency of the State Government and may revise it as to quantity, quality or estimated cost after consultation with the department or agency concerned.

§1816. BIDS, AWARDS AND CONTRACTS

(REPEALED)

SECTION HISTORY
1969, c. 300, §§4,5 (AMD). 1973, c. 731, (AMD). 1977, c. 399, (AMD). 1979, c. 3, §1 (AMD). 1979, c. 586, §§1,2 (AMD). 1981, c. 495, (AMD). 1981, c. 592, (AMD). 1983, c. 194, §§1,2 (AMD). 1985, c. 222, §1 (AMD). 1985, c. 359, §2 (AMD). 1987, c. 737, §§C7,C106 (AMD). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,C10 (AMD). 1989, c. 501, §§J1-5 (AMD). 1989, c. 785, §1 (RP).

§1816-A. PERSONAL SERVICES CONTRACTING

1. **Conditions; general.** Except for contracts requiring specific legislative approval, personal services contracting is permissible when any one of the following conditions is met.

A. The services contracted are not currently available within a state agency, can not be performed satisfactorily by civil service employees or are of such a highly specialized or technical nature that the necessary expert knowledge, experience or ability is not available through the civil service system. [1997, c. 285, §1 (NEW).]

B. The services are incidental to a contract for the purchase or lease of real or personal property. Contracts under this criterion, known as service agreements, include, but are not limited to, agreements to service or maintain office equipment or computers that are leased or rented. [1997, c. 285, §1 (NEW).]

C. The legislative, administrative or legal goals and purposes can not be accomplished by using persons selected pursuant to the civil service system. Contracts are permissible under this criterion to protect against a conflict of interest or to ensure independent and unbiased findings when there is a clear need for a different outside perspective. [1997, c. 285, §1 (NEW).]

D. A state agency needs private counsel because a conflict of interest on the part of the Department of the Attorney General prevents it from representing the agency without compromising the agency's position. A contract entered into under this condition requires the written consent of the Attorney General. [1997, c. 285, §1 (NEW).]

E. The contractor provides equipment, materials, facilities or support services that the State can not feasibly provide in the location where the services are to be performed. [1997, c. 285, §1 (NEW).]

F. The contractor conducts training courses for which appropriately qualified civil service instructors are not and can not be made available. [1997, c. 285, §1 (NEW).]

G. The services are of such an urgent, temporary or occasional nature that the delay incumbent in implementation under civil service would frustrate the purpose. [1997, c. 285, §1 (NEW).]

H. The contracting agency demonstrates a quantifiable improvement in services that can not be reasonably duplicated within existing resources. [1997, c. 285, §1 (NEW).]

[1997, c. 285, §1 (NEW) .]

2. **Conditions; cost savings.** Personal services contracting is permissible to achieve actual cost savings when all the following conditions are met.

A. The contracting agency clearly demonstrates that the proposed contract would result in actual overall cost savings to the State as long as, in comparing costs:

(1) The State's costs of providing the same service as proposed by a contractor are included. These costs must include the salaries and benefits of additional staff that would be needed and the cost of additional space, equipment and materials needed to perform the service; and

(2) Any continuing state costs directly associated with a contractor providing a contracted function are included. These continuing state costs include, but are not limited to, those costs for inspection, supervision, monitoring and any pro rata share of existing costs or expenses, including administrative salaries and benefits, rent, equipment costs, utilities and materials. [1997, c. 285, §1 (NEW).]

B. The contract does not adversely affect the State's affirmative action efforts. [1997, c. 285, §1 (NEW).]

C. The contract is awarded in accordance with section 1825-B. [1997, c. 285, §1 (NEW).]

D. The contract includes specific provisions pertaining to the qualifications of the staff that is to perform the work under the contract, as well as a statement that the contractor's hiring practices meet applicable affirmative action and antidiscrimination standards. [1997, c. 285, §1 (NEW).]

E. The potential for future economic risk to the State from potential rate increases or work interruptions by the contractor is minimal. [1997, c. 285, §1 (NEW).]

F. The contract is with a firm or a licensed, registered or otherwise professionally qualified individual. For the purposes of this section, "firm" means a corporation, partnership, nonprofit organization or sole proprietorship. [1997, c. 285, §1 (NEW).]

G. The potential economic advantage of contracting is not outweighed by the public's interest in having a particular function performed directly by State Government. [1997, c. 285, §1 (NEW).]

H. The contract does not contain standards of performance or employee qualifications lower than existing state standards or minimum qualifications. [1997, c. 285, §1 (NEW).]

I. An equivalent basis for cost comparison between state employee and private contractor provision of services is calculated, as established by rules adopted by the State Purchasing Agent pursuant to section 1825-B, subsection 11, and it is determined that the private contractor provides the best value. [2003, c. 501, §1 (NEW); 2003, c. 501, §3 (AFF).]

[2003, c. 501, §1 (AMD); 2003, c. 501, §3 (AFF) .]

3. **Contract information retained.** Departments or agencies submitting proposed contracts shall retain all data, including written findings, relevant to the contracts and necessary for a specific application of the standards set forth in subsections 1 and 2.

[1997, c. 285, §1 (NEW) .]

4. **Access to public records.** As a condition of accepting a contract for services under this section, a contractor must agree to treat all records, other than proprietary information, relating to personal services work performed under the contract as public records under the freedom of access laws to the same extent as if the work were performed directly by the department or agency. For the purposes of this subsection, "proprietary information" means information that is a trade secret or commercial or financial information, the disclosure of which would impair the competitive position of the contractor and would make available information not otherwise publicly available. Information relating to wages and benefits of the employees performing the personal services work under the contract and information concerning employee and contract oversight and accountability procedures and systems are not proprietary information. This subsection applies to contracts, contract extensions and contract amendments executed on or after October 1, 2009.

[2009, c. 221, §1 (NEW) .]

SECTION HISTORY
1997, c. 285, §1 (NEW). 2003, c. 501, §1 (AMD). 2003, c. 501, §3 (AFF). 2009, c. 221, §1 (AMD).

§1817. PRINTING OF LAWS

When the Revisor of Statutes has prepared material for a revision of the entire statutes of the State, the revisor shall deliver the revision prepared for printing to the State Purchasing Agent, who shall contract for the printing, binding and delivery to the State of a sufficient number of volumes to meet the needs of the State and for sale as provided. [2015, c. 102, §8 (AMD).]

SECTION HISTORY
1985, c. 737, §B11 (AMD). 2015, c. 102, §8 (AMD).

§1818. DELIVERIES

Supplies, materials and equipment, purchased or contracted for by the State Purchasing Agent, shall be delivered by him or by the contractor to the department or agency by which or for whom the same are to be used from time to time as required.

§1819. UNLAWFUL PURCHASES

Whenever any department or agency of the State Government, required by chapters 141 to 155 and rules and regulations adopted pursuant thereto, applying to the purchase of services, supplies, materials or equipment through the State Purchasing Agent, shall contract for the purchase of such services, supplies, materials or equipment contrary to chapters 141 to 155 or the rules and regulations made hereunder, such contract shall be void and have no effect. If any such department or agency purchases any services, supplies, materials or equipment contrary to chapters 141 to 155 or rules and regulations made hereunder, the head of such department or agency shall be personally liable for the costs thereof, and if such services, supplies, materials or equipment are so unlawfully purchased and paid for out of state moneys, the amount thereof may be recovered in the name of the State in an appropriate action instituted therefor.

§1820. MOTOR VEHICLES SOLD BY STATE

Any motor vehicle sold by the State shall be sold to the highest bidder. Specific terms of delivery and terms of interim usage prior to delivery shall be stated to the prospective purchaser prior to the time that the State accepts any bid, and such terms shall be complied with by agents or employees of the State having control of the disposition of such motor vehicle or vehicles after any such bids have been accepted. This section shall not apply to the exchange of motor vehicles for new models between the State and authorized dealers.

§1821. PURPOSE

(REPEALED)

SECTION HISTORY
1973, c. 198, (NEW). 2015, c. 141, §1 (RP).

§1822. BLIND-MADE PRODUCTS

(REPEALED)

SECTION HISTORY
1973, c. 198, (NEW). 1989, c. 14, §1 (AMD). 1993, c. 708, §J3 (AMD). 1995, c. 560, §F4 (AMD). 2015, c. 141, §2 (RP).

§1823. PRICE DETERMINATION

(REPEALED)

SECTION HISTORY
1973, c. 198, (NEW). 2015, c. 141, §3 (RP).

§1824. PROCUREMENT BY STATE OR ANY POLITICAL SUBDIVISIONS OF THE STATE

(REPEALED)

SECTION HISTORY
1973, c. 198, (NEW). 1993, c. 708, §J4 (AMD). 2015, c. 141, §4 (RP).

§1824-A. STATEWIDE CAPITAL EQUIPMENT FUND

1. **Fund.** The Statewide Capital Equipment Fund, referred to in this section as "the fund," is established as a program account in the General Fund within the Department of Administrative and Financial Services to provide a source of funding for the purchase of items of capital equipment that are emergency in nature and that were not funded or could not have been anticipated and included in the biennial or supplemental budget enacted pursuant to section 1666-A.

[2011, c. 380, Pt. EE, §1 (NEW) .]

2. **Use of fund.** The fund may be used for the purchase of capital equipment, but may not be used to purchase motor vehicles, real property, information technology equipment or any single piece of equipment with a value of more than $35,000.

[2011, c. 380, Pt. EE, §1 (NEW) .]

3. **Nonlapsing account.** Any unexpended amounts remaining in the fund may not lapse but must be carried forward.

[2011, c. 380, Pt. EE, §1 (NEW) .]

4. **Application for funds.** Departments and agencies seeking funding must submit a request to the Commissioner of Administrative and Financial Services upon forms provided by the Department of Administrative and Financial Services.

[2011, c. 380, Pt. EE, §1 (NEW) .]

5. **Transfer authority.** Funds approved for equipment purchases may be transferred by financial order upon recommendation of the State Budget Officer and approval of the Governor.

[2011, c. 380, Pt. EE, §1 (NEW) .]

SECTION HISTORY
2011, c. 380, Pt. EE, §1 (NEW).

§1825. PROHIBITIONS

All state agencies, except the Department of Transportation, are prohibited from purchasing what is normally classified as heavy equipment not previously authorized by the Legislature through the budget process, without prior written authorization from the Commissioner of Administrative and Financial Services. All purchase requisitions for heavy equipment must indicate the budget year and account that authorized each item of equipment and, if required, contain the written authorization of the Commissioner of Administrative and Financial Services. [1991, c. 780, Pt. Y, §69 (AMD).]

SECTION HISTORY
1985, c. 481, §A13 (NEW). 1991, c. 780, §Y69 (AMD).

Subchapter 1-A: RULES GOVERNING THE COMPETITIVE BID PROCESS

§1825-A. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1989, c. 785, §2 (NEW).]

1. **Aggrieved person.** "Aggrieved person" means any person who bids on a contract or grant and who is adversely affected, financially, professionally or personally, by that contract or grant award decision.

[2015, c. 179, §1 (AMD) .]

2. **Approved equal.** "Approved equal" means any goods or service other than specified in the bid proposal that in the opinion of the State Purchasing Agent is equivalent in character, quality and performance to the goods or service specified in the bid proposal.

[1989, c. 785, §2 (NEW) .]

3. **Competitive bidding.** "Competitive bidding" means the transmission of a written proposal or invitation to bid to at least 3 responsible suppliers that is to be replied to at a stated time. In obtaining competitive bids, if the State Purchasing Agent finds that 3 responsible bidders are not available, the State Purchasing Agent may make such exceptions to this subsection as are in the best interests of the State.

[1989, c. 785, §2 (NEW) .]

4. **In-state bidder.** "In-state bidder" means a person or group of persons whose principal place of business, or a branch of whose business, is located in the State.

[1989, c. 785, §2 (NEW) .]

5. **Person.** "Person" means any individual, business, corporation, association, firm, partnership or other organization, whether profit or nonprofit.

[1989, c. 785, §2 (NEW) .]

6. **Petitioner.** "Petitioner" means any person who has requested a stay of a contract or grant award decision or a hearing of appeal.

[2015, c. 179, §1 (AMD) .]

7. **Significantly vary.** "Significantly vary" means to change, modify, add to, subtract from, substitute or otherwise change a proposal or invitation to bid to an extent that may affect the price of goods or services requested.

[1989, c. 785, §2 (NEW) .]

8. **Stay.** "Stay" means the temporary suspension of a contract or grant award pending an appeal under this subchapter.

[2015, c. 179, §1 (AMD) .]

SECTION HISTORY
1989, c. 785, §2 (NEW). 2015, c. 179, §1 (AMD).

§1825-B. BIDS, AWARDS, CONTRACTS AND GRANTS

1. **Purchases by competitive bidding.** The Director of the Bureau of General Services shall purchase collectively all goods and services for the State or any department or agency of the State in a manner that best secures the greatest possible economy consistent with the required grade or quality of the goods or services. Except as otherwise provided by law, the Director of the Bureau of General Services shall make purchases of goods or services needed by the State or any department or agency of the State through competitive bidding.

[1991, c. 780, Pt. Y, §70 (AMD) .]

2. **Waiver.** The requirement of competitive bidding may be waived by the Director of the Bureau of General Services when:

A. The procurement of goods or services by the State for county commissioners pursuant to Title 30-A, section 124, involves the expenditure of $2,500 or less, and the interests of the State would best be served; [1999, c. 105, §1 (AMD).]

B. The Director of the Bureau of General Services is authorized by the Governor or the Governor's designee to make purchases without competitive bidding because in the opinion of the Governor or the Governor's designee an emergency exists that requires the immediate procurement of goods or services; [1995, c. 119, §1 (AMD).]

C. After reasonable investigation by the Director of the Bureau of General Services, it appears that any required unit or item of supply, or brand of that unit or item, is procurable by the State from only one source; [1991, c. 780, Pt. Y, §70 (AMD).]

D. It appears to be in the best interest of the State to negotiate for the procurement of petroleum products; [1989, c. 785, §2 (NEW).]

E. The purchase is part of a cooperative project between the State and the University of Maine System, the Maine Community College System, the Maine Maritime Academy or a private, nonprofit, regionally accredited institution of higher education with a main campus in this State involving:

(1) An activity assisting a state agency and enhancing the ability of the university system, community college system, Maine Maritime Academy or a private, nonprofit, regionally accredited institution of higher education with a main campus in this State to fulfill its mission of teaching, research and public service; and

(2) A sharing of project responsibilities and, when appropriate, costs; [2011, c. 555, §1 (AMD).]

F. The procurement of goods or services involves expenditures of $10,000 or less, in which case the Director of the Bureau of General Services may accept oral proposals or bids; or [1999, c. 105, §2 (AMD).]

G. The procurement of goods or services involves expenditures of $10,000 or less, and procurement from a single source is the most economical, effective and appropriate means of fulfilling a demonstrated need. [1999, c. 105, §3 (AMD).]

[2011, c. 555, §1 (AMD) .]

3. **Report.** By January 15th of each year the Director of the Bureau of General Services shall submit to the joint standing committee of the Legislature having jurisdiction over state and local government a report concerning any waivers from the competitive bidding provisions established in subsection 2, paragraph E.

[1991, c. 780, Pt. Y, §70 (AMD) .]

4. **Registry of suppliers.** Suppliers desiring to have their names entered on a registry of suppliers must submit a request to the Director of the Bureau of General Services in writing. The Director of the Bureau of General Services may prescribe the manner and form in which such a request must be submitted and may limit the number of names of out-of-state bidders on any registry. The name of any supplier entered in such a registry who fails to submit a bid on 3 consecutive proposals or invitations to bid may be removed from the registry at the discretion of the Director of the Bureau of General Services, except that the Department of Corrections remains on any registry until the Department of Corrections requests that the department be removed from that registry.

[1991, c. 780, Pt. Y, §70 (AMD) .]

5. **Alternate bids.** When, in bid forms and specifications, an article or material is identified by using a trade name and catalog number of a manufacturer or vendor, the term "or approved equal," if not inserted with the identification, is implied. There is a presumption that any reference to a particular manufacturer's product either by trade name or by limited description has been made solely for the purpose of more clearly indicating the minimum standard of quality desired. Consideration must be given to proposals submitted on approved equal alternate commodities to the extent that such action serves the best interest of the State. The bidder submitting a proposal on a commodity other than as specified shall furnish complete identification, descriptive literature or data with respect to the alternate commodity that the bidder proposes to furnish. Lack of such information on the bid must be construed to mean that the bidder proposes to furnish the exact commodity described. The State reserves the right to reject any bids, in whole or in part, to waive any formality or technicality in any bid and to accept any item in any bid.

[1989, c. 785, §2 (NEW) .]

6. **Record of bids.** Each bid, with the name of the bidder, must be entered on a record. Each record, with the successful bid indicated, must be open to public inspection after the letting of the contract or grant. A bond for the proper performance of each contract or grant may be required of each successful bidder at the discretion of the Director of the Bureau of General Services, with the approval of the Commissioner of Administrative and Financial Services.

[2015, c. 179, §2 (AMD) .]

7. **Awards to best-value bidder.** Except as otherwise provided by law, competitively awarded orders, grants or contracts made by the Director of the Bureau of General Services or by any department or agency of the State must be awarded to the best-value bidder, taking into consideration the qualities of the goods or services to be supplied, their conformity with the specifications, the purposes for which they are required, the date of delivery and the best interest of the State. If the bidder that was initially awarded the order, grant or contract does not perform, the Director of the Bureau of General Services may cancel the order, grant or contract and award a new order, grant or contract to the 2nd best-value bidder. The order, grant or contract may not be awarded to a bidder that the Director of the Bureau of General Services determined was not in compliance at the time the initial bid was submitted.

[2015, c. 179, §2 (AMD) .]

8. **Tie bids.** The Director of the Bureau of General Services shall award contracts, grants or purchases to in-state bidders or to bidders offering commodities produced or manufactured in the State if the price, quality, availability and other factors are equivalent.

[2015, c. 179, §2 (AMD) .]

9. **Determination of best-value bidder.** In determining the best-value bidder, the Director of the Bureau of General Services or any department or agency of the State shall, for the purpose of competitively awarding a contract or grant, add a percent increase on the bid of a nonresident bidder equal to the percent, if any, of the preference given to that bidder in the state in which the bidder resides.

[2015, c. 179, §2 (AMD) .]

10. **List of state preferences published.** The Director of the Bureau of General Services on or before January 1st of each year shall publish a list of states that give preference to in-state bidders with the percent increase applied in each such state. The Director of the Bureau of General Services or any department or agency of the State may rely on the names of states and percentages as published in determining the best-value bidder without incurring any liability to any bidder.

[1997, c. 263, §2 (AMD) .]

11. **Rulemaking; unfair competition.** State departments and agencies may not achieve cost savings due to cost differentials that derive from a bidder's failure to provide health and retirement benefits to its employees. The State Purchasing Agent shall adopt rules governing the purchase of services and the awarding of grants or contracts for personal services to establish a basis for bid price and cost comparison among businesses that provide health and retirement benefits to their employees and those that do not provide these benefits. The rules must include a methodology for calculating bid price and cost differentials for services provided by businesses and state employees due to the provision of health and retirement benefits for employees. The rules must adjust the bid prices to establish an equivalent basis for bid price and cost comparison among businesses when awarding contracts or grants and between businesses and state employees when determining whether or not a contract or grant is permitted under section 1816-A. These rules must apply to all state departments and agencies. Rules adopted pursuant to this subsection are routine technical rules as defined in chapter 375, subchapter 2-A.

[2015, c. 179, §2 (AMD) .]

12. **Vendor's fee.** The State Purchasing Agent may collect a fee in an amount equal to 1% of the bid from a supplier of apparel, footwear or textiles with a winning bid under this section. The State Purchasing Agent shall apply the fee under this subsection to the costs of implementing and administering the state purchasing code of conduct under section 1825-L, including developing a consortium to monitor and investigate alleged violations of the code of conduct. The State Purchasing Agent shall adopt routine technical rules under chapter 375, subchapter 2-A to carry out the purposes of this subsection.

[2007, c. 193, §1 (NEW) .]

13. **Vendor's fee report.** By January 15th of each year the Director of the Bureau of General Services shall submit a report to the joint standing committee of the Legislature having jurisdiction over state and local government matters concerning revenue generated by the vendor's fee established in subsection 12.

[2007, c. 193, §2 (NEW) .]

14. **Condition of doing business with the State.** Notwithstanding any provision of law to the contrary, any purchase by the State of $100,000 or more of tangible personal property, except for public utility purchases, as defined in Title 36, section 1752, subsection 17, or emergency purchases pursuant to subsection 2, paragraph B, may be made only from a person who is registered as a seller pursuant to Title 36, section 1754-B. As a condition of doing business with the State, the seller must collect, report and remit taxes in accordance with Title 36, Part 3. As provided in this subsection, the State is prohibited from doing business with a person who is not registered as a seller pursuant to Title 36, section 1754-B and is not in compliance with the requirement to collect, report and remit taxes pursuant to Title 36, Part 3. After notification of the award, the seller must provide the State Purchasing Agent with a valid retailer certificate issued by the State Tax Assessor within 7 business days. If the seller fails to provide the registration certificate within 7 business

days, the State Purchasing Agent may cancel the award and make a new award pursuant to subsection 7. The State Purchasing Agent shall provide the State Tax Assessor with a copy of all contracts and grants awarded pursuant to this section. The State Tax Assessor shall notify the State Purchasing Agent if at any time during the term of the contract or grant the person is no longer registered or is not collecting, reporting and remitting taxes in compliance with the requirements of Title 36, Part 3. Until the noncompliance is corrected, the State Purchasing Agent may withhold any payments to the person.

[2015, c. 179, §2 (AMD) .]

SECTION HISTORY
1989, c. 785, §2 (NEW). 1991, c. 515, §1 (AMD). 1991, c. 780, §Y70 (AMD). 1993, c. 640, §1 (AMD). 1995, c. 42, §1 (AMD). 1995, c. 119, §§1-4 (AMD). 1995, c. 387, §1 (AMD). 1995, c. 625, §A5 (AMD). 1997, c. 263, §§1,2 (AMD). 1999, c. 105, §§1-3 (AMD). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF). 2003, c. 501, §2 (AMD). 2007, c. 193, §§1, 2 (AMD). 2007, c. 328, §1 (AMD). 2011, c. 555, §1 (AMD). 2015, c. 179, §2 (AMD).

§1825-C. RULEMAKING

The State Purchasing Agent shall adopt rules under this subchapter governing the purchase of services, the awarding of grants or contracts and the procedure by which aggrieved persons may appeal award decisions made by a department or agency of State Government. These rules must be adopted in accordance with the Maine Administrative Procedure Act and apply to all departments and agencies of State Government subject to the authority of the Department of Administrative and Financial Services as set forth in this chapter. [2015, c. 179, §3 (AMD).]

SECTION HISTORY
1989, c. 785, §2 (NEW). 2007, c. 466, Pt. A, §12 (AMD). 2015, c. 179, §3 (AMD).

§1825-D. PUBLIC NOTICE AND REVIEW OF BIDS

The State Purchasing Agent shall make the public aware of contracts and grants for which bids are being requested and the procedure to be used in reviewing bids. Rules adopted under this subchapter must include a clear procedure: [2015, c. 179, §4 (AMD).]

1. **Notice.** For informing the public about contracts and grants for which proposals are being requested;

[2015, c. 179, §5 (AMD) .]

1-A. **Request for information.** For requesting information from bidders that includes, but is not limited to, the degree to which the bidder meets or exceeds various state and federal regulatory requirements and any other state fiscal impact;

[1997, c. 263, §3 (NEW) .]

2. **Review process.** To be used when reviewing competitive bids, including the requirement that written records be kept by each person directly reviewing or ranking bids;

[1989, c. 785, §2 (NEW) .]

3. **Contract or grant award.** For determining successful bidders and awarding contracts and grants, including written notification to all bidders upon an award decision made pursuant to a request for proposals and criteria to be used to resolve tie bids; and

[2015, c. 179, §5 (AMD) .]

4. **Criteria for appeals.** For the review of any contract or grant award decision appealed under this subchapter.

[2015, c. 179, §5 (AMD) .]

A department or agency of State Government may not significantly vary the content, nature or requirements of a proposal or invitation to bid issued under this subchapter without immediately notifying all bidders of those changes in writing and allowing sufficient time for bidders to reflect those changes in their bid packages. [1989, c. 785, §2 (NEW).]

A department or agency of State Government may not change or substitute the procedures adopted under this subchapter without the State Purchasing Agent first adopting those changes or substitutions as rules under this subchapter in accordance with the Maine Administrative Procedure Act, chapter 375. [1989, c. 785, §2 (NEW).]

SECTION HISTORY
1989, c. 785, §2 (NEW). 1997, c. 263, §3 (AMD). 2015, c. 179, §§4, 5 (AMD).

§1825-E. APPEAL PROCEDURES

The Director of the Bureau of General Services shall ensure that every department or agency of State Government affords aggrieved persons an opportunity to appeal a contract or grant award decision. As provided by this section, rules adopted under this subchapter must establish clear procedures by which an aggrieved person may appeal a contract or grant award decision. [2015, c. 179, §6 (AMD).]

1. **Stay.** Persons aggrieved by a contract or grant award decision may request a stay of an award decision. Such a request must be made to the Director of the Bureau of General Services in writing within 10 days of notification of the contract or grant award and must state the nature of the grievance.

The Director of the Bureau of General Services shall issue a stay of a contract or grant award decision, pending appeal, upon a showing of irreparable injury to the petitioner, a reasonable likelihood of success on the merits, and no substantial harm to adverse parties or to the general public.

The Director of the Bureau of General Services shall notify the petitioner in writing of the director's decision regarding the issuance of a stay within 7 days of receipt of the request.

Failure of the petitioner to obtain a stay does not affect the petitioner's right to a hearing of appeal under this subchapter.

[2015, c. 179, §6 (AMD) .]

2. **Request for hearing of appeal.** Persons aggrieved by an agency contract or grant award decision under this subchapter may request a hearing of appeal. Such a request must be made to the Director of the Bureau of General Services in writing within 15 days of notification of the award. The Director of the Bureau of General Services shall grant a hearing of appeal unless:

A. The Director of the Bureau of General Services determines that:

(1) The petitioner is not an aggrieved person;

(2) A prior request by the same petitioner relating to the same contract or grant award has been granted;

(3) The request was made more than 15 days after notice of contract or grant award; or

(4) The request is capricious, frivolous or without merit; or [2015, c. 179, §6 (AMD).]

B. No contract or grant was awarded. [2015, c. 179, §6 (AMD).]

The Director of the Bureau of General Services shall notify the petitioner in writing of the director's decision regarding a request for a hearing of appeal within 15 days of receipt of the request. If a request for a hearing is granted, notification must be made at least 10 days before the hearing date and must include the date and location of the hearing and the names of the appeal committee members.

[2015, c. 179, §6 (AMD) .]

3. **Appeal committee.** A committee of 3 members shall hear a petitioner's appeal within 60 days of receipt of the request for an appeal. The Commissioner of Administrative and Financial Services shall appoint 2 members of an appeal committee, except that persons who have any direct or indirect personal, professional or financial conflict of interest in the appeal or employees of any department affected by the contract or grant may not serve on the appeal committee. The 3rd member is the Director of the Bureau of General Services or the director's designee.

Members of an appeal committee appointed under this section shall meet at the appointed time and place in the presence of the petitioner and such individuals as the petitioner determines necessary for a full and fair hearing. The petitioner may present to the appeal committee any materials the petitioner considers relevant to the appeal.

The appeal committee shall keep a written record of each hearing and shall submit its decision and the reasons for its decision to the Director of the Bureau of General Services in writing no later than 15 days following the hearing of appeal.

Subject to the requirements of rules adopted under this section and evidence presented during a hearing of appeal, the appeal committee may decide either to:

A. Validate the contract or grant award decision under appeal; or [2015, c. 179, §6 (AMD).]

B. Invalidate the contract or grant award decision under appeal. [2015, c. 179, §6 (AMD).]

Except as provided in paragraph B, an appeal committee may not modify the contract or grant award under appeal, or make a new award. Contracts or grants found invalid by an appeal committee under this subchapter become immediately void and of no legal effect.

[2015, c. 179, §6 (AMD) .]

SECTION HISTORY
1989, c. 785, §2 (NEW). 1991, c. 780, §Y71 (AMD). 1993, c. 192, §1 (AMD). 2015, c. 179, §6 (AMD).

§1825-F. FINAL AGENCY ACTION

Decisions made by an appeal committee under section 1825-E, subsection 3 constitute final agency action on the petitioner's appeal for the purposes of judicial review under chapter 375, subchapter VII. The State Purchasing Agent shall notify a petitioner of a final agency action made under this subchapter in writing within 7 days of the final agency action. Notification of final agency action must include: [1993, c. 192, §2 (AMD).]

1. **Complaint.** A brief summary of the nature of the petitioner's appeal;

[1989, c. 785, §2 (NEW) .]

2. **Decision.** Notification of the decision of the appeal committee;

[1989, c. 785, §2 (NEW) .]

3. **Reasons.** An explanation of the reasons for the decision; and

[1989, c. 785, §2 (NEW) .]

4. **Right to judicial review.** An explanation of the petitioner's right to judicial review of final agency action.

[1989, c. 785, §2 (NEW) .]

SECTION HISTORY
1989, c. 785, §2 (NEW). 1993, c. 192, §2 (AMD).

§1825-G. FAILURE TO ACT

Failure or refusal of the State Purchasing Agent to adopt rules under this subchapter is sufficient grounds for an aggrieved person to request judicial review of agency rulemaking pursuant to section 8058. In the event that a judicial declaration of an invalid rule is made under this section and section 8058, the contract or grant award under appeal becomes immediately void and of no legal effect. [2015, c. 179, §7 (AMD).]

SECTION HISTORY
1989, c. 785, §2 (NEW). 2015, c. 179, §7 (AMD).

§1825-H. DEADLINE FOR ADOPTION OF RULES

The State Purchasing Agent shall adopt rules implementing this subchapter no later than January 1, 1991. [1989, c. 785, §2 (NEW).]

SECTION HISTORY
1989, c. 785, §2 (NEW).

§1825-I. CONSULTANTS

While under contract or working pursuant to a grant with the State, a consultant may use state facilities and state property only for the project or projects to which a contract or grant applies. [2015, c. 179, §8 (AMD).]

SECTION HISTORY
1993, c. 71, §1 (NEW). 2015, c. 179, §8 (AMD).

§1825-J. REPORTS

When a state agency enters into a contract or grant with a nongovernmental entity, and the contract or grant includes a report to the agency, the contract or grant must require that the report be in writing or in another reproducible nontransitory medium and be submitted to the agency. The report must express all of the substantive conclusions disclosed to the agency and either summarize the information and data or identify the source of the information and data on which those conclusions are based. Once the report is submitted, the agency shall retain at least one copy of the report in its custody. This section applies to contracts and grants with a total cost of $10,000 or more. [2015, c. 179, §9 (AMD).]

SECTION HISTORY
1999, c. 623, §1 (NEW). 2015, c. 179, §9 (AMD).

Subchapter 1-B: STATE PURCHASING CODE OF CONDUCT FOR SUPPLIERS OF APPAREL, FOOTWEAR OR TEXTILES

§1825-K. APPLICATION OF STATE PURCHASING CODE OF CONDUCT TO CERTAIN BIDDERS SEEKING CONTRACTS AS PART OF COMPETITIVE BID PROCESS; AFFIDAVIT REQUIRED

1. **Application.** This subchapter applies to competitive bids for sale of apparel, footwear or textiles pursuant to subchapter 1-A.

[2005, c. 554, Pt. A, §1 (NEW) .]

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

A. "Code of conduct" means the state purchasing code of conduct that follows the principles set out in section 1825-L. [2005, c. 554, Pt. A, §1 (NEW).]

B. "Independent monitor" means a not-for-profit organization that is neither funded nor controlled, in whole or in part, by businesses that sell or manufacture apparel, footwear or textiles. [2005, c. 554, Pt. A, §1 (NEW).]

[2005, c. 554, Pt. A, §1 (NEW) .]

3. **Availability of copy of code of conduct.** The State Purchasing Agent shall make a copy of the state purchasing code of conduct available to all bidders subject to this subchapter.

[2005, c. 554, Pt. A, §1 (NEW) .]

4. **Affidavit requirement.** The State Purchasing Agent may not accept a bid for the sale of goods covered by this subchapter unless:

A. Prior to the close of the bidding deadline, the bidder has filed with the agent a signed affidavit, executed and filed by a person authorized to commit the bidder to the code of conduct, stating:

(1) That the bidder will comply with the code of conduct;

(2) That the bidder has furnished a copy of the code of conduct to each supplier at the point of assembly of the goods subject to the bid process and required that each supplier inform the bidder of whether the supplier is in compliance with the code of conduct; and

(3) That, to the best of the bidder's knowledge, each supplier at the point of assembly of the goods subject to the bid process is in compliance with the code of conduct; and [2005, c. 554, Pt. A, §1 (NEW).]

B. The bidder has submitted a list of the names and addresses of suppliers at the point of assembly of goods subject to the bid process. [2005, c. 554, Pt. A, §1 (NEW).]

[2005, c. 554, Pt. A, §1 (NEW) .]

5. **Affidavit update requirement.** If, after complying with the filing requirements of this section, a bidder is awarded a contract, that contractor must, during the term of the contract, promptly inform the State Purchasing Agent of any change in the information furnished in the affidavit submitted at the time of the original bid and must submit a new, updated affidavit that conforms with the requirements of subsection 4.

[2005, c. 554, Pt. A, §1 (NEW) .]

SECTION HISTORY

2001, c. 439, §NNNN1 (NEW). 2005, c. 554, §A1 (RPR).

§1825-L. STATE PURCHASING CODE OF CONDUCT

1. **Statement of belief; protection of local interests.** The affidavit provided by the State Purchasing Agent to bidders for contracts to provide goods covered by this subchapter must include a copy of the following statement:

"Maine is a state that believes employers should fairly compensate hard work, that the health and safety of working people should be protected and that no form of unlawful discrimination or abuse should be tolerated. Maine citizens are aware that laws and regulations designed to safeguard basic tenets of ethical business practice are disregarded in many workplaces, commonly referred to as "sweatshops." State Government purchase of goods made under abusive conditions on behalf of its citizens offends Maine citizens' sense of justice and decency. Moreover, when the State of Maine contracts with vendors whose suppliers profit by providing substandard wages and working conditions, Maine's businesses are put at a competitive disadvantage. Therefore, the State of Maine believes in doing business with vendors who make a good faith effort to ensure that they and their suppliers at the point of assembly adhere to the principles of the State of Maine's purchasing code of conduct.

"In its role as a market participant that procures goods covered by this code, the State of Maine seeks to protect the interests of Maine citizens and businesses by exercising its state sovereignty to spend Maine citizens' tax dollars in a manner consistent with their expressed wishes that the State deal with responsible bidders who seek contracts to supply goods to the State of Maine, and protect legally compliant Maine businesses and workers from unfair competition created by downward pressure on prices and conditions attributable to businesses that violate applicable workplace laws.

"Seeking to protect these local interests through the least discriminatory means available, the State of Maine requires that all bidders seeking contracts to supply the State of Maine with goods covered by this code sign an affidavit stating that they and, to the best of their knowledge, their suppliers at the point of assembly comply with workplace laws of the vendor's or supplier's site of assembly and with treaty obligations that are shared by the United States and the country in which the goods are assembled."

[2001, c. 439, Pt. NNNN, §1 (NEW) .]

2. **Employment and business conduct; requirements.** With respect to goods covered by this subchapter, a company contracting with the State to supply those goods shall adopt and adhere to employment and business practices in accordance with this subsection. A company shall:

A. Comply with all applicable wage, health, labor, environmental and safety laws, legal guarantees of freedom of association, building and fire codes and laws relating to discrimination in hiring, promotion or compensation on the basis of race, disability, national origin, gender, sexual orientation or affiliation with any political, nongovernmental or civic group except when federal law precludes the State from attaching the procurement conditions provided in this subchapter. [2001, c. 439, Pt. NNNN, §1 (NEW).]

B. Comply with all human and labor rights treaty obligations that are shared by the United States and the country in which the goods are assembled. These may include obligations with regard to forced labor, indentured labor, slave labor, child labor, involuntary prison labor, physical and sexual abuse and freedom of association. [2001, c. 439, Pt. NNNN, §1 (NEW).]

[2001, c. 439, Pt. NNNN, §1 (NEW) .]

3. Consequences of noncompliance with purchasing code of conduct.

[2005, c. 554, Pt. A, §2 (RP) .]

SECTION HISTORY
2001, c. 439, §NNNN1 (NEW). 2005, c. 554, §A2 (AMD).

§1825-M. EXCEPTION

The State Purchasing Agent may accept and award a bid to a supplier who has not met the requirements provided in section 1825-K if, after reasonable investigation by the State Purchasing Agent, it appears that the required unit or item of supply or brand of that unit or item, is procurable by the State from only that supplier. [2001, c. 439, Pt. NNNN, §1 (NEW).]

SECTION HISTORY
2001, c. 439, §NNNN1 (NEW).

§1825-N. SUPPORT TO SUPPLIERS OF GOODS AND SERVICES

The State Purchasing Agent shall provide to bidders and contractors resources to assist with compliance with the state purchasing code of conduct established in this subchapter. These resources must include a list, easily accessed by the public, of bidders and vendors who have adopted the state purchasing code of conduct. [2005, c. 554, Pt. A, §3 (AMD).]

SECTION HISTORY
2001, c. 439, §NNNN1 (NEW). 2005, c. 554, §A3 (AMD).

§1825-O. RULEMAKING

The State Purchasing Agent shall adopt rules under this subchapter governing the award of bids. Those rules must include specific guidelines for vendors to follow in order to comply with the state purchasing code of conduct and criteria for seeking disclosure of names and addresses of vendors' suppliers and suppliers' working conditions. [2001, c. 439, Pt. NNNN, §1 (NEW).]

Rules adopted under this section are major substantive rules as defined in chapter 375, subchapter II-A. [2001, c. 439, Pt. NNNN, §1 (NEW).]

SECTION HISTORY
2001, c. 439, §NNNN1 (NEW).

§1825-P. REPORT

By January 15th of each year, the State Purchasing Agent shall submit a report to the joint standing committee of the Legislature having jurisdiction over state and local government matters concerning the administrative and fiscal impact of the requirement that vendors comply with the state purchasing code of conduct; the degree of voluntary compliance with the state purchasing code of conduct; the number of vendors who agreed to and the number that declined to comply with the provisions of this subchapter; and any other information relevant to the state purchasing code of conduct. [2001, c. 439, Pt. NNNN, §1 (NEW).]

SECTION HISTORY
2001, c. 439, §NNNN1 (NEW).

§1825-Q. COMPLAINTS OF NONCOMPLIANCE WITH CODE OF CONDUCT; INVESTIGATIONS OF COMPLAINTS

1. **Complaints alleging noncompliance.** The State Purchasing Agent shall initiate an investigation to determine whether a violation of the code of conduct has occurred if:

A. The State Purchasing Agent has independent knowledge that a contractor or a supplier at the point of assembly of goods subject to a contract is not in compliance with the code of conduct; [2005, c. 554, Pt. A, §4 (NEW).]

B. The contractor informs the State Purchasing Agent that the contractor or a supplier at the point of assembly of goods subject to a contract is not in compliance with the code of conduct; [2005, c. 554, Pt. A, §4 (NEW).]

C. A worker for a contractor or for a supplier at the point of assembly of goods subject to a contract files a written complaint directly with the State Purchasing Agent stating that the contractor or supplier, to the best of the worker's knowledge, is not in compliance with the code of conduct; [2005, c. 554, Pt. A, §4 (NEW).]

D. A 3rd party established and based outside the United States, on behalf of or on the basis of information from a worker or workers, files directly with the State Purchasing Agent a signed and dated written complaint stating that, to the best of the 3rd party's knowledge, a contractor or a supplier at the point of assembly of goods subject to a contract is not in compliance with the code of conduct. If possible, the 3rd party's written complaint must be signed and dated under oath before an official authorized to administer oaths; or [2005, c. 2, §4 (COR).]

E. A 3rd party established and based in the United States, on behalf of or on the basis of information from a worker or workers, files directly with the State Purchasing Agent a written complaint, signed and dated under oath before an official authorized by applicable law to administer oaths, stating that, to the best of the 3rd party's knowledge, a contractor or a supplier at the point of assembly of goods subject to a contract is not in compliance with the code of conduct. [2005, c. 554, Pt. A, §4 (NEW).]

[2005, c. 2, §4 (COR) .]

2. **Specificity required.** Any complaint made to the State Purchasing Agent must state with reasonable specificity each reason a party subject to the complaint is allegedly not in compliance with the code of conduct.

[2005, c. 554, Pt. A, §4 (NEW) .]

3. **Notification to party subject to complaint.** After receiving a complaint alleging noncompliance with the code of conduct, the State Purchasing Agent shall contact in a timely manner, in writing and by certified letter, the contractor that is the subject of the complaint or whose supplier is the subject of the complaint.

[2005, c. 554, Pt. A, §4 (NEW) .]

SECTION HISTORY
RR 2005, c. 2, §4 (COR). 2005, c. 554, §A4 (NEW).

§1825-R. DETERMINATIONS OF NONCOMPLIANCE WITH CODE OF CONDUCT

1. **Relevant information.** In making a determination of whether a violation of the code of conduct has occurred, the State Purchasing Agent may take into account any factors, information, sources of information and materials determined reliable and relevant by the State Purchasing Agent, as determined on a case-by-case basis. The State Purchasing Agent has specific authority and discretion to employ an independent monitor to investigate a complaint.

[2005, c. 554, Pt. A, §5 (NEW) .]

2. **Determination by State Purchasing Agent.** The determination of whether a party subject to a complaint is in compliance with the code of conduct is solely that of the State Purchasing Agent.

[2005, c. 554, Pt. A, §5 (NEW) .]

3. **Notice of determination.** After rendering a determination under this section, the State Purchasing Agent promptly shall inform the complainant and contractor in writing.

[2005, c. 554, Pt. A, §5 (NEW) .]

SECTION HISTORY
2005, c. 554, §A5 (NEW).

§1825-S. CONSEQUENCES OF NONCOMPLIANCE WITH CODE OF CONDUCT

1. **Action by State Purchasing Agent.** Upon determination of a violation of the code of conduct by a contractor or contractor's supplier at the point of assembly of goods covered by this subchapter, the State, through the State Purchasing Agent, shall inform the contractor and engage in discussions with the contractor about the violation. The purpose of the discussions is to work in partnership with the contractor to influence the contractor to change its practices or to use its bargaining position with the offending supplier to change the supplier's practices, rather than to cease doing business with the contractor or supplier. The State Purchasing Agent shall prescribe appropriate measures to ensure compliance with the code of conduct. These measures may include, but are not limited to:

A. Requesting that each party found not to be in compliance with the code of conduct provide continued access to independent monitors, if available; [2007, c. 193, §3 (AMD).]

B. Requesting that each party found not to be in compliance with the code of conduct offer their workers and managers the training and guidelines necessary to bring the workplace into compliance with the code of conduct; and [2005, c. 554, Pt. A, §6 (NEW).]

C. Requesting that each party found not to be in compliance with the code of conduct demonstrate to the State Purchasing Agent that prescribed changes or improvements have been completed and implemented. [2005, c. 554, Pt. A, §6 (NEW).]

[2007, c. 193, §3 (AMD) .]

2. **Termination of contract.** If, in the opinion of the State Purchasing Agent, a contractor that has been determined as not in compliance with the code of conduct does not make good faith efforts to change its practices or use its bargaining position with an offending supplier to change the supplier's practices, the State Purchasing Agent may take appropriate remedial action including, but not limited to, barring the subject

contractor from bidding on future state contracts or terminating the State's contract with the contractor. Reference to the authority given in this subsection must be specifically referenced in the State's contracts with those contractors that are subject to the code of conduct.

[2005, c. 554, Pt. A, §6 (NEW) .]

SECTION HISTORY
2005, c. 554, §A6 (NEW). 2007, c. 193, §3 (AMD).

§1825-T. CITIZENS' CODE OF CONDUCT WORKING GROUP

(REPEALED)

SECTION HISTORY
2007, c. 193, §4 (NEW). 2015, c. 491, §2 (RP).

Subchapter 2: PRODUCTS AND SERVICES FROM REHABILITATION FACILITIES AND WORK CENTERS

§1826-A. PURPOSE AND INTENT

The Legislature finds that the goal of integrating persons with disabilities into all aspects of community life is enhanced by providing expanded markets for products and services of work centers. The Legislature further believes that work centers provide a valuable means of transitional employment for the State's disabled population and for some, such as the most severely disabled persons, they may offer the only opportunities available for long-term, gainful employment. [2003, c. 515, §1 (AMD).]

In order to assure continued opportunities for persons with disabilities to obtain this employment through work centers, it is the intent of the Legislature to provide reliable and steady income and job opportunities to work centers. It is the purpose of this section and sections 1826-B and 1826-C to ensure that some portion of state purchases for commodities and services be available to work centers. [2015, c. 1, §1 (COR).]

SECTION HISTORY
1985, c. 359, §3 (NEW). RR 2001, c. 1, §9 (COR). 2003, c. 515, §1 (AMD). RR 2015, c. 1, §1 (COR).

§1826-B. DEFINITIONS

As used in this subchapter, unless the context indicates otherwise, the following terms have the following meanings. [1985, c. 359, §3 (NEW).]

1. **Persons with disabilities.** "Persons with disabilities" means individuals who have physical or mental impairments that substantially limit one or more major life activities, have a record of those impairments or are perceived to have those impairments.

[2003, c. 515, §2 (RPR) .]

2. **Work center.** "Work center" means a program that provides vocational rehabilitation services to individuals with disabilities to enable those individuals to maximize their opportunities for employment, including career advancement. For the purposes of sections 1826-A and 1826-C, a work center must meet the following conditions:

A. [1999, c. 543, §1 (RP).]

B. Has complied with occupational health and safety standards required by the laws of the United States or this State; [1985, c. 359, §3 (NEW).]

C. Employs during the fiscal year in commodity production or service provision persons with disabilities at a quota of not less than 66% of the total hours of direct labor on all production, whether or not government related; and [2003, c. 515, §3 (AMD).]

D. Has, is part of or demonstrates a formal relationship for support with an ongoing placement program that includes at least preadmission evaluation and annual review to determine each worker's capability for normal competitive employment and maintenance of liaison with the appropriate community services for the placement in the employment of any of its workers who may qualify for that placement. [2003, c. 515, §4 (AMD).]

[2015, c. 1, §2 (COR) .]

3. **Director.** "Director" means the Director of the Bureau of General Services within the Department of Administrative and Financial Services.

[2007, c. 395, §2 (NEW) .]

SECTION HISTORY
1985, c. 359, §3 (NEW). 1999, c. 543, §1 (AMD). 2003, c. 515, §§2-4 (AMD). 2007, c. 395, §2 (AMD). RR 2015, c. 1, §2 (COR).

§1826-C. WORK CENTER PURCHASES

1. **Committee established.**

[2007, c. 395, §3 (RP) .]

2. **Appointments; terms; compensation.**

[2007, c. 395, §3 (RP) .]

3. **Powers and duties.**

[2007, c. 395, §3 (RP) .]

4. **Work center purchases schedule.** The director shall develop and use a work center purchases schedule. The director shall:

A. Identify and develop a list of all products and services purchased or scheduled to be purchased by State Government; [1985, c. 359, §3 (NEW).]

B. Identify and develop a list of all work centers in the State, including a description of the products and services work centers are currently providing or have recently provided and including an assessment of the products and services that work centers are capable of providing, but have not recently provided; and [1985, c. 359, §3 (NEW).]

C. Develop from the information obtained in paragraphs A and B a work center purchases schedule that describes all products and services to be purchased by the State that, in the view of the director, could be provided by work centers. In developing this schedule, the director shall give consideration to the abilities of work centers to meet contract requirements and to meet generally accepted quality control standards and any potential technical assistance that may be required to enable a work center to compete fairly for contracts, pursuant to this subchapter. [2007, c. 395, §3 (AMD).]

[2007, c. 395, §3 (AMD) .]

5. **Competitive bidding.** The director shall develop procedures for competitive bidding by eligible work centers only for products and services identified on the work center purchase schedule. If no bid is received from a work center for any product or service on the schedule, the director shall confer with the Department of Corrections to determine whether the Department of Corrections is able to provide the product or service at a fair price. If the director and the Department of Corrections do not come to agreement, the product or service must be put out to general bid by the director, in accordance with standard rules and procedures. If only one work center bid is received, the director shall review the bid and make a determination regarding the fairness of the price and terms of the proposed contract. If the director determines that the work center may not be awarded this bid, the director shall confer with the Department of Corrections to determine whether the Department of Corrections is able to provide the product or service at a fair price. If the director and the Department of Corrections do not come to agreement, the contract must be offered for standard competitive bid by the director in accordance with standard rules and procedures.

[2007, c. 395, §3 (AMD) .]

6. **Award of contracts; fair price.** The director has final determination in awarding contracts to work centers through the competitive bidding process. The director's judgment prevails in the determination that the price and contract terms are fair and reasonable both to the work center and to the State. In determining a fair price, the director shall ensure the ability of the work center to recover the costs of labor, material, equipment, overhead and delivery.

[2007, c. 395, §3 (AMD) .]

7. **Assignment of contracts.** The director shall ensure that contracts awarded to work centers may not be assigned to any other vendor, except as may be necessary to complete the contracts, because of extraordinary events beyond the control of the work centers. Any additional costs incurred because of these assignments must be borne by the work center as a normal cost of doing business.

[2007, c. 395, §3 (AMD) .]

SECTION HISTORY
1985, c. 359, §3 (NEW). 1991, c. 515, §2 (AMD). 1993, c. 708, §J5 (AMD). 1995, c. 560, §§F5,K82 (AMD). 1995, c. 560, §K83 (AFF). 1999, c. 543, §2 (AMD). 2001, c. 354, §3 (AMD). 2003, c. 515, §§5-8 (AMD). 2003, c. 689, §B6 (REV). 2007, c. 395, §3 (AMD).

§1826-D. SUNSET

(REPEALED)

SECTION HISTORY
1985, c. 359, §3 (NEW). 1987, c. 816, §W (RP).

Chapter 155-A: CENTRAL FLEET MANAGEMENT AND CENTRAL SERVICES

Subchapter 1: GENERAL PROVISIONS

§1827. POWERS; BUREAU OF GENERAL SERVICES

The Department of Administrative and Financial Services, through the Bureau of General Services, may establish the Central Services Division in the Bureau of General Services for the purpose of operating the postal service, central copy and duplicating service, central warehouse, surplus property service and central mail room. The Bureau of General Services may: [2005, c. 386, Pt. H, §10 (NEW).]

1. **Postal service.** Purchase or contract for all postal service required for the use of State Government or any department or agency thereof;

[2005, c. 386, Pt. H, §10 (NEW) .]

2. **Central copy and duplicating.** Establish and conduct a central printing service, copy service and audio-visual service at the seat of government. Such services must be available to all departments and agencies of State Government. The Director of the Bureau of General Services may make charges to those departments and agencies of State Government making use of the facilities and supplies of the central printing service;

[2005, c. 386, Pt. H, §10 (NEW) .]

3. **Central warehouse.** Establish and operate, with the approval of the Commissioner of Administrative and Financial Services, a warehouse that, in the judgment of the Director of the Bureau of General Services, is determined necessary for the storage and distribution of supplies, materials and equipment by resale, rental or other method, required for use by State Government or any department or agency, or any political subdivision or school administrative unit. In accordance with section 1587, the Director of the Bureau of General Services may purchase, lease, lease-purchase or enter into other financing agreements for the acquisition of equipment in accordance with this subsection when it can be demonstrated that any such action or agreement provides a clear cost advantage to the State;

[2005, c. 386, Pt. H, §10 (NEW) .]

4. **Central mail room.** Establish and conduct a central mail room for the state departments and agencies at the seat of government;

[2005, c. 386, Pt. H, §10 (NEW) .]

5. **Surplus property.** Transfer to or between state departments and agencies or educational institutions or sell supplies, materials and equipment that are surplus, obsolete or unused;

[2005, c. 386, Pt. H, §10 (NEW) .]

6. **Internal service fund accounts.** Maintain or establish, through the Office of the State Controller, an internal service fund account for each of the central services described in subsections 1 to 5. The funds deposited in the account must include, but are not limited to, appropriations made to the account, funds transferred to the account from within the Department of Administrative and Financial Services, funds received from state departments and agencies using the services provided by the central services and earnings by the fund from the Treasurer of State's pool.

Each of the central services described in subsections 1 to 5 may levy charges according to a rate schedule recommended by the Director of the Bureau of General Services and approved by the Commissioner of Administrative and Financial Services against all departments and agencies using their services.

[2005, c. 386, Pt. H, §10 (NEW) .]

SECTION HISTORY
2005, c. 386, §H10 (NEW).

§1828. SALES OF SURPLUS PROPERTY TO EDUCATIONAL INSTITUTIONS, QUALIFYING NONPROFIT ORGANIZATIONS AND FIRE DEPARTMENTS

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

A. "Educational institution" means:

(1) Any public elementary or secondary school;

(2) Any elementary or secondary private school approved for tuition whose school enrollment is at least 60% publicly funded students as determined by the previous school year's October to April average enrollment;

(3) Any nonpublic postsecondary school; or

(4) Any applied technology region. [2005, c. 386, Pt. H, §10 (NEW).]

B. "Qualifying nonprofit organization" means:

(1) A public or private nonprofit entity that owns or operates a project or facility for the homeless;

(2) A nonprofit organization that has been determined to be exempt from taxation under the United States Internal Revenue Code, Section 501(c) and that provides services to persons with physical or mental handicaps as defined in section 4553, subsection 7-A;

(3) A nonprofit organization that has been determined to be exempt from taxation under the United States Internal Revenue Code, Section 501(c) and that contracts with the Department of Health and Human Services to provide vehicles to low-income families to assist them in participating in work, education or training ; or

(4) A nonprofit organization that has been determined to be exempt from taxation under the United States Internal Revenue Code, Section 501(c) and that houses animals and operates for the purpose of providing stray, abandoned, abused or owner-surrendered animals with sanctuary or finding the animals temporary or permanent adoptive homes. [2011, c. 9, §1 (AMD).]

C. "Fire department" means a department required to report to the State Fire Marshal pursuant to Title 25, section 2395. [2005, c. 386, Pt. H, §10 (NEW).]

[2011, c. 9, §1 (AMD) .]

2. **Surplus property.** Pursuant to this chapter and rules adopted under section 1813, the Department of Administrative and Financial Services through the Bureau of General Services shall allow private sales of surplus property to:

A. Nonprofit organizations that contract with the Department of Health and Human Services to provide affordable vehicles to low-income families to assist them in participating in work, education or training; [2005, c. 386, Pt. H, §10 (NEW).]

B. Homeless shelter sponsors; [2011, c. 9, §2 (AMD).]

C. Educational institutions; and [2011, c. 9, §2 (AMD).]

D. Nonprofit organizations that house animals and operate for the purpose of providing stray, abandoned, abused or owner-surrendered animals with sanctuary or finding the animals temporary or permanent adoptive homes. [2011, c. 9, §2 (NEW).]

[2011, c. 9, §2 (AMD) .]

3. **Computers to fire departments.** Notwithstanding any requirement of this chapter or rules adopted pursuant to this chapter, a fire department may purchase one personal computer from the Department of Administrative and Financial Services, Bureau of General Services to be used for reporting to the State

Fire Marshal as required under Title 25, section 2395. The Bureau of General Services may charge a fire department only reasonable administrative and handling costs of no more than $35 for the purchase of a personal computer under this subsection.

[2005, c. 386, Pt. H, §10 (NEW) .]

SECTION HISTORY
2005, c. 386, §H10 (NEW). 2011, c. 9, §§1, 2 (AMD).

§1829. FEDERAL SURPLUS PROPERTY

The Department of Administrative and Financial Services is designated as the state agency to receive and distribute federal surplus property that may become available for distribution to eligible recipients within this State. The department, through the Bureau of General Services, may acquire, warehouse, allocate and distribute surplus government property to all recipients within the State who have been or who may later be designated as eligible to receive such surplus property by the Congress of the United States or any other federal official empowered to make such determination. The Commissioner of Administrative and Financial Services may enter into cooperative agreements with any duly authorized federal official to carry out the purposes of this section. [2005, c. 386, Pt. H, §10 (NEW).]

Upon transfer of surplus property to an eligible recipient, the Commissioner of Administrative and Financial Services shall charge and receive from that recipient money sufficient to cover the acquisition, warehousing, handling, administrative and delivery costs chargeable to that property. The commissioner shall employ and assign such supervisory and clerical personnel as may be necessary to carry out this section, subject to the Civil Service Law. [2005, c. 386, Pt. H, §10 (NEW).]

SECTION HISTORY
2005, c. 386, §H10 (NEW).

§1830. CENTRAL FLEET MANAGEMENT DIVISION

1. **Division established.** The Central Fleet Management Division is established in the Department of Administrative and Financial Services, Bureau of General Services for the purpose of acquiring, maintaining and managing vehicles for use by State Government and its employees on official state business, except the Department of Public Safety. The Central Fleet Management Division shall rent or lease vehicles to agencies, except the Department of Public Safety, in accordance with an established rate structure. Revenues derived from operations must be used to acquire, replace and maintain vehicles; adequately staff the Central Fleet Management Division; pay for required space; and otherwise provide for the overall operation of the Central Fleet Management Division. Department vehicles that exceed the car, light duty truck and special use vehicle specifications are exempt from this section, but must be reported in accordance with this section. For the purposes of this section, the terms "car," "light duty truck" and "special use vehicle" refer to vehicles with gross vehicle weight rating less than 10,000 pounds.

[2005, c. 386, Pt. H, §10 (NEW) .]

2. **Agency program requirements.** The Bureau of General Services shall work closely with all departments and agencies to identify annual transportation and vehicle usage requirements to ensure that agency program requirements are met to the maximum extent possible. The bureau shall:

A. Maintain the Central Fleet Management Division to service the transportation requirements of all state agencies not exempted under subsection 3, paragraph C and their employees and control assignments of vehicles to ensure they are used to the best economic advantage of the State; [2005, c. 386, Pt. H, §10 (NEW).]

B. Maintain records of transportation and vehicle requirements and all motor vehicles owned, leased and available for use for those agencies not exempted under subsection 3, paragraph C and make this information available to state agencies; [2005, c. 386, Pt. H, §10 (NEW).]

C. Require all state agencies not exempted under subsection 3, paragraph C and their employees to use the Central Fleet Management Division when transportation is required. Employees requesting to use personal vehicles on state business are required to seek an exemption from the Central Fleet Management Division; [2005, c. 386, Pt. H, §10 (NEW).]

D. Acquire or replace Central Fleet Management Division vehicles in accordance with an established vehicle replacement policy; [2005, c. 386, Pt. H, §10 (NEW).]

E. Transfer motor vehicles from other agencies, purchase, lease, lease-purchase or enter into other financing agreements, in accordance with section 1587, for the acquisition or replacement of motor vehicles in accordance with subsection 3 when it can be demonstrated that any such action or agreement provides a clear cost or program advantage to the State; [2005, c. 386, Pt. H, §10 (NEW).]

F. Establish facilities to store and maintain motor vehicles; and [2005, c. 386, Pt. H, §10 (NEW).]

G. Devise a mechanism for the distribution of fuel by competitive bidding by commercial vendor, by the use of existing state-owned fueling facilities and the establishment of a statewide credit card system. [2005, c. 386, Pt. H, §10 (NEW).]

[2005, c. 386, Pt. H, §10 (NEW) .]

3. **Standards; specifications.** The Bureau of General Services shall establish the following:

A. Standards for vehicle operation; [2005, c. 386, Pt. H, §10 (NEW).]

B. Specifications for vehicles to be acquired by the State; and [2005, c. 386, Pt. H, §10 (NEW).]

C. Standards for the exemption or waiver of state agencies from the requirements of this section. The Director of the Bureau of General Services may provide a waiver to an agency or an employee requiring the services of the Central Fleet Management Division or the standards and criteria established under this section if the director concludes that such a waiver is in the best economic interest of the State or critical agency mission. [2005, c. 386, Pt. H, §10 (NEW).]

Standards developed for use of Central Fleet Management Division services by all state agencies not exempted under paragraph C and employees of any such agency must be available for inspection at the Central Fleet Management Division's central office. The Director of the Bureau of General Services may provide a temporary waiver of the standards and criteria established under this section if the director concludes that the unique conditions of program or employee function require such a waiver.

[2005, c. 386, Pt. H, §10 (NEW) .]

4. **Central Fleet Management Internal Service Fund Account.** The Bureau of General Services shall establish, through the Office of the State Controller, the Central Fleet Management Internal Service Fund Account. The funds deposited in the account must include, but are not limited to, appropriations made to the account, funds transferred to the account from within the Department of Administrative and Financial Services, funds received from state departments and agencies using the services provided by the bureau, earnings by the fund from the Treasurer of State's pool and proceeds from the sale of vehicles under the administrative control of the Central Fleet Management division by the state surplus property program in the Bureau of General Services in accordance with current provisions of law and subsection 3.

[2005, c. 386, Pt. H, §10 (NEW) .]

5. **Levy charges.** The Central Fleet Management Division may levy charges according to a rate schedule recommended by the Director of the Bureau of General Services and approved by the Commissioner of Administrative and Financial Services against all departments and agencies using the services of the Central Fleet Management Division.

[2005, c. 386, Pt. H, §10 (NEW) .]

6. **Service charges.** Service charges for the rental and lease of motor vehicles must be calculated to provide for vehicle replacement costs, operating costs, necessary capital investment, personal services and sufficient working capital for the Central Fleet Management Division.

[2005, c. 386, Pt. H, §10 (NEW) .]

7. **Assignment of appropriate credits.** The Central Fleet Management Division may develop a method of assigning appropriate credits to be used to reduce the charges for those state agencies from which vehicles are transferred to the Central Fleet Management Division. These credits must be calculated both to reasonably compensate the agencies and to ensure adequate revenues to support the Central Fleet Management Division.

[2005, c. 386, Pt. H, §10 (NEW) .]

8. **Staff.** The Director of the Bureau of General Services shall appoint, as approved by the Legislature and subject to the Civil Service Law, staff necessary to carry out the purposes of this section.

[2005, c. 386, Pt. H, §10 (NEW) .]

9. **Budget adequate funds.** Each department or agency using the services of the Central Fleet Management Division must budget adequate funds to pay for the leasing services provided by the Central Fleet Management Division.

[2005, c. 386, Pt. H, §10 (NEW) .]

10. **Transfer of funds.** Notwithstanding section 1585, state agencies that are in the process of transferring vehicle operations to the Central Fleet Management Division may transfer Capital Expenditures funds to the All Other category for those agencies to allow agencies to pay vehicle expenses.

[2005, c. 386, Pt. H, §10 (NEW) .]

11. **Report.** The Director of the Bureau of General Services within the Department of Administrative and Financial Services shall report to the joint standing committee of the Legislature having jurisdiction over state and local government matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs by February 15th of each year with respect to the status of current vehicle operations, projected requirements, anticipated costs and savings realized to date for each fiscal year in the operation of the Central Fleet Management Division.

[2005, c. 386, Pt. H, §10 (NEW) .]

SECTION HISTORY
2005, c. 386, §H10 (NEW).

Chapter 156: DEPARTMENT CONTRACTS AND APPEAL OF DECISIONS

§1831. RULES

1. **Adoption of rules.** Every department or agency of State Government, subject to chapters 141 to 152, purchasing services or awarding grants or contracts which are not subject to the authority of the Department of Administration, as defined in chapters 153 and 155, shall establish a procedure by which these services are purchased or by which grants or contracts are awarded. This procedure must be adopted in accordance with the Maine Administrative Procedure Act, chapter 375 no later than January 1, 1991 and must be approved by the State Purchasing Agent prior to their adoption. The State Purchasing Agent shall ensure that the rules adopted under this section meet the standards of public notice, administrative review, and rights to appeal as set forth in chapter 155, subchapter I-A. Any department or agency of State Government that does not adopt rules under this section by January 1, 1991, is subject to rules adopted by the State Purchasing Agent under chapter 155, subchapter I-A.

A. [1989, c. 785, §3 (RP).]

B. [1989, c. 785, §3 (RP).]

C. [1989, c. 785, §3 (RP).]

D. [1989, c. 785, §3 (RP).]

E. [1989, c. 785, §3 (RP).]

F. [1989, c. 785, §3 (RP).]

[1989, c. 785, §3 (AMD) .]

2. **Limitation.** This section does not apply to purchase of supplies, services, materials and equipment or to public improvements, as described under chapters 153 and 155. This section does not apply to construction, improvement or repair of any and all ways, roads or bridges with appurtenances or other public improvements which by law are under the supervision of the Department of Transportation in accordance with section 1741.

[1989, c. 165, §2 (AMD) .]

3. **Application.** The procedure adopted by a department or agency in this section may be used by the department or agency for any qualifying purchase or award of a contract or grant. Nothing in this section may be construed to require the adoption of new procedures for every new purchase, contract or award. Nothing in this section may be construed to require the State Purchasing Agent or the Department of Administration to approve any contract, grant or award that is not presently approved by the State Purchasing Agent or the Department of Administration under chapters 153 and 155.

[1985, c. 785, Pt. A, §76 (AMD) .]

SECTION HISTORY
1983, c. 188, (NEW). 1985, c. 785, §A76 (AMD). 1989, c. 165, §2 (AMD). 1989, c. 785, §3 (AMD).

§1832. CONTRACTS WITH DAY CARE FACILITIES

(REPEALED)

SECTION HISTORY
1985, c. 380, §1 (NEW).

§1833. WORKERS' COMPENSATION MANAGEMENT FUND

The Workers' Compensation Management Fund is established to provide for any expenses related to the resolution of workers' compensation claims including: records and information management; investigation; medical review; representation; rehabilitation; payment of compensation; appropriate medical expenses and other payments required by the Workers' Compensation Board; the settlement of cases; and other necessary expenses. [1991, c. 885, Pt. D, §2 (AMD).]

The fund must be an internal service fund and be under the control of the Commissioner of Administrative and Financial Services and the supervision of the Bureau of Human Resources. The fund must be a continuing fund and may not lapse. The treasurer shall credit interest earned to the fund. [1991, c. 780, Pt. Y, §72 (AMD).]

1. **Capitalization; premiums.** The fund is capitalized by legislative appropriations, payment from state departments and agencies and by other appropriate means.

On or before July 1st of each year, the Department of Administrative and Financial Services, Division of Employee Health and Benefits shall inform the State Budget Officer of quarterly premium charges for the fiscal year. The State Budget Officer shall advise any affected department or agency of the premium charges so that they may be incorporated into the normal budgetary process. An agency that does not have sufficient funding to pay the required premium charges shall request funds from the Legislature.

All state departments and agencies shall make premium payments to the fund at the beginning of each quarter based on charges to user departments. Premiums charged to user departments must be based on an analysis of the loss experience of each department, the reserve requirements related to departmental loss experience and the recovery of expenses as authorized in this section as related to each user department. Each department shall allocate the premium charge based on an analysis of the loss experience of each account or subdivision of account within the department. Premiums charged must be sufficient to ensure the continuation of the fund and shall be set by the commissioner.

Funds received from the reserve fund for self-insured retention losses under section 1731 must be repaid to that reserve fund through premiums charged except that, on the request of the commissioner, the Governor may waive repayment to the reserve fund when warranted and necessary.

[2013, c. 447, §1 (AMD) .]

2. **Transitional clause.**

[2013, c. 447, §2 (RP) .]

SECTION HISTORY
1989, c. 501, §P16 (NEW). 1991, c. 780, §§Y72,73 (AMD). 1991, c. 885, §D2 (AMD). 2013, c. 447, §§1, 2 (AMD).

Chapter 157: DATA PROCESSING AND CENTRAL COMPUTER SERVICES

§1851. DEFINITIONS

(REPEALED)

SECTION HISTORY
1975, c. 322, §3 (NEW). 1985, c. 785, §A77 (RP).

§1852. POWERS AND DUTIES

(REPEALED)

SECTION HISTORY
1975, c. 322, §3 (NEW). 1985, c. 785, §B32 (AMD). 1985, c. 785, §A77 (RP). 1987, c. 402, §§A44,A45 (AMD).

§1853. INTERGOVERNMENTAL COOPERATION AND ASSISTANCE

(REPEALED)

SECTION HISTORY
1975, c. 322, §3 (NEW). 1985, c. 779, §18 (AMD). 1985, c. 785, §A77 (RP). 1987, c. 402, §A46 (RP).

§1854. INTRAGOVERNMENTAL SERVICE FUND ACCOUNT

(REPEALED)

SECTION HISTORY
1975, c. 322, §3 (NEW). 1985, c. 785, §A77 (RP).

§1855. COMPUTER SERVICES ADVISORY BOARD

(REPEALED)

SECTION HISTORY
1975, c. 322, §3 (NEW). 1981, c. 168, §4 (AMD). 1983, c. 812, §27 (AMD). 1985, c. 293, §4 (AMD). 1985, c. 779, §19 (AMD). 1985, c. 785, §A77 (RP). 1987, c. 402, §A47 (RP).

§1856. CHAIRMAN; MEETINGS

(REPEALED)

SECTION HISTORY
1975, c. 322, §3 (NEW). 1985, c. 785, §A77 (RP).

§1857. DUTIES OF COMPUTER SERVICES ADVISORY BOARD

(REPEALED)

SECTION HISTORY
1975, c. 322, §3 (NEW). 1985, c. 785, §A77 (RP).

§1858. BUREAU ASSISTANCE

(REPEALED)

SECTION HISTORY
1975, c. 322, §3 (NEW). 1985, c. 785, §A77 (RP).

§1859. APPEAL PROCESS

(REPEALED)

SECTION HISTORY
1975, c. 322, §3 (NEW). 1985, c. 785, §A77 (RP).

§1860. REVIEW OF APPEAL

(REPEALED)

SECTION HISTORY
1975, c. 322, §3 (NEW). 1985, c. 785, §A77 (RP).

§1861. PROTECTION OF INFORMATION FILES

(REPEALED)

SECTION HISTORY
1975, c. 322, §3 (NEW). 1985, c. 785, §A77 (RP).

Chapter 158: ADMINISTRATIVE SERVICES

Subchapter 1: DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

§1871. DEPARTMENT OF ADMINISTRATION ESTABLISHED; PURPOSE

(REPEALED)

SECTION HISTORY
1985, c. 785, §A78 (NEW). 1991, c. 780, §Y75 (RP).

§1872. PROVISION OF SERVICES

(REPEALED)

SECTION HISTORY
1985, c. 785, §A78 (NEW). 1991, c. 780, §Y75 (RP).

§1873. DEFINITIONS

(REPEALED)

SECTION HISTORY
1985, c. 785, §A78 (NEW). 1989, c. 857, §24 (AMD). 1991, c. 780, §§Y76-78 (AMD). 2001, c. 388, §3 (AMD). 2005, c. 12, §SS5 (RP).

§1874. COMMISSIONER; APPOINTMENT

(REPEALED)

SECTION HISTORY
1985, c. 785, §A78 (NEW). 1991, c. 780, §Y79 (RP).

§1875. RESPONSIBILITIES AND DUTES OF THE DEPARTMENT

(REPEALED)

SECTION HISTORY
1985, c. 785, §A78 (NEW). 1991, c. 780, §Y79 (RP).

§1876. DEPARTMENT ORGANIZATION

(REPEALED)

SECTION HISTORY
1985, c. 785, §A78 (NEW). 1985, c. 819, §A4 (AMD). 1987, c. 402, §§B3,B4 (AMD). 1989, c. 501, §H (AMD). 1991, c. 780, §Y80 (RP).

§1877. POWERS AND DUTIES OF THE COMMISSIONER

(REPEALED)

SECTION HISTORY
1985, c. 785, §A78 (NEW). 1987, c. 448, §§1-B (AMD). 1987, c. 733, §4 (AMD). 1991, c. 780, §Y81 (RP).

§1877-A. POWERS AND DUTIES OF COMMISSIONER

The commissioner has the authority and duties provided in this section. For purposes of this section, "commissioner" means the Commissioner of Administrative and Financial Services. [1991, c. 780, Pt. Y, §82 (NEW).]

1. **Report to the Legislature.** The commissioner shall report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs at the beginning of the first regular session of each Legislature with respect to:

A. [2005, c. 12, Pt. SS, §6 (RP).]

B. [2005, c. 12, Pt. SS, §6 (RP).]

C. The degree to which personnel needs of state agencies are being met; [1999, c. 668, §7 (AMD).]

D. Any problems that exist with respect to current policies and procedures as they relate to the personnel needs of state agencies. This portion of the report must also include the evaluation of the Civil Service Policy Review Board with respect to the issue of this paragraph; and [1997, c. 618, §1 (AMD).]

E. All temporary and contracted positions within each agency and bureau of State Government. This information must include the duration and turnover of each position; the separate costs of each position for wages, benefits, contract fees and administration costs; and the position title or function. The costs associated with preparing this report must be absorbed utilizing existing department resources. [1997, c. 618, §2 (NEW).]

[2005, c. 12, Pt. SS, §6 (AMD) .]

2. **Asbestos abatement.** The commissioner shall authorize the expenditure of funds for the abatement of asbestos-related hazards in buildings used by the courts of the State.

[1991, c. 780, Pt. Y, §82 (NEW) .]

3. **Indoor air quality and ventilation improvements.** The commissioner shall develop priorities for improving indoor air quality and ventilation in preparing budget requests for the repair and capital improvement of state buildings.

[1991, c. 780, Pt. Y, §82 (NEW) .]

4. **State cost allocation program.** The state cost allocation program must annually identify the kind and cost of central services furnished to each state agency from General Fund appropriations. The non-General Fund portion of each agency must be assessed for these services as determined by the state cost allocation program procedures to the extent that payments are not expressly prohibited by state or federal law or by the terms of a gift or donation made to the State from private sources. These payments must be credited to the General Fund as undedicated revenue. The state cost allocation program may provide for the separate assessment of certain statewide single audit costs to federally funded programs. The commissioner, or the commissioner's designee, may adjust this assessment to any individual account.

Non-General Fund resources that contribute to funding costs related to general departmentwide functions, such as accounting, personnel administration, maintenance of property records and general purchasing, that have been made available to an account by legislative action may be consolidated into one or more administrative accounts, unless such a consolidation is expressly prohibited by state or federal law. All resources and costs affected by such a consolidation must be properly identified and included in the budget process in accordance with chapter 149. When the Legislature is not in session and upon recommendation of the State Budget Officer, the Governor may approve necessary adjustments to these consolidations for a period not to extend beyond the end of the current fiscal year. The Director of the Office of Fiscal and Program Review must be notified of any such action. The unencumbered balance of each administrative account established pursuant to this section must be carried forward at the end of each fiscal year, and the budgeted transfers to the administrative account for the ensuing fiscal year must be proportionally reduced by the amount of that carried balance.

[2005, c. 12, Pt. T, §11 (NEW) .]

SECTION HISTORY
1991, c. 780, §Y82 (NEW). 1997, c. 618, §§1,2 (AMD). 1999, c. 668, §7 (AMD). 2001, c. 388, §4 (AMD). 2005, c. 12, §§T11,SS6 (AMD).

Subchapter 2: BUREAU OF INFORMATION SERVICES

§1881. MISSION

(REPEALED)

SECTION HISTORY
1985, c. 785, §A78 (NEW). RR 2001, c. 1, §10 (COR). 2001, c. 388, §5 (RPR). 2005, c. 12, §SS7 (RP).

§1882. DEFINITIONS

(REPEALED)

SECTION HISTORY
1985, c. 785, §A78 (NEW). 1991, c. 780, §Y84 (RP).

§1883. BUREAU OF INFORMATION SERVICES ESTABLISHED

(REPEALED)

SECTION HISTORY
1985, c. 785, §A78 (NEW). 1991, c. 780, §Y85 (AMD). 2005, c. 12, §SS7 (RP).

§1884. DIRECTOR OF THE BUREAU OFINFORMATION SERVICES

(REPEALED)

SECTION HISTORY
1985, c. 785, §A78 (NEW). 1991, c. 780, §Y86 (AMD). 1993, c. 349, §8 (AMD). 2005, c. 12, §SS7 (RP).

§1885. PURPOSE AND ORGANIZATION

(REPEALED)

SECTION HISTORY
1985, c. 785, §A78 (NEW). 1985, c. 819, §A5 (AMD). 1987, c. 402, §A48 (AMD). 1989, c. 857, §25 (AMD). 1991, c. 291, §1 (AMD). 1991, c. 780, §Y87 (AMD). 2001, c. 388, §6 (AMD). 2005, c. 12, §SS7 (RP).

§1886. POWERS AND DUTIES OF THE DIRECTOR OF THE BUREAU OF INFORMATION SERVICES

(REPEALED)

SECTION HISTORY
1985, c. 785, §A78 (NEW). 1987, c. 282, §2 (AMD). 1987, c. 402, §A49 (AMD). 1989, c. 237, §§2,3 (AMD). 1989, c. 857, §§26-32 (AMD). 1991, c. 780, §Y88 (AMD). 1995, c. 152, §1 (AMD). 1997, c. 424, §B2 (AMD). 1997, c. 713, §2 (AMD). 2001, c. 388, §7 (AMD). 2005, c. 12, §SS7 (RP).

§1887. BUREAU OF INFORMATION SERVICES

(REPEALED)

SECTION HISTORY
1985, c. 785, §A78 (NEW). 1999, c. 165, §§1,2 (AMD). 2001, c. 388, §8 (AMD). 2005, c. 12, §SS7 (RP).

§1888. NONCOMPLIANCE DEFINED

(REPEALED)

SECTION HISTORY
1985, c. 785, §A78 (NEW). 1987, c. 402, §A50 (AMD). 1989, c. 857, §33 (AMD). 1999, c. 165, §3 (AMD). 2001, c. 388, §9 (RP).

§1889. DATA PROCESSING PROFESSIONAL AND SUPPORT STAFF IN STATE AGENCIES

(REPEALED)

SECTION HISTORY
1985, c. 785, §A78 (NEW). 2005, c. 12, §SS7 (RP).

§1890. INTERGOVERNMENTAL COOPERATION AND ASSISTANCE

(REPEALED)

SECTION HISTORY
1985, c. 785, §A78 (NEW). 1987, c. 402, §A51 (AMD). 1999, c. 165, §4 (AMD). 2005, c. 12, §SS7 (RP).

§1890-A. INTERNAL SERVICES FUND ACCOUNTS

(REPEALED)

SECTION HISTORY
1985, c. 785, §A78 (NEW). RR 1995, c. 1, §2 (COR). 2005, c. 12, §SS7 (RP).

§1890-B. MISUSE OF STATE GOVERNMENT COMPUTER SYSTEM

(REPEALED)

SECTION HISTORY
1989, c. 501, §P17 (NEW). 1989, c. 596, §Q (RPR). 1991, c. 340, (AMD). 1995, c. 703, §1 (RPR). 2001, c. 388, §10 (RP).

Subchapter 2-A: GEOGRAPHIC INFORMATION SYSTEMS

§1890-C. DEFINITIONS

(REPEALED)

SECTION HISTORY
1995, c. 152, §2 (NEW). 2005, c. 12, §SS7 (RP).

§1890-D. ESTABLISHED

(REPEALED)

SECTION HISTORY
1995, c. 152, §2 (NEW). 2005, c. 12, §SS7 (RP).

§1890-E. POWERS

(REPEALED)

SECTION HISTORY
1995, c. 152, §2 (NEW). 2005, c. 12, §SS7 (RP).

§1890-F. INTERGOVERNMENTAL COOPERATION AND ASSISTANCE

(REPEALED)

SECTION HISTORY
1995, c. 152, §2 (NEW). 2005, c. 12, §SS7 (RP).

§1890-G. LICENSING AGREEMENTS

(REPEALED)

SECTION HISTORY
1995, c. 152, §2 (NEW). 2005, c. 12, §SS7 (RP).

§1890-H. PRIORITY OF RESPONSIBILITIES

(REPEALED)

SECTION HISTORY
1995, c. 152, §2 (NEW). 2005, c. 12, §SS7 (RP).

Subchapter 2-B: MAINE LIBRARY OF GEOGRAPHIC INFORMATION

§1890-I. SHORT TITLE

(REPEALED)

SECTION HISTORY
2001, c. 649, §1 (NEW). 2005, c. 12, §SS7 (RP).

§1890-J. DEFINITIONS

(REPEALED)

SECTION HISTORY
2001, c. 649, §1 (NEW). 2005, c. 12, §SS7 (RP).

§1890-K. MAINE LIBRARY OF GEOGRAPHIC INFORMATION BOARD

(REPEALED)

SECTION HISTORY
2001, c. 649, §1 (NEW). 2005, c. 12, §SS7 (RP).

§1890-L. LIABILITY

(REPEALED)

SECTION HISTORY
2001, c. 649, §1 (NEW). 2005, c. 12, §SS7 (RP).

§1890-M. COPYRIGHTS AND FEES

(REPEALED)

SECTION HISTORY
2001, c. 649, §1 (NEW). 2005, c. 12, §SS7 (RP).

Subchapter 3: INFORMATION SERVICES POLICY BOARD

§1891. INFORMATION SERVICES POLICY BOARD ESTABLISHED; PURPOSE OF BOARD

(REPEALED)

SECTION HISTORY
1985, c. 785, §A78 (NEW). 1985, c. 819, §§B1,2 (AMD). 1999, c. 165, §5 (AMD). 2001, c. 388, §11 (AMD). 2005, c. 12, §SS7 (RP).

§1892. MEMBERSHIP ON BOARD; APPOINTMENT, TERMS OF OFFICE AND COMPENSATION

(REPEALED)

SECTION HISTORY
1985, c. 785, §A78 (NEW). 1987, c. 701, §§1-3 (AMD). 1989, c. 483, §§A22,A23 (AMD). 1989, c. 502, §A19 (AMD). 1989, c. 857, §§34-36 (AMD). 1989, c. 878, §A14 (AMD). 1991, c. 291, §§2-4 (AMD). 1991, c. 780,

§§Y89-92 (AMD). 1997, c. 554, §1 (AMD). 1999, c. 165, §6 (AMD). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF). 2003, c. 689, §B7 (REV). 2005, c. 12, §SS7 (RP).

§1893. DUTIES AND RESPONSIBILITIES OF THE BOARD

(REPEALED)

SECTION HISTORY
1985, c. 785, §A78 (NEW). 1987, c. 534, §§A6,A19 (AMD). 1987, c. 701, §§4,5 (AMD). 1989, c. 443, §10 (AMD). 1989, c. 857, §§37-41 (AMD). 1991, c. 291, §5 (AMD). RR 1995, c. 1, §3 (COR). 1995, c. 152, §§3,4 (AMD). 1999, c. 165, §7 (AMD). 2001, c. 388, §12 (AMD). 2005, c. 12, §SS7 (RP).

§1894. SEMIAUTONOMOUS STATE AGENCIES

(REPEALED)

SECTION HISTORY
1989, c. 857, §42 (NEW). 2005, c. 12, §SS7 (RP).

§1895. LEGISLATURE AND JUDICIAL DEPARTMENT

(REPEALED)

SECTION HISTORY
1989, c. 857, §42 (NEW). 2005, c. 12, §SS7 (RP).

Subchapter 4: APPEALS PROCESS

§1896. APPEALS

(REPEALED)

SECTION HISTORY
1985, c. 785, §A78 (NEW). 1989, c. 857, §43 (AMD). 1991, c. 291, §6 (AMD). RR 1995, c. 1, §4 (COR). 2001, c. 388, §13 (AMD). 2005, c. 12, §SS7 (RP).

Chapter 159: COOPERATIVE EDUCATION SUPPORT PROGRAM

§1901. PROGRAM

There is established a State Government cooperative education support program for the purpose of providing work opportunities in state institutions and agencies to Maine residents enrolled as full-time students in approved post-secondary universities, colleges or institutes in Maine. [1975, c. 211, (NEW).]

SECTION HISTORY
1975, c. 211, (NEW).

§1902. PURPOSES

1. **Purposes.** The purposes of the program are:

A. To permit state agencies to employ qualified students enrolled in post-secondary cooperative education programs without regard to personnel count; [1975, c. 211, (NEW).]

B. To provide students with practical experiences related to their field of study which can only be obtained through full-time employment; [1975, c. 211, (NEW).]

C. To assist students to defray higher education costs; [1975, c. 211, (NEW).]

D. To lessen the demand for work during the summer months and disperse it throughout the entire year; [1975, c. 211, (NEW).]

E. To provide department or agency heads with the opportunity of observing and evaluating potential employees on the job thus facilitating the recruitment and selection of personnel to fill state openings; [1975, c. 211, (NEW).]

F. To stimulate interest in employment in the State of Maine on the part of college educated students. [1975, c. 211, (NEW).]

[1975, c. 211, (NEW) .]

SECTION HISTORY
1975, c. 211, (NEW).

§1903. PROCEDURE

The employment of students enrolled in cooperative education programs in approved colleges, universities or institutes in the State of Maine is hereby authorized. Appropriate department, agency or institution heads may employ such students through the use of funds resulting from unfilled positions in their personal services budgets. [1975, c. 211, (NEW).]

Each student must be approved by the institution he attends and the agency, department or institution head. [1975, c. 211, (NEW).]

Appropriate department, agency or institution heads may request the employment of cooperative education students on a form provided by the Bureau of Human Resources. Approval by the Director of Human Resources and the State Budget Officer will constitute approval for a student to be employed. Only cooperative education programs that require full-time employment for a period of not less than 10 weeks shall be included. Cooperative education students will be classified as project employees and will be governed by all policies and entitled to all rights and privileges afforded such employees, except that they shall be paid at the prevailing minimum wage. [1985, c. 785, Pt. B, §33 (AMD).]

The restrictions regarding full-time employment and payment at minimum wage shall not apply to the cooperative education support program between the Department of Health and Human Services and the University of Maine System for the training of psychologists. [1985, c. 779, §20 (AMD); 1995, c. 560, Pt. K, §82 (AMD); 1995, c. 560, Pt. K, §83 (AFF); 2001, c. 354, §3 (AMD); 2003, c. 689, Pt. B, §6 (REV).]

SECTION HISTORY
1975, c. 211, (NEW). 1975, c. 766, §4 (AMD). 1983, c. 580, §1 (AMD). 1985, c. 779, §20 (AMD). 1985, c. 785, §B33 (AMD). 1995, c. 560, §K82 (AMD). 1995, c. 560, §K83 (AFF). 2001, c. 354, §3 (AMD). 2003, c. 689, §B6 (REV).

Chapter 161: DIVESTITURE OF STATE FUNDS

§1951. REPUBLIC OF SOUTH AFRICA

(REPEALED)

SECTION HISTORY
1987, c. 247, §4 (NEW). 1987, c. 769, §A13 (AMD). 1991, c. 514, §1 (AMD). 1993, c. 530, §1 (RP).

§1952. REVIEW OF INVESTMENTS

(REPEALED)

SECTION HISTORY
1987, c. 247, §4 (NEW). 1993, c. 530, §2 (RP).

§1953. INDEX FUNDS AND OTHER SHORT-TERM INVESTMENT FUNDS

(REPEALED)

SECTION HISTORY
1987, c. 247, §4 (NEW). 1993, c. 530, §2 (RP).

§1954. STOCK-SHARE VOTES

(REPEALED)

SECTION HISTORY
1987, c. 247, §4 (NEW). 1991, c. 514, §2 (AMD). 1993, c. 530, §3 (RP).

§1955. NORTHERN IRELAND

(REPEALED)

SECTION HISTORY
1987, c. 743, (NEW). 1989, c. 502, §A20 (AMD). 1991, c. 537, (AMD). 2005, c. 537, §1 (RP).

§1956. SUDAN

(REPEALED)

SECTION HISTORY
2005, c. 537, §2 (NEW). 2007, c. 58, §3 (REV). MRSA T. 5, §1956, sub-§4 (RP).

Chapter 163: OFFICE OF INFORMATION TECHNOLOGY

Subchapter 1: CHIEF INFORMATION OFFICER

§1971. CHIEF INFORMATION OFFICER; APPOINTMENT; QUALIFICATIONS

The Commissioner of Administrative and Financial Services shall appoint the Chief Information Officer. The Chief Information Officer must be a qualified professional person who shall: [2005, c. 12, Pt. SS, §9 (RPR).]

1. **Policy-making information.** Direct, coordinate and oversee information technology policy making, planning, architecture and standardization; and

[2005, c. 12, Pt. SS, §9 (NEW) .]

2. **Provide services.** Direct and oversee the provision of information technology and enterprise services in data processing and telecommunications throughout State Government.

[2005, c. 12, Pt. SS, §9 (NEW) .]

SECTION HISTORY
2001, c. 388, §14 (NEW). 2005, c. 12, §SS9 (RPR).

§1972. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2001, c. 388, §14 (NEW).]

1. **Board.**

[2005, c. 12, Pt. SS, §10 (RP) .]

2. **Chief Information Officer.** "Chief Information Officer" means the person who holds the lead information technology position within the executive branch that directs, coordinates and oversees information technology policy making, planning, architecture and standardization. The Chief Information Officer is also responsible for the provision of information technology and enterprise services in data processing and telecommunications throughout State Government.

[2005, c. 12, Pt. SS, §10 (AMD) .]

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

[2001, c. 388, §14 (NEW) .]

4. **Computer system.** "Computer system" has the same meaning as in Title 17-A, section 431.

[2001, c. 388, §14 (NEW) .]

5. **Leadership positions.**

[2003, c. 176, §1 (RP) .]

6. **Data processing.** "Data processing" means the process that encompasses all computerized and auxiliary automated information handling, including systems analysis and design, conversion of data, computer programming, information storage and retrieval, data and facsimile transmission, requisite system controls, simulation and all related interactions between people and machines. "Data processing" also includes all word or text manipulation processing.

[2005, c. 12, Pt. SS, §10 (NEW) .]

7. **Enterprise.** "Enterprise" means collectively all departments and agencies of the executive branch.

[2005, c. 12, Pt. SS, §10 (NEW) .]

8. **Office.** "Office" means the Office of Information Technology.

[2005, c. 12, Pt. SS, §10 (NEW) .]

9. **Semiautonomous state agency.** "Semiautonomous state agency" means an agency created by an act of the Legislature that is not a part of the Executive Department. This term does not include the Legislature, Judicial Department, Department of the Attorney General, Department of the Secretary of State, Office of the Treasurer of State and Office of the State Auditor.

[2005, c. 12, Pt. SS, §10 (NEW); 2013, c. 16, §10 (REV) .]

10. **Telecommunications.** "Telecommunications" means, but is not limited to, the process of transmitting and receiving any information, including voice, data and video, by any medium, including wire, microwave, fiberoptics, radio, laser and satellite.

[2005, c. 12, Pt. SS, §10 (NEW) .]

SECTION HISTORY
2001, c. 388, §14 (NEW). 2003, c. 176, §1 (AMD). 2005, c. 12, Pt. SS, §10 (AMD). 2013, c. 16, §10 (REV).

§1973. RESPONSIBILITIES OF THE CHIEF INFORMATION OFFICER

1. **Information technology leadership.** The Chief Information Officer shall:

A. Provide central leadership and vision in the use of information and telecommunications technology on a statewide basis; [2001, c. 388, §14 (NEW).]

B. Set policies and standards for the implementation and use of information and telecommunications technologies, including privacy and security standards and standards of the federal Americans with Disabilities Act, for information technology; [2005, c. 12, Pt. SS, §11 (AMD).]

C. Assist the Governor's Office and the commissioner with development and support of information technology-related legislation; [2001, c. 388, §14 (NEW).]

D. Identify and implement information technology best business practices and project management; [2005, c. 12, Pt. SS, §11 (AMD).]

E. Facilitate research and development activities to identify and establish effective information technology service delivery in State Government; and [2005, c. 12, Pt. SS, §11 (AMD).]

F. Facilitate interjurisdictional collaboration, services, sharing and initiatives among agencies, instrumentalities and political subdivisions of State Government and with other states and the Federal Government. [2005, c. 12, Pt. SS, §11 (NEW).]

[2005, c. 12, Pt. SS, §11 (AMD) .]

2. **Information technology communications.** The Chief Information Officer shall provide information technology communications by serving:

A. As the lead advocate for information and telecommunications technology directions, policies, standards and plans for the executive branch and independent units of State Government, constitutional offices, the media and the general public; [2001, c. 388, §14 (NEW).]

B. As information technology liaison to the Governor's office; [2001, c. 388, §14 (NEW).]

C. As information technology liaison to the judicial branch; [2001, c. 388, §14 (NEW).]

D. As information technology liaison to the legislative branch; and [2001, c. 388, §14 (NEW).]

E. On boards and committees as appropriate and as needed. [2001, c. 388, §14 (NEW).]

[2001, c. 388, §14 (NEW) .]

3. **Information technology planning.** In assisting with the development of an information technology plan, the Chief Information Officer shall:

A. Establish and manage the process for strategic information technology planning, including the approval of all departments' information technology plans; [2001, c. 388, §14 (NEW).]

B. Submit a report on the information technology planning process to the Governor and the Legislature at the beginning of each legislative session; [2001, c. 388, §14 (NEW).]

C. Ensure integration of the enterprise strategic plan with unit-level information technology planning processes; and [2001, c. 388, §14 (NEW).]

D. Develop, implement and monitor compliance with statewide standards and architecture. [2001, c. 388, §14 (NEW).]

[2001, c. 388, §14 (NEW) .]

4. **Information technology financial performance management.** The Chief Information Officer shall develop an information technology financial performance management process to:

A. Protect current and future investments in information and telecommunications technologies in State Government; [2001, c. 388, §14 (NEW).]

B. Identify ways to use information and telecommunications technologies to reduce cost of government and improve service to customers; [2001, c. 388, §14 (NEW).]

C. Identify business process improvement priorities that will yield the greatest cost benefits to the State; [2001, c. 388, §14 (NEW).]

D. Develop and administer a statewide information technology financial management and budget planning process; and [2001, c. 388, §14 (NEW).]

E. Establish performance and other outcomes measures and cost benefit analyses for information technology. [2001, c. 388, §14 (NEW).]

[2001, c. 388, §14 (NEW) .]

5. **Information technology procurement and contract management.** The Chief Information Officer shall:

A. Approve all major or nonstandard information and telecommunications technology initiatives, contracts and acquisitions, including enterprise initiatives; and [2001, c. 388, §14 (NEW).]

B. Approve the Division of Purchases' standards and evaluation procedures for standard information and telecommunications technology acquisitions and contracts. [2001, c. 388, §14 (NEW).]

[2001, c. 388, §14 (NEW) .]

6. **Information technology resource management.** The Chief Information Officer shall establish a professional development plan with incentives and opportunities for the recruitment, retention, skill development and career advancement for information and telecommunications technology personnel.

[2001, c. 388, §14 (NEW) .]

SECTION HISTORY
2001, c. 388, §14 (NEW). 2005, c. 12, §SS11 (AMD).

§1974. OTHER POWERS AND DUTIES OF CHIEF INFORMATION OFFICER

1. **Approve the acquisition and use of equipment.** The Chief Information Officer, working with the Division of Purchases and in accordance with written standards established by this chapter, shall approve acquisition and use of all data processing and telecommunications services, equipment and systems by state agencies.

[2001, c. 388, §14 (NEW) .]

2. **Develop training and development programs in data processing.** The Chief Information Officer is responsible for developing training and development programs for state employees in data processing and for the implementation of these programs.

[2001, c. 388, §14 (NEW) .]

3. **Develop and administer written standards for data processing and telecommunications.** The Chief Information Officer shall develop and administer written standards for data processing and telecommunications. These written standards pertain to:

A. Acquisition of equipment; [2001, c. 388, §14 (NEW).]

B. Acquisition of computer software and systems; [2001, c. 388, §14 (NEW).]

C. Development of computer systems and computer programs; [2001, c. 388, §14 (NEW).]

D. Computer operations; and [2001, c. 388, §14 (NEW).]

E. Any other standards determined necessary by the Chief Information Officer and the board. [2001, c. 388, §14 (NEW).]

[2005, c. 12, Pt. SS, §12 (AMD) .]

4. **Board approval required for written standards for data processing and telecommunications.**

[2005, c. 12, Pt. SS, §13 (RP) .]

5. **Develop and implement strategic and departmental planning process.** The Chief Information Officer, with the participation of the affected state agencies, shall develop and maintain strategic planning initiatives for all of State Government and specific state agencies for data processing and telecommunications. The Chief Information Officer is responsible for assisting state agencies in implementing the planning process.

The Chief Information Officer shall submit a report on the planning process to the Governor and the Legislature at the beginning of each legislative session.

[2005, c. 12, Pt. SS, §14 (AMD) .]

6. **Report to the Legislature.** The Chief Information Officer shall report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs by January 31st of each year with respect to the achievements, the problems and the procedures planned for resolving the problems of the office and its mission. This report must include a complete compilation of written standards for data processing and telecommunications.

[2005, c. 12, Pt. SS, §14 (AMD) .]

SECTION HISTORY
2001, c. 388, §14 (NEW). 2005, c. 12, §§SS12-14 (AMD).

§1975. NONCOMPLIANCE

The purchase of data processing equipment, software or services or internal systems development efforts may not be made except in accordance with this chapter. An agency may not purchase any data processing equipment, software or services without the prior written approval of the commissioner or the Chief Information Officer. The State Controller may not authorize payment for data processing equipment, software or services without evidence of prior approval of the purchases by the commissioner or the Chief Information Officer. [2001, c. 667, Pt. A, §3 (AMD).]

1. **Noncompliance defined.** A state agency is in noncompliance with this chapter if the agency:

A. Purchases data processing equipment, software or services in noncompliance with this chapter; or [2001, c. 667, Pt. A, §3 (AMD).]

B. Fails to adhere to the data processing standards established by the commissioner and the Chief Information Officer. [2005, c. 12, Pt. SS, §15 (AMD).]

[2005, c. 12, Pt. SS, §15 (AMD) .]

2. **Penalty.** Any state agency found to be in noncompliance as defined in this section is prohibited from acquiring or purchasing data processing equipment, software and services until the commissioner or the Chief Information Officer determines that the state agency is in compliance with this chapter.

Notwithstanding the provisions of this section, the commissioner or the Chief Information Officer may act to acquire or purchase data processing equipment, software and services to maintain or meet the emergency needs of a state agency.

[2001, c. 667, Pt. A, §3 (AMD) .]

SECTION HISTORY
2001, c. 388, §14 (NEW). 2001, c. 667, §A3 (AMD). 2005, c. 12, §SS15 (AMD).

§1976. USE OF STATE GOVERNMENT COMPUTER SYSTEM

1. **Confidentiality.** Computer programs, technical data, logic diagrams and source code related to data processing or telecommunications are confidential and are not public records, as defined in Title 1, section 402, subsection 3, to the extent of the identified trade secrets. To qualify for confidentiality under this subsection, computer programs, technical data, logic diagrams and source code must:

A. Contain trade secrets, as defined in Title 10, section 1542, subsection 4, held in private ownership; and [2001, c. 388, §14 (NEW).]

B. Have been provided to a state agency by an authorized independent vendor or contractor under an agreement by which:

(1) All trade secrets that can be protected are identified without disclosing the trade secret;

(2) The vendor or contractor retains all intellectual property rights in those trade secrets; and

(3) The state agency agrees to hold and use the programs, data, diagrams or source code without disclosing any identified trade secrets. [2001, c. 388, §14 (NEW).]

[2001, c. 388, §14 (NEW) .]

2. **Public records.** Except as provided in subsection 1, any document created or stored on a State Government computer must be made available in accordance with Title 1, chapter 13.

[2007, c. 597, §4 (AMD) .]

3. **Violation.**

[2003, c. 176, §2 (RP) .]

4. **Penalty.**

[2003, c. 176, §2 (RP) .]

SECTION HISTORY
2001, c. 388, §14 (NEW). 2003, c. 176, §2 (AMD). 2007, c. 597, §4 (AMD).

Subchapter 2: INFORMATION TECHNOLOGY SERVICES

§1981. MISSION OF OFFICE OF INFORMATION TECHNOLOGY

The mission of the Office of Information Technology includes providing high-quality, responsive, cost-effective information technology services to the agencies, instrumentalities and political subdivisions of State Government. These services include, but are not limited to, voice and data computer and networking services, applications development and maintenance and desktop support, centralized geographic information systems and data and security advice to customers. [2005, c. 12, Pt. SS, §16 (NEW).]

1. **Service agency.** The office shall serve as a service agency to meet the needs of client agencies in a timely, efficient and cost-effective manner.

A. The office shall ensure that a high quality of service is provided to all users. [2005, c. 12, Pt. SS, §16 (NEW).]

B. The office shall allocate resources as necessary to meet peak demands and to best use available resources. [2005, c. 12, Pt. SS, §16 (NEW).]

C. The office shall ensure adequate backup for all information services. [2005, c. 12, Pt. SS, §16 (NEW).]

[2005, c. 12, Pt. SS, §16 (NEW) .]

2. **Duties of office.** The office shall provide the major data processing and telecommunications services in State Government, including computer operations and programming and applications systems. The office, as authorized by the commissioner, shall work to ensure consistency in programming services, stability in data processing functions, reliability in the operation and maintenance of systems throughout State Government and responsiveness and flexibility to react to changing situations and needs.

[2005, c. 12, Pt. SS, §16 (NEW) .]

SECTION HISTORY
2005, c. 12, §SS16 (NEW).

§1982. POWERS AND DUTIES

1. **Maintain central telecommunications services.** The Chief Information Officer shall maintain and operate central telecommunications services and may:

A. Employ or engage outside technical and professional services that may be necessary for telecommunications purposes; [2005, c. 12, Pt. SS, §16 (NEW).]

B. Levy charges, according to a rate schedule based on uniform billing procedures approved by the commissioner, against all units utilizing telecommunications services; [2005, c. 12, Pt. SS, §16 (NEW).]

C. Submit a budget of estimated revenues and costs to be incurred by the office as part of the unified current services budget legislation in accordance with sections 1663 to 1666. Notwithstanding section 1583, allocations may be increased or adjusted by the State Budget Officer, with approval of the Governor, to specifically cover those adjustments determined to be necessary by the commissioner. A request for adjustment to the allocation is subject to review by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs; and [2005, c. 12, Pt. SS, §16 (NEW).]

D. Require departments and agencies to be a part of the central telecommunications service network. Capital items purchased through the office may not be given, transferred, sold or otherwise conveyed to any other department, agency or account without authorization through the normal budgetary process. Except as authorized by the Chief Information Officer, telecommunications services, equipment and systems are the responsibility and property of the office. [2005, c. 12, Pt. SS, §16 (NEW).]

[2005, c. 12, Pt. SS, §16 (NEW) .]

2. **Staff and technical assistance.** The Chief Information Officer shall provide staff and technical assistance in data processing to other state agencies.

[2005, c. 12, Pt. SS, §16 (NEW) .]

3. **Maintain central data processing services.** The Chief Information Officer shall maintain and operate central data processing and geographic information systems pursuant to subchapter 3.

[2005, c. 12, Pt. SS, §16 (NEW) .]

4. **InforME responsibilities.** The Chief Information Officer shall serve as the contracting authority under Title 1, chapter 14 and shall provide staff to the InforME Board established in Title 1, chapter 14.

[2005, c. 12, Pt. SS, §16 (NEW) .]

5. **Charges.** The Chief Information Officer may levy appropriate charges against all state agencies using services provided by the office and for operations of the office of the Chief Information Officer. The charges must be those fixed in a schedule or schedules prepared and revised as necessary by the Chief Information Officer and approved by the commissioner. The schedule of charges must be supported and explained by accompanying information.

[2005, c. 12, Pt. SS, §16 (NEW) .]

6. **Budget.** The Chief Information Officer shall submit a budget of estimated revenues and costs to be incurred by the office.

[2005, c. 12, Pt. SS, §16 (NEW) .]

7. **Professional and technical services.** The Chief Information Officer may employ or engage, within funds available, outside technical or professional personnel and services as necessary for carrying out the purposes of this chapter, subject to the approval of the commissioner.

[2005, c. 12, Pt. SS, §16 (NEW) .]

8. **Rules.** The Chief Information Officer may make rules, subject to the approval of the commissioner, for carrying out the purposes of this chapter.

[2005, c. 12, Pt. SS, §16 (NEW) .]

9. **Protection of information files.** The Chief Information Officer shall develop rules regarding the safeguarding, maintenance and use of information files relating to data processing, subject to the approval of the commissioner. The office is responsible for the enforcement of those rules. All data files are the property of the agency or agencies responsible for their collection and use.

[2005, c. 12, Pt. SS, §16 (NEW) .]

SECTION HISTORY
2005, c. 12, §SS16 (NEW).

§1983. INTERGOVERNMENTAL COOPERATION AND ASSISTANCE

The commissioner may enter into agreements with the Federal Government, the University of Maine System, the Maine Community College System and other agencies and organizations that will promote the objectives of this chapter and accept funds from the Federal Government, municipal and county agencies or any individual or corporation to be expended for purposes consistent with this chapter. [2005, c. 12, Pt. SS, §16 (NEW).]

SECTION HISTORY
2005, c. 12, §SS16 (NEW).

§1984. INTERNAL SERVICES FUND ACCOUNTS

The office may establish internal services fund accounts. These funds include, but are not limited to, appropriations made to the office, funds transferred to the office from within the department and funds received for data processing and telecommunications planning services rendered to state agencies. [2005, c. 12, Pt. SS, §16 (NEW).]

SECTION HISTORY
2005, c. 12, §SS16 (NEW).

§1985. RESPONSE TO REQUESTS FOR PUBLIC RECORDS

Each agency that collects and uses data or information is responsible for responding to requests for public data or information hosted on state-owned computer devices. The office shall assist the agency in searching for and identifying all data and information stored within the office and in retrieving and compiling the data and information. [2009, c. 165, §1 (NEW).]

SECTION HISTORY
2009, c. 165, §1 (NEW).

Subchapter 3: GEOGRAPHIC INFORMATION SYSTEMS

§1991. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [2005, c. 12, Pt. SS, §16 (NEW).]

1. **Administrator.** "Administrator" means the Administrator of the Office of Geographic Information Systems.

[2005, c. 12, Pt. SS, §16 (NEW) .]

2. **Geographic information system or GIS.** "Geographic information system" or "GIS" means an entire formula, pattern, compilation, program, device, method, technique, process, digital data base or system that electronically records, stores, reproduces and manipulates by computer geographic information system data.

[2005, c. 12, Pt. SS, §16 (NEW) .]

3. **Geographic information system data or GIS data.** "Geographic information system data" or "GIS data" means geographic information that has been compiled and digitized for use in geographic information systems by a state agency, either alone or in cooperation with other agencies.

[2005, c. 12, Pt. SS, §16 (NEW) .]

4. **Geographic information system services or GIS services.** "Geographic information system services" or "GIS services" means the process of gathering, storing, maintaining and providing geographic information system data for geographic information systems. "Geographic information system services" or "GIS services" does not include general purpose data processing services.

[2005, c. 12, Pt. SS, §16 (NEW) .]

SECTION HISTORY
2005, c. 12, §SS16 (NEW).

§1992. OFFICE OF GEOGRAPHIC INFORMATION SYSTEMS ESTABLISHED

The Office of Geographic Information Systems is established within the Office of Information Technology. [2005, c. 12, Pt. SS, §16 (NEW).]

SECTION HISTORY
2005, c. 12, §SS16 (NEW).

§1993. POWERS

The Office of Information Technology through the Office of Geographic Information Systems shall: [2005, c. 12, Pt. SS, §16 (NEW).]

1. **Geographic information system.** Establish, maintain and operate a geographic data base information center, develop and administer standards, subject to the approval of the Chief Information Officer, and provide geographic information system services to the public. A request to provide the Legislature or an office of the Legislature with existing information for the purposes of making policy decisions must be considered high priority;

[2005, c. 12, Pt. SS, §16 (NEW) .]

2. **GIS data repository.** Create a GIS data repository for the proper management of GIS data and ensure the GIS data are documented, including ownership. Data must be stored and managed in a manner that facilitates the evolution of a distributed agency GIS network;

[2005, c. 12, Pt. SS, §16 (NEW) .]

3. **Data ownership.** Maintain GIS base map data and other multipurpose data not specific to any state agency. All other GIS data are owned by the agency originally compiling the mapped data that were digitized for the GIS. Data owners are responsible for updating their GIS data and certifying its accuracy;

[2005, c. 12, Pt. SS, §16 (NEW) .]

4. **Accuracy level.** Ensure that GIS data added on the GIS data repository are developed and maintained at an accuracy level and in a format that meets the GIS data standards, kept in a format that is compatible with the GIS and, upon request of a potential user, made available to the user;

[2005, c. 12, Pt. SS, §16 (NEW) .]

5. **Charges.** Levy appropriate charges on those using the services provided by the office, except that charges may not be levied on the Legislature for existing information. The charges must be fixed in a schedule or schedules. The schedule of charges must be supported and explained by accompanying information and approved by the Chief Information Officer and the commissioner; and

[2005, c. 12, Pt. SS, §16 (NEW) .]

6. **Consultation with Chief Information Officer.** Consult with the Chief Information Officer on all major policy issues, including fee schedules, related to the management of GIS data and development of GIS data standards.

[2005, c. 12, Pt. SS, §16 (NEW) .]

SECTION HISTORY
2005, c. 12, §SS16 (NEW).

§1994. INTERGOVERNMENTAL COOPERATION AND ASSISTANCE

The administrator, with the approval of the Chief Information Officer, may enter into such agreements with other agencies and organizations as will promote the objectives of this subchapter and accept funds from public and private organizations to be expended for purposes consistent with this subchapter. [2005, c. 12, Pt. SS, §16 (NEW).]

SECTION HISTORY
2005, c. 12, §SS16 (NEW).

§1995. LICENSING AGREEMENTS

GIS data are subject to licensing agreements and may be made available only in accordance with this subchapter and upon payment of fees established under this subchapter. The licensing agreement must protect the security and integrity of the GIS data, limit the liability of the data owners and the office providing the services and products and identify the source of the GIS data. [2005, c. 12, Pt. SS, §16 (NEW).]

SECTION HISTORY
2005, c. 12, §SS16 (NEW).

§1996. PRIORITY OF RESPONSIBILITIES

The activities authorized under this subchapter do not take priority over the primary responsibilities of the Office of Information Technology. If there are not sufficient financial or personnel resources for the Office of Geographic Information Systems to perform certain GIS services and deliver GIS data and products as provided in this subchapter, the administrative management functions related to the Office of Geographic Information Systems, technical support for other state agency GIS users, office equipment maintenance and GIS data base management must take precedence. [2005, c. 12, Pt. SS, §16 (NEW).]

SECTION HISTORY
2005, c. 12, §SS16 (NEW).

Subchapter 4: MAINE LIBRARY OF GEOGRAPHIC INFORMATION

§2001. SHORT TITLE

This subchapter may be known and cited as "the Maine Library of Geographic Information Act." [2005, c. 12, Pt. SS, §16 (NEW).]

SECTION HISTORY
2005, c. 12, §SS16 (NEW).

§2002. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [2005, c. 12, Pt. SS, §16 (NEW).]

1. **Association.** "Association" means an organization:

A. Whose membership is identifiable by regular payment of organizational dues and regularly maintained membership lists; [2005, c. 12, Pt. SS, §16 (NEW).]

B. That is registered with the State or is a corporation in the State; and [2005, c. 12, Pt. SS, §16 (NEW).]

C. That exists for the purpose of advancing the common occupation or profession of its membership. [2005, c. 12, Pt. SS, §16 (NEW).]

[2005, c. 12, Pt. SS, §16 (NEW) .]

2. **Data custodian.** "Data custodian" means a federal data custodian, state data custodian or nonstate data custodian.

[2005, c. 12, Pt. SS, §16 (NEW) .]

3. **Federal data custodian.** "Federal data custodian" means any branch, agency or instrumentality of the Federal Government.

[2005, c. 12, Pt. SS, §16 (NEW) .]

4. **Geographic information board.** "Geographic information board" means the Maine Library of Geographic Information Board.

[2005, c. 12, Pt. SS, §16 (NEW) .]

5. **Geographic information system.** "Geographic information system" or "GIS" means a computer system capable of assembling, storing, manipulating, analyzing and displaying information identified according to locations. A GIS includes operating personnel, hardware, software and the data that go into the system.

[2005, c. 12, Pt. SS, §16 (NEW) .]

6. **Maine Library of Geographic Information.** "Maine Library of Geographic Information" or "library" means the statewide network created pursuant to this subchapter by which data custodians or their designees organize and catalog public geographic information and provide access to that information to all levels of government and to the public.

[2005, c. 12, Pt. SS, §16 (NEW) .]

7. **Nonstate data custodian.** "Nonstate data custodian" means any agency or instrumentality of a political subdivision of the State.

[2005, c. 12, Pt. SS, §16 (NEW) .]

8. **Public geographic information.** "Public geographic information" means public information that is referenced to a physical location. Public geographic information includes, but is not limited to, physical, legal, economic or environmental information or characteristics concerning land, water, groundwater, subsurface resources or air in this State relating to:

A. Topography, soil, soil erosion, geology, minerals, vegetation, land cover, wildlife and associated natural resources; [2005, c. 12, Pt. SS, §16 (NEW).]

B. Land ownership, land use, land use controls and restrictions, jurisdictional boundaries, tax assessments, land value and land survey records and references; and [2005, c. 12, Pt. SS, §16 (NEW).]

C. Geodetic control networks, aerial photographs, maps, planimetric data, remote sensing data, historic and prehistoric sites and economic projections. [2005, c. 12, Pt. SS, §16 (NEW).]

[2005, c. 12, Pt. SS, §16 (NEW) .]

9. **Public information.** "Public information" means information that is stored, gathered, generated, maintained or financed by a data custodian. Information of state and nonstate data custodians is public information only if it is either:

A. A public record under Title 1, section 402, subsection 3; or [2005, c. 12, Pt. SS, §16 (NEW).]

B. Otherwise expressly authorized by law to be released. [2005, c. 12, Pt. SS, §16 (NEW).]

The presence of data in the library does not, by itself, make that information a public record.

[2005, c. 12, Pt. SS, §16 (NEW) .]

10. **State data custodian.** "State data custodian" means any branch, agency or instrumentality of State Government.

[2005, c. 12, Pt. SS, §16 (NEW) .]

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

[2015, c. 267, Pt. YYY, §1 (AMD) .]

SECTION HISTORY
2005, c. 12, §SS16 (NEW). 2015, c. 267, Pt. YYY, §1 (AMD).

§2003. MAINE LIBRARY OF GEOGRAPHIC INFORMATION BOARD

1. **Purposes and duties.** The Maine Library of Geographic Information Board, as established by section 12004-G, subsection 30-B, has the following purposes and duties:

A. To oversee the Maine Library of Geographic Information to ensure that it operates as a coordinated, cost-effective electronic gateway providing public access to data custodians' public geographic information. Nothing in this paragraph may be construed to affect the rights of persons to inspect or copy public records under Title 1, chapter 13, subchapter 1, or the duty of data custodians to provide for public inspection and copying of those records; [2005, c. 12, Pt. SS, §16 (NEW).]

B. To establish and maintain standards, rules and policies for nonstate data custodians' geographic information that is incorporated into the Maine Library of Geographic Information. These standards, rules and policies must be consistent with the standards, rules and policies set by the Chief Information Officer that govern state data custodians' information technology. The geographic information board shall adopt rules to carry out this subchapter. Rules adopted pursuant to this paragraph are routine technical rules as defined in chapter 375, subchapter 2-A. Standards and policies may concern, without limitation:

(1) Methods of access and delivery of information held by the library;

(2) Geographic information system technical specifications;

(3) Data content, metadata and security, including guideline criteria for accepting 3rd-party data from data custodians or data volunteered by the private sector;

(4) Privacy and privacy protection;

(5) Mechanisms to correct inaccuracies; and

(6) Data validation tools and processes; [2005, c. 12, Pt. SS, §16 (NEW).]

C. To reduce redundancies in the creation, verification and maintenance of public geographic information and to enhance its utility for complex analyses.

(1) Each state data custodian, or its designee, that acquires, purchases, verifies, maintains or produces geographic information with state funds or grants shall:

(a) Inform the geographic information board and the Office of Geographic Information Systems of the existence of this information and its geographic extent; and

(b) Upon request, provide to the library and office an electronic copy of all information classified as public, in a form compatible with standards set by the Chief Information Officer.

(2) Each nonstate data custodian, or its designee, that acquires, purchases, verifies, maintains or produces geographic information with state funds specifically provided for that purpose shall:

(a) Inform the geographic information board and the Office of Geographic Information Systems of the existence of this information and its geographic extent; and

(b) Upon request, provide to the library and Office of Geographic Information Systems an electronic copy of all information classified as public, in a form compatible with standards set by the Chief Information Officer; [2005, c. 12, Pt. SS, §16 (NEW).]

D. To set priorities and authorize the expenditure of state funds, including awarding of grants or subgrants to data custodians when available. The geographic information board may seek federal and other funding partners, accept gifts and grants and expend the funds acquired for purposes consistent with this subchapter; [2005, c. 12, Pt. SS, §16 (NEW).]

E. To promote innovative uses of geographic information through the provision of verified, coordinated, intergovernmental information via the Maine Library of Geographic Information. The geographic information board shall seek advice from the general public, professional associations, academic groups and institutions and individuals with knowledge of and interest in geographic information regarding needed information and potential innovative uses of geographic information; [2005, c. 12, Pt. SS, §16 (NEW).]

F. To enter partnerships to promote the purposes of this subchapter; [2005, c. 12, Pt. SS, §16 (NEW).]

G. To hear and resolve disputes that may arise between data custodians or with respect to information to be placed in the Maine Library of Geographic Information, enforcement of geographic information board standards, rules or policies or other related matters, all in accordance with the Maine Administrative Procedure Act. Complainants may directly present their case to the geographic information board, which has the power to hold investigations, inquiries and hearings concerning matters brought to its attention and to make decisions with respect to the case. All interested parties must be given reasonable notice of the hearing and an opportunity to be heard. Hearings must be open to the public; [2005, c. 12, Pt. SS, §16 (NEW).]

H. To conduct studies relating to the coordination, development and use of statewide geographic information; [2005, c. 12, Pt. SS, §16 (NEW).]

I. To report annually by January 1st to the joint standing committees of the Legislature having jurisdiction over natural resources matters, and state and local government matters. The report must provide a review of the past year's activities, including, but not limited to, a description of standards adopted, data added to the library, partnerships established, disputes addressed, studies conducted and financial activity. The library shall also make this report available to the public. This report may also include suggested legislative language intended to address geographic information issues needing legislative action; and [2005, c. 12, Pt. SS, §16 (NEW).]

J. To develop appropriate internal services to facilitate generalized access for and use of data by governmental agencies and the public. The library may not compete directly with private enterprise. The library shall work in partnership with nonstate data custodians to promote the purposes of this subchapter. [2005, c. 12, Pt. SS, §16 (NEW).]

[2005, c. 12, Pt. SS, §16 (NEW) .]

2. **Membership.** The geographic information board consists of 15 voting members as follows:

A. The commissioner or the commissioner's designee; [2005, c. 12, Pt. SS, §16 (NEW).]

B. The Chief Information Officer or the Chief Information Officer's designee; [2005, c. 12, Pt. SS, §16 (NEW).]

C. Two members, or the members' designees, who are responsible for overseeing GIS functions of a state department that is a data custodian of geographic information, appointed by the Governor; [2005, c. 12, Pt. SS, §16 (NEW).]

D. Eight representatives as follows:

(1) A representative of the University of Maine System, appointed by the Chancellor of the University of Maine System;

(2) Two representatives of a statewide association of municipalities, one representative appointed by the President of the Senate from nominations made by the association's governing body and one representative appointed by the Speaker of the House from nominations made by the association's governing body;

(3) One representative of a statewide association of regional councils, appointed by the Speaker of the House from nominations made by the Department of Agriculture, Conservation and Forestry;

(4) One representative of a statewide association of counties, appointed by the Governor from nominations made by the association's governing body;

(5) One representative of a statewide association representing real estate and development interests, appointed by the President of the Senate;

(6) One representative of a statewide association representing environmental interests, appointed by the Speaker of the House; and

(7) One member representing public utilities, appointed by the Governor; [2011, c. 655, Pt. EE, §1 (AMD); 2011, c. 655, Pt. EE, §30 (AFF); 2011, c. 657, Pt. W, §5 (REV).]

E. Two members of the private sector representing geographic information vendors, one member appointed by the President of the Senate and one member appointed by the Speaker of the House; and [2005, c. 12, Pt. SS, §16 (NEW).]

F. One public member, appointed by the President of the Senate. [2005, c. 12, Pt. SS, §16 (NEW).]

The terms for the members appointed pursuant to paragraphs C, D, E and F are 3 years. A member who designates another person to serve on the geographic information board as that member's designee shall provide written notice to the geographic information board's staff of the name and title of the designee.

[2011, c. 655, Pt. EE, §1 (AMD); 2011, c. 655, Pt. EE, §30 (AFF); 2011, c. 657, Pt. W, §5 (REV) .]

3. **Board chair.** The geographic information board shall annually elect a chair from its membership at the first meeting in each year.

[2005, c. 12, Pt. SS, §16 (NEW) .]

4. **Staff.** Staff support to the geographic information board is provided by the Department of Administrative and Financial Services.

[2005, c. 12, Pt. SS, §16 (NEW) .]

5. **Quorum; action.** Eight members of the geographic information board constitute a quorum. The affirmative vote of 7 members is necessary for any action taken by the geographic information board. A vacancy in the membership of the geographic information board does not impair the right of a quorum to exercise all the powers and perform the duties of the geographic information board. The geographic information board may use video conferencing and other technologies to conduct its business but is not exempt from Title 1, chapter 13, subchapter 1.

[2005, c. 12, Pt. SS, §16 (NEW) .]

6. **Meetings.** The geographic information board shall meet at the call of the chair but not less than quarterly. Notice must be provided no less than 5 working days prior to the meeting. Notice may be in writing by facsimile or electronic transmission.

[2005, c. 12, Pt. SS, §16 (NEW) .]

7. **Memorandum of understanding.** Information to be provided by a nonstate data custodian or its designee to the Maine Library of Geographic Information is governed by a memorandum of understanding between the geographic information board or its designee and the nonstate data custodian or its designee.

[2005, c. 12, Pt. SS, §16 (NEW) .]

8. **Data custodian responsibilities.** Federal and nonstate data custodians may voluntarily contribute data to the Maine Library of Geographic Information, except that data developed with state funds must be submitted to the library. Data custodians or their designees are responsible for:

A. Ensuring that the public information is accurate, complete and current through the creation of adequate procedures; [2005, c. 12, Pt. SS, §16 (NEW).]

B. Updating source data bases following verification of suggested corrections that users submit in accordance with geographic information board standards; [2005, c. 12, Pt. SS, §16 (NEW).]

C. Complying with standards adopted by the geographic information board; and [2005, c. 12, Pt. SS, §16 (NEW).]

D. Providing reasonable safeguards to protect confidentiality. [2005, c. 12, Pt. SS, §16 (NEW).]

[2005, c. 12, Pt. SS, §16 (NEW) .]

SECTION HISTORY
2005, c. 12, §SS16 (NEW). 2011, c. 655, Pt. EE, §1 (AMD). 2011, c. 655, Pt. EE, §30 (AFF). 2011, c. 657, Pt. W, §5 (REV).

§2004. LIABILITY

The geographic information board and any of the parties submitting data to the Maine Library of Geographic Information for public use may not be held liable for any use of those data. [2005, c. 12, Pt. SS, §16 (NEW).]

SECTION HISTORY
2005, c. 12, §SS16 (NEW).

§2005. COPYRIGHTS AND FEES

Copyright or licensing restrictions may not be fixed by the geographic information board or data custodians to the information made available through the Maine Library of Geographic Information. The geographic information board may set fees for electronic copies of library data that are no more than 3 times the actual cost of reproduction. Fee schedules must be set annually and made readily available to requestors. [2005, c. 12, Pt. SS, §16 (NEW).]

SECTION HISTORY
2005, c. 12, §SS16 (NEW).

§2006. GEOSPATIAL DATA ACCOUNTS

1. **Accounts established.** There are established within the office separate accounts, referred to in this section as "the accounts," to be administered by the geographic information board.

[2013, c. 122, §1 (NEW) .]

2. **Sources of funding.** The following must be paid into the accounts:

A. All money appropriated for inclusion in the accounts; [2013, c. 122, §1 (NEW).]

B. All interest earned from investments of the accounts; [2013, c. 122, §1 (NEW).]

C. Any money allocated from Other Special Revenue Funds accounts for the purpose of the accounts; [2013, c. 122, §1 (NEW).]

D. Proceeds from any bonds issued for the purpose of the accounts; and [2013, c. 122, §1 (NEW).]

E. Matching funds received from the Federal Government or other legal entity for geospatial data acquisition expenditures made from the accounts pursuant to subsection 4. [2013, c. 122, §1 (NEW).]

[2013, c. 122, §1 (NEW) .]

3. **Use of accounts.** The purpose of the accounts is to continue projects developed by the geographic information board. The accounts must be used to provide and maintain to the extent practicable statewide GIS data sets necessary for the efficient delivery of state services and to conserve state expenditures through partnerships with other GIS stakeholders interested in acquiring the same data sets. The accounts may be used at the discretion of the geographic information board for acquiring geospatial data primarily including but not limited to the following data sets:

A. An orthoimagery program. Imagery collected through this program must be from all areas of the State and be 4-band images that include the red, green, blue and near infrared bands; and [2013, c. 122, §1 (NEW).]

B. An elevation data set. A consistent statewide elevation data set must be collected using light detection and ranging technology or an equivalent method. [2013, c. 122, §1 (NEW).]

[2013, c. 122, §1 (NEW) .]

4. **Matching funds.** State funds used to purchase geospatial data must be matched by funding from other sources at at least a one-to-one ratio.

[2015, c. 267, Pt. YYY, §2 (AMD) .]

5. **Annual report.** The Chief Information Officer shall submit a written report by January 15, 2014 and annually thereafter to the Governor and the Legislature on the accounts' balance and expenditures.

[2013, c. 122, §1 (NEW) .]

SECTION HISTORY
2013, c. 122, §1 (NEW). 2015, c. 267, Pt. YYY, §2 (AMD).

Subchapter 5: APPEALS PROCESS

§2011. APPEALS

Any state agency or semiautonomous state agency disagreeing with an action or decision of the Chief Information Officer as it affects that agency may appeal the decision in accordance with the provisions of this section. [2005, c. 12, Pt. SS, §16 (NEW).]

1. **Appeal.** A state agency may appeal the decision or action of the Chief Information Officer to the commissioner.

[2005, c. 12, Pt. SS, §16 (NEW) .]

2. **Appeal to Governor.** In the event that an agency is aggrieved by the decision of the commissioner, the agency may appeal to the Governor to alter the decision or action, and the decision of the Governor is final.

[2005, c. 12, Pt. SS, §16 (NEW) .]

3. **Written decisions.** In responding to a state agency, the person or organization to whom the appeal has been made shall provide the decision in writing. If the decision fails to uphold the state agency appeal, the decision must contain the specific reasons for the decision.

[2005, c. 12, Pt. SS, §16 (NEW) .]

SECTION HISTORY
2005, c. 12, §SS16 (NEW).

Chapter 165: PHARMACEUTICAL COST MANAGEMENT COUNCIL

§2031. PHARMACEUTICAL COST MANAGEMENT COUNCIL

(REPEALED)

SECTION HISTORY
2005, c. 12, §PP1 (NEW). 2005, c. 343, §1 (AMD). 2005, c. 683, §C2 (AMD). 2009, c. 369, Pt. A, §1 (RP).

Part 5: FEES OF PUBLIC OFFICERS GENERALLY

Chapter 191: MISCELLANEOUS PROVISIONS

§2051. NUMBER OF WORDS TO A WRITTEN PAGE

Two hundred and forty words constitute a written "page", if the writing contains that number, and, where no other rule is provided, public officers shall be allowed for copies which they are required by law to furnish, 12¢ a page; for affixing an official seal to the same, when necessary, 25¢ more.

§2052. FEES NOT PROVIDED FOR

In cases not expressly provided for, the fees of all public officers for any official service shall be at the same rate as are prescribed by law for like services.

§2053. ACCOUNT OF ITEMS IN WRITING MAY BE REQUIRED

Every officer or other person upon receiving any fees provided for by law, if required by the person paying them, shall make a particular account thereof in writing specifying for what they accrued or he forfeits to such person treble the sum paid, to be recovered in a civil action.

Part 6: ADMINISTRATIVE CODE

Chapter 301: GENERAL PROVISIONS

§2301. DEFINITIONS

(REPEALED)

SECTION HISTORY
1967, c. 344, §§4,6 (AMD). 1969, c. 400, §§12,13 (AMD). 1969, c. 410, §2 (AMD). 1969, c. 498, §16 (AMD). 1969, c. 504, §12 (AMD). 1971, c. 545, §3 (AMD). 1973, c. 164, §1 (AMD). 1973, c. 303, §1 (AMD). 1973, c. 457, §1 (AMD). 1973, c. 566, §2 (AMD). 1973, c. 571, §§4,5 (AMD). 1973, c. 582, §2 (AMD). 1973, c. 625, §§33-36 (AMD). 1973, c. 788, §§23-24 (AMD). 1975, c. 463, §§1,2 (AMD). 1975, c. 496, §1 (AMD). 1975, c. 547, §§1-3 (AMD). 1975, c. 682, §1 (AMD). 1975, c. 705, §2 (AMD). 1975, c. 760, §§1,2 (AMD). 1977, c. 78, §§17,18 (AMD). 1977, c. 347, §1 (AMD). 1977, c. 463, §1 (AMD). 1977, c. 543, §1 (AMD). 1977, c. 551, §2 (RP). 1977, c. 564, §34 (AMD). 1977, c. 696, §45 (AMD).

§2302. CONFLICTS WITH LIQUOR LAWS

(REPEALED)

SECTION HISTORY
1977, c. 551, §2 (RP).

Chapter 303: RULES

§2351. ADOPTION

(REPEALED)

SECTION HISTORY
1977, c. 551, §2 (RP).

§2352. FILING AND TAKING EFFECT

(REPEALED)

SECTION HISTORY
1977, c. 551, §2 (RP).

§2353. PUBLICATION

(REPEALED)

SECTION HISTORY
1977, c. 551, §2 (RP).

§2354. PETITION FOR ADOPTION

(REPEALED)

SECTION HISTORY

1977, c. 551, §2 (RP).

Chapter 305: HEARINGS

§2401. ADMINISTRATIVE HEARING OFFICE

(REPEALED)

SECTION HISTORY
1967, c. 476, §12 (AMD). 1969, c. 504, §13 (AMD). 1969, c. 507, (RPR). 1969, c. 516, (AMD). 1969, c. 590, §§5,5-A (AMD). 1971, c. 103, (AMD). 1971, c. 510, (AMD). 1973, c. 303, §2 (AMD). 1975, c. 771, §85 (AMD). 1975, c. 780, §1 (RPR). 1977, c. 78, §19 (AMD). 1977, c. 200, (AMD). 1977, c. 551, §2 (RP).

§2402. PETITION FOR DECLATORY RULINGS BY HEARING COMMISSIONER

(REPEALED)

SECTION HISTORY
1975, c. 780, §1 (RPR). 1977, c. 551, §2 (RP).

§2403. PROCEDURE IN CONTESTED CASED

(REPEALED)

SECTION HISTORY
1971, c. 93, §1 (AMD). 1975, c. 780, §1 (RPR). 1977, c. 551, §2 (RP).

§2404. EMERGENCY HEARINGS

(REPEALED)

SECTION HISTORY
1971, c. 93, §2 (AMD). 1975, c. 780, §1 (RPR). 1977, c. 551, §2 (RP).

§2405. RULES OF EVIDENCE

(REPEALED)

SECTION HISTORY
1975, c. 780, §1 (RPR). 1977, c. 551, §2 (RP).

§2406. SUBPOENAS BY HEARING COMMITTEE

(REPEALED)

SECTION HISTORY
1975, c. 780, §1 (RPR). 1977, c. 551, §2 (RP).

§2407. DECISIONS

(REPEALED)

SECTION HISTORY
1967, c. 346, (AMD). 1975, c. 780, §1 (RPR). 1977, c. 551, §2 (RP).

Chapter 307: APPEALS

§2451. PROCEDURE

(REPEALED)

SECTION HISTORY
1969, c. 248, §1 (AMD). 1975, c. 780, §1 (RPR). 1977, c. 551, §2 (RP).

§2452. TO SUPREME JUDICAL COURT

(REPEALED)

SECTION HISTORY
1975, c. 780, §1 (RPR). 1977, c. 551, §2 (RP).

Chapter 308: STATE AGENCY RULES

§2501. STATEMENT OF INTENT

(REPEALED)

SECTION HISTORY
1977, c. 566, (NEW). 1977, c. 683, §3 (RP).

§2502. DEFINITIONS

(REPEALED)

SECTION HISTORY
1977, c. 566, (NEW). 1977, c. 683, §3 (RP).

§2503. ASSISGNMENT OF RULES TO STANDING COMMITTEES

(REPEALED)

SECTION HISTORY
1977, c. 566, (NEW). 1977, c. 683, §3 (RP).

§2504. AUTOMATIC EXPIRATION OF RULES

(REPEALED)

SECTION HISTORY
1977, c. 566, (NEW). 1977, c. 683, §3 (RP).

§2505. JOINT LEGISLATIVE COMMITTEE REVIEW OF RULES

(REPEALED)

SECTION HISTORY
1977, c. 566, (NEW). 1977, c. 683, §3 (RP).

§2506. ADMINISTERING AND OTHER AGENCIES TO COOPERATE

(REPEALED)

SECTION HISTORY
1977, c. 566, (NEW). 1977, c. 683, §3 (RP).

§2507. LEGISLATIVE ADMINISTRATIVE DIRECTOR TO COOPERATE

(REPEALED)

SECTION HISTORY
1977, c. 566, (NEW). 1977, c. 683, §3 (RP).

§2508. SAVINGS CLAUSE

(REPEALED)

SECTION HISTORY
1977, c. 566, (NEW). 1977, c. 683, §3 (RP).

Part 7: INTERCHANGE OF GOVERNMENT EMPLOYEES

Chapter 309: INTERCHANGE OF GOVERNMENT EMPLOYEES

§3001. DECLARATION OF POLICY

The State of Maine recognizes that intergovernmental cooperation is an essential factor in resolving problems affecting this State and that the interchange of personnel between and among governmental agencies at the same or different levels of government is a significant factor in achieving such cooperation. [1967, c. 266, (NEW).]

SECTION HISTORY
1967, c. 266, (NEW).

§3002. DEFINITIONS

For the purposes of this chapter: [1967, c. 266, (NEW).]

1. **Receiving agency.** "Receiving agency" means any department or agency of the Federal Government or a state or local government which receives an employee of another government under this chapter.

[1967, c. 266, (NEW) .]

2. **Sending agency.** "Sending agency" means any department or agency of the Federal Government or a state or local government which sends any employee thereof to another government agency under this chapter.

[1967, c. 266, (NEW) .]

SECTION HISTORY
1967, c. 266, (NEW).

§3003. AUTHORITY TO INTERCHANGE EMPLOYEES

Any department, agency or instrumentality of the State, county, city, town, municipality, land-grant college, or college or university operated by the State or any local government is authorized to participate in a program of interchange of employees with departments, agencies or instrumentalities of the Federal Government, another state or locality, or other agencies, municipalities or instrumentalities of this State as a sending or receiving agency, or both. [1967, c. 266, (NEW).]

The period of individual assignment or detail under an interchange program shall not exceed 12 months, nor shall any person be assigned or detailed for more than 12 months during any 36-month period. Details relating to any matter covered in this chapter may be the subject of an agreement between the sending and receiving agencies. Elected officials shall not be assigned from a sending agency nor detailed to a receiving agency. [1967, c. 266, (NEW).]

SECTION HISTORY
1967, c. 266, (NEW).

§3004. STATUS OF EMPLOYEES OF THIS STATE

Employees of a sending agency participating in an exchange of personnel as authorized in section 3003 may be considered during such participation to be on detail to regular work assignments of the sending agency, or in a status of leave of absence from their positions in the sending agency. [1967, c. 266, (NEW).]

Employees who are on detail shall be entitled to the same salary and benefits to which they would otherwise be entitled and shall remain employees of the sending agency for all other purposes, except that the supervision of their duties during the period of detail may be governed by agreement between the sending agency and the receiving agency. [1967, c. 266, (NEW).]

Employees who are in a leave of absence status shall be carried on leave without pay. They may be granted annual leave or other time off with pay to the extent authorized by law and may be granted authorized sick leave in circumstances considered by the sending agency to justify such leave. Except as otherwise provided in this chapter, employees who are in a leave of absence status shall have the same rights, benefits and obligations as employees generally who are in such leave status but notwithstanding any other provision of law such employees may be entitled to credit the period of such assignment toward all regular benefits as employees of the sending agency, such as retirement, seniority, longevity and insurance coverage. [1967, c. 266, (NEW).]

Any employee who participates in an exchange under the terms of this section who suffers disability or death as a result of personal injury arising out of and in the course of an exchange, or sustained in performance of duties in connection therewith, shall be treated, for the purposes of the sending agency's employee compensation program, as an employee, as defined in such Act, who has sustained such injury in the performance of such duty, but shall not receive benefits under that Act for any period for which he is entitled to and elects to receive similar benefits under the receiving agency's employee compensation program. [1967, c. 266, (NEW).]

SECTION HISTORY
1967, c. 266, (NEW).

§3005. TRAVEL EXPENSES OF EMPLOYEES OF THIS STATE

A sending agency in this State may, in accordance with the travel regulations of such agency, pay the travel expenses of employees assigned to a receiving agency on either a detail or leave basis, but shall not pay the travel expenses of such employees incurred in connection with their work assignments at the receiving agency. If the assignment or detail will be for a period of time exceeding 8 months, travel expenses may include expenses of transportation of immediate family, household goods and personal effects to and from the location of the receiving agency. If the period of assignment is less than 8 months, the sending agency may pay a per diem allowance to the employee on assignment or detail. [1967, c. 266, (NEW).]

SECTION HISTORY
1967, c. 266, (NEW).

§3006. STATUS OF EMPLOYEES OF OTHER GOVERNMENTS

1. **Appointment or on detail.** When any unit of government of this State acts as a receiving agency, employees of the sending agency who are assigned under authority of this chapter may be given appointments in the receiving agency covering the periods of such assignments, with compensation to be paid from receiving agency funds or without compensation, or be considered to be on detail to the receiving agency.

[1967, c. 266, (NEW) .]

2. **Laws or regulations not governing.** Appointments of persons so assigned may be made without regard to the laws or regulations governing the selection of employees of the receiving agency.

[1967, c. 266, (NEW) .]

3. **Not employees.** Employees who are detailed to the receiving agency shall not by virtue of such detail be considered to be employees thereof, except as provided in subsection 4, nor shall they be paid a salary or wage by the receiving agency during the period of their detail. The supervision of the duties of such employees during the period of detail may be governed by agreement between the sending agency and the receiving agency.

[1967, c. 266, (NEW) .]

4. **Disability or death.** Any employee of a sending agency assigned in this State who suffers disability or death as a result of personal injury arising out of and in the course of such assignment, or sustained in the performance of duties in connection therewith, shall be treated for the purpose of receiving agency's employee compensation program, as an employee, as defined in such Act, who has sustained such injury in the performance of such duty, but shall not receive benefits under that Act for any period for which he elects to receive similar benefits as an employee under the sending agency's employee compensation program.

[1967, c. 266, (NEW) .]

SECTION HISTORY
1967, c. 266, (NEW).

§3007. TRAVEL EXPENSES OF EMPLOYEES OF OTHER GOVERNMENTS

A receiving agency in this State may, in accordance with the travel regulations of such agency, pay travel expenses of persons assigned thereto under this chapter during the period of such assignments on the same basis as if they were regular employees of the receiving agency. [1967, c. 266, (NEW).]

SECTION HISTORY
1967, c. 266, (NEW).

Part 8: POLICY AND MANAGEMENT

Chapter 310: GOVERNOR'S OFFICE OF POLICY AND MANAGEMENT

§3101. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2011, c. 655, Pt. DD, §5 (NEW); 2011, c. 655, Pt. DD, §24 (AFF).]

1. **Director.** "Director" means the Director of the Governor's Office of Policy and Management established by section 3102.

[2011, c. 655, Pt. DD, §5 (NEW); 2011, c. 655, Pt. DD, §24 (AFF) .]

2. **Office.** "Office" means the Governor's Office of Policy and Management established by section 3102.

[2011, c. 655, Pt. DD, §5 (NEW); 2011, c. 655, Pt. DD, §24 (AFF) .]

SECTION HISTORY
2011, c. 655, Pt. DD, §5 (NEW). 2011, c. 655, Pt. DD, §24 (AFF).

§3102. OFFICE ESTABLISHED; PURPOSE

The Governor's Office of Policy and Management is established in the Executive Department to facilitate achievement of long-term state economic goals and objectives and identification and implementation of opportunities to improve the efficiency and effectiveness of the performance of the functions of and delivery of services by State Government. [2011, c. 655, Pt. DD, §5 (NEW); 2011, c. 655, Pt. DD, §24 (AFF).]

SECTION HISTORY
2011, c. 655, Pt. DD, §5 (NEW). 2011, c. 655, Pt. DD, §24 (AFF).

§3103. DIRECTOR

The Director of the Governor's Office of Policy and Management is appointed by the Governor and serves at the pleasure of the Governor. [2011, c. 655, Pt. DD, §5 (NEW); 2011, c. 655, Pt. DD, §24 (AFF).]

SECTION HISTORY
2011, c. 655, Pt. DD, §5 (NEW). 2011, c. 655, Pt. DD, §24 (AFF).

§3104. POWERS AND DUTIES

The director is authorized to exercise the powers and is responsible for fulfillment of the duties of the office provided for by this section. [2011, c. 655, Pt. DD, §5 (NEW); 2011, c. 655, Pt. DD, §24 (AFF).]

1. **Duties.** The director shall:

A. Appoint, remove and prescribe the duties of staff of the office as necessary to implement the duties of the office. The director is authorized to hire as unclassified employees professional personnel competent by education, training and experience in such areas as economics, law, accounting and public policy. The director is authorized to hire as classified employees other personnel, who are subject to the Civil

Service Law and personnel policies established for state employees generally, as required to support implementation of the duties of the office; [2011, c. 655, Pt. DD, §5 (NEW); 2011, c. 655, Pt. DD, §24 (AFF).]

B. Prepare long-range economic projections to ensure that projected available state financial resources are commensurate with projected state expenditures needed to meet long-term state economic goals and policies; [2011, c. 655, Pt. DD, §5 (NEW); 2011, c. 655, Pt. DD, §24 (AFF).]

C. Analyze the structure and functions of State Government and identify options and develop recommendations for consideration by the Governor regarding improvement of the efficiency and effectiveness of governmental functions and programs and delivery of governmental services. In carrying out duties under this paragraph, the director may:

(1) Prepare strategic and long-range plans and goals for reform of State Government through creation of efficiencies and streamlining of operations;

(2) Establish metrics for and further develop systems for ongoing evaluation of the efficiency and effectiveness of state programs and delivery of state services; and

(3) Review and determine whether there is continuing need for state programs, boards and commissions, in part through consideration of whether their public benefit equals or exceeds their cost; [2011, c. 655, Pt. DD, §5 (NEW); 2011, c. 655, Pt. DD, §24 (AFF).]

D. Recommend governmentwide policies to improve financial management for consideration by the Governor. In carrying out duties under this paragraph, the director may review state agencies' proposals for funding from public and private entities, including the Federal Government, for consistency with pertinent state law and fiscal policy; [2011, c. 655, Pt. DD, §5 (NEW); 2011, c. 655, Pt. DD, §24 (AFF).]

E. Conduct studies and continuing economic analyses of the state economy, including economic forecasting, and collect, collate and analyze all pertinent data and statistics relating to those studies and analyses to assist the Governor, the Legislature and the various state departments in formulating economic goals and programs and policies to achieve such goals. The office shall make these data and statistics available to the Legislature upon request. All state agencies shall cooperate with the office regarding implementation of the provisions of this paragraph. In implementing this paragraph, the office may use secondary data made available to the office by other state agencies or other organizations; [2011, c. 655, Pt. DD, §5 (NEW); 2011, c. 655, Pt. DD, §24 (AFF).]

F. At the Governor's request, advise on the risks, costs, benefits and effects on job creation and job retention in the State of proposed legislation or other policy initiatives; [2011, c. 655, Pt. DD, §5 (NEW); 2011, c. 655, Pt. DD, §24 (AFF).]

G. Conduct research, reviews and studies to fulfill the office's duties as the director determines appropriate; [2011, c. 655, Pt. DD, §5 (NEW); 2011, c. 655, Pt. DD, §24 (AFF).]

H. Facilitate intergovernmental and intragovernmental coordination, relations and communications and provide general coordination and review of plans in functional areas of State Government as may be necessary for receipt of federal funds; and [2011, c. 655, Pt. DD, §5 (NEW); 2011, c. 655, Pt. DD, §24 (AFF).]

I. Perform other duties related to the purposes of the office under section 3102 as assigned by the Governor or as directed by statute. [2011, c. 655, Pt. DD, §5 (NEW); 2011, c. 655, Pt. DD, §24 (AFF).]

[2011, c. 655, Pt. DD, §5 (NEW); 2011, c. 655, Pt. DD, §24 (AFF) .]

2. **Powers.** The director may, in connection with the performance of the duties of the office, apply to the Superior Court for a subpoena to compel the attendance of witnesses and the production of books, papers, records and documents of individuals, firms, associations and corporations and all officers, boards, commissions and departments of State Government. The court, before issuing the subpoena, shall provide adequate opportunity for the director and the party against whom the subpoena is requested to be heard. The court may issue the subpoena only on a showing by the director and specific findings of fact by the court that the attendance of the witness or the production of the books, papers, records or documents is reasonably necessary to carry out specific duties of the office that are related to the operations and finances of State Government and that the director has made reasonable efforts to secure the attendance or the books, papers, records or documents without recourse to compulsory process. Any materials or information turned over to the director that is of a confidential or proprietary nature is confidential under section 3108.

[2011, c. 655, Pt. DD, §5 (NEW); 2011, c. 655, Pt. DD, §24 (AFF) .]

SECTION HISTORY
2011, c. 655, Pt. DD, §5 (NEW). 2011, c. 655, Pt. DD, §24 (AFF).

§3105. ACCEPTANCE AND ADMINISTRATION OF FUNDS

The office may accept, administer and expend funds, including but not limited to funds from the Federal Government or from private sources, for purposes consistent with this chapter. The director shall provide a report of the amount of any outside funding received from private sources and its designated purpose to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs no later than 30 days after receiving the funds. [2011, c. 655, Pt. DD, §5 (NEW); 2011, c. 655, Pt. DD, §24 (AFF).]

SECTION HISTORY
2011, c. 655, Pt. DD, §5 (NEW). 2011, c. 655, Pt. DD, §24 (AFF).

§3106. CONTRACTS

The office may contract with public and private entities for research and analysis and other services as the director determines necessary to address the office's duties under this chapter. The director shall provide a report of the contracts awarded to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs no later than 30 days after awarding the contract. [2011, c. 655, Pt. DD, §5 (NEW); 2011, c. 655, Pt. DD, §24 (AFF).]

SECTION HISTORY
2011, c. 655, Pt. DD, §5 (NEW). 2011, c. 655, Pt. DD, §24 (AFF).

§3107. GOVERNMENTAL COOPERATION; TEMPORARY REASSIGNMENT OF GOVERNMENTAL EMPLOYEES

All departments, agencies, authorities, boards, commissions and other instrumentalities of the State shall, at the director's request, assist the office in the gathering of information, reports and data that relate to the performance of the duties of the office. Subject to approval by the Governor, at the request of the director a state agency shall, as provided in chapter 309, assign qualified personnel to the office for a period of up to 6 months to assist the office in the performance of its duties. [2011, c. 655, Pt. DD, §5 (NEW); 2011, c. 655, Pt. DD, §24 (AFF).]

SECTION HISTORY
2011, c. 655, Pt. DD, §5 (NEW). 2011, c. 655, Pt. DD, §24 (AFF).

§3108. CONFIDENTIAL OR PROPRIETARY INFORMATION

1. **Access to records.** Upon the request of the director, a department, commission or agency shall provide access to records necessary to carry out the duties of the office.

[2011, c. 655, Pt. DD, §5 (NEW); 2011, c. 655, Pt. DD, §24 (AFF) .]

2. **Confidential information available to the director.** Notwithstanding any state law relating to the confidentiality of information, all information in the files of any department, commission or agency of the State must be made available when necessary to the director in connection with the performance of the duties of the office related to the operations and finances of State Government.

[2011, c. 655, Pt. DD, §5 (NEW); 2011, c. 655, Pt. DD, §24 (AFF) .]

3. **Consultation; limited access.** Before beginning a study, a review or research that may require access to records containing confidential or privileged information, the director shall consult with representatives of the department, commission or agency to discuss methods of identifying and protecting privileged or confidential information in those records. During that consultation, the department, commission or agency shall inform the director of all standards and procedures set forth in department, commission or agency policies or agreements to protect information considered by the department, commission or agency to be confidential or privileged. The director shall limit access to information that is privileged or confidential by appropriate methods, which may include examining records without copying or removing them from the department, commission or agency.

[2011, c. 655, Pt. DD, §5 (NEW); 2011, c. 655, Pt. DD, §24 (AFF) .]

4. **Removal of identifying information.** In making information available to the director, the department, commission or agency that is subject to the study, review or research or that provides the information may remove information that identifies individuals or institutions to protect privileged or confidential information, as long as the information necessary for the director to fulfill the duties of the office is disclosed to the director.

[2011, c. 655, Pt. DD, §5 (NEW); 2011, c. 655, Pt. DD, §24 (AFF) .]

5. **Confidentiality, privilege apply to director.** Documentary or other information obtained by the director during the course of a study, review or research is privileged or confidential to the same extent under law that that information would be privileged or confidential in the possession of the department, commission or agency providing the information. Any privilege or statutory provision, including penalties, concerning the confidentiality or obligation not to disclose information in the possession of any department, commission or agency or their officers or employees applies equally to the director. Privileged or confidential information obtained by the director during the course of a study, review or research may be disclosed only as provided by law and with the agreement of the department, commission or agency that provided the information.

[2011, c. 655, Pt. DD, §5 (NEW); 2011, c. 655, Pt. DD, §24 (AFF) .]

6. **Compliance with policy.** If the director accesses information classified as privileged or confidential pursuant to department, commission or agency policy or procedures or by agreement, the director shall comply with the department, commission or agency standards or procedures for handling that information.

[2011, c. 655, Pt. DD, §5 (NEW); 2011, c. 655, Pt. DD, §24 (AFF) .]

SECTION HISTORY
2011, c. 655, Pt. DD, §5 (NEW). 2011, c. 655, Pt. DD, §24 (AFF).

Chapter 311: STATE PLANNING

§3301. TITLE

(REPEALED)

SECTION HISTORY
1967, c. 533, §1 (NEW). 2011, c. 655, Pt. CC, §4 (AFF). 2011, c. 655, Pt. CC, §3 (RP).

§3302. DEFINITIONS

(REPEALED)

SECTION HISTORY
1967, c. 533, §1 (NEW). 1977, c. 78, §§20,72 (AMD). 1987, c. 534, §§A7,A19 (AMD). 1989, c. 501, §§DD3,DD4 (AMD). 2011, c. 655, Pt. CC, §4 (AFF). 2011, c. 655, Pt. CC, §3 (RP).

§3303. STATE PLANNING OFFICE

(REPEALED)

SECTION HISTORY
1967, c. 533, §1 (NEW). 1989, c. 501, §DD5 (AMD). 1991, c. 837, §A10 (AMD). 2011, c. 655, Pt. CC, §4 (AFF). 2011, c. 655, Pt. CC, §3 (RP).

§3304. STATE PLANNING DIRECTOR

(REPEALED)

SECTION HISTORY
1967, c. 533, §1 (NEW). 1973, c. 679, (AMD). 1975, c. 481, §1 (AMD). 1977, c. 78, §§21-24 (AMD). 1977, c. 674, §7 (AMD). 1979, c. 127, §36 (AMD). 1989, c. 501, §§DD6,DD7 (AMD). 1989, c. 571, §A1 (AMD). 1999, c. 415, §§2-4 (AMD). 2005, c. 91, §1 (AMD). 2007, c. 656, Pt. C, §2 (AMD). 2011, c. 655, Pt. CC, §4 (AFF). 2011, c. 655, Pt. CC, §3 (RP).

§3305. STATE PLANNING OFFICE

(REPEALED)

SECTION HISTORY
1967, c. 533, §1 (NEW). 1969, c. 382, §1 (AMD). 1973, c. 721, (AMD). 1973, c. 788, §25 (AMD). 1975, c. 481, §2 (AMD). 1979, c. 127, §37 (AMD). 1979, c. 672, §§A4-6 (AMD). 1981, c. 702, §§Y,3 (AMD). 1983, c. 477, Pt. E,Subpt.26, §§1 (AMD). 1985, c. 466, (AMD). 1985, c. 765, §§1,2 (AMD). 1987, c. 534, §§A8-A12,A19 (AMD). 1987, c. 737, §§C8,C106 (AMD). 1987, c. 816, §P3 (AMD). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,C10 (AMD). 1989, c. 501, §§DD8-12,P18 (AMD). 1989, c. 502, §A21 (AMD). 1991, c. 528, §E7 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §E7 (AMD). 1991, c. 780, §DDD21 (AMD). 1995, c. 345, §§1-3 (AMD). 1995, c. 395, §§D1-4 (AMD). 1995, c. 465, §§B1-3 (AMD). 1995, c. 465, §C2 (AFF). 1995, c. 625, §§A6-10 (AMD). 1995, c.

656, §A1 (AMD). 1997, c. 393, §§B3,4 (AMD). 1999, c. 336, §1 (AMD). 2003, c. 605, §1 (AMD). 2009, c. 213, Pt. M, §1 (AMD). 2011, c. 655, Pt. CC, §4 (AFF). 2011, c. 655, Pt. CC, §3 (RP).

§3305-A. AUTHORITY TO OWN AND OPERATE SOLID WASTE DISPOSAL FACILITY

(REPEALED)

SECTION HISTORY
1995, c. 465, §B4 (NEW). 1995, c. 465, §C2 (AFF). 2011, c. 655, Pt. CC, §4 (AFF). 2011, c. 655, Pt. CC, §3 (RP).

§3305-B. ADDITIONAL POWERS; ENERGY POLICY

(REPEALED)

SECTION HISTORY
1999, c. 336, §2 (NEW). 2001, c. 624, §1 (AMD). 2011, c. 655, Pt. CC, §4 (AFF). 2011, c. 655, Pt. CC, §3 (RP).

§3306. STATE PLANNING COUNCIL

(REPEALED)

SECTION HISTORY
1967, c. 533, §1 (NEW). 1975, c. 755, §2 (RP). 1975, c. 771, §86 (AMD). 1977, c. 564, §35 (RP).

§3306-A. HOUSING DATA REPORTS

(REPEALED)

SECTION HISTORY
1977, c. 415, (NEW). 1983, c. 193, (RP).

§3307. LIMITATION

(REPEALED)

SECTION HISTORY
1967, c. 533, §1 (NEW). 1975, c. 755, §2 (RP).

§3307-A. COMMUNITY DEVELOPMENT REVOLVING LOAN FUND

(REPEALED)

SECTION HISTORY
1985, c. 457, §5 (NEW). 1987, c. 534, §§A13,A19 (RP).

§3307-B. MAINE ENERGY RESOURCES DEVELOPMENT PROGRAM

(REPEALED)

SECTION HISTORY
1989, c. 501, §DD13 (NEW). 2011, c. 655, Pt. CC, §4 (AFF). 2011, c. 655, Pt. CC, §3 (RP).

§3307-C. DEFINITIONS; REPORTING OF PETROLEUM INVENTORIES AND DELIVERIES

(REPEALED)

SECTION HISTORY
1989, c. 501, §DD13 (NEW). 1999, c. 758, §§1-3 (AMD). 2001, c. 471, §A3 (AMD). 2003, c. 452, §§A1-3 (AMD). 2003, c. 452, §X2 (AFF). 2005, c. 91, §§2-4 (AMD). 2011, c. 655, Pt. CC, §4 (AFF). 2011, c. 655, Pt. CC, §3 (RP).

§3307-D. STATE PETROLEUM SET ASIDE

(REPEALED)

SECTION HISTORY
1989, c. 501, §DD13 (NEW). 1997, c. 455, §31 (AMD). 2005, c. 91, §5 (RP).

§3307-E. TASK FORCE ON DEFENSE REALIGNMENT AND THE ECONOMY

(REPEALED)

SECTION HISTORY
1991, c. 854, §B1 (NEW). 1993, c. 146, §1 (AMD). 1993, c. 146, §2 (AFF). 1993, c. 410, §PPP1 (AMD). 1995, c. 688, §§1,2 (AMD). 1997, c. 15, §1 (RP).

§3307-F. MAINE DOWNTOWN CENTER

(REPEALED)

SECTION HISTORY
1999, c. 776, §3 (NEW). 2011, c. 655, Pt. CC, §4 (AFF). 2011, c. 655, Pt. CC, §3 (RP).

§3307-G. FLOODPLAIN MAPPING FUND

(REPEALED)

SECTION HISTORY
2009, c. 522, §1 (NEW). 2011, c. 655, Pt. CC, §4 (AFF). 2011, c. 655, Pt. CC, §3 (RP).

Chapter 312: STATE REGISTER OF CRITICAL AREAS

§3310. TITLE

(REPEALED)

SECTION HISTORY
1973, c. 769, §§1,3 (NEW). 1973, c. 778, §1 (NEW). 1975, c. 623, §4 (RP). 1993, c. 92, §9 (RP).

§3311. FINDINGS; DECLARATION OF PURPOSE

(REPEALED)

SECTION HISTORY
1973, c. 769, §§1,3 (NEW). 1973, c. 778, §1 (NEW). 1975, c. 623, §4 (RP). 1979, c. 672, §7 (RPR). 1985, c. 595, §1 (AMD). 1993, c. 92, §9 (RP).

§3311-A. DEFINITIONS

(REPEALED)

SECTION HISTORY
1985, c. 595, §2 (NEW). RR 1991, c. 1, §10 (COR). 1993, c. 92, §9 (RP).

§3312. DEFINITIONS

(REPEALED)

SECTION HISTORY
1973, c. 778, §1 (NEW). 1979, c. 672, §A8 (AMD). 1983, c. 812, §28 (RP).

§3313. MAINE CRITICAL AREAS ADVISORY BOARD

(REPEALED)

SECTION HISTORY
1973, c. 778, §1 (NEW). 1975, c. 771, §87 (AMD). 1983, c. 812, §§29,30 (AMD). 1989, c. 503, §B19 (AMD). 1993, c. 92, §9 (RP).

§3314. REGISTER OF CRITICAL AREAS

(REPEALED)

SECTION HISTORY
1973, c. 778, §1 (NEW). 1979, c. 672, §§A9,10 (AMD). 1993, c. 92, §9 (RP).

§3315. ENDANGERED PLANTS

(REPEALED)

SECTION HISTORY
1985, c. 595, §3 (NEW). 1985, c. 794, §A1 (NEW). 1987, c. 402, §A52 (RP). 1993, c. 92, §9 (RP).

§3316. LIST OF HERITAGE COASTAL AREAS

(REPEALED)

SECTION HISTORY
1987, c. 402, §A53 (NEW). 1993, c. 92, §9 (RP).

Chapter 313: COMMISSION ON MAINE'S FUTURE

§3308. COMMISSION ON MAINE'S FUTURE

(REPEALED)

SECTION HISTORY
1973, c. 769, §1 (NEW). 1975, c. 623, §4 (RP).

§3309. MEMBERS OF THE COMMISSION

(REPEALED)

SECTION HISTORY
1973, c. 769, §1 (NEW). 1975, c. 623, §4 (RP).

§3310. DUTIES OF THE COMMISSION

(REPEALED)

SECTION HISTORY
1973, c. 769, §1 (NEW). 1975, c. 623, §4 (RP).

§3311. FUNDING

(REPEALED)

SECTION HISTORY
1973, c. 769, §1 (NEW). 1975, c. 623, §4 (RP).

§3321. COMMISSION ON MAINE'S FUTURE

(REPEALED)

SECTION HISTORY
1975, c. 623, §5 (NEW). 1979, c. 672, §A11 (RP).

§3322. MEMBERS OF THE COMMISSION

(REPEALED)

SECTION HISTORY
1975, c. 623, §5 (NEW). 1975, c. 648, §1 (AMD). 1979, c. 672, §A11 (RP).

§3323. DUTIES OF THE COMMISSION

(REPEALED)

SECTION HISTORY
1975, c. 623, §5 (NEW). 1975, c. 648, §§2,3 (AMD). 1979, c. 672, §A11 (RP).

§3324. FUNDING

(REPEALED)

SECTION HISTORY
1975, c. 623, §5 (NEW). 1979, c. 672, §A11 (RP).

Chapter 313-A: ENERGY RESOURCES COUNCIL

§3327. ENERGY RESOURCES COUNCIL

(REPEALED)

SECTION HISTORY
2001, c. 630, §1 (NEW). 2003, c. 9, §§1,2 (AMD). 2003, c. 487, §1 (AMD). 2005, c. 425, §2 (AMD). 2007, c. 656, Pt. C, §§3-5 (AMD). 2009, c. 372, Pt. A, §10 (AFF). 2009, c. 372, Pt. A, §3 (RP).

Chapter 314: COORDINATION OF LAND USE AND NATURAL RESOURCE MANAGEMENT

Subchapter 1: LAND AND WATER RESOURCES COUNCIL

§3331. LAND AND WATER RESOURCES COUNCIL

(REPEALED)

SECTION HISTORY
1993, c. 721, §C1 (NEW). 1993, c. 721, §H1 (AFF). 1995, c. 537, §4 (AMD). 1995, c. 688, §3 (AMD). 1997, c. 393, §A10 (AMD). 1997, c. 519, §§A1-3 (AMD). 1997, c. 587, §1 (AMD). 2001, c. 184, §3 (AMD). 2003, c. 689, §B7 (REV). 2007, c. 399, §1 (AMD). 2007, c. 619, §1 (AMD). 2009, c. 652, Pt. A, §1 (AMD). 2011, c. 655, Pt. EE, §30 (AFF). 2011, c. 655, Pt. EE, §2 (RP).

Subchapter 2: LAND USE MEDIATION PROGRAM

§3341. LAND USE MEDIATION PROGRAM

1. **Program established.** The land use mediation program is established to provide eligible private landowners with a prompt, independent, inexpensive and local forum for mediation of governmental land use actions as an alternative to court action.

[1995, c. 537, §5 (NEW) .]

2. **Provision of mediation services; forms, filing and fees.** The Court Alternative Dispute Resolution Service created in Title 4, section 18-B shall provide mediation services under this subchapter. The Court Alternative Dispute Resolution Service shall:

A. Assign mediators under this subchapter who are knowledgeable in land use regulatory issues and environmental law; [1995, c. 537, §5 (NEW).]

B. Establish a simple and expedient application process; and [2013, c. 300, §1 (AMD).]

C. Establish a fee for services in an amount not to exceed $175 for every 4 hours of mediation services provided. In addition, the landowner is responsible for the costs of providing notice as required under subsection 7. [1995, c. 537, §5 (NEW).]

[2013, c. 300, §1 (AMD) .]

3. **Application; eligibility.** A landowner may apply for mediation under this subchapter if that landowner:

A. Has suffered significant harm as a result of a governmental action regulating land use; [1995, c. 537, §5 (NEW).]

B. Applies for mediation under subsection 4 within the time allowed under law or rules of the court for filing for judicial review of that governmental action; [1995, c. 537, §5 (NEW).]

C. Has:

(1) For mediation of municipal governmental land use action, sought and failed to obtain a permit, variance or special exception and has pursued all reasonable avenues of administrative appeal; or

(2) For mediation of state governmental land use action, sought and failed to obtain governmental approval for a land use of that landowner's land and has a right to judicial review under section 11001 either due to a final agency action or the failure or refusal of an agency to act; and [1995, c. 537, §5 (NEW).]

D. Submits to the Superior Court clerk all necessary fees at the time of application. [1995, c. 537, §5 (NEW).]

[1995, c. 537, §5 (NEW) .]

4. **Submission of application for mediation.** A landowner may apply for mediation under this subchapter by filing an application for mediation with the Superior Court clerk in the county in which the land that is the subject of the conflict is located. The Superior Court clerk shall forward the application to the Court Mediation Service.

[1995, c. 537, §5 (NEW) .]

5. **Stay of filing period.** Notwithstanding any other provision of law, the period of time allowed by law or by rules of the court for any person to file for judicial review of the governmental action for which mediation is requested under this subchapter is stayed for 30 days beyond the date the mediator files the report required under subsection 12 with the Superior Court clerk, but in no case longer than 120 days from the date the landowner files the application for mediation with the Superior Court clerk.

[1995, c. 537, §5 (NEW) .]

6. **Purpose; conduct of mediation.** The purpose of a mediation under this subchapter is to facilitate, within existing land use laws, ordinances and regulations, a mutually acceptable solution to a conflict between a landowner and a governmental entity regulating land use. The mediator, whenever possible and appropriate, shall conduct the mediation in the county in which the land that is the subject of the conflict is located. When mediating that solution, the mediator shall balance the need for public access to proceedings with the flexibility, discretion and private caucus techniques required for effective mediation.

[1995, c. 537, §5 (NEW) .]

7. **Schedule; notice; participants.** The mediator is responsible for scheduling all mediation sessions. The mediator shall provide a list of the names and addresses and a copy of the notice of the mediation schedule to the Superior Court clerk, who shall mail the notices. The mediator shall include on the list persons identified in the following ways.

A. The landowner and the governmental entity shall provide to the mediator the names and addresses of the parties, intervenors and other persons who significantly participated in the underlying governmental land use action proceedings. [1995, c. 537, §5 (NEW).]

B. Any other person who believes that that person's participation in the mediation is necessary may file a request with the mediator to be included in the mediation. [1995, c. 537, §5 (NEW).]

C. The mediator shall determine if any other person's participation is necessary for effective mediation. [1995, c. 537, §5 (NEW).]

[1995, c. 537, §5 (NEW) .]

8. **Parties to mediation.** A mediator shall include in the mediation process any person the mediator determines is necessary for effective mediation, including persons representing municipal, county or state agencies and abutters, parties, intervenors or other persons significantly involved in the underlying governmental land use action. A mediator may exclude or limit a person's participation in mediation when the mediator determines that exclusion or limitation necessary for effective mediation. This subsection does not require a municipality to participate in mediation under this subchapter.

[1995, c. 537, §5 (NEW) .]

9. **Sharing of costs.** Participants in the mediation may share the cost of mediation after the initial 4 hours of mediation services have been provided.

[1995, c. 537, §5 (NEW) .]

10. **Admissibility.** The admissibility in court of conduct or statements made during mediation, including offers of settlement, is governed by the Maine Rules of Evidence, Rule 408(a) for matters subsequently heard in a state court and Federal Rules of Evidence, Rule 408 for matters subsequently heard in a federal court.

[1995, c. 537, §5 (NEW) .]

11. **Agreements.** A mediated agreement must be in writing. The landowner, the governmental entity and all other participants who agree must sign the agreement as participants and the mediator must sign as the mediator.

A. An agreement that requires any additional governmental action is not self-executing. If any additional governmental action is required, the landowner is responsible for initiating that action and providing any additional information reasonably required by the governmental entity to implement the agreement. The landowner must notify the governmental entity in writing within 30 days, after the mediator files the mediator's report under subsection 12, that the landowner will be taking action in accordance with the agreement. [1995, c. 537, §5 (NEW).]

B. Notwithstanding any procedural restriction that would otherwise prevent reconsideration of the governmental action, a governmental entity may reconsider its decision in the underlying governmental land use action in accordance with the agreement as long as that reconsideration does not violate any substantive application or review requirement. [1995, c. 537, §5 (NEW).]

[1995, c. 537, §5 (NEW) .]

12. **Mediator's report.** Within 90 days after the landowner files an application for mediation, the mediator shall file a report with the Superior Court clerk. The mediator shall file the report as soon as possible if the mediator determines that a mediated agreement is not possible. The report must contain:

A. The names of the mediation participants, including the landowner, the governmental entity and any other persons; [1995, c. 537, §5 (NEW).]

B. The nature of any agreements reached during the course of mediation, which mediation participants were parties to the agreements and what further action is required of any person; [1995, c. 537, §5 (NEW).]

C. The nature of any issues remaining unresolved and the mediation participants involved in those unresolved issues; and [1995, c. 537, §5 (NEW).]

D. A copy of any written agreement under subsection 11. [1995, c. 537, §5 (NEW).]

[1995, c. 537, §5 (NEW) .]

13. **Application.** This subchapter applies to final agency actions and failures and refusals to act occurring after July 4, 1996.

[1997, c. 2, §14 (COR) .]

14. **Repeal.**

[2001, c. 184, §4 (RP) .]

SECTION HISTORY
1995, c. 537, §5 (NEW). RR 1997, c. 2, §14 (COR). 1997, c. 393, §A11 (AMD). 2001, c. 184, §4 (AMD). 2013, c. 300, §1 (AMD).

Subchapter 3: NATURAL GAS PIPELINE DISPUTE RESOLUTION PROGRAM

§3345. DISPUTES INVOLVING NATURAL GAS PIPELINE ACTIVITIES

1. **Program established.** The natural gas pipeline dispute resolution program is established to provide private landowners with a prompt, independent, inexpensive and local forum for mediation of disputes concerning acts or omissions occurring during the construction, maintenance or operation of any natural gas pipelines that result in property damage.

[1999, c. 346, §2 (NEW) .]

2. **Provision of mediation services; forms, filing and fees.** The Court Alternative Dispute Resolution Service created in Title 4, section 18-B, shall provide mediation services under this subchapter. The Court Alternative Dispute Resolution Service shall:

A. Assign mediators under this subchapter who are knowledgeable in land use regulatory issues, property law and environmental law; [1999, c. 346, §2 (NEW).]

B. Establish a simple and expedient application process; and [1999, c. 346, §2 (NEW).]

C. Establish a fee for services in an amount not to exceed $175 for every 4 hours of mediation services provided. The landowner is responsible for the costs of the first 4 hours of mediation and for the costs of providing notice as required under subsection 7. [1999, c. 346, §2 (NEW).]

[1999, c. 346, §2 (NEW) .]

3. **Application; eligibility.** A landowner may apply for mediation under this subchapter if that landowner:

A. Has suffered property damage as a result of an act or omission by a person surveying, constructing, operating or maintaining a natural gas pipeline on, over or under the landowner's land; [1999, c. 346, §2 (NEW).]

B. Applies for mediation under subsection 4:

(1) With respect to any dispute concerning acts or omissions occurring during the construction of the pipeline, within one year of the completion of pipeline construction on the property; or

(2) With respect to any dispute concerning acts or omissions occurring after the construction of the pipeline, within the applicable statute of limitations on the underlying claim; [1999, c. 346, §2 (NEW).]

C. With respect to any claim regarding future crop deficiency, provides notice to the entity against whom the claim is made at least 30 days prior to the crop harvest in order to allow the entity to assess crop deficiency; [1999, c. 346, §2 (NEW).]

D. Has submitted a claim in writing to the entity responsible for the property damage and afforded that entity at least 10 business days to respond but failed to reach a satisfactory agreement of settlement with that entity within that time period; and [1999, c. 346, §2 (NEW).]

E. Submits to the Superior Court clerk all necessary fees at the time of application. [1999, c. 346, §2 (NEW).]

[1999, c. 346, §2 (NEW) .]

4. **Submission of application for mediation.** A landowner may apply for mediation under this subchapter by filing an application for mediation with the Superior Court clerk in the county in which the land that is the subject of the conflict is located. The Superior Court clerk shall forward the application to the Court Alternative Dispute Resolution Service.

[1999, c. 346, §2 (NEW) .]

5. **Stay of filing period.** Notwithstanding any other provision of law, the period of time allowed by law or by rules of the court for any person to file for judicial review in any state court of any claim related to a dispute for which mediation is requested under this subchapter is stayed for 40 days beyond the date the mediator files the report required under subsection 12 with the Superior Court clerk, but in no case longer than 130 days from the date the landowner files the application for mediation with the Superior Court clerk.

[1999, c. 346, §2 (NEW) .]

6. **Purpose; conduct of mediation.** The purpose of a mediation under this subchapter is to facilitate a mutually acceptable solution to a dispute in accordance with applicable principles of property law and the terms of any easement.

The mediator, whenever possible and appropriate, shall conduct the mediation in the county in which the land that is the subject of the conflict is located.

[1999, c. 346, §2 (NEW) .]

7. **Schedule; notice; participants.** The mediator is responsible for scheduling all mediation sessions. The mediator shall provide the names and addresses of the landowner and the entity with whom the landowner has a dispute and a copy of the notice of the mediation schedule to the Superior Court clerk, who shall mail the notices.

[1999, c. 346, §2 (NEW) .]

8. **Parties to mediation.** A mediator shall include in the mediation process any person the mediator determines is necessary for effective mediation. A mediator may exclude or limit a person's participation in mediation when the mediator determines that exclusion or limitation necessary for effective mediation. Participation in the mediation process is voluntary for all parties and may not be compelled by the mediator or any other person.

[1999, c. 346, §2 (NEW) .]

9. **Sharing of costs.** Participants in the mediation may share the costs of mediation after the initial 4 hours of mediation services have been provided.

[1999, c. 346, §2 (NEW) .]

10. **Admissibility.** The admissibility in court of conduct or statements made during mediation, including offers of settlement, is governed by the Maine Rules of Evidence, Rule 408(a) for matters subsequently heard in a state court and Federal Rules of Evidence, Rule 408 for matters subsequently heard in a federal court.

[1999, c. 346, §2 (NEW) .]

11. **Agreements.** A mediated agreement must be in writing. The landowner and the entity with whom the landowner is in dispute must sign the agreement as participants and the mediator must sign as the mediator.

[1999, c. 346, §2 (NEW) .]

12. **Mediator's report.** Within 90 days after the landowner files an application for mediation, the mediator shall file a report with the Superior Court clerk. The mediator shall file the report as soon as possible if the mediator determines that a mediated agreement is not possible. The report must contain:

A. The names of the mediation participants; [1999, c. 346, §2 (NEW).]

B. The nature of any agreements reached during the course of mediation and what further action is required of any person; [1999, c. 346, §2 (NEW).]

C. The nature of any issues remaining unresolved and the mediation participants involved in those unresolved issues; and [1999, c. 346, §2 (NEW).]

D. A copy of any written agreement under subsection 11. [1999, c. 346, §2 (NEW).]

The terms of any mediated agreement are enforceable in the Superior Court. If the parties fail to reach a mediated settlement, any party may file an appropriate civil action for remedies in accordance with applicable law.

[1999, c. 346, §2 (NEW) .]

SECTION HISTORY
1999, c. 346, §2 (NEW).

Part 9: CRIMINAL JUSTICE PLANNING AND ASSISTANCE

Chapter 315: CRIMINAL JUSTICE PLANNING AND ASSISTANCE AGENCY

§3350. CRIMINAL JUSTICE PLANNING AND ASSISTANCE AGENCY

(REPEALED)

SECTION HISTORY
1969, c. 465, (NEW). 1973, c. 332, (AMD). 1975, c. 425, §2 (AMD). 1977, c. 406, §1 (RPR). 1987, c. 395, §A22 (RP).

§3351. DIRECTORS

(REPEALED)

SECTION HISTORY
1969, c. 465, (NEW). 1973, c. 263, (AMD). 1975, c. 425, §3 (AMD). 1977, c. 406, §2 (RPR). 1987, c. 395, §A22 (RP).

§3352. MEETINGS

(REPEALED)

SECTION HISTORY
1969, c. 465, (NEW). 1975, c. 425, §4 (AMD). 1987, c. 395, §A22 (RP).

§3353. EXECUTIVE DIRECTOR, STAFF

(REPEALED)

SECTION HISTORY
1969, c. 465, (NEW). 1985, c. 785, §B34 (AMD). 1987, c. 395, §A22 (RP).

§3354. GRANTS TO OTHER AGENCIES

(REPEALED)

SECTION HISTORY
1969, c. 465, (NEW). 1975, c. 425, §5 (AMD). 1977, c. 406, §3 (RPR). 1985, c. 737, §B12 (AMD). 1987, c. 395, §A22 (RP).

§3355. ACCEPTANCE OF FUNDS

(REPEALED)

SECTION HISTORY
1969, c. 465, (NEW). 1975, c. 425, §5 (AMD). 1981, c. 67, §D1 (AMD). 1987, c. 395, §A22 (RP).

§3356. DUTIES

(REPEALED)

SECTION HISTORY
1979, c. 370, §2 (NEW). 1987, c. 395, §A22 (RP).

§3357. UTILIZATION OF FUNDS AVAILABLE

(REPEALED)

SECTION HISTORY
1979, c. 370, §2 (NEW). 1987, c. 395, §A22 (RP).

Chapter 316: MAINE CRIMINAL JUSTICE COMMISSION

§3358. MAINE CRIMINAL JUSTICE COMMISSION

(REPEALED)

SECTION HISTORY
1991, c. 417, §1 (NEW). 1993, c. 349, §9 (AMD). 1993, c. 736, §1 (AMD). 1997, c. 134, §7 (AMD). 2009, c. 213, Pt. Q, §1 (RP). 2009, c. 369, Pt. A, §2 (RP).

Chapter 316-A: VICTIMS' COMPENSATION FUND

§3360. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1991, c. 806, §3 (NEW).]

1. **Board.** "Board" means the Victims' Compensation Board as established in section 12004-J, subsection 11.

[1991, c. 806, §3 (NEW) .]

2. **Bodily injury.**

[1999, c. 360, §9 (AFF); 1999, c. 360, §1 (RP) .]

2-A. **Catastrophic injury.** "Catastrophic injury" means an extremely serious injury that may result in permanent disability or a long-lasting medical condition.

[2009, c. 79, §1 (NEW) .]

3. **Crime.** "Crime" means one of the following:

A. Offenses against the person as described in Title 17-A, chapter 9; [1991, c. 806, §3 (NEW).]

B. Sexual assaults as described in Title 17-A, chapter 11; [1991, c. 806, §3 (NEW).]

C. Kidnapping and criminal restraint as described in Title 17-A, chapter 13; [1991, c. 806, §3 (NEW).]

D. Robbery as described in Title 17-A, chapter 27; [1997, c. 378, §1 (AMD).]

E. Operating under the influence of intoxicating liquor or drugs or with an excessive alcohol level, as described in Title 29-A, section 2411; [2009, c. 447, §1 (AMD).]

F. An act of terrorism, as defined in United States Code, Title 18, Section 2331, committed outside of the United States against a resident of this State; [2005, c. 22, §1 (AMD).]

G. Leaving the scene of a motor vehicle accident involving personal injury or death, in violation of Title 29-A, section 2252; [2013, c. 537, §1 (AMD).]

H. Sexual exploitation of a minor as described in Title 17-A, chapter 12; or [2013, c. 537, §2 (AMD).]

I. [2009, c. 336, §3 (RP).]

J. Aggravated sex trafficking or sex trafficking as described in Title 17-A, sections 852 and 853, respectively. [2013, c. 537, §3 (NEW).]

[2013, c. 537, §§1-3 (AMD) .]

4. **Eligible expenses and losses.** "Eligible expenses and losses" means expenses and losses resulting from a personal injury sustained by an individual as a direct result of a crime specified in subsection 3 and may include medical and medically related expenses, psychological or mental health counseling expenses, lost wages, funeral, burial and other homicide-related expenses and travel expenses and loss of income of a claimant or family member for providing or obtaining care for the personal injury of a minor or incapacitated victim. "Eligible expenses and losses" may include costs of eyeglasses, hearing aids, dentures or other prosthetic devices taken, lost, destroyed or damaged as a result of the crime, costs to repair, replace or install locks or security devices, costs of crime scene cleanup and security deposits. Expenses and losses claimed under this subsection must be expenses or losses actually and reasonably incurred.

[2009, c. 79, §2 (AMD) .]

5. **Family or household member.** "Family or household member" means: the parent, stepparent, sibling, grandparent, spouse, child or stepchild of a victim or a person who bears an equally significant relationship to the victim; or a person who at the time or discovery of the crime was living in the household of the victim or who previously had lived in the household of the victim for a period of not less than 2 years.

[2003, c. 243, §3 (AMD) .]

6. **Personal injury.** "Personal injury" means bodily injury as defined in Title 17-A, section 2, subsection 5 or psychological injury incurred by a victim who has sustained the threat of bodily injury.

[1999, c. 360, §3 (NEW); 1999, c. 360, §9 (AFF) .]

SECTION HISTORY
1991, c. 806, §3 (NEW). 1995, c. 65, §A8 (AMD). 1995, c. 65, §§A153,C15 (AFF). 1997, c. 378, §§1-4 (AMD). 1999, c. 360, §§1-3 (AMD). 1999, c. 360, §9 (AFF). 2003, c. 243, §§1-3 (AMD). 2005, c. 22, §§1-3 (AMD). 2007, c. 684, Pt. E, §§1-3 (AMD). 2007, c. 684, Pt. H, §1 (AFF). 2009, c. 79, §§1, 2 (AMD). 2009, c. 336, §§1-3 (AMD). 2009, c. 447, §1 (AMD). 2013, c. 537, §§1-3 (AMD).

§3360-A. VICTIMS' COMPENSATION BOARD ESTABLISHED; COMPENSATION

1. **Establishment and membership.** There is established within the Department of the Attorney General the Victims' Compensation Board. The board consists of 3 members appointed by the Attorney General. One member must be a physician licensed to practice medicine in the State; one member must be an attorney licensed to practice law in the State; and one member must be experienced in working with victims of crime.

[1991, c. 806, §3 (NEW) .]

2. **Terms of appointment.** The term of each member is 3 years. The Attorney General shall make initial appointments for the following terms: one member for an initial term of 3 years, one member for an initial term of 2 years and one member for an initial term of one year. When a vacancy occurs prior to the expiration of a term, the appointment to fill that vacancy is for the balance of the unexpired term.

[1991, c. 806, §3 (NEW) .]

3. **Chair.** Annually, the members shall elect a chair from among the members.

[1991, c. 806, §3 (NEW) .]

4. **Compensation.** Members of the board are entitled to the legislative per diem plus compensation for actual and necessary expenses.

[1991, c. 806, §3 (NEW) .]

5. **Meetings.** The board may not meet more than once a month.

[1991, c. 806, §3 (NEW) .]

6. **Quorum.** Two members of the board constitute a quorum.

[1991, c. 806, §3 (NEW) .]

7. **Rules.** The board may adopt rules pursuant to the Maine Administrative Procedure Act to carry out the purposes of this chapter.

[1991, c. 806, §3 (NEW) .]

SECTION HISTORY
1991, c. 806, §3 (NEW).

§3360-B. AWARD OF COMPENSATION; ELIGIBILITY

1. **Eligibility of victims.** The board may award compensation to any individual who:

A. Suffers personal injury as a direct result of a crime specified in section 3360, committed within the jurisdiction of the State; [1999, c. 360, §4 (AMD); 1999, c. 360, §9 (AFF).]

B. Has been sexually assaulted within this State in violation of Title 17-A, chapter 11 without regard to whether bodily injury or the threat of bodily injury occurred; [1999, c. 360, §4 (AMD); 1999, c. 360, §9 (AFF).]

C. Would otherwise be eligible for compensation, even though:

(1) The criminal conduct occurred in this State but within the exclusive jurisdiction of the United States;

(2) The personal injury resulted from conduct that violates a criminal law of the United States; or

(3) The crime occurred in another state, but only if the person is a resident of this State and the other state does not have a victim compensation program for which residents of this State are eligible, and the person would have been eligible under this chapter if the conduct had occurred in this State; or [1999, c. 360, §4 (AMD); 1999, c. 360, §9 (AFF).]

D. Is a resident of this State and suffers personal injury as a direct result of a crime specified in section 3360, subsection 3, paragraph F committed outside of the United States. [1999, c. 360, §4 (AMD); 1999, c. 360, §9 (AFF).]

[1999, c. 360, §4 (AMD); 1999, c. 360, §9 (AFF) .]

2. **Eligibility of financial dependents.** The board may award compensation for the benefit of a surviving family or household member for lost wages of a person who dies as a direct result of a crime if the family or household member was financially dependent on the deceased person or the deceased person had contributed substantially and regularly to the support of the surviving family or household member.

[1997, c. 378, §5 (NEW) .]

3. **Eligibility for payment of mental health treatment for family members.** The board may award compensation for the benefit of a surviving family or household member of a person who dies or suffers catastrophic injury as a direct result of a crime, a family or household member who witnessed a crime or a family or household member of a sexual assault victim for unreimbursed mental health treatment expenses directly related to the crime.

[2009, c. 79, §3 (AMD) .]

SECTION HISTORY
1991, c. 806, §3 (NEW). 1997, c. 378, §5 (AMD). 1999, c. 360, §4 (AMD). 1999, c. 360, §9 (AFF). 2009, c. 79, §3 (AMD).

§3360-C. REQUIREMENTS AND EXCLUSIONS

1. **Compensation.** Compensation may not be paid for any crime unless:

A. The crime was reported to a law enforcement officer within 5 days of the occurrence or discovery of the crime or of the resultant injury; and [1991, c. 806, §3 (NEW).]

B. The claim was filed with the board within 3 years of the occurrence of the injury or compensable loss, or within 60 days of the discovery of injury or compensable loss, whichever is later. [2003, c. 243, §4 (AMD).]

[2003, c. 243, §4 (AMD) .]

2. **Cooperation.** Compensation may not be paid:

A. To any claimant who does not fully cooperate with the board or with the reasonable requests of law enforcement officers or prosecution authorities; or [1997, c. 378, §6 (AMD).]

B. To or on behalf of any person who violated a criminal law that caused or contributed to the injury or death for which compensation is sought. [1991, c. 806, §3 (NEW).]

[1997, c. 378, §6 (AMD) .]

3. **Exception.** The board may waive the time requirements of subsection 1 for good cause shown and shall waive the time requirements on behalf of a child or when the claimant is a child and the crime and the claim have been properly reported to law enforcement officers and the board by an adult who becomes aware of the crime and of the compensable injury.

[1991, c. 806, §3 (NEW) .]

SECTION HISTORY
1991, c. 806, §3 (NEW). 1997, c. 378, §6 (AMD). 2003, c. 243, §4 (AMD).

§3360-D. CLAIMS

1. **Submission of claims.** Claims are submitted to the board as follows.

A. Claims must be in writing. [1999, c. 360, §5 (AMD); 1999, c. 360, §9 (AFF).]

B. Claims must specify the date, the nature and circumstances of the crime and the law enforcement agency to which the crime was reported. [1991, c. 806, §3 (NEW).]

C. Claims must include documentation of all eligible expenses and losses for which the claimant seeks compensation, including but not limited to medical reports, records and bills, funeral bills and employment records when lost wages are sought. [1991, c. 806, §3 (NEW).]

D. Claims must include records related to insurance, workers' compensation, federal and state entitlement and assistance programs. [1991, c. 806, §3 (NEW).]

[1999, c. 360, §5 (AMD); 1999, c. 360, §9 (AFF) .]

2. **Release of records.** A signed application for benefits under this chapter is effective under state law to authorize the release of health care, mental health, employment and wage information pertinent to the claim. Additionally, the claimant shall provide the board with other information or the release of such other information as the board determines is reasonably necessary to decide the claim.

Upon request of the board pursuant to the claimant's application for compensation, health care providers and health plans, insurers or other persons who pay or discharge the costs of health care must submit directly to the board any information that is required to support a claimant's application or that is necessary to process a claim for payment.

[2003, c. 243, §5 (AMD) .]

3. **Forms.** The board may provide forms for the submission of claims and claims information.

[1997, c. 378, §7 (AMD) .]

4. **Confidentiality.** All records and information obtained by or in the possession of the Department of the Attorney General concerning an application for or an award of compensation under this chapter are confidential and may not be disclosed. However, the Attorney General may provide access to those records and information to the board for use in the board's official duties; those records and information remain confidential in the possession of the board. The records or information may, at the sole discretion of the Attorney General or designee of the Attorney General, be disclosed to:

A. Law enforcement officers to assist them with the discharge of their official duties; [1997, c. 378, §8 (NEW).]

B. The courts and the Department of Corrections to provide them with information to assess, collect and disburse restitution; [1997, c. 378, §8 (NEW).]

C. A claimant who has requested a hearing before the board or who has appealed a final decision of the board; and [1997, c. 378, §8 (NEW).]

D. Other persons to carry out the purposes of this chapter. [1997, c. 378, §8 (NEW).]

[1997, c. 378, §8 (NEW) .]

SECTION HISTORY
1991, c. 806, §3 (NEW). 1997, c. 378, §§7,8 (AMD). 1999, c. 360, §§5,6 (AMD). 1999, c. 360, §9 (AFF). 2003, c. 243, §5 (AMD).

§3360-E. PAYMENT OF AWARDS; LIMITS

The board may award compensation to a claimant of up to $15,000 for actual and unreimbursed losses and eligible expenses of any person who is sexually assaulted or who suffers personal injury or death as the result of a crime specified in section 3360, subsection 3. [1999, c. 731, Pt. QQQ, §1 (AMD).]

An award of compensation for the benefit of a family or household member is derivative of the claim of the victim. The total compensation paid for all claims arising from the crime against the victim may not exceed $15,000. [1999, c. 731, Pt. QQQ, §2 (AMD).]

Within the limits specified in this section, when a person dies as the direct result of a specified crime, any individual who pays or who is legally responsible for medical, medically related, funeral or burial expenses may seek compensation for those unreimbursed expenses incurred by the individual. A provider of medical or funeral services may not seek reimbursement directly. [1997, c. 378, §9 (AMD).]

The board, in its sole discretion, may disburse funds awarded directly to the claimant or to the individuals or entities who provided the services for which compensation was awarded. In the case of more than one family or household member, the board may apportion the total compensation as the board determines. [1997, c. 378, §9 (AMD).]

SECTION HISTORY
1991, c. 806, §3 (NEW). 1995, c. 665, §JJ1 (AMD). 1995, c. 665, §JJ2 (AFF). 1997, c. 378, §9 (AMD). 1999, c. 360, §7 (AMD). 1999, c. 360, §9 (AFF). 1999, c. 731, §§QQQ1,2 (AMD).

§3360-F. DETERMINATION OF AWARD

1. **Hearings.** The board may hold a hearing on any claim and the board shall hold a hearing if requested by the claimant. The claimant may address the board at a hearing on the claim and the board may take testimony under oath.

[1991, c. 806, §3 (NEW) .]

2. **Information.** In addition to the material and information required by law and by the board, the claimant may provide the board with any other information pertinent to the nature or the amount of the claim. The board shall receive and consider information provided by law enforcement agencies and prosecution authorities and, at its sole discretion, may receive and consider relevant information from any other source.

[1997, c. 378, §10 (AMD) .]

3. **Determination of award.** The board shall determine by a preponderance of the evidence whether a specified crime occurred, whether the personal injury or death was the result of that criminal conduct, the amount of eligible expenses and losses suffered by the claimant, whether to award compensation and the amount of the compensation. In determining the amount of compensation to be paid, the board shall consider the amount available to pay victim compensation claims, the history of claims paid by the board, the number and amount of currently pending claims and the nature and cost of expenses submitted by the claimant.

[1999, c. 360, §8 (AMD); 1999, c. 360, §9 (AFF) .]

4. **Unanimous decision.** The board shall determine action on a claim with a quorum participating on that claim, but any award of compensation requires the unanimous concurrence of all members present.

[1991, c. 806, §3 (NEW) .]

5. **Final decision.** The board's final decision must contain reasons for the determination.

[1991, c. 806, §3 (NEW) .]

SECTION HISTORY
1991, c. 806, §3 (NEW). 1997, c. 378, §10 (AMD). 1999, c. 360, §8 (AMD). 1999, c. 360, §9 (AFF).

§3360-G. APPEAL

Only a claimant under this chapter may appeal a decision of the board. An appeal of the board's final decisions must be to the Superior Court as provided for other administrative actions under chapter 375, subchapter VII. Board decisions and the amount of awards must be upheld unless the court finds no rational basis for the decision or that the board abused its discretion. [1997, c. 378, §11 (AMD).]

SECTION HISTORY
1991, c. 806, §3 (NEW). 1997, c. 378, §11 (AMD).

§3360-H. VICTIMS' COMPENSATION FUND

There is created a special fund, known as the "Victims' Compensation Fund," for the purpose of providing for the payment of claims arising under this chapter and for the payment of all necessary and proper expenses incurred by the board. The Attorney General shall administer the fund. [1991, c. 806, §3 (NEW).]

All administrative costs of the board must be paid out of money collected pursuant to section 3360-I and deposited in the Victims' Compensation Fund. The fund may receive private donations, federal funds and state funds designated by law that may be used for the payment of claims and for administrative costs. [1997, c. 378, §11 (AMD).]

SECTION HISTORY
1991, c. 806, §3 (NEW). 1997, c. 378, §11 (AMD).

§3360-I. FUNDING SOURCES

As part of the sentence or fine imposed, the court shall impose an assessment of $35 on any person convicted of murder, a Class A crime, a Class B crime or a Class C crime and $20 on any person convicted of a Class D crime or a Class E crime, except that the court shall impose an assessment of $1,000 on any person convicted of aggravated sex trafficking as described in Title 17-A, section 852, an assessment of $500 on any person convicted of sex trafficking as described in Title 17-A, section 853, an assessment of $500 on any person for the first conviction and $1,000 for each subsequent conviction of engaging a prostitute as described in Title 17-A, section 853-B and an assessment of $500 on any person for the first conviction and $1,000 for each subsequent conviction of patronizing prostitution of a minor or patronizing prostitution of a mentally disabled person as described in Title 17-A, section 855. Notwithstanding any other law, the court may not waive the imposition of the assessment required by this section. For purposes of collection and collection procedures, this assessment is considered part of the fine. At the time of commitment, the court shall inform the Department of Corrections or the county sheriff of any unpaid balances on assessments owed by the offender to the Victims' Compensation Fund. All funds collected as a result of these assessments accrue to the Victims' Compensation Fund. [2013, c. 607, §1 (AMD).]

When compensation is awarded from the Victims' Compensation Fund, the amount of any restitution ordered and paid as part of a sentence imposed that, when added to the award from the fund, exceeds the victim's actual loss must be paid to the fund, in an amount not to exceed the amount of the award. Similarly, the amount of any insurance, 3rd-party payment or recovery in a successful civil action against a person

responsible for the eligible expenses and losses that, when added to the award from the fund, exceeds the victim's actual loss must be paid to the fund, in an amount not to exceed the amount of the award. [1991, c. 806, §3 (NEW).]

The board may establish a reserve fund approved by the State Auditor and the Treasurer of State. At the end of every quarter, the Treasurer of State shall credit unreserved funds in excess of $2,000,000 to the General Fund. [1991, c. 806, §3 (NEW).]

SECTION HISTORY
1991, c. 806, §3 (NEW). 1993, c. 570, §1 (AMD). 2011, c. 628, §1 (AMD). 2013, c. 368, Pt. EE, §1 (AMD). 2013, c. 368, Pt. EE, §2 (AFF). 2013, c. 424, Pt. H, §§1, 2 (AFF). 2013, c. 537, §4 (AMD). 2013, c. 607, §1 (AMD).

§3360-J. USE OF FUNDS

1. **Administrative expenses.** Administrative expenses of the board may be paid from the Victims' Compensation Fund.

[1997, c. 378, §12 (AMD) .]

2. **Judicial administrative expenses.** Up to $10,000 may be used the first year to defray the programming costs to integrate the Victims' Compensation Fund into the Judicial Department computer system.

[1991, c. 806, §3 (NEW) .]

SECTION HISTORY
1991, c. 806, §3 (NEW). 1997, c. 378, §12 (AMD).

§3360-K. EFFECTIVE DATES

1. **Penalty imposed.** The assessments required by section 3360-I apply to penalties imposed for criminal conduct alleged to have occurred on or after January 1, 1993.

[1991, c. 806, §3 (NEW) .]

2. **Compensation awarded.** Notwithstanding the effective date of this chapter, the board may not award compensation for any crime that occurred prior to January 1, 1993.

[1991, c. 806, §3 (NEW) .]

3. **Processing claims.** Notwithstanding the effective date of this chapter, the board is not obligated to process or pay claims before June 1, 1993.

[1991, c. 806, §3 (NEW) .]

SECTION HISTORY
1991, c. 806, §3 (NEW).

§3360-L. INFORMATION

The Attorney General shall develop a fact sheet for victims with information about the victim advocate and victim compensation programs and shall make copies available to all prosecutors' offices and law enforcement agencies who shall provide that fact sheet for distribution to all victims of crimes and their families. [1993, c. 675, Pt. A, §2 (NEW).]

SECTION HISTORY
1993, c. 675, §A2 (NEW).

§3360-M. PAYMENT FOR FORENSIC EXAMINATIONS FOR ALLEGED VICTIMS OF GROSS SEXUAL ASSAULT

1. **Payment.** The board shall pay the costs of forensic examiner training as well as the costs of forensic examinations for alleged victims of gross sexual assault from the Victims' Compensation Fund. The board shall track expenditures for forensic examinations separately from all other expenditures. Forensic examination payments are not subject to any other provision of this chapter.

[2007, c. 240, Pt. WW, §1 (AMD) .]

2. **Forensic examination; forensic examiner training and education.** The board shall determine by rule what a forensic examination may include for purposes of payment. An examination must include at least all services directly related to the gathering of forensic evidence and related testing and treatment for pregnancy and sexually transmitted diseases. The board shall pay a licensed hospital or licensed health care practitioner the actual cost of the forensic examination up to a maximum of $750.

The cost of sexual assault forensic examiner training and education provided by the sexual assault forensic examiner program must be paid from the Victims' Compensation Fund in an amount that may not exceed $50,000 per year.

[2009, c. 79, §4 (AMD) .]

3. **Process for payment.** A licensed hospital or licensed health care practitioner that performs forensic examinations for alleged victims of gross sexual assault shall submit a bill to the Victims' Compensation Board directly for payment of the forensic examinations. The hospital or health care practitioner that performs a forensic examination shall take steps necessary to ensure the confidentiality of the alleged victim's identity. The bill submitted by the hospital or health care practitioner may not identify the alleged victim by name but must be assigned a tracking number that corresponds to the forensic examination kit. The tracking number may not be the alleged victim's social security number. The hospital or health care practitioner that performs the examination may not bill the alleged victim or the alleged victim's insurer, nonprofit hospital or medical service organization or health maintenance organization for payment of the examination. The alleged victim is not required to report the alleged offense to a law enforcement agency.

[1999, c. 719, §1 (NEW); 1999, c. 719, §11 (AFF) .]

4. **Other reimbursement.** The fact that forensic examinations are paid for separately through the Victims' Compensation Fund does not preclude alleged victims of gross sexual assault from seeking reimbursement for expenses other than those for the forensic examination. A victim seeking reimbursement from the Victims' Compensation Fund for expenses other than the forensic examination is subject to all other provisions of this chapter.

[1999, c. 719, §1 (NEW); 1999, c. 719, §11 (AFF) .]

5. **Rules.** Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

[1999, c. 719, §1 (NEW); 1999, c. 719, §11 (AFF) .]

SECTION HISTORY
1999, c. 719, §1 (NEW). 1999, c. 719, §11 (AFF). 2007, c. 240, Pt. WW, §§1, 2 (AMD). 2009, c. 79, §4 (AMD).

Chapter 316-B: SEXUAL ASSAULT FORENSIC EXAMINER ADVISORY BOARD

§3360-N. SEXUAL ASSAULT FORENSIC EXAMINER ADVISORY BOARD ESTABLISHED; MEMBERSHIP

1. **Establishment and membership.** The Sexual Assault Forensic Examiner Advisory Board, referred to in this chapter as the "board," established under section 12004-J, subsection 13, is established within the Department of Health and Human Services. The board consists of 13 members appointed by the Commissioner of Health and Human Services. Members must include the following:

A. One physician licensed to practice medicine in the State; [2001, c. 439, Pt. Z, §1 (NEW).]

B. One member of the State Board of Nursing; [2001, c. 439, Pt. Z, §1 (NEW).]

C. One sexual assault nurse examiner; [2001, c. 439, Pt. Z, §1 (NEW).]

D. One representative from a sexual assault center; [2001, c. 439, Pt. Z, §1 (NEW).]

E. One member from a statewide coalition against sexual assault; [2001, c. 439, Pt. Z, §1 (NEW).]

F. One survivor of sexual assault; [2001, c. 439, Pt. Z, §1 (NEW).]

G. One attorney from the Department of the Attorney General, designated by the Attorney General; [2015, c. 267, Pt. GG, §2 (AMD).]

H. One employee of the Maine State Police Crime Laboratory; [2001, c. 439, Pt. Z, §1 (NEW).]

I. One member from a statewide association of prosecutors; [2001, c. 439, Pt. Z, §1 (NEW).]

J. One member from a statewide association of hospitals; [2001, c. 439, Pt. Z, §1 (NEW).]

K. One member who is a forensic pediatric health care provider; and [2001, c. 439, Pt. Z, §1 (NEW).]

L. Two public members. [2001, c. 439, Pt. Z, §1 (NEW).]

[2015, c. 267, Pt. GG, §2 (AMD) .]

2. **Terms of appointment.** The term of each member of the board is 3 years. When a vacancy occurs prior to the expiration of a term, the appointment to fill that vacancy is for the balance of the unexpired term.

[2015, c. 267, Pt. GG, §2 (AMD) .]

3. **Chair.** The Commissioner of Health and Human Services shall appoint a member to act as the chair of the board.

[2015, c. 267, Pt. GG, §2 (AMD) .]

4. **Meetings.** The board may not meet more than once a month.

[2001, c. 439, Pt. Z, §1 (NEW) .]

5. **Quorum.** Five members of the board constitute a quorum.

[2001, c. 439, Pt. Z, §1 (NEW) .]

SECTION HISTORY
2001, c. 439, §Z1 (NEW). 2015, c. 267, Pt. GG, §2 (AMD).

§3360-O. DUTIES

The board shall advise and assist the State in promoting and supporting the statewide creation, growth and sustainability of sexual assault forensic examiner programs. The board shall provide advice and assistance regarding training, technical assistance, standards and resources to the sexual assault forensic examiner programs. [2001, c. 439, Pt. Z, §1 (NEW).]

The board may establish prerequisites applicable to persons who wish to participate in sexual assault forensic examiner training and authorize the issuance of certificates to those who complete the training. The process of sexual assault forensic examiner training and issuance of certificates under this section does not constitute a license or licensing action under chapter 375, subchapter 5. [2013, c. 68, §1 (NEW).]

SECTION HISTORY
2001, c. 439, §Z1 (NEW). 2013, c. 68, §1 (AMD).

§3360-P. ADMINISTRATION

The Department of Health and Human Services shall provide general administrative oversight for the board's policies and responsibilities. When appropriate, the Department of Health and Human Services may employ personnel necessary to carry out the purposes of the board; lease, rent or acquire adequate equipment and facilities; accept federal funds or grants that are available to carry out or implement the board's objectives; and provide technical assistance and training to sexual assault forensic examiners. [2015, c. 267, Pt. GG, §3 (AMD).]

SECTION HISTORY
2001, c. 439, §Z1 (NEW). 2015, c. 267, Pt. GG, §3 (AMD).

Part 10: DRUG ABUSE

Chapter 317: COMMISSION ON DRUG ABUSE

§3361. DECLARATION OF POLICY

(REPEALED)

SECTION HISTORY
1971, c. 379, (NEW). 1973, c. 566, §3 (RP).

§3362. COMMISSION

(REPEALED)

SECTION HISTORY
1971, c. 379, (NEW). 1973, c. 566, §3 (RP). 1973, c. 571, §6 (AMD).

§3363. TERM OF SERVICE

(REPEALED)

SECTION HISTORY
1971, c. 379, (NEW). 1973, c. 566, §3 (RP).

§3364. ASSISTANCE FROM OTHER STATE AGENCIES

(REPEALED)

SECTION HISTORY
1971, c. 379, (NEW). 1973, c. 566, §3 (RP).

§3365. RESPONSIBILITIES

(REPEALED)

SECTION HISTORY
1971, c. 379, (NEW). 1973, c. 566, §3 (RP).

§3366. AUTHORITY

(REPEALED)

SECTION HISTORY
1971, c. 379, (NEW). 1973, c. 566, §3 (RP).

Part 10-A: FIRE PROTECTION SERVICES

Chapter 319: MAINE FIRE PROTECTION SERVICES COMMISSION

§3371. MAINE FIRE PROTECTION SERVICES COMMISSION

1. **Commission established.** The Maine Fire Protection Services Commission, referred to in this chapter as the "commission," is established to monitor and evaluate the State's fire protection services system on a continuing basis and to provide recommendations to the appropriate state agencies and to the Legislature regarding necessary changes in the fire protection services system. The commission is established pursuant to section 12004-J, subsection 12.

[1999, c. 731, Pt. AAAA, §1 (NEW) .]

2. **Membership.** The commission consists of 23 members appointed as follows:

A. Two members of the Senate, appointed by the President of the Senate; [2003, c. 160, §1 (AMD).]

B. Three members of the House of Representatives, appointed by the Speaker of the House of Representatives; [2003, c. 160, §1 (AMD).]

C. The State Fire Marshal or the fire marshal's designee; [1999, c. 731, Pt. AAAA, §1 (NEW).]

D. The Supervisor of the Forest Fire Control Division of the Maine Forest Service or the supervisor's designee; [1999, c. 731, Pt. AAAA, §1 (NEW).]

E. The Director of the Bureau of Labor Standards or the director's designee; [1999, c. 731, Pt. AAAA, §1 (NEW).]

E-1. The Director of Maine Emergency Medical Services or the director's designee; [2003, c. 160, §1 (NEW).]

E-2. The Director of the Maine Emergency Management Agency or the director's designee; [2003, c. 160, §1 (NEW).]

F. One municipal fire chief who is a full-time fire chief and a member of the Maine Fire Chiefs Association, appointed by the Governor; [1999, c. 731, Pt. AAAA, §1 (NEW).]

G. One municipal fire chief who is a volunteer fire chief and a member of the Maine Fire Chiefs Association, appointed by the Governor; [1999, c. 731, Pt. AAAA, §1 (NEW).]

H. One municipal fire chief who is paid on call and a member of the Maine Fire Chiefs Association, appointed by the Governor; [1999, c. 731, Pt. AAAA, §1 (NEW).]

I. Six firefighters appointed as follows:

(1) Two career firefighters who are members of the Professional Fire Fighters of Maine, appointed by the Governor;

(2) Two call firefighters who are members of the Maine State Federation of Fire Fighters, appointed by the Governor; and

(3) Two volunteer firefighters who are members of the Maine State Federation of Fire Fighters, appointed by the Governor; [1999, c. 731, Pt. AAAA, §1 (NEW).]

J. The administrator of the Maine Fire Service Institute within the Maine Community College System, or the administrator's designee; and [2011, c. 691, Pt. C, §1 (AMD).]

K. Three persons appointed by the Governor, including:

(1) One member representing the Governor's office;

(2) One public member; and

(3) One member representing the insurance industry. [1999, c. 731, Pt. AAAA, §1 (NEW).]

The Governor shall request a list of names from the organizations covered under paragraphs F to I from which to make appointments.

[2011, c. 691, Pt. C, §1 (AMD) .]

3. **Chair.** The Governor shall designate the first chair from among the appointees. The first chair shall call the first meeting of the commission as soon as funding permits. At the first meeting, the commission shall select a chair, a vice-chair, a secretary and a treasurer from among its members. The commission may select new officers annually.

[1999, c. 731, Pt. AAAA, §1 (NEW) .]

4. **Terms of appointment.** The terms of appointment are as follows.

A. Of the initial gubernatorial appointments, 4 must be for terms of 3 years, 4 must be for terms of 2 years and 4 must be for terms of one year. [1999, c. 731, Pt. AAAA, §1 (NEW).]

B. Subsequent gubernatorial appointments are for terms of 3 years. Members may serve beyond their designated terms until their successors are appointed. [1999, c. 731, Pt. AAAA, §1 (NEW).]

C. Terms of appointment for Legislators coincide with their respective legislative terms of office. [1999, c. 731, Pt. AAAA, §1 (NEW).]

D. Other appointed members who are neither Legislators nor gubernatorial appointees serve for terms of 3 years. [1999, c. 731, Pt. AAAA, §1 (NEW).]

[1999, c. 731, Pt. AAAA, §1 (NEW) .]

5. **Meetings.** The commission may meet as often as necessary but must meet at least quarterly. A meeting may be called by the chair or by any 4 members. The commission shall take and maintain minutes of all meetings.

[1999, c. 731, Pt. AAAA, §1 (NEW) .]

6. **Staffing.** If funding permits, the commission may employ staff as needed. The staffs of the members represented on the commission may assist the commission in carrying out its functions and duties within their existing resources. The commission may contract for administrative, professional and clerical services if funding permits.

[1999, c. 731, Pt. AAAA, §1 (NEW) .]

7. **Funding.** The commission may seek, accept and expend outside funding to carry out its duties.

[1999, c. 731, Pt. AAAA, §1 (NEW) .]

8. **Duties.** The commission shall:

A. Regularly advise the Governor and executive officers, the Legislature, the Maine Forest Service, municipal fire departments and any other parties affected by its recommendations regarding fire protection services; [1999, c. 731, Pt. AAAA, §1 (NEW).]

B. Submit a report containing the results of its studies, findings and recommendations to the Governor and to the joint standing committee of the Legislature having jurisdiction over fire protection services matters by December 31st of each year. As resources permit, the report must include:

(1) A detailed assessment of existing and needed resources within the State's fire protection services system, including capital needs for training facilities, funding options for facilities and oversight and administration of any training facilities funds;

(2) A detailed assessment of expected resource needs in the State's fire protection services system and recommendations for funding those needs, including an evaluation of the appropriate level for the fire premium tax and bond initiative proposals;

(3) An evaluation of existing fire prevention, fire suppression, fire safety and fire training strategies and programs, including recommendations for improvements, new programs and strategies, funding options for training and oversight and administration of any training funds;

(4) Recommendations for effective management of resources within the State's fire protection services system;

(5) Recommendations for enhancing the collection and distribution of fire data, particularly as these data relate to increasing the fire protection services' capacity to fight fires and to save lives;

(6) Recommendations regarding evaluation methodology for the State's fire protection services system;

(7) Recommendations for recruitment and retention of volunteers, including a length-of-service incentive program for volunteer firefighters;

(8) Recommendations for creating a health insurance bridge for retired career firefighters;

(9) Recommendations for creating a fund to be used to provide a death benefit for firefighters and emergency medical services persons who die in the line of duty;

(10) Recommendations regarding fire investigation and inspection service needs of the Department of Public Safety, Office of the State Fire Marshal; and

(11) Recommendations regarding grants available for fire training and fire protection needs; [1999, c. 731, Pt. AAAA, §1 (NEW).]

C. Develop rules of procedure necessary to carry out its duties. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A; [1999, c. 731, Pt. AAAA, §1 (NEW).]

D. [2001, c. 471, Pt. A, §5 (RP).]

E. Conduct public hearings, conferences, workshops and other meetings to obtain information about and discuss and publicize the needs of and solutions to problems concerning the State's fire protection services; [1999, c. 731, Pt. AAAA, §1 (NEW).]

F. Assist all governmental agencies with firefighter training and education responsibilities to enhance their delivery of services to fire prevention, protection and life safety professionals, including paid, call and volunteer fire service members; and [1999, c. 731, Pt. AAAA, §1 (NEW).]

G. Submit proposed legislation to the Legislature to implement any recommendations of the commission. [1999, c. 731, Pt. AAAA, §1 (NEW).]

[2001, c. 471, Pt. A, §5 (AMD) .]

SECTION HISTORY
1999, c. 731, §AAAA1 (NEW). 2001, c. 471, §A5 (AMD). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF). 2003, c. 160, §1 (AMD). 2011, c. 691, Pt. C, §1 (AMD).

§3372. MAINE LENGTH OF SERVICE AWARD PROGRAM

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

A. "Accrued service award" means the total value, as of a given date, of a participant's program account. [2015, c. 352, §1 (NEW).]

B. "Board" means the Maine Length of Service Award Program Board of Trustees. [2015, c. 352, §1 (NEW).]

C. "Bona fide volunteer" has the same meaning as in the United States Internal Revenue Code, Section 457(e)(11). [2015, c. 352, §1 (NEW).]

D. "Eligible volunteer" means a bona fide volunteer performing qualified services in a municipal fire department if that bona fide volunteer is:

(1) A firefighter who is an active part-time or on-call member of a municipal fire department or a volunteer firefighter; or

(2) An emergency medical services person who provides on-call, part-time or volunteer emergency medical treatment under the direction of the chief of a municipal fire department and who is duly licensed under rules and protocols established by the Emergency Medical Services' Board pursuant to Title 32, section 88. [2015, c. 352, §1 (NEW).]

E. "Emergency medical services person" means any person who routinely provides emergency medical treatment to the sick or injured. [2015, c. 352, §1 (NEW).]

F. "Emergency medical treatment" has the same meaning as in Title 32, section 83, subsection 13. [2015, c. 352, §1 (NEW).]

G. "Municipal fire department" has the same meaning as in Title 30-A, section 3151, subsection 1. [2015, c. 352, §1 (NEW).]

H. "Participant" means a person who participates in the program. [2015, c. 352, §1 (NEW).]

I. "Program" means the Maine Length of Service Award Program established in subsection 2. [2015, c. 352, §1 (NEW).]

J. "Program account" means a separate account maintained for each participant reflecting applicable contributions, applicable forfeitures, investment income or loss as well as administrative and investment expenses allocated to each participant and distributions paid from the account. [2015, c. 352, §1 (NEW).]

K. "Program trust fund" means a trust fund established by the board into which all contributions to the program are deposited. [2015, c. 352, §1 (NEW).]

L. "Qualified services" has the same meaning as in the United States Internal Revenue Code, Section 457(e)(11). [2015, c. 352, §1 (NEW).]

M. "Volunteer firefighter" has the same meaning as in Title 30-A, section 3151, subsection 4. [2015, c. 352, §1 (NEW).]

[2015, c. 352, §1 (NEW) .]

2. **Program established.** The Maine Length of Service Award Program is established to provide paid length of service awards to eligible volunteers. The program is administered by the board as set out in this section.

[2015, c. 352, §1 (NEW) .]

3. **Board of trustees.** The following provisions govern the Maine Length of Service Award Program Board of Trustees, which is established to oversee the program.

A. The board, as established in section 12004-G, subsection 30-E, is composed of 7 trustees, as follows:

(1) Four persons who are eligible volunteers, appointed by the Governor. Three of the persons appointed under this subparagraph must be selected from a list of 6 nominees submitted by a statewide federation of firefighters;

(2) A chief of a municipal fire department, appointed by the Governor and selected from a list of 3 nominees submitted by a statewide association of fire chiefs;

(3) A person who is qualified through training or experience in the field of investments, accounting, banking or insurance or who is an actuary, appointed by the Governor; and

(4) A person designated by a statewide municipal association. [2015, c. 352, §1 (NEW).]

B. The board shall elect from its membership a chair. [2015, c. 352, §1 (NEW).]

C. The terms of the trustees are determined as follows.

(1) Each trustee serves a term of 3 years.

(2) A trustee continues to serve after the expiration of that trustee's term until a successor is appointed and qualified, but the trustee's continuation as a trustee does not change the expiration date of the trustee's term.

(3) The term of a trustee appointed to succeed a trustee whose term has expired begins on the day after the expiration date of the 3-year term of the previous trustee, regardless of the effective date of the new appointment.

(4) An appointment to any vacancy caused by death, resignation or ineligibility is for the unexpired portion of the term. [2015, c. 352, §1 (NEW).]

D. The necessary expenses incurred by the board in the operation of the program must be paid according to the purpose for which they are incurred from the assets of the program trust fund. [2015, c. 352, §1 (NEW).]

E. The Attorney General or an assistant designated by the Attorney General is legal advisor to the board. [2015, c. 352, §1 (NEW).]

F. The board shall keep a record of all its proceedings, which:

(1) Must comply with the requirements of section 8056, subsection 5 and sections 9059 and 9061, to the extent those laws are applicable; and

(2) Must be open to public inspection. [2015, c. 352, §1 (NEW).]

[2015, c. 352, §1 (NEW) .]

4. **Program administration.** The program is administered by the board. The board shall contract with firms to provide administration, investment, custodial, trustee and auditing services for the program.

[2015, c. 352, §1 (NEW) .]

5. **Participation eligibility.** An eligible volunteer may participate in the program.

[2015, c. 352, §1 (NEW) .]

6. **Participation commencement.** Unless an eligible volunteer waives the right of participation pursuant to subsection 7, the eligible volunteer becomes a participant on the last day of the first calendar year during which the eligible volunteer meets the service credit requirements set forth in subsection 8 during a calendar year beginning after December 31, 2015.

[2015, c. 352, §1 (NEW) .]

7. **Waiver of participation.** An eligible volunteer may waive the right to participate in the program by filing with the board a written, signed and irrevocable waiver of participation that is signed by the fire chief, as described in Title 30-A, section 3153, of a municipal fire department of which the eligible volunteer is a member.

[2015, c. 352, §1 (NEW) .]

8. **Service credit.** Service credit may be allowed in the program only for volunteer emergency service rendered as an eligible volunteer. The requirements to be met by an eligible volunteer to earn one year of service credit must be set forth in rules adopted by the board pursuant to subsection 21 and may be amended from time to time at the discretion of the board.

[2015, c. 352, §1 (NEW) .]

9. **Procedure for reporting service credit.** A municipal fire department shall submit a list of all persons who were eligible volunteers during a calendar year to the board for review and approval by May 1st following the end of that calendar year. The list must indicate which eligible volunteers earned service credit during the calendar year and must be prepared, certified under oath by the fire chief of the municipal fire department, posted in the fire department for at least 30 days and then submitted to and received by the board by May 1st. During the 30-day posting period, an eligible volunteer must be given the opportunity to dispute the service credit shown for the eligible volunteer in accordance with law. The fire chief shall indicate in writing to the board that the list was posted for at least 30 days and that all disputes regarding the service credit shown on the list as having been earned during the year have been resolved. The board, at its sole discretion, may audit a list prepared by a municipal fire department under this subsection. If the list is not received by the board by May 1st, a contribution may not be credited to the program account of any eligible volunteer whose name was or should have been reported on the list as having earned one year of service credit during the calendar year, except as provided in subsection 12.

[2015, c. 352, §1 (NEW) .]

10. **Contributions to the program.** For each calendar year beginning after December 31, 2015, the program trust fund must accept contributions, if any, from the following:

A. The State; [2015, c. 352, §1 (NEW).]

B. A municipality; [2015, c. 352, §1 (NEW).]

C. A municipal fire department or a fire company or volunteer organization associated with a municipal fire department; [2015, c. 352, §1 (NEW).]

D. The Federal Government; and [2015, c. 352, §1 (NEW).]

E. A participant, after the United States Internal Revenue Code is amended and any required rules and regulations are issued by the United States Internal Revenue Service to allow defined contribution length of service award programs to be treated as deferred compensation plans under the United States Internal Revenue Code, Section 457. Until the United States Internal Revenue Code is so amended, the board shall contract with a firm to offer individual retirement accounts to participants. [2015, c. 352, §1 (NEW).]

The annual contributions, if any, for a given calendar year must be deposited into the program trust fund before the following July 1st.

The portion of the annual contributions credited to a program account of a participant who has attained the entitlement age as described in subsection 14 and has been paid the participant's accrued service award must be determined in the same manner as the portion of the annual contributions credited to a program account of a participant who has not attained the entitlement age.

Except for the limit on the amount of the annual contributions credited to a participant's program account set forth in the United States Internal Revenue Code, Section 457, there is no other limit or restriction on the amount credited to a participant's program account for any calendar year.

[2015, c. 352, §1 (NEW) .]

11. **Subaccounts.** A participant's program account consists of the following subaccounts:

A. A state subaccount, which is an account of a participant reflecting applicable state contributions, forfeitures, investment income or loss as well as administrative and investment expenses allocated to the subaccount and distributions paid from the subaccount. A participant's state subaccount is subject to the vesting schedule set forth in subsection 12.

(1) For a given calendar year, the total state contribution, if any, must be allocated equally to the state subaccounts of the participants who earned one year of service credit during that calendar year.

(2) Forfeitures from a participant's state subaccount must be added to and allocated as state contributions as designated by the State in the calendar year in which the forfeitures are determined to occur pursuant to subsection 13; [2015, c. 352, §1 (NEW).]

B. A municipal subaccount, which is an account of a participant derived from contributions from a specific municipality to the program. A participant's municipal subaccount must reflect the respective contributions from that municipality along with forfeitures, investment income or loss as well as administrative and investment expenses allocated to the subaccount and distributions paid from the subaccount. A participant's municipal subaccount is subject to the vesting schedule set forth in subsection 12.

(1) For a given calendar year, the total contribution from a specific municipality, if any, must be allocated equally to the municipal subaccounts of the participants who are eligible volunteers of that municipality and who earned one year of service credit during that calendar year.

(2) Forfeitures from a participant's municipal subaccount must be added to and allocated as municipal contributions as designated by the municipality in the calendar year in which the forfeitures are determined to occur pursuant to subsection 13; [2015, c. 352, §1 (NEW).]

C. A municipal fire department subaccount, which is an account of a participant derived from contributions from a specific municipal fire department or a fire company or volunteer organization associated with a municipal fire department to the program. A participant's municipal fire department subaccount must reflect the respective contributions from that municipal fire department or fire company or volunteer organization associated with a municipal fire department along with forfeitures, investment income or loss as well as administrative and investment expenses allocated to the subaccount and distributions paid from the subaccount. A participant's municipal fire department subaccount is subject to the vesting schedule set forth in subsection 12.

(1) For a given calendar year, the total contribution from a specific municipal fire department or a fire company or volunteer organization associated with a municipal fire department, if any, must be allocated equally to the municipal fire department subaccounts of the participants who are eligible volunteers of that municipal fire department or fire company or volunteer organization associated with a municipal fire department and who earned one year of service credit during that calendar year.

(2) Forfeitures from a participant's municipal fire department subaccount must be added to and allocated as municipal fire department contributions as designated by the municipal fire department or fire company or volunteer organization associated with a municipal fire department in the calendar year in which the forfeitures are determined to occur pursuant to subsection 13; [2015, c. 352, §1 (NEW).]

D. A Federal Government subaccount, which is an account of a participant reflecting applicable Federal Government contributions, forfeitures, investment income or loss as well as administrative and investment expenses allocated to the subaccount and distributions from the subaccount. Unless otherwise specified in federal law, a participant's Federal Government subaccount is subject to the vesting schedule set forth in subsection 12.

(1) Unless otherwise specified in federal law, for a given calendar year, the total contribution from the Federal Government, if any, must be allocated equally to the Federal Government subaccounts of the participants who earned one year of service credit during that calendar year.

(2) Unless otherwise specified in federal law, forfeitures from a participant's Federal Government subaccount must be added to and allocated as Federal Government contributions as designated by the Federal Government in the calendar year in which the forfeitures are determined to occur pursuant to subsection 13; and [2015, c. 352, §1 (NEW).]

E. A participant contribution subaccount. If the United States Internal Revenue Code is amended and any required rules and regulations are issued by the United States Internal Revenue Service to allow defined contribution length of service award programs to be treated as deferred compensation plans under the United States Internal Revenue Code, Section 457, a participant may elect to make participant contributions to the program. A participant contribution subaccount must reflect the respective contributions from a participant along with investment income or loss as well as administrative and investment expenses allocated to the subaccount and distributions paid from the subaccount. A participant contribution subaccount must be 100% vested at all times. [2015, c. 352, §1 (NEW).]

[2015, c. 352, §1 (NEW) .]

12. **Vesting schedule for a participant's accrued service award.** A participant's accrued service award becomes vested as set out in this subsection.

A. If the participant has less than 5 years of service credit, the vested percentage is 0%. [2015, c. 352, §1 (NEW).]

B. If the participant has 5 or more years of service credit, the vested percentage is 100%. [2015, c. 352, §1 (NEW).]

In determining an individual participant's years of service credit for the purpose of vesting, all years of service credit earned as a participant in the program must be counted. Failure to submit the annual eligible volunteer listing to the board under subsection 9 by the required date for any calendar year does not result in the forfeiture of the certified service credit reported to the board for an eligible volunteer.

All calendar years, up to 5 years, ending before January 1, 2016 during which the participant was an eligible volunteer for the entire calendar year count for vesting service credit.

[2015, c. 352, §1 (NEW) .]

13. **Forfeiture of a participant's accrued service award.** The nonvested portion of a participant's accrued service award is permanently forfeited effective as of December 31st of the calendar year during which the participant has not been an eligible volunteer for 36 consecutive months. Service credit earned by a participant is never forfeited.

[2015, c. 352, §1 (NEW) .]

14. **Entitlement age.** The entitlement age for a participant is the earlier of:

A. Sixty-five years of age or the person's age on the next January 1st after becoming a participant in the program if the person is 65 years of age or older; and [2015, c. 352, §1 (NEW).]

B. The age of a participant as of the end of the calendar year after earning 20 years of service credit. [2015, c. 352, §1 (NEW).]

[2015, c. 352, §1 (NEW) .]

15. **Payment to participant of accrued service award.** The following provisions govern the payment to a participant of an accrued service award.

A. Upon the attainment of the entitlement age as described in subsection 14, a participant must be paid the vested portion of the participant's accrued service award. A participant who attains the entitlement age while an eligible volunteer and before attaining a 100% vested status must be paid the participant's accrued service award as of December 31st of the calendar year during which the participant achieved a 100% vested status. A participant who attains the entitlement age before 65 years of age may on or before attaining the entitlement age file a written election with the board to defer payment of the participant's accrued service award until attainment of 65 years of age. [2015, c. 352, §1 (NEW).]

B. As of the last day of the first calendar year during which a participant has no longer been an eligible volunteer for at least 36 consecutive months, the vested portion of the participant's accrued service award must be paid to the participant. [2015, c. 352, §1 (NEW).]

C. A participant who has been determined to be totally and permanently disabled by the United States Social Security Administration, any workers' compensation board, any insurance company, any state retirement system, any pension plan administrator or any other entity approved by the board must be paid that participant's accrued service award as soon as administratively feasible after all documentation required by the board to verify and determine total and permanent disablement is submitted to the board and the disability payment is awarded by the board. [2015, c. 352, §1 (NEW).]

D. Should a participant die before attaining the entitlement age, the participant's designated beneficiary or estate if no acceptable beneficiary designation form has been filed with the board by the participant must upon application to the board be paid the participant's accrued service award as soon as administratively feasible after all required documentation is submitted to the board. [2015, c. 352, §1 (NEW).]

E. The portion of the annual contribution credited to the program account of a post-entitlement age participant must be immediately paid to the participant if the participant has achieved a 100% vested status in the program. If the post-entitlement age participant has not achieved a 100% vested status in the program, that participant's accrued service award must be paid to the participant as soon as administratively feasible after December 31st of the calendar year during which the participant achieved a 100% vested status. [2015, c. 352, §1 (NEW).]

[2015, c. 352, §1 (NEW) .]

16. **Investment of program funds.** The board shall establish a program trust fund within which the funds paid into the program must be deposited. A participant shall select investments for the amounts credited to the participant's program account from a menu of investment options. Distributions of accrued service awards must be made from the program trust fund in accordance with the program provisions. The program trust fund must be established and maintained in accordance with applicable sections of the United States Internal Revenue Code. Subject to review and approval by the Treasurer of State, the program trust fund investment options made available to participants must be selected by the board.

[2015, c. 352, §1 (NEW) .]

17. **Program audits.** At the discretion of the State, either a state agency or a firm retained by the State shall audit the program at least once every 5 years.

[2015, c. 352, §1 (NEW) .]

18. **Notice of changes to laws governing the program.** Within 180 days after the effective date of legislation that changes the laws governing the program, a written notice and explanation of these changes must be distributed by the board to all persons who participate or are eligible to participate in the program. Copies of this written notice and explanation must be available upon request to the board to all other persons.

[2015, c. 352, §1 (NEW) .]

19. **Program termination.** Within 360 days after the effective date of legislation terminating the program, each program participant must be paid the participant's entire accrued service award to the date of payment in a single lump sum. Beneficiaries of deceased participants must be paid any amount owed to them under the program in the same manner within the same 360-day period.

[2015, c. 352, §1 (NEW) .]

20. **Program trust fund governed by certain provisions.** Until the United States Internal Revenue Code is amended to treat defined contribution length of service award programs as deferred compensation plans under the United States Internal Revenue Code, Section 457, the program trust fund must be governed by all required provisions to ensure that a participating eligible volunteer or the eligible volunteer's beneficiary is not subject to federal income taxation on an accrued service award until actual receipt of payment by the participant or the beneficiary. After the United States Internal Revenue Code is so amended, the State and the board shall take all required actions to ensure the program complies with the United States Internal Revenue Code, Section 457 and the related United States Internal Revenue Service regulations.

[2015, c. 352, §1 (NEW) .]

21. **Rules.** The board shall adopt rules, which are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A, pertaining to the administration of the program.

[2015, c. 352, §1 (NEW) .]

SECTION HISTORY
2015, c. 352, §1 (NEW).

Part 11: DEPARTMENT OF HUMAN SERVICES

Chapter 327: DEPARTMENT OF HUMAN SERVICES

§3501. DEPARTMENT; COMMISSIONER

(REPEALED)

SECTION HISTORY
1971, c. 493, (NEW). 1971, c. 622, §§17-C (RP).

Chapter 330: MAINE COMMUNITY SERVICES ACT

§3511. TITLE

(REPEALED)

SECTION HISTORY
1983, c. 176, §A3 (NEW). 1991, c. 780, §DDD1 (RP).

§3512. PURPOSE AND INTENT

(REPEALED)

SECTION HISTORY
1983, c. 176, §A3 (NEW). 1985, c. 527, §1 (AMD). 1991, c. 780, §DDD1 (RP).

§3513. DEFINITIONS

(REPEALED)

SECTION HISTORY
1983, c. 176, §A3 (NEW). 1985, c. 527, §2 (AMD). 1991, c. 622, §§J1,2 (AMD). 1991, c. 622, §J25 (AFF). 1991, c. 780, §DDD1 (RP).

§3514. DIVISION OF COMMUNITY SERVICES

(REPEALED)

SECTION HISTORY
1983, c. 176, §A3 (NEW). 1985, c. 229, §1 (AMD). 1985, c. 527, §3 (AMD). 1991, c. 9, §I1 (AMD). 1991, c. 622, §J3 (AMD). 1991, c. 622, §J25 (AFF). 1991, c. 780, §DDD1 (RP).

§3515. DIRECTOR OF COMMUNITY SERVICES

(REPEALED)

SECTION HISTORY
1983, c. 176, §A3 (NEW). 1985, c. 527, §4 (AMD). 1985, c. 785, §B35 (AMD). 1991, c. 9, §I2 (AMD). 1991, c. 622, §J4 (AMD). 1991, c. 622, §J25 (AFF). 1991, c. 780, §DDD1 (RP).

§3516. RULES

(REPEALED)

SECTION HISTORY
1983, c. 176, §A3 (NEW). 1983, c. 480, §B3 (AMD). 1991, c. 622, §J5 (AMD). 1991, c. 622, §J25 (AFF). 1991, c. 780, §DDD1 (RP).

§3517. COMMUNITY SERVICES ADVISORY BOARD

(REPEALED)

SECTION HISTORY
1983, c. 176, §A3 (NEW). 1983, c. 812, §31 (AMD). 1985, c. 527, §5 (AMD). 1989, c. 503, §B20 (AMD). 1991, c. 622, §J25 (AFF). 1991, c. 622, §J6 (RP). 1991, c. 780, §DDD1 (RP).

§3518. DIVISION OF COMMUNITY SERVICES; POWERS AND DUTIES

(REPEALED)

SECTION HISTORY
1983, c. 176, §A3 (NEW). 1983, c. 480, §B4 (AMD). 1985, c. 229, §§2,3 (AMD). 1985, c. 527, §6 (AMD). 1991, c. 9, §I3 (AMD). 1991, c. 622, §J7 (AMD). 1991, c. 622, §J25 (AFF). 1991, c. 780, §DDD1 (RP).

§3518-A. ADMINISTRATION OF THE FUEL ASSISTANCE PROGRAM

(REPEALED)

SECTION HISTORY
1985, c. 737, §A17 (NEW). 1991, c. 9, §I4 (AMD). 1991, c. 622, §J25 (AFF). 1991, c. 622, §J8 (RP). 1991, c. 780, §DDD1 (RP).

§3518-B. FUEL ASSISTANCE RESERVE FUND

(REPEALED)

SECTION HISTORY
1989, c. 884, §1 (NEW). 1991, c. 622, §J25 (AFF). 1991, c. 622, §J9 (RP). 1991, c. 780, §DDD1 (RP).

§3519. COMMUNITY ACTION AGENCIES

(REPEALED)

SECTION HISTORY
1983, c. 176, §A3 (NEW). 1991, c. 622, §J10 (AMD). 1991, c. 622, §J25 (AFF). 1991, c. 780, §DDD1 (RP).

§3520. GOVERNING BOARD FOR COMMUNITY ACTION AGENCY

(REPEALED)

SECTION HISTORY
1983, c. 176, §A3 (NEW). 1983, c. 480, §B5 (AMD). 1985, c. 229, §4 (AMD). 1991, c. 622, §J11 (AMD). 1991, c. 622, §J25 (AFF). 1991, c. 780, §DDD1 (RP).

§3521. PROGRAMS

(REPEALED)

SECTION HISTORY
1983, c. 176, §A3 (NEW). 1985, c. 229, §5 (AMD). 1991, c. 780, §DDD1 (RP).

§3522. ALLOCATION OF COMMUNITY SERVICES BLOCK GRANT FUNDS

(REPEALED)

SECTION HISTORY
1983, c. 176, §A3 (NEW). 1983, c. 480, §B6 (AMD). 1983, c. 480, §B7 (AMD). 1985, c. 229, §6 (AMD). 1991, c. 622, §§J12-14 (AMD). 1991, c. 622, §J25 (AFF). 1991, c. 780, §DDD1 (RP).

§3523. CONFIDENTIALITY OF RECORDS

(REPEALED)

SECTION HISTORY
1985, c. 229, §7 (NEW). 1991, c. 622, §§J15,16 (AMD). 1991, c. 622, §J25 (AFF). 1991, c. 780, §DDD1 (RP).

§3524. PENALTY

(REPEALED)

SECTION HISTORY
1985, c. 527, §7 (NEW). 1991, c. 622, §J25 (AFF). 1991, c. 622, §J17 (RP). 1991, c. 780, §DDD1 (RP).

Part 12: HUMAN RIGHTS

Chapter 337: HUMAN RIGHTS ACT

Subchapter 1: GENERAL PROVISIONS

§4551. TITLE

This Act may be known and cited as the Maine Human Rights Act. [1971, c. 501, §1 (NEW).]

SECTION HISTORY
1971, c. 501, §1 (NEW).

§4552. POLICY

To protect the public health, safety and welfare, it is declared to be the policy of this State to keep continually in review all practices infringing on the basic human right to a life with dignity, and the causes of these practices, so that corrective measures may, where possible, be promptly recommended and implemented, and to prevent discrimination in employment, housing or access to public accommodations on account of race, color, sex, sexual orientation, physical or mental disability, religion, ancestry or national origin; and in employment, discrimination on account of age or because of the previous assertion of a claim or right under former Title 39 or Title 39-A and in housing because of familial status; and to prevent discrimination in the extension of credit on account of age, race, color, sex, sexual orientation, marital status, religion, ancestry or national origin; and to prevent discrimination in education on account of sex, sexual orientation or physical or mental disability. [2005, c. 10, §1 (AMD).]

SECTION HISTORY
1971, c. 501, §1 (NEW). 1973, c. 347, §1 (AMD). 1973, c. 705, §1 (AMD). 1975, c. 355, §1 (AMD). 1975, c. 358, §1 (AMD). 1975, c. 770, §28 (RPR). 1987, c. 478, §1 (AMD). 1989, c. 245, §1 (AMD). 1991, c. 99, §1 (AMD). 1993, c. 327, §1 (AMD). 2005, c. 10, §1 (AMD).

§4553. DEFINITIONS

As used in this Act, unless the context or subchapter otherwise indicates, the following words have the following meanings. [1995, c. 393, §1 (AMD).]

1. **Commission.** "Commission" means the Maine Human Rights Commission established by this Act.

[1971, c. 501, §1 (NEW) .]

1-A. **Commercial facilities.** "Commercial facilities" means facilities that are intended for nonresidential use.

[1995, c. 393, §2 (NEW) .]

1-B. **Covered entity.** For purposes of subchapter III, "covered entity" means an employer, employment agency, labor organization or joint labor-management committee. For purposes of subchapter V, "covered entity" means any applicable private entity or public entity.

[1995, c. 393, §2 (NEW) .]

1-C. **Direct threat.** For purposes of subchapter III, "direct threat" means a significant risk to the health or safety of others that can not be eliminated by reasonable accommodation.

[1995, c. 393, §2 (NEW) .]

1-D. **Aggrieved person.** "Aggrieved person" includes any person who claims to have been subject to unlawful discrimination. "Aggrieved person" also includes any person who claims to have been injured by unlawful housing discrimination.

[2011, c. 613, §1 (NEW); 2011, c. 613, §29 (AFF) .]

1-E. **Complainant.** "Complainant" means a person who files a complaint under section 4611 or a civil action under section 4621.

[2011, c. 613, §2 (NEW); 2011, c. 613, §29 (AFF) .]

1-F. **Conciliation.** "Conciliation" means the attempted resolution of issues raised by a complaint filed under section 4611 or by an investigation of such a complaint through informal negotiations involving the complainant, the respondent and the commission.

[2011, c. 613, §3 (NEW); 2011, c. 613, §29 (AFF) .]

1-G. **Conciliation agreement.** "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

[2011, c. 613, §4 (NEW); 2011, c. 613, §29 (AFF) .]

1-H. **Assistance animal.** "Assistance animal" means, for the purposes of subchapter 4:

A. An animal that has been determined necessary to mitigate the effects of a physical or mental disability by a physician, psychologist, physician assistant, nurse practitioner or licensed social worker; or [2015, c. 457, §1 (NEW).]

B. An animal individually trained to do work or perform tasks for the benefit of an individual with a physical or mental disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals who are deaf or hard of hearing to intruders or sounds, providing reasonable protection or rescue work, pulling a wheelchair or retrieving dropped items. [2015, c. 457, §1 (NEW).]

[2015, c. 457, §1 (NEW) .]

2. **Discriminate.** "Discriminate" includes, without limitation, segregate or separate.

For purposes of subchapter III, "discriminate" also includes, as it relates to individuals with physical or mental disability:

A. Limiting, segregating or classifying a job applicant or employee in a way that adversely affects the opportunities or status of the applicant or employee because of the disability of the applicant or employee; [1995, c. 393, §3 (NEW).]

B. Participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity's qualified applicant or employee with a disability to the discrimination prohibited by this Act. A relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity or an organization providing training and apprenticeship programs; [1995, c. 393, §3 (NEW).]

C. Utilizing standards, criteria or methods of administration:

(1) That have the effect of discrimination on the basis of disability; or

(2) That perpetuate the discrimination of others who are subject to common administrative control; [1995, c. 393, §3 (NEW).]

D. Excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association; [1995, c. 393, §3 (NEW).]

E. Not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless the covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the covered entity; [1995, c. 393, §3 (NEW).]

F. Denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if the denial is based on the need of the covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant; [1995, c. 393, §3 (NEW).]

G. Using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity; and [1995, c. 393, §3 (NEW).]

H. Failing to select and administer tests concerning employment in the most effective manner to ensure that, when the test is administered to a job applicant or employee who has a disability that impairs sensory, manual or speaking skills, the test results accurately reflect the skills, aptitude or any other factor of the applicant or employee that the test purports to measure, rather than reflecting the impaired sensory, manual or speaking skills of the employee or applicant, except when the skills are the factors that the test purports to measure. [1995, c. 393, §3 (NEW).]

[1995, c. 393, §3 (AMD) .]

2-A. **Educational institution.** "Educational institution" means any public school or educational program, any public post-secondary institution, any private school or educational program approved for tuition purposes if both male and female students are admitted and the governing body of each such school or program. For purposes related to disability-related discrimination, "educational institution" also means any private school or educational program approved for tuition purposes.

[1995, c. 393, §4 (AMD) .]

3. **Employee.** "Employee" means an individual employed by an employer. "Employee" does not include any individual employed by that individual's parents, spouse or child, except for purposes of disability-related discrimination, in which case the individual is considered to be an employee.

[1995, c. 393, §5 (AMD) .]

4. **Employer.** "Employer" includes any person in this State employing any number of employees, whatever the place of employment of the employees, and any person outside this State employing any number of employees whose usual place of employment is in this State; any person acting in the interest of any employer, directly or indirectly; and labor organizations, whether or not organized on a religious, fraternal or sectarian basis, with respect to their employment of employees. "Employer" does not include a religious or fraternal corporation or association, not organized for private profit and in fact not conducted for private profit, with respect to employment of its members of the same religion, sect or fraternity, except for purposes of disability-related discrimination, in which case the corporation or association is considered to be an employer.

[1995, c. 393, §5 (AMD) .]

5. **Employment agency.** "Employment agency" includes any person undertaking with or without compensation to procure opportunities to work, or to procure, recruit, refer or place employees; it includes, without limitation, placement services, training schools and centers, and labor organizations, to the extent that they act as employee referral sources; and it includes any agent of such person.

[1971, c. 501, §1 (NEW) .]

5-A. **Familial status.** "Familial status" means that a family unit may contain one or more individuals who have not attained the age of 18 years and are living with:

A. A parent or another person having legal custody of the individual or individuals; or [1989, c. 245, §2 (NEW).]

B. The designee of the parent or other person having custody, with the written permission of the parent or other person. [1989, c. 245, §2 (NEW).]

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or who is in the process of securing legal custody of any individual who has not attained the age of 18 years.

[1989, c. 245, §2 (NEW) .]

5-B. **Family.** "Family" includes, but is not limited to, a single individual.

[2011, c. 613, §5 (NEW); 2011, c. 613, §29 (AFF) .]

6. **Housing accommodation.** "Housing accommodation" includes any building or structure or portion thereof, or any parcel of land, developed or undeveloped, that is occupied, or is intended to be occupied or to be developed for occupancy, for residential purposes.

A. [2011, c. 613, §29 (AFF); 2011, c. 613, §6 (RP).]

B. [2011, c. 613, §29 (AFF); 2011, c. 613, §6 (RP).]

C. [2011, c. 613, §29 (AFF); 2011, c. 613, §6 (RP).]

[2011, c. 613, §6 (AMD); 2011, c. 613, §29 (AFF) .]

6-A. **Normal retirement age.** "Normal retirement age" means the specified age, the years of service requirement or any age and years of service combination at which a member may become eligible for retirement benefits. This subsection may not be construed to require the mandatory retirement of a member or to deny employment to any person based solely on that person's normal retirement age.

[2005, c. 10, §2 (AMD) .]

7. **Person.** "Person" includes one or more individuals, partnerships, associations, organizations, corporations, municipal corporations, legal representatives, trustees, trustees in bankruptcy, receivers and other legal representatives, labor organizations, mutual companies, joint-stock companies and unincorporated organizations and includes the State and all agencies thereof.

[2011, c. 613, §7 (AMD); 2011, c. 613, §29 (AFF) .]

7-A. **Physical or mental disability.** "Physical or mental disability" has the meaning set forth in section 4553-A.

[2007, c. 385, §1 (RPR) .]

7-B. **Person with physical or mental disability.**

[2007, c. 385, §2 (RP) .]

8. **Place of public accommodation.** "Place of public accommodation" means a facility, operated by a public or private entity, whose operations fall within at least one of the following categories:

A. An inn, hotel, motel or other place of lodging, whether conducted for the entertainment or accommodation of transient guests or those seeking health, recreation or rest; [1995, c. 393, §7 (NEW).]

B. A restaurant, eating house, bar, tavern, buffet, saloon, soda fountain, ice cream parlor or other establishment serving or selling food or drink; [1995, c. 393, §7 (NEW).]

C. A motion picture house, theater, concert hall, stadium, roof garden, airdrome or other place of exhibition or entertainment; [1995, c. 393, §7 (NEW).]

D. An auditorium, convention center, lecture hall or other place of public gathering; [1995, c. 393, §7 (NEW).]

E. A bakery, grocery store, clothing store, hardware store, shopping center, garage, gasoline station or other sales or rental establishment; [1995, c. 393, §7 (NEW).]

F. A laundromat, dry cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, dispensary, clinic, bathhouse or other service establishment; [1995, c. 393, §7 (NEW).]

G. All public conveyances operated on land or water or in the air as well as a terminal, depot or other station used for specified public transportation; [1995, c. 393, §7 (NEW).]

H. A museum, library, gallery or other place of public display or collection; [1995, c. 393, §7 (NEW).]

I. A park, zoo, amusement park, race course, skating rink, fair, bowling alley, golf course, golf club, country club, gymnasium, health spa, shooting gallery, billiard or pool parlor, swimming pool, seashore accommodation or boardwalk or other place of recreation, exercise or health; [1995, c. 393, §7 (NEW).]

J. A nursery, elementary, secondary, undergraduate or postgraduate school or other place of education; [1995, c. 393, §7 (NEW).]

K. A day-care center, senior citizen center, homeless shelter, food bank, adoption agency or other social service center establishment; [1995, c. 393, §7 (NEW).]

L. Public elevators of buildings occupied by 2 or more tenants or by the owner and one or more tenants; [1995, c. 393, §7 (NEW).]

M. A municipal building, courthouse, town hall or other establishment of the State or a local government; and [1995, c. 393, §7 (NEW).]

N. Any establishment that in fact caters to, or offers its goods, facilities or services to, or solicits or accepts patronage from, the general public. [1995, c. 393, §7 (NEW).]

When a place of public accommodation is located in a private residence, the portion of the residence used exclusively as a residence is not covered by this subchapter, but that portion used exclusively in the operation of the place of public accommodation or that portion used both for the place of public accommodation and for the residential purposes is covered by this subchapter. The covered portion of the residence extends to those elements used to enter the place of public accommodation, and those exterior and interior portions of the residence available to or used by customers or clients, including rest rooms.

[1995, c. 393, §7 (RPR) .]

8-A. **Private entity.** "Private entity" means any entity other than a public entity.

[1995, c. 393, §8 (NEW) .]

8-B. **Public accommodation.** "Public accommodation" means a public or private entity that owns, leases, leases to or operates a place of public accommodation.

[1995, c. 393, §8 (NEW) .]

8-C. **Public entity.** "Public entity" means:

A. The State or any local government; [1995, c. 393, §8 (NEW).]

B. Any department, agency, special purpose district or other instrumentality of the State, 2 or more states or a local government; and [1995, c. 393, §8 (NEW).]

C. A state, local or private commuter authority as defined in the federal Rail Passenger Service Act, Section 103 (8). [1995, c. 393, §8 (NEW).]

[1995, c. 393, §8 (NEW) .]

8-D. **Qualified individual with a disability.** "Qualified individual with a disability" applies to only:

A. Subchapter III (employment); and [1995, c. 393, §8 (NEW).]

B. Subchapter V (public accommodations) with regard to public entities only. [1995, c. 393, §8 (NEW).]

For purposes of subchapter III, "qualified individual with a disability" means an individual with a physical or mental disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or desires.

For purposes of subchapter V, "qualified individual with a disability" means an individual with a disability who, with or without reasonable modification to rules, policies or practices, the removal of architectural, communication or transportation barriers or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

[1995, c. 393, §8 (NEW) .]

9. **Real estate broker and salesman.** "Real estate broker" and "real estate salesman" have the same definitions as are given respectively in Title 32, section 4001, subsections 2 and 3; but include all persons meeting those definitions, whether or not they are licensed or required to be licensed.

[1971, c. 501, §1 (NEW) .]

9-A. **Reasonable accommodation.** For purposes of subchapter III, "reasonable accommodation" may include, but is not limited to:

A. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and [1995, c. 393, §8 (NEW).]

B. Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters and other similar accommodations for individuals with disabilities. [1995, c. 393, §8 (NEW).]

[1995, c. 393, §8 (NEW) .]

9-B. **Undue hardship; undue burden.** "Undue hardship" or "undue burden" mean an action requiring undue financial or administrative hardship. In determining whether an action would result in an undue hardship, factors to be considered include:

A. The nature and cost of the accommodation needed under this Act; [1995, c. 393, §8 (NEW).]

B. The overall financial resources of the facility or facilities involved in the action, the number of persons employed at the facility, the effect on expenses and resources or the impact otherwise of the action upon the operation of the facility; [1995, c. 393, §8 (NEW).]

C. The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of its employees and the number, type and location of its facilities; [1995, c. 393, §8 (NEW).]

D. The type of operation or operations of the covered entity, including the composition, structure and functions of the work force of the entity, the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity; [1995, c. 393, §8 (NEW).]

E. All the resources available to meet the costs of the accommodation, including any government funding or other grants available for making public accommodations and places of employment accessible; [1995, c. 393, §8 (NEW).]

F. The extent to which current costs of accommodations have been minimized by past efforts to provide equal access to persons with disabilities; [1995, c. 393, §8 (NEW).]

G. The extent to which resources spent on improving inaccessible equipment or service could have been spent on making an accommodation so that service or equipment is accessible to individuals with disabilities, as well as to individuals without disabilities; [1995, c. 393, §8 (NEW).]

H. Documented good faith efforts to explore less restrictive or less expensive alternatives; [1995, c. 393, §8 (NEW).]

I. The availability of equipment and technology for the accommodation; [1995, c. 393, §8 (NEW).]

J. Whether an accommodation would result in a fundamental change in the nature of the public accommodation; [1995, c. 393, §8 (NEW).]

K. Efforts to minimize costs by spreading costs over time; and [1995, c. 393, §8 (NEW).]

L. The extent to which resources saved by failing to make an accommodation for persons who have disabilities could have been saved by cutting costs in equipment or services for the general public. [1995, c. 393, §8 (NEW).]

"Undue hardship" or "undue burden" is a higher standard than "readily achievable" and requires a greater level of effort on the part of the public accommodation.

[1995, c. 393, §8 (NEW) .]

9-C. **Sexual orientation.** "Sexual orientation" means a person's actual or perceived heterosexuality, bisexuality, homosexuality or gender identity or expression.

[2005, c. 10, §3 (NEW) .]

9-D. **Service animal.**

[2011, c. 369, §1 (RP) .]

9-E. **Service animal.** "Service animal" means:

A. [2015, c. 457, §2 (RP).]

B. For the purposes of subchapter 5, a dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of such work or tasks include, but are not limited to, assisting an individual who is totally or partially blind with navigation and other tasks, alerting an individual who is deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting an individual to the presence of allergens, retrieving items such as medicine or a telephone, providing physical support and assistance with balance and stability to an individual with a mobility disability and helping a person with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort or companionship do not constitute work or tasks for the purposes of this definition. [2011, c. 369, §2 (NEW).]

[2015, c. 457, §2 (AMD) .]

9-F. **Rent.** "Rent" includes to lease, to sublease, to let or otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

[2011, c. 613, §8 (NEW); 2011, c. 613, §29 (AFF) .]

9-G. **Respondent.** "Respondent" means a person accused of unlawful discrimination in a complaint filed under section 4611 or a civil action filed under section 4621.

[2011, c. 613, §8 (NEW); 2011, c. 613, §29 (AFF) .]

10. **Unlawful discrimination.** "Unlawful discrimination" includes:

A. Unlawful employment discrimination as defined and limited by subchapter III; [1971, c. 501, §1 (NEW).]

B. Unlawful housing discrimination as defined and limited by subchapter IV; [1971, c. 501, §1 (NEW).]

C. Unlawful public accommodations discrimination as defined by subchapter V; [1971, c. 501, §1 (NEW).]

D. Aiding, abetting, inciting, compelling or coercing another to do any of such types of unlawful discrimination; obstructing or preventing any person from complying with this Act or any order issued in this subsection; attempting to do any act of unlawful discrimination; and punishing or penalizing, or attempting to punish or penalize, any person for seeking to exercise any of the civil rights declared by this Act or for complaining of a violation of this Act or for testifying in any proceeding brought in this subsection; [1983, c. 578, §2 (AMD).]

E. In determining whether a person is acting as an agent or employee of another person so as to make such other person responsible for that person's acts, the question of whether the specific acts performed were actually authorized or subsequently ratified is not controlling; [2005, c. 10, §4 (AMD).]

F. Unlawful educational discrimination as defined and limited by subchapter 5-B; and [2005, c. 10, §5 (AMD).]

G. Discrimination in employment, housing, public accommodation, credit and educational opportunity on the basis of sexual orientation, except that a religious corporation, association or organization that does not receive public funds is exempt from this provision with respect to:

(1) Employment, as is more fully set forth in section 4553, subsection 4 and section 4573-A;

(2) Housing; and

(3) Educational opportunity, as is more fully set forth in section 4602, subsection 4.

Any for-profit organization owned, controlled or operated by a religious association or corporation and subject to the provisions of the Internal Revenue Code, 26 United States Code, Section 511(a) is not covered by the exemptions set forth in this paragraph. [2011, c. 613, §9 (AMD); 2011, c. 613, §29 (AFF).]

[2011, c. 613, §9 (AMD); 2011, c. 613, §29 (AFF) .]

SECTION HISTORY
1971, c. 501, §1 (NEW). 1973, c. 415, §1 (AMD). 1975, c. 182, §1 (AMD). 1975, c. 358, §2 (AMD). 1979, c. 350, §1 (AMD). 1983, c. 437, §1 (AMD). 1983, c. 578, §§1,2 (AMD). 1987, c. 478, §2 (AMD). 1989, c. 245, §2 (AMD). 1991, c. 99, §2 (AMD). 1991, c. 109, (AMD). 1995, c. 393, §§1-8 (AMD). RR 1999, c. 2, §2 (COR). 2005, c. 10, §§2-6 (AMD). 2007, c. 385, §§1, 2 (AMD). 2007, c. 664, §1 (AMD). 2011, c. 369, §§1, 2 (AMD). 2011, c. 613, §§1-9 (AMD). 2011, c. 613, §29 (AFF). 2015, c. 457, §§1, 2 (AMD).

§4553-A. PHYSICAL OR MENTAL DISABILITY

1. **Physical or mental disability, defined.** "Physical or mental disability" means:

A. A physical or mental impairment that:

(1) Substantially limits one or more of a person's major life activities;

(2) Significantly impairs physical or mental health; or

(3) Requires special education, vocational rehabilitation or related services; [2007, c. 385, §3 (NEW).]

B. Without regard to severity unless otherwise indicated: absent, artificial or replacement limbs, hands, feet or vital organs; alcoholism; amyotrophic lateral sclerosis; bipolar disorder; blindness or abnormal vision loss; cancer; cerebral palsy; chronic obstructive pulmonary disease; Crohn's disease; cystic fibrosis; deafness or abnormal hearing loss; diabetes; substantial disfigurement; epilepsy; heart disease; HIV or AIDS; kidney or renal diseases; lupus; major depressive disorder; mastectomy; intellectual disability; multiple sclerosis; muscular dystrophy; paralysis; Parkinson's disease; pervasive developmental disorders; rheumatoid arthritis; schizophrenia; and acquired brain injury; [2011, c. 542, Pt. A, §3 (AMD).]

C. With respect to an individual, having a record of any of the conditions in paragraph A or B; or [2007, c. 385, §3 (NEW).]

D. With respect to an individual, being regarded as having or likely to develop any of the conditions in paragraph A or B. [2007, c. 385, §3 (NEW).]

[2011, c. 542, Pt. A, §3 (AMD) .]

2. **Additional terms.** For purposes of this section:

A. The existence of a physical or mental disability is determined without regard to the ameliorative effects of mitigating measures such as medication, auxiliary aids or prosthetic devices; and [2007, c. 385, §3 (NEW).]

B. "Significantly impairs physical or mental health" means having an actual or expected duration of more than 6 months and impairing health to a significant extent as compared to what is ordinarily experienced in the general population. [2007, c. 385, §3 (NEW).]

[2007, c. 385, §3 (NEW) .]

3. **Exceptions.** "Physical or mental disability" does not include:

A. Pedophilia, exhibitionism, voyeurism, sexual behavior disorders, compulsive gambling, kleptomania, pyromania or tobacco smoking; [2007, c. 385, §3 (NEW).]

B. Any condition covered under section 4553, subsection 9-C; or [2007, c. 385, §3 (NEW).]

C. Psychoactive substance use disorders resulting from current illegal use of drugs, although this may not be construed to exclude an individual who:

(1) Has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) Is participating in a supervised rehabilitation program and is no longer engaging in such use;

(3) Is erroneously regarded as engaging in such use, but is not engaging in such use; or

(4) In the context of a reasonable accommodation in employment, is seeking treatment or has successfully completed treatment. [2007, c. 385, §3 (NEW).]

[2007, c. 385, §3 (NEW) .]

SECTION HISTORY
2007, c. 385, §3 (NEW). 2011, c. 542, Pt. A, §3 (AMD).

§4554. CONSTRUCTION

1. **Relationship to other laws.** Nothing in this Act may be construed to invalidate or limit the remedies, rights and procedures of any law of any state or political subdivision of any state or jurisdiction that provides greater or equal protection for the rights of individuals with disabilities than are afforded by this Act. Nothing in this Act may be construed to preclude the prohibition of, or the imposition of restrictions on, smoking in places of employment covered by subchapter III or in transportation or places of public accommodation covered by subchapter V.

[1995, c. 393, §9 (NEW) .]

2. **Insurance.** Subchapters III and V of this Act may not be construed to prohibit or restrict, with regard to individuals with disabilities:

A. An insurer, hospital, medical service company, health maintenance organization or any agent or entity that administers benefit plans or similar organizations from underwriting risks, classifying risks or administering risks that are based on or not inconsistent with state law; [1995, c. 393, §9 (NEW).]

B. A person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks or administering risks that are based on or not inconsistent with state law; or [1995, c. 393, §9 (NEW).]

C. A person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide employee benefit plan that is not subject to state laws that regulate insurance. [1995, c. 393, §9 (NEW).]

Paragraphs A, B and C may not be used as a subterfuge to evade the requirements of subchapters III and V.

[1995, c. 393, §9 (NEW) .]

3. **Accommodations and services.** Nothing in this Act may be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity or benefit that the individual chooses not to accept.

[1995, c. 393, §9 (NEW) .]

4. **Physical or mental disability.** The definition of "physical or mental disability" in section 4553-A is intended to be interpreted broadly to create greater coverage than under the federal Americans with Disabilities Act of 1990.

[2007, c. 385, §4 (NEW) .]

SECTION HISTORY
1995, c. 393, §9 (NEW). 2007, c. 385, §4 (AMD).

§4555. APPLICATION

This Act does not apply to the issuance, denial, suspension, revocation or restriction of drivers' licenses by the Secretary of State until April 1, 1996. [1995, c. 393, §10 (NEW).]

SECTION HISTORY
1995, c. 393, §10 (NEW).

Subchapter 2: COMMISSION

§4561. MEMBERS

The Maine Human Rights Commission, established by section 12004-G, subsection 15, shall be an independent commission of no more than 5 members. No more than 3 of the members may be of the same political party. The members shall be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary matters and confirmation by the Legislature. The Governor shall designate one member to be the chair. [1989, c. 503, Pt. B, §21 (AMD).]

SECTION HISTORY
1971, c. 501, §1 (NEW). 1975, c. 771, §88 (AMD). 1983, c. 812, §32 (RPR). 1987, c. 709, §1 (AMD). 1989, c. 503, §B21 (AMD).

§4562. TERMS OF OFFICE

The members of the commission shall be appointed for terms of 5 years each, except that of those first appointed, the Governor shall designate one whose term shall be only one year, one whose term shall be only 2 years, one whose term shall be only 3 years and one whose term shall be only 4 years. [1971, c. 501, §1 (NEW).]

A member of the commission appointed to fill a vacancy occurring otherwise than by expiration of term shall be appointed only for the unexpired term of the member whom he shall succeed. [1971, c. 501, §1 (NEW).]

SECTION HISTORY
1971, c. 501, §1 (NEW).

§4563. QUORUM

Three members of the commission shall constitute a quorum. A vacancy in the commission shall not impair the power of the remaining members to exercise all the powers of the commission. [1971, c. 501, §1 (NEW).]

SECTION HISTORY
1971, c. 501, §1 (NEW).

§4564. COMPENSATION; REAPPOINTMENT

Each member of the commission shall be compensated as provided in chapter 379. All members of the commission shall be eligible for reappointment subject to section 4561. [1987, c. 709, §2 (AMD).]

SECTION HISTORY
1971, c. 501, §1 (NEW). 1983, c. 812, §33 (AMD). 1987, c. 709, §2 (AMD).

§4565. REMOVAL FROM OFFICE

Any member of the commission may be removed by the Governor for inefficiency, neglect of duty, misconduct or malfeasance in office, after being given a written statement of the charges. [1975, c. 771, §89 (AMD).]

SECTION HISTORY
1971, c. 501, §1 (NEW). 1975, c. 771, §89 (AMD).

§4566. POWERS AND DUTIES OF THE COMMISSION

The commission has the duty of investigating all conditions and practices within the State which allegedly detract from the enjoyment, by each inhabitant of the State, of full human rights and personal dignity. Without limiting the generality of the foregoing, it has the duty of investigating all forms of invidious discrimination, whether carried out legally or illegally, and whether by public agencies or private persons. Based on its investigations, it has the further duty to recommend measures calculated to promote the full enjoyment of human rights and personal dignity by all the inhabitants of this State. [1975, c. 182, §2 (AMD).]

To carry out these duties, the commission shall have the power: [1971, c. 501, §1 (NEW).]

1. **Office.** To establish and maintain a principal office, and such other offices within the State as it may deem necessary;

[1971, c. 501, §1 (NEW) .]

2. **Meetings.** To meet and function at any place within the State;

[1971, c. 501, §1 (NEW) .]

3. **Personnel.** To appoint a full-time executive secretary and counsel to the commission, not subject to the Civil Service Law, and determine their remuneration; and to appoint, subject to the Civil Service Law, other personnel including, but not limited to, investigators, attorneys, compliance personnel and secretaries, as it shall deem necessary to effectuate the purposes of this Act;

[1985, c. 785, Pt. B, §36 (AMD) .]

4. **Hearings.** To hold hearings, administer oaths and to take the testimony of any person under oath. There shall be no executive privilege in such investigations and hearings, but law enforcement officers, prosecution officers and judges of this State and of the United States shall be privileged from compulsory testimony or production of documents before the commission. Such hearings and testimony may relate to general investigations concerning the effectiveness of this Act and the existence of practices of discrimination not prohibited by it, as well as to investigations of other alleged infringements upon human rights and personal dignity. The commission may make rules as to the administration of oaths, and the holding of preliminary and general investigations by panels of commissioners and by the executive secretary;

[1971, c. 501, §1 (NEW) .]

4-A. **Subpoena power.** Pursuant to a complaint which has been filed in accordance with section 4611 by a person who has been subject to unlawful discrimination, the commission may issue subpoenas; as provided in subsection 4-B, to compel access to or production of premises, records, documents and other evidence or possible sources of evidence or the appearance of persons, provided that there is reasonable cause to believe that those materials or the testimony of the persons are material to the complaint. The commission may not issue subpoenas except as provided in this subsection.

[1977, c. 648, §1 (NEW) .]

4-B. **Subpoenas; contest of validity.** If a subpoena is issued, notice must be given to the person who is alleged to have engaged in the unlawful discrimination. The person upon whom the subpoena is served may contest its validity. A judicial review of the subpoenas is permissible in any Superior Court;

[1993, c. 303, §1 (AMD) .]

5. **Services.** To utilize voluntary and uncompensated services of private individuals and organizations as may from time to time be offered and needed;

[1971, c. 501, §1 (NEW) .]

6. **Advisory groups.** To create local or statewide advisory agencies and conciliation councils to aid in effectuating the purposes of this Act. The commission may study or may empower these agencies and councils to study the problems of discrimination in all or specific fields of human relationships when based on race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, and foster good will among the groups and elements of the population of the State. Agencies and councils may make recommendations to the commission for the development of policies and procedures. Advisory agencies and conciliation councils created by the commission must be composed of representative citizens serving without pay, but with reimbursement for actual and necessary traveling expenses;

[2005, c. 10, §7 (AMD) .]

7. **Rules and regulations.** To adopt, amend and rescind rules and regulations to effectuate this Act, such adoption, amendment and rescission to be made in the manner provided by chapter 375, subchapter 2. Rules adopted to implement section 4553-A are major substantive rules as defined in chapter 375, subchapter 2-A;

[2007, c. 385, §5 (AMD) .]

8. **Appearance.** To appear in court and before other administrative bodies by its own attorneys;

[1971, c. 501, §1 (NEW) .]

9. **Notices and forms.** To require the posting of notices or the adoption of forms by businesses subject to this Act, to effectuate the purposes of this Act;

[1971, c. 501, §1 (NEW) .]

10. **Publications.** To publish results of investigations and research to promote good will and minimize or eliminate discrimination based on race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin;

[2005, c. 10, §8 (AMD) .]

11. **Reports.** To report to the Legislature and the Governor at least once a year describing the investigations, proceedings and hearings the commission has conducted and the outcome and other work performed by the commission, and to make recommendations for further legislation or executive action concerning abuses and discrimination based on race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, or other infringements on human rights or personal dignity; and

[2005, c. 10, §9 (AMD) .]

12. **Other acts.** To do such other things as are set out in the other subchapters, and everything reasonably necessary to perform its duties under this Act.

[1971, c. 501, §1 (NEW) .]

SECTION HISTORY
1971, c. 501, §1 (NEW). 1973, c. 347, §§2-4 (AMD). 1973, c. 705, §§2-4 (AMD). 1975, c. 182, §2 (AMD). 1975, c. 355, §§2-4 (AMD). 1975, c. 358, §§3-5 (AMD). 1975, c. 770, §§29-31 (AMD). 1977, c. 648, §1 (AMD). 1977, c. 674, §8 (AMD). 1977, c. 694, §29 (AMD). 1983, c. 550, §1 (AMD). 1985, c. 785, §B36 (AMD). 1991, c. 99, §§3-5 (AMD). 1993, c. 303, §1 (AMD). 2005, c. 10, §§7-9 (AMD). 2007, c. 385, §5 (AMD).

§4566-A. CERTIFICATION AND CONFORMITY WITH RULES

1. **Certification of state law.** The commission shall take all steps required under 29 Code of Federal Regulations, Part 36, Subpart F to request federal certification that the State's laws concerning accessibility and usability of places of public accommodation meet or exceed the minimum requirements of the federal Americans with Disabilities Act of 1990. These steps include issuing public notice of an intent to file, conducting a public hearing on record and preparing and filing with the United States Department of Justice the request for certification. If the commission determines that no significant portion of the law is certifiable, the commission may cease its attempts to obtain certification and shall report its determinations to the joint standing committee of the Legislature having jurisdiction over judiciary matters. The report must include recommendations on changes to the law as necessary to achieve certification of a significant portion of the law.

[1995, c. 393, §11 (NEW) .]

2. **Conformity of rules relating to special use areas.** The commission shall amend its rules relating to accessibility of places of public accommodation to include standards contained in the regulations adopted pursuant to Titles I, II, and III of the Americans with Disabilities Act of 1990 and the federal Americans with Disabilities Act of 1990 Accessibility Guidelines, 29 Code of Federal Regulations, Part 36, Subpart F,

relating to restaurants and cafeterias, medical care facilities, business and mercantile establishments, libraries, accessible transient lodging and other places of public accommodation, but only to the extent that those standards provide greater accessibility than any comparable standards contained in current state law or rules.

[1995, c. 393, §11 (NEW) .]

SECTION HISTORY
1995, c. 393, §11 (NEW).

Subchapter 3: FAIR EMPLOYMENT

§4571. RIGHT TO FREEDOM FROM DISCRIMINATION IN EMPLOYMENT

The opportunity for an individual to secure employment without discrimination because of race, color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin is recognized as and declared to be a civil right. [2005, c. 10, §10 (AMD).]

SECTION HISTORY
1971, c. 501, §1 (NEW). 1973, c. 347, §5 (AMD). 1973, c. 705, §5 (AMD). 1975, c. 355, §5 (AMD). 1975, c. 358, §6 (AMD). 1975, c. 770, §32 (RPR). 1991, c. 99, §6 (AMD). 2005, c. 10, §10 (AMD).

§4572. UNLAWFUL EMPLOYMENT DISCRIMINATION

1. **Unlawful employment.** It is unlawful employment discrimination, in violation of this Act, except when based on a bona fide occupational qualification:

A. For any employer to fail or refuse to hire or otherwise discriminate against any applicant for employment because of race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, because of the applicant's previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions taken by the applicant that are protected under Title 26, chapter 7, subchapter 5-B; or, because of those reasons, to discharge an employee or discriminate with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of employment or any other matter directly or indirectly related to employment; or, in recruiting of individuals for employment or in hiring them, to utilize any employment agency that the employer knows or has reasonable cause to know discriminates against individuals because of their race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, because of their previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions that are protected under Title 26, chapter 7, subchapter 5-B;

(1) This paragraph does not apply to discrimination governed by Title 39-A, section 353; [2005, c. 10, §11 (AMD).]

B. For any employment agency to fail or refuse to classify properly, refer for employment or otherwise discriminate against any individual because of race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, because of the individual's previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions taken by the individual that are protected under Title 26, chapter 7, subchapter 5-B; or to comply with an employer's request for the referral of job applicants if a request indicates either directly or indirectly that the employer will not afford full and equal employment opportunities to individuals regardless of their race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, because of previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions that are protected under Title 26, chapter 7, subchapter 5-B; [2005, c. 10, §11 (AMD).]

C. For any labor organization to exclude from apprenticeship or membership or to deny full and equal membership rights to any applicant for membership because of race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, because of the applicant's

previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions taken by the applicant that are protected under Title 26, chapter 7, subchapter 5-B; or, because of those reasons, to deny a member full and equal membership rights, expel from membership, penalize or otherwise discriminate with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of employment, representation, grievances or any other matter directly or indirectly related to membership or employment, whether or not authorized or required by the constitution or bylaws of that labor organization or by a collective labor agreement or other contract; to fail or refuse to classify properly or refer for employment or otherwise discriminate against any member because of race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, because of the member's previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions taken by the member that are protected under Title 26, chapter 7, subchapter 5-B; or to cause or attempt to cause an employer to discriminate against an individual in violation of this section, except that it is lawful for labor organizations and employers to adopt a maximum age limitation in apprenticeship programs, if the employer or labor organization obtains prior approval from the Maine Human Rights Commission of any maximum age limitation employed in an apprenticeship program. The commission shall approve the age limitation if a reasonable relationship exists between the maximum age limitation employed and a legitimate expectation of the employer in receiving a reasonable return upon the employer's investment in an apprenticeship program. The employer or labor organization bears the burden of demonstrating that such a relationship exists; [2005, c. 10, §11 (AMD).]

D. For any employer, employment agency or labor organization, prior to employment or admission to membership of any individual, to:

(1) Elicit or attempt to elicit information directly or indirectly pertaining to race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, any previous assertion of a claim or right under former Title 39 or Title 39-A or any previous actions that are protected under Title 26, chapter 7, subchapter 5-B;

(2) Make or keep a record of race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, any previous assertion of a claim or right under former Title 39 or Title 39-A or any previous actions that are protected under Title 26, chapter 7, subchapter 5-B, except under physical or mental disability when an employer requires a physical or mental examination prior to employment, a privileged record of that examination is permissible if made and kept in compliance with this Act;

(3) Use any form of application for employment, or personnel or membership blank containing questions or entries directly or indirectly pertaining to race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, any previous assertion of a claim or right under former Title 39 or Title 39-A or any previous actions that are protected under Title 26, chapter 7, subchapter 5-B. This section does not prohibit any officially recognized government agency from keeping records permitted to be kept under this Act in order to provide free services to individuals requesting rehabilitation or employment assistance;

(4) Print, publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation, specification or discrimination based upon race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, any previous assertion of a claim or right under former Title 39 or Title 39-A or any previous actions that are protected under Title 26, chapter 7, subchapter 5-B; or

(5) Establish, announce or follow a policy of denying or limiting, through a quota system or otherwise, employment or membership opportunities of any group because of the race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, the previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions that are protected under Title 26, chapter 7, subchapter 5-B, of that group; or [2005, c. 10, §12 (AMD).]

E. For an employer, employment agency or labor organization to discriminate in any manner against individuals because they have opposed a practice that would be a violation of this Act or because they have made a charge, testified or assisted in any investigation, proceeding or hearing under this Act. [1991, c. 99, §7 (AMD).]

[2005, c. 10, §§11, 12 (AMD) .]

2. **Unlawful discrimination against qualified individual with a disability.** A covered entity may not discriminate against a qualified individual with a disability because of the disability of the individual in regard to job application procedures, the hiring, advancement or discharge of employees, employee compensation, job training and other terms, conditions and privileges of employment. A qualified individual with a disability, by reason of that disability, may not be excluded from participation in or be denied the benefits of the services, programs or activities of a public covered entity, or be subjected to discrimination by any such covered entity relating to job application procedures, the hiring, advancement or discharge of employees, employee compensation, job training and other terms, conditions and privileges of employment.

A. The prohibition of this subsection against discrimination includes medical examinations and inquiries. [1995, c. 393, §13 (NEW).]

B. Except as provided in paragraph C, a covered entity may not conduct a medical examination or make inquiries of a job applicant as to whether the applicant is an individual with a disability or as to the nature or severity of the disability. A covered entity may make preemployment inquiries into the ability of an applicant to perform job-related functions. [1995, c. 393, §13 (NEW).]

C. A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of the applicant and may condition an offer of employment on the results of the examination, if:

(1) All entering employees are subjected to the same examination regardless of disability;

(2) Information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that:

(a) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(b) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(c) Government officials investigating compliance with this Act are provided relevant information on request; and

(3) The results of the examination are used only in accordance with this Act. [1995, c. 393, §13 (NEW).]

D. A covered entity may not require a medical examination and may not make inquiries of an employee as to whether the employee is an individual with a disability or as to the nature or severity of the disability, unless the examination or inquiry is shown to be job-related and consistent with business necessity. [1995, c. 393, §13 (NEW).]

E. A covered entity may conduct voluntary medical examinations, including voluntary medical histories, that are part of an employee health program available to employees at that work site. A covered entity may make inquiries into the ability of an employee to perform job-related functions. Information obtained under this paragraph regarding the medical condition or history of an employee is subject to the requirements of paragraph C, subparagraphs (2) and (3). [1995, c. 393, §13 (NEW).]

F. For purposes of this subsection, a test to determine the illegal use of drugs may not be considered a medical examination.

(1) A covered entity:

(a) May prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees;

(b) May require that employees may not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace;

(c) May require that employees behave in conformance with the requirements established under the federal Drug-free Workplace Act of 1988, 41 United States Code, Section 701 et seq.; and

(d) May hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior to which that entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of the employee; provided that an employer shall make reasonable accommodation to an alcoholic or drug user who is seeking treatment or has successfully completed treatment. [1995, c. 393, §13 (NEW).]

[1995, c. 393, §13 (NEW) .]

SECTION HISTORY
1971, c. 501, §1 (NEW). 1973, c. 347, §6 (AMD). 1973, c. 705, §6 (AMD). 1975, c. 355, §6 (RPR). 1975, c. 358, §§7-10 (AMD). 1975, c. 770, §33 (RPR). 1977, c. 565, (AMD). 1987, c. 55, §1 (AMD). 1987, c. 559, §B2 (AMD). 1987, c. 782, §1 (AMD). 1989, c. 251, §1 (AMD). 1991, c. 99, §7 (AMD). 1991, c. 885, §E7 (AMD). 1991, c. 885, §E47 (AFF). 1995, c. 393, §§12,13 (AMD). 2005, c. 10, §§11,12 (AMD).

§4572-A. UNLAWFUL EMPLOYMENT DISCRIMINATION ON THE BASIS OF SEX

1. **Sex defined.** For the purpose of this Act, the word "sex" includes pregnancy and medical conditions which result from pregnancy.

[1979, c. 79, (NEW) .]

2. **Pregnant women who are able to work.** It shall be unlawful employment discrimination in violation of this Act, except where based on a bona fide occupational qualification, for an employer, employment agency or labor organization to treat a pregnant woman who is able to work in a different manner from other persons who are able to work.

[1979, c. 79, (NEW) .]

3. **Pregnant women who are not able to work.** It shall also be unlawful employment discrimination in violation of this Act, except where based on a bona fide occupational qualification, for an employer, employment agency or labor organization to treat a pregnant woman who is not able to work because of a disability or illness resulting from pregnancy, or from medical conditions which result from pregnancy, in a different manner from other employees who are not able to work because of other disabilities or illnesses.

[1979, c. 79, (NEW) .]

4. **Employer not responsible for additional benefits.** Nothing in this section may be construed to mean that an employer, employment agency or labor organization is required to provide sick leave, a leave of absence, medical benefits or other benefits to a woman because of pregnancy or other medical conditions

that result from pregnancy, if the employer, employment agency or labor organization does not also provide sick leaves, leaves of absence, medical benefits or other benefits for the employer's other employees and is not otherwise required to provide those leaves or benefits under other state or federal laws.

[1995, c. 393, §14 (AMD) .]

5. **Small business exception.**

[1985, c. 119, (RP) .]

SECTION HISTORY
1979, c. 79, (NEW). 1985, c. 119, (AMD). 1995, c. 393, §14 (AMD).

§4573. NOT UNLAWFUL EMPLOYMENT DISCRIMINATION

It shall not be unlawful employment discrimination: [1971, c. 501, §1 (NEW).]

1. **Age.**

[1979, c. 350, §2 (RP) .]

1-A. **Age.** To discriminate on account of age to:

A. Comply with the state or federal laws relating to the employment of minors; [1979, c. 350, §3 (NEW).]

B. Observe the terms of any bona fide employee benefit plan such as a retirement, pension or insurance plan that does not evade or circumvent the purposes of this chapter and that complies with the Federal Age Discrimination in Employment Act, 29 United States Code, Section 621, as amended and the federal Americans with Disabilities Act, 42 United States Code, Section 12101, et seq., and federal administrative interpretations provided that:

(1) No employee benefit plan requires or permits any employer to refuse or fail to hire an applicant for employment, including those exempted from the Age Discrimination in Employment Act, 29 United States Code, Section 621, as amended, because of the age of the individual; and

(2) No employee benefit plan requires or permits the denial or termination of employment of any individual including those exempted from the Age Discrimination in Employment Act, 29 United States Code, Section 621, as amended, because of the age of the individual or after completion of a specified number of years of service. [1995, c. 393, §15 (AMD).]

[1995, c. 393, §15 (AMD) .]

2. **Records.** After employment or admission to membership, to make a record of such features of an individual as are needed in good faith for the purpose of identifying them, provided the record is intended and used in good faith solely for identification, and not for the purpose of discrimination in violation of this Act. Records of features regarding physical or mental disability that are collected must be collected and maintained on separate forms and in separate files and be treated as confidential records;

[1995, c. 393, §16 (AMD) .]

3. **Required records.** To record any data required by law, or by the rules and regulations of any state or federal agency, provided the records are recorded and kept in good faith for the purpose of complying with law, and are not used for the purpose of discrimination in violation of this Act;

[1995, c. 393, §17 (AMD) .]

4. **Discharge of or refusal to hire employee with physical or mental disability.**

[1995, c. 393, §18 (RP) .]

5. **Federal Indian policy.** Nothing in this Act may be construed to prohibit any employment policy or action that is permitted under 42 United States Code, Section 2000e-2(i) (1982) of the federal Equal Employment Opportunity Act governing employment of Indians;

[2013, c. 576, §1 (AMD) .]

6. **Infectious and communicable diseases.** Assignment of individuals with an infectious or communicable disease is governed by the following.

A. In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food, that is included on the list developed by the United States Secretary of Health and Human Services under the federal Americans with Disabilities Act, Title I, Section 103(d)(1), and which can not be eliminated by reasonable accommodation, a covered entity may refuse to assign or continue to assign the individual a job involving food handling. [1995, c. 393, §20 (NEW).]

B. Nothing in this Act may be construed to preempt, modify or amend any state, county or local law, ordinance, rule or regulation applicable to food handling that is designed to protect the public health from individuals who pose a significant risk to the health or safety of others, which can not be eliminated by reasonable accommodation, pursuant to the list of infectious or communicable diseases and the modes of transmissibility published by the United States Secretary of Health and Human Services; and [2013, c. 576, §2 (AMD).]

[2013, c. 576, §2 (AMD) .]

7. **Veteran preference.** For a private employer to apply a voluntary veteran preference, pursuant to Title 26, chapter 7, subchapter 11, to employment decisions regarding hiring, promotion or retention during a reduction in workforce.

[2013, c. 576, §3 (NEW) .]

SECTION HISTORY
1971, c. 501, §1 (NEW). 1973, c. 347, §7 (AMD). 1975, c. 355, §7 (AMD). 1975, c. 770, §34 (AMD). 1977, c. 580, §14 (AMD). 1979, c. 350, §§2,3 (AMD). 1991, c. 99, §§8-11 (AMD). 1991, c. 484, §§3,4 (AMD). 1995, c. 393, §§15-20 (AMD). 2013, c. 576, §§1-3 (AMD).

§4573-A. DEFENSES

1. **General provisions.** It is a defense to a charge of discrimination under this subchapter that an alleged application of qualification standards, tests or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job-related and consistent with business necessity, and such performance can not be accomplished by reasonable accommodation, as required by this subchapter.

[1995, c. 393, §21 (NEW) .]

1-A. **Qualification standards defined.** For the purposes of this section, the term "qualification standards" may include a requirement that an individual does not pose a direct threat to the health or safety of other individuals in the workplace.

[1995, c. 511, §1 (NEW); 1995, c. 511, §3 (AFF) .]

1-B. **Physical or mental disability.** This subchapter does not prohibit an employer from discharging or refusing to hire an individual with physical or mental disability, or subject an employer to any legal liability resulting from the refusal to employ or the discharge of an individual with physical or mental disability, if the individual, because of the physical or mental disability, is unable to perform the duties or to perform the duties in a manner that would not endanger the health or safety of the individual or others or is unable to be at, remain at or go to or from the place where the duties of employment are to be performed.

[1995, c. 511, §1 (NEW); 1995, c. 511, §3 (AFF) .]

2. **Religious entities.** This subchapter does not prohibit a religious corporation, association, educational institution or society from giving preference in employment to individuals of its same religion to perform work connected with the carrying on by the corporation, association, educational institution or society of its activities. Under this subchapter, a religious organization may require that all applicants and employees conform to the religious tenets of that organization.

[1995, c. 393, §21 (NEW) .]

SECTION HISTORY
1995, c. 393, §21 (NEW). 1995, c. 511, §1 (AMD). 1995, c. 511, §3 (AFF).

§4574. MANDATORY RETIREMENT AGE PROHIBITED

1. **Definition.** As used in this section and section 4573, unless the context otherwise indicates, the following terms shall have the following meanings.

A. "Employer" shall mean any individual or type of organization, including domestic and foreign corporations and partnerships, doing business in the State. [1979, c. 350, §4 (NEW).]

[1979, c. 541, Pt. B, §4 (AMD) .]

2. **Legislative findings and intent.** The Legislature finds that many older Maine citizens are forced out of the work force solely because of their age. The Legislature further finds that many older Maine residents who have been forced out of the work force are fully capable of carrying out the duties and responsibilities required by their employment. Finally, the Legislature finds that many older Maine citizens, because of their years of experience, can make valuable contributions to the work force.

It is the intent of the Legislature that discrimination based on age against any person who seeks employment in the private sector or who is already employed by a private employer shall not be tolerated. It is further the intent of the Legislature to ensure that any older person who seeks employment or wishes to continue employment in the private sector and who is capable of fulfilling the duties and responsibilities of this employment shall be treated like any other person who seeks employment or wishes to continue this employment. Finally, it is the clear and unequivocal intent of the Legislature to prohibit employers in the private sector from requiring employees to retire at a specified age, or after completion of a specified number of years of service.

[1979, c. 350, §4 (NEW) .]

3. **Unlawful employment discrimination.** It shall be unlawful employment discrimination:

A. For any employer to fail or refuse to hire any applicant for employment because of the age of the individual; or [1979, c. 350, §4 (NEW).]

B. For any employer to require or permit, as a condition of employment, any employee to retire at or before a specified age or after completion of a specified number of years of service. [1979, c. 350, §4 (NEW).]

[1979, c. 350, §4 (NEW) .]

4. **Normal retirement age.** This section shall not be construed to prohibit the use of a "normal retirement age," as defined in section 4553, subsection 6-A, provided that normal retirement age and the accrual or awarding of pension or retirement benefits shall not be used in any way to require the retirement of an employee or to deny employment to a person.

[1979, c. 350, §4 (NEW) .]

5. **Federal requirements.** This subchapter shall not be construed to affect or limit any power or duty relating to pension or retirement plans which the United States Government reserves to itself.

[1979, c. 350, §4 (NEW) .]

6. **Applicability.** This section shall apply to all employers in the State.

[1979, c. 350, §4 (NEW) .]

SECTION HISTORY
1977, c. 580, §15 (NEW). 1979, c. 350, §4 (RPR). 1979, c. 541, §B4 (AMD).

§4575. MANDATORY RETIREMENT AGE PROHIBITED

1. **Legislative findings and intent.** The Legislature finds that many older Maine citizens are pushed out of the work force solely because of their age. The Legislature further finds that many older Maine residents who have been pushed out of the work force are fully capable of carrying out the duties and responsibilities required by employment. Finally, the Legislature finds that many older Maine citizens, because of their years of experience, can make valuable contributions to the work force.

It is the intent of the Legislature that discrimination based on age against any person who seeks employment in the public sector or who is already employed by a public employer shall not be tolerated. It is further the intent of the Legislature to ensure that any older person who seeks or wishes to continue employment in the public sector and who is capable of fulfilling the duties and responsibilities of such employment, shall be treated like any other person who seeks or wishes to continue such employment. Finally, it is the clear and unequivocal intent of the Legislature to prohibit employers in the public sector from requiring employees to retire at a specified age or after completion of a specified number of years of service.

[1985, c. 801, §§ 3,7 (NEW) .]

2. **Criteria and standards.** A state department or public school may establish reasonable criteria and standards of job performance to be used for the purpose of determining when employment of its employees should be terminated. Where there is a certified bargaining agent, the establishment of these criteria and standards may be a subject of collective bargaining. These criteria and standards shall be consistent for all employees in the same or similar job classifications, shall be applied fairly to all employees regardless of age and shall be consistent with the provisions of this Act relating to the employment of physically and mentally handicapped persons.

[1985, c. 801, §§ 3,7 (NEW) .]

3. **Federal requirements.** This section shall not be construed to effect or limit any power or duty relating to pension or retirement plans which the United States Government reserves to itself.

[1985, c. 801, §§ 3,7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§3,7 (NEW).

§4576. GENDER EQUITY IN SCHOOL ADMINISTRATIVE POSITIONS

The commission shall promote gender equity in the hiring of public school administrators in cooperation with the Commissioner of Education and investigate all human rights complaints associated with the public school system. [1989, c. 889, §1 (NEW).]

SECTION HISTORY
1989, c. 889, §1 (NEW).

Subchapter 4: FAIR HOUSING

§4581. RIGHT TO FREEDOM FROM DISCRIMINATION IN HOUSING; EXCEPTIONS

The opportunity for an individual to secure housing in accordance with the individual's ability to pay, and without discrimination because of race, color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status is hereby recognized as and declared to be a civil right. [2011, c. 613, §10 (AMD); 2011, c. 613, §29 (AFF).]

1. **Number of occupants.** Nothing in this subchapter limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this subchapter regarding familial status apply with respect to housing for older persons.

[2007, c. 243, §1 (AMD) .]

2. **Definition.** As used in this section, "housing for older persons" means housing:

A. Provided under any state or federal program that the United States Secretary of Housing and Urban Development determines is specifically designed and operated to assist elderly persons as defined in the state or federal program; [2011, c. 613, §10 (AMD); 2011, c. 613, §29 (AFF).]

B. Intended for, and solely occupied by, persons 62 years of age or older; or [1989, c. 245, §3 (NEW).]

C. Intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this paragraph, the housing must meet at least the following factors:

(2) That at least 80% of the dwellings are occupied by at least one person 55 years of age or older per unit; and

(3) The publication of, and adherence to, policies and procedures that demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older. [1997, c. 85, §1 (AMD).]

[2011, c. 613, §10 (AMD); 2011, c. 613, §29 (AFF) .]

3. **Requirements.** Housing does not fail to meet the requirements for "housing for older persons" by reason of:

A. Persons residing in the housing as of the date of enactment of this subsection who do not meet the requirements of subsection 2, paragraph B or C if new occupants of the housing meet the age requirements of subsection 2, paragraphs B and C; or [2011, c. 613, §10 (AMD); 2011, c. 613, §29 (AFF).]

B. Unoccupied units if the units are reserved for occupancy by persons who meet the age requirements of subsection 2, paragraphs B and C. [2011, c. 613, §10 (AMD); 2011, c. 613, §29 (AFF).]

[2011, c. 613, §10 (AMD); 2011, c. 613, §29 (AFF) .]

4. **Housing accommodation exceptions.** The following exceptions apply in this chapter:

A. This chapter does not prohibit the rental of any dwelling owned, controlled or operated for other than a commercial purpose by a religious corporation to its membership unless such membership is restricted on account of race, color or national origin; and [2011, c. 613, §10 (NEW); 2011, c. 613, §29 (AFF).]

B. Except as provided in section 4581-A, subsection 1, paragraph C and section 4581-A, subsections 2 and 3, this chapter does not apply to:

(1) The rental of a one-family unit of a 2-family dwelling, one unit of which is occupied by the owner; or

(2) The rental of not more than 4 rooms of a one-family dwelling that is occupied by the owner. [2011, c. 613, §10 (NEW); 2011, c. 613, §29 (AFF).]

[2011, c. 613, §10 (NEW); 2011, c. 613, §29 (AFF) .]

SECTION HISTORY
1971, c. 501, §1 (NEW). 1973, c. 347, §8 (AMD). 1973, c. 705, §7 (AMD). 1975, c. 355, §8 (AMD). 1975, c. 358, §11 (AMD). 1975, c. 770, §35 (RPR). 1989, c. 245, §3 (AMD). 1991, c. 99, §12 (AMD). 1997, c. 85, §1 (AMD). 2005, c. 10, §13 (AMD). 2007, c. 243, §1 (AMD). 2011, c. 613, §10 (AMD). 2011, c. 613, §29 (AFF).

§4581-A. UNLAWFUL HOUSING DISCRIMINATION

It is unlawful housing discrimination, in violation of this Act: [2011, c. 613, §11 (NEW); 2011, c. 613, §29 (AFF).]

1. **Sale or rental of housing and other prohibited practices.** For any owner, lessee, sublessee, managing agent or other person having the right to sell or rent or manage a housing accommodation, or any agent of these, to:

A. Make or cause to be made any written or oral inquiry concerning the race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status of any prospective purchaser, occupant or tenant of the housing accommodation; [2011, c. 613, §11 (NEW); 2011, c. 613, §29 (AFF).]

B. Refuse to show or refuse to sell, rent, lease, let or otherwise deny to or withhold from any person the housing accommodation because of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status; [2011, c. 613, §11 (NEW); 2011, c. 613, §29 (AFF).]

C. Make, print or publish or cause to be made, printed or published any notice, statement or advertisement relating to the sale, rental or lease of the housing accommodation that indicates any preference, limitation or discrimination based upon race or color, sex, sexual orientation, physical or

mental disability, religion, ancestry, national origin or familial status or an intention to make any such preference, limitation or discrimination; [2011, c. 613, §11 (NEW); 2011, c. 613, §29 (AFF).]

D. Discriminate against any person because of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status in the price, terms, conditions or privileges of the sale, rental or lease of any housing accommodations or in the furnishing of facilities or services in connection with any housing accommodations; or [2011, c. 613, §11 (NEW); 2011, c. 613, §29 (AFF).]

E. Evict or attempt to evict any tenant of any housing accommodation because of the race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status of the tenant; [2011, c. 613, §11 (NEW); 2011, c. 613, §29 (AFF).]

[2011, c. 613, §11 (NEW); 2011, c. 613, §29 (AFF) .]

2. **Selling, brokering or appraising of housing.** For any real estate broker or real estate salesperson, or any agent of these, to:

A. Fail or refuse to show any person a housing accommodation listed for sale, lease or rent because of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status; [2011, c. 613, §11 (NEW); 2011, c. 613, §29 (AFF).]

B. Misrepresent, for the purpose of discriminating because of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status, the availability or asking price of a housing accommodation listed for sale, lease or rent or for such reason to fail to communicate to the person having the right to sell, rent or lease the housing accommodation any offer for the same made by any applicant; [2011, c. 613, §11 (NEW); 2011, c. 613, §29 (AFF).]

C. In any other manner to discriminate against any applicant for a housing accommodation because of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status; [2011, c. 613, §11 (NEW); 2011, c. 613, §29 (AFF).]

D. Make or cause to be made any written or oral inquiry or record concerning the race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status of any applicant for or intended occupant of a housing accommodation; or [2011, c. 613, §11 (NEW); 2011, c. 613, §29 (AFF).]

E. Accept for listing any housing accommodation when the person having the right to sell, rent or lease the housing accommodation has directly or indirectly indicated an intention of discriminating among prospective tenants or purchasers on the ground of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status, or when the broker or salesperson knows or has reason to know that the person having the right to sell, rent or lease the housing accommodation has made a practice of discrimination since July 1, 1972; [2011, c. 613, §11 (NEW); 2011, c. 613, §29 (AFF).]

[2011, c. 613, §11 (NEW); 2011, c. 613, §29 (AFF) .]

3. **Making of loans; other financial assistance.** For any person to whom application is made for a loan or other form of financial assistance for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation, whether secured or unsecured, or agent of the person, to:

A. Make or cause to be made any oral or written inquiry concerning the race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status of any applicant for financial assistance or of existing or prospective occupants or tenants of housing accommodations; or [2011, c. 613, §11 (NEW); 2011, c. 613, §29 (AFF).]

B. Discriminate in the granting of financial assistance, or in the terms, conditions or privileges relating to obtaining or the use of any financial assistance, against any applicant because of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status; or [2011, c. 613, §11 (NEW); 2011, c. 613, §29 (AFF).]

[2011, c. 613, §11 (NEW); 2011, c. 613, §29 (AFF) .]

4. **Receipt of public assistance.** For any person furnishing rental premises or public accommodations to refuse to rent or impose different terms of tenancy to any individual who is a recipient of federal, state or local public assistance, including medical assistance and housing subsidies, primarily because of the individual's status as recipient.

[2011, c. 613, §11 (NEW); 2011, c. 613, §29 (AFF) .]

SECTION HISTORY
2011, c. 613, §11 (NEW). 2011, c. 613, §29 (AFF).

§4582. UNLAWFUL HOUSING DISCRIMINATION

(REPEALED)

SECTION HISTORY
1971, c. 501, §1 (NEW). 1971, c. 622, §20 (AMD). 1973, c. 347, §9 (AMD). 1973, c. 705, §8 (AMD). 1975, c. 151, §1 (AMD). 1975, c. 355, §9 (RPR). 1975, c. 358, §12 (AMD). 1975, c. 770, §36 (RPR). 1983, c. 437, §§2,3 (AMD). 1985, c. 638, §1 (AMD). 1987, c. 730, §1 (AMD). 1989, c. 245, §4 (AMD). 1991, c. 99, §§13,14,16, 17 (AMD). 2005, c. 10, §14 (AMD). 2011, c. 613, §29 (AFF). 2011, c. 613, §12 (RP).

§4582-A. UNLAWFUL HOUSING DISCRIMINATION ON THE BASIS OF DISABILITY

It is unlawful housing discrimination, in violation of this Act: [1989, c. 779, (NEW).]

1. **Modifications.** For any owner, lessor, sublessor, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation or any of their agents to refuse to permit, at the expense of a person with physical or mental disability, reasonable modifications of existing premises occupied or to be occupied by that person if the modifications may be necessary to give that person full enjoyment of the premises, except that, with a rental, the landlord, when it is reasonable to do so, may condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

[2011, c. 613, §13 (AMD); 2011, c. 613, §29 (AFF) .]

2. **Accommodations.** For any owner, lessor, sublessor, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation or any of their agents to refuse to make reasonable accommodations in rules, policies, practices or services when those accommodations are necessary to give a person with physical or mental disability equal opportunity to use and enjoy the housing; or

[2011, c. 613, §13 (AMD); 2011, c. 613, §29 (AFF) .]

3. **Assistance animals.** For any owner, lessor, sublessor, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation or any of their agents to refuse to permit the use of an assistance animal or otherwise discriminate against an individual with a physical or mental disability who uses an assistance animal at the housing accommodation unless it is shown by defense that the assistance

animal poses a direct threat to the health or safety of others or the use of the assistance animal would result in substantial physical damage to the property of others or would substantially interfere with the reasonable enjoyment of the housing accommodation by others. The use of an assistance animal may not be conditioned on the payment of a fee or security deposit, although the individual with a physical or mental disability is liable for any damage done to the premises or facilities by such an assistance animal.

[2015, c. 457, §3 (AMD) .]

SECTION HISTORY
1989, c. 779, (NEW). 1991, c. 99, §18 (AMD). 2007, c. 243, §§2, 3 (AMD). 2007, c. 664, §§2-4 (AMD). 2011, c. 613, §13 (AMD). 2011, c. 613, §29 (AFF). 2015, c. 457, §3 (AMD).

§4582-B. STANDARDS AND CERTIFICATION

1. **Definition.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Builder" means the applicant for a building permit in a municipality that requires these permits or the owner of the property in a municipality that does not require building permits. [1989, c. 779, (NEW).]

B. "Design professional" means an architect or professional engineer registered to practice under Title 32. [1989, c. 779, (NEW).]

C. "Standards of construction" means the 1986 standards set forth by the American National Standards Institute in the publication "Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People," ANSI A 117.1-1986. [1989, c. 779, (NEW).]

D. "Multifamily housing accommodation" means "covered multifamily dwelling" as defined in 42 United States Code, Section 3604. [1989, c. 779, (NEW).]

[1989, c. 779, (NEW) .]

2. **Applicability.** This section applies to multifamily housing accommodations constructed for first occupancy after March 13, 1991.

[1989, c. 779, (NEW) .]

3. **Standards.** Facilities subject to this section must meet the following standards.

A. Doors designed to allow passage into and within all premises within those accommodations must be sufficiently wide to allow passage by a person in a wheelchair. [1989, c. 779, (NEW).]

B. A route accessible to a person in a wheelchair into and through the dwelling unit must exist. [1989, c. 779, (NEW).]

C. Light switches, electrical outlets, thermostats and other environmental controls must be in locations accessible to a person in a wheelchair. [1989, c. 779, (NEW).]

D. Bathroom walls must have reinforcements to accommodate the installation of grab bars. [1989, c. 779, (NEW).]

E. Kitchens and bathrooms must be accessible to and usable by a person in a wheelchair. [1989, c. 779, (NEW).]

[1989, c. 779, (NEW) .]

4. **Compliance with standards.** Compliance with the standards of construction satisfies the requirements of this section.

[1989, c. 779, (NEW) .]

5. **Certification; inspection.** The builder of a facility to which this section applies shall obtain a certification from a design professional that the plans of the facility meet the standards of construction required by this section. Prior to commencing construction of the facility, the builder shall submit the certification to:

A. The municipal authority that reviews plans in the municipality where the facility is to be constructed; or [1989, c. 779, (NEW).]

B. If the municipality where the facility is to be constructed has no authority who reviews plans, the municipal officers of the municipality. [1989, c. 779, (NEW).]

If municipal officials of the municipality where the facility is to be constructed inspect buildings for compliance with construction standards, that inspection must include an inspection for compliance with the standards required by this section. The municipal officials shall require the facility inspected to meet the construction standards of this section before the municipal officials permit the facility to be occupied.

[1989, c. 779, (NEW) .]

SECTION HISTORY
1989, c. 779, (NEW).

§4582-C. STANDARDS FOR MULTIFAMILY AND PUBLIC HOUSING CONSTRUCTED ON OR AFTER SEPTEMBER 1, 2012

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

A. "Alteration" means a change to a facility that affects or could affect the usability of the facility or any part of the facility, including, but not limited to, reconstruction, remodeling, rehabilitation, historic restoration, changes or rearrangement in structural parts or elements and changes or rearrangement in the plan configuration of walls and full-height partitions. "Alteration" does not include normal maintenance, decoration and upgrades, including, but not limited to, reroofing, re-siding, painting or wallpapering, replacement of doors or windows, asbestos removal and changes to mechanical and electrical systems unless they affect the usability of the facility. [2011, c. 613, §14 (NEW); 2011, c. 613, §29 (AFF).]

B. "Builder" means the applicant for a building permit in a municipality that requires these permits or the owner of the property in a municipality that does not require building permits. [2011, c. 613, §14 (NEW); 2011, c. 613, §29 (AFF).]

C. "Covered multifamily dwellings" means:

(1) Buildings consisting of 4 or more units if such buildings have one or more elevators; and

(2) Ground floor units in other buildings consisting of 4 or more units that have no elevators. [2011, c. 613, §14 (NEW); 2011, c. 613, §29 (AFF).]

D. "Design professional" means an architect or professional engineer registered to practice under Title 32. [2011, c. 613, §14 (NEW); 2011, c. 613, §29 (AFF).]

E. "New construction" includes, but is not limited to, the design and construction of facilities for first occupancy or an alteration if the cost of the alteration is 75% or more of the replacement cost of the completed facility. [2011, c. 613, §14 (NEW); 2011, c. 613, §29 (AFF).]

F. "Public housing" means any housing that is financed in whole or in part with public funds offering housing accommodations containing 20 or more units. [2011, c. 613, §14 (NEW); 2011, c. 613, §29 (AFF).]

G. "Standards of construction" means the most recent American National Standards Institute standards, published as ANSI A 117.1. Departures from particular technical and scoping requirements of ANSI A 117.1 by the use of other methods are permitted where substantially equivalent or greater access to and usability of the facility is provided. [2011, c. 613, §14 (NEW); 2011, c. 613, §29 (AFF).]

[2011, c. 613, §14 (NEW); 2011, c. 613, §29 (AFF) .]

2. **Facilities affected.** This section applies to new construction of covered multifamily dwellings and new construction and alterations of public housing if the date when the last application for a building permit or permit extension is certified to be complete by a state, county or local government or, in those jurisdictions where the government does not certify completion of applications, if the date when the last application for a building permit or permit extension received by the state, county or local government is on or after September 1, 2012 or, if no permit is required, if the start of physical construction or alterations occurs on or after September 1, 2012.

[2011, c. 613, §14 (NEW); 2011, c. 613, §29 (AFF) .]

3. **Unlawful housing discrimination.** For purposes of this Act, unlawful housing discrimination, in addition to any violations of applicable accessible building requirements in subchapter 5, includes, but is not limited to:

A. The failure to design and construct covered multifamily dwellings subject to this section in such a manner that:

(1) The public use and common use portions of the dwellings are readily accessible to and usable by people with physical or mental disabilities;

(2) All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by persons in wheelchairs; and

(3) All premises within the dwellings contain the following features of adaptive design:

(a) An accessible route into and through the dwelling;

(b) Light switches, electrical outlets, thermostats and other environmental controls in accessible locations;

(c) Reinforcements in bathroom walls to allow later installation of grab bars; and

(d) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space; [2011, c. 613, §14 (NEW); 2011, c. 613, §29 (AFF).]

B. For new construction of public housing subject to this section, to have less than 10% of the ground level units and less than 10% of the upper story units connected by an elevator be accessible to and usable by persons with physical disabilities, and less than 2% of the units, no fewer than one unit, with accessible communication features; and [2011, c. 613, §14 (NEW); 2011, c. 613, §29 (AFF).]

C. For alterations to public housing units subject to this section, to fail to have the altered units meet the parts of the standards of construction concerning accessible routes, accessible doors and adaptable bathrooms until at least 10% of the total ground level units and a minimum of 10% of the total upper story units connected by an elevator meet the parts of the standards of construction concerning accessible routes, accessible doors and adaptable bathrooms. [2011, c. 613, §14 (NEW); 2011, c. 613, §29 (AFF).]

[2011, c. 613, §14 (NEW); 2011, c. 613, §29 (AFF) .]

4. **Compliance with standards.** Compliance with the appropriate standards of construction satisfies the requirements of this section.

[2011, c. 613, §14 (NEW); 2011, c. 613, §29 (AFF) .]

5. **Statement; inspection.** The builder of a facility to which this section applies shall obtain a statement from a design professional that, based on professional judgment, the plans of the facility at the time of the statement meet the standards of construction required by this section. Prior to commencing construction of the facility, the builder shall submit the statement to:

A. The municipal authority that reviews plans in the municipality where the facility is to be constructed; or [2011, c. 613, §14 (NEW); 2011, c. 613, §29 (AFF).]

B. If the municipality where the facility is to be constructed has no authority that reviews plans, the municipal officers of the municipality. [2011, c. 613, §14 (NEW); 2011, c. 613, §29 (AFF).]

If municipal officials of the municipality where the facility is to be constructed inspect buildings for compliance with construction standards, that inspection must include an inspection for compliance with the standards required by this section. The municipal officials shall require a facility that is inspected to meet the standards of this section before the municipal officials permit the facility to be occupied.

[2011, c. 613, §14 (NEW); 2011, c. 613, §29 (AFF) .]

SECTION HISTORY
2011, c. 613, §14 (NEW). 2011, c. 613, §29 (AFF).

§4583. APPLICATION

Nothing in this Act may be construed to prohibit or limit the exercise of the privilege of every person and the agent of any person having the right to sell, rent, lease or manage a housing accommodation to set up and enforce specifications in the selling, renting, leasing or letting or in the furnishings of facilities or services in connection with the facilities that are consistent with business necessity and are not based on the race, color, sex, sexual orientation, physical or mental disability, religion, country of ancestral origin or familial status of or the receipt of public assistance payments by any prospective or actual purchaser, lessee, tenant or occupant. Nothing in this Act may be construed to prohibit or limit the exercise of the privilege of every person and the agent of any person making loans for or offering financial assistance in the acquisition, construction, rehabilitation, repair or maintenance of housing accommodations to set standards and preferences, terms, conditions, limitations or specifications for the granting of loans or financial assistance that are consistent with business necessity and are not based on the race, color, sex, sexual orientation, physical or mental disability, religion, country of ancestral origin or familial status of or the receipt of public assistance payments by the applicant for a loan or financial assistance or of any existing or prospective owner, lessee, tenant or occupant of housing accommodation. [2007, c. 243, §4 (AMD).]

SECTION HISTORY
1971, c. 501, §1 (NEW). 1973, c. 347, §10 (AMD). 1973, c. 705, §9 (AMD). 1975, c. 151, §2 (AMD). 1975, c. 358, §13 (AMD). 1975, c. 770, §37 (RPR). 1989, c. 245, §5 (AMD). 1991, c. 99, §19 (AMD). 2005, c. 10, §15 (AMD). 2007, c. 243, §4 (AMD).

Subchapter 5: PUBLIC ACCOMMODATIONS

§4591. EQUAL ACCESS TO PUBLIC ACCOMMODATIONS

The opportunity for every individual to have equal access to places of public accommodation without discrimination because of race, color, sex, sexual orientation, physical or mental disability, religion, ancestry or national origin is recognized as and declared to be a civil right. [2005, c. 10, §16 (AMD).]

SECTION HISTORY
1971, c. 501, §1 (NEW). 1973, c. 347, §11 (AMD). 1975, c. 355, §10 (AMD). 1975, c. 358, §§13-A (AMD). 1975, c. 770, §38 (RPR). 1991, c. 99, §20 (AMD). 2005, c. 10, §16 (AMD).

§4592. UNLAWFUL PUBLIC ACCOMMODATIONS

This section does not require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of that entity when the individual poses a direct threat to the health or safety of others. For the purposes of this section, the term "direct threat" means a significant risk to the health or safety of others that can not be eliminated by a modification of policies, practices or procedures or by the provision of auxiliary aids or services. [1995, c. 511, §2 (NEW); 1995, c. 511, §3 (AFF).]

It is unlawful public accommodations discrimination, in violation of this Act: [1991, c. 99, §21 (AMD).]

1. **Denial of public accommodations.** For any public accommodation or any person who is the owner, lessor, lessee, proprietor, operator, manager, superintendent, agent or employee of any place of public accommodation to directly or indirectly refuse, discriminate against or in any manner withhold from or deny the full and equal enjoyment to any person, on account of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry or national origin, any of the accommodations, advantages, facilities, goods, services or privileges of public accommodation, or in any manner discriminate against any person in the price, terms or conditions upon which access to accommodation, advantages, facilities, goods, services and privileges may depend.

For purposes of this subsection, unlawful discrimination also includes, but is not limited to:

A. The imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages or accommodations, unless the criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages or accommodations being offered; [1995, c. 393, §22 (NEW).]

B. A failure to make reasonable modifications in policies, practices or procedures, when modifications are necessary to afford the goods, services, facilities, privileges, advantages or accommodations to individuals with disabilities, unless, in the case of a private entity, the private entity can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages or accommodations; [1995, c. 393, §22 (NEW).]

C. A failure to take steps that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless, in the case of a private entity, the private entity can demonstrate that taking those steps would fundamentally alter the nature of the good, service, facility, privilege, advantage or accommodation being offered or would result in an undue burden; [1995, c. 393, §22 (NEW).]

D. A private entity's failure to remove architectural barriers and communication barriers that are structural in nature in existing facilities and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals, not including barriers that can be removed only through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift, where the removal is readily achievable;

When the entity can demonstrate that the removal of a barrier under this paragraph is not readily achievable, a failure to make the goods, services, facilities, privileges, advantages or accommodations available through alternative methods if alternative methods are readily achievable; and [1995, c. 393, §22 (NEW).]

E. A qualified individual with a disability, by reason of that disability, being excluded from participation in or being denied the benefits of the services, programs or activities of a public entity, or being subjected to discrimination by any such entity; [1995, c. 393, §22 (NEW).]

[2005, c. 10, §17 (AMD) .]

2. **Communication, notice or advertisement.** For any person to directly or indirectly publish, display or communicate any notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any place of public accommodation are refused, withheld from or denied to any person on account of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry or national origin, or that the patronage or custom of any person belonging to or purporting to be of any particular race or color, sex, sexual orientation, physical or mental disability, religion, ancestry or national origin is unwelcome, objectionable or not acceptable, desired or solicited, or that the clientele is restricted to any particular race or color, sexual orientation, physical or mental disability, religion, ancestry or national origin. The production of any communication, notice or advertisement purporting to relate to any place of accommodation is presumptive evidence in any action that the action was authorized by its owner, manager or proprietor;

[2005, c. 10, §17 (AMD) .]

3. **Denial of lodging; children, exception.** For any person who is the owner, lessee, proprietor, manager, superintendent, agent or employee of any public accommodation for lodging to directly or indirectly refuse or withhold from or deny to any person that lodging on the grounds that the person is accompanied by a child or children who will occupy the unit, unless the total number of persons seeking to occupy the unit exceeds the number permitted by local ordinances or reasonable standards relating to health, safety or sanitation.

This subsection does not apply to the owner of a lodging place:

A. That serves breakfast; [1989, c. 301, (NEW).]

B. That contains no more than 5 rooms available to be let to lodgers; and [1995, c. 393, §23 (AMD).]

C. In which the owner resides on the premises; [1995, c. 393, §23 (AMD).]

[1995, c. 393, §23 (AMD) .]

4. **Participation.** For a covered entity:

A. To subject an individual or a class of individuals, on the basis of a disability or disabilities of the individual or class, directly or through contractual, licensing or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages or accommodations of that entity; [1995, c. 393, §24 (NEW).]

B. To afford an individual or a class of individuals, on the basis of a disability or disabilities of the individual or class, directly or through contractual, licensing or other arrangements, with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage or accommodation in a manner that is not equal to that afforded to other individuals; and [1995, c. 393, §24 (NEW).]

C. To provide an individual or a class of individuals, on the basis of a disability or disabilities of the individual or class, directly or through contractual, licensing or other arrangements, with a good, service, facility, privilege, advantage or accommodation that is different or separate from that provided to other

individuals, unless this action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage or accommodation or other opportunity that is as effective as that provided to others. [1995, c. 393, §24 (NEW).]

For purposes of this subsection, the term "individual" or "class of individuals" refers to the clients or customers of the covered public accommodation that enters into a contractual, licensing or other arrangement;

[1995, c. 393, §24 (NEW) .]

5. **Integrated setting; programs or activities not separate or different.** For a covered entity to not afford goods, services, facilities, privileges, advantages and accommodations to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability may not be denied the opportunity to participate in programs or activities that are not separate or different;

[1995, c. 393, §24 (NEW) .]

6. **Association.** For a covered entity to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association;

[2007, c. 664, §5 (AMD) .]

7. **Administrative methods.** For an individual or an entity, directly or through contractual or other arrangements, to utilize standards or criteria or methods of administration:

A. That have the effect of discrimination on the basis of disability; or [1995, c. 393, §24 (NEW).]

B. That perpetuate the discrimination of others who are subject to common administrative control ; and [2007, c. 664, §6 (AMD).]

[2007, c. 664, §6 (AMD) .]

8. **Service animals.** For any public accommodation or any person who is the owner, lessor, lessee, proprietor, operator, manager, superintendent, agent or employee of any place of public accommodation to refuse to permit the use of a service animal or otherwise discriminate against an individual with a physical or mental disability who uses a service animal at the public accommodation unless it is shown by defense that the service animal poses a direct threat to the health or safety of others or the use of the service animal would result in substantial physical damage to the property of others or would substantially interfere with the reasonable enjoyment of the public accommodation by others. The use of a service animal may not be conditioned on the payment of a fee or security deposit, although the individual with a physical or mental disability is liable for any damage done to the premises or facilities by such a service animal. This subsection does not apply to an assistance animal as defined in section 4553, subsection 1-H unless the assistance animal also qualifies as a service animal.

[2015, c. 457, §4 (AMD) .]

SECTION HISTORY
1971, c. 501, §1 (NEW). 1973, c. 347, §12 (AMD). 1973, c. 705, §10 (AMD). 1975, c. 355, §11 (RPR). 1975, c. 358, §14 (AMD). 1975, c. 770, §39 (RPR). 1985, c. 638, §§2,3 (AMD). 1989, c. 301, (RPR). 1991, c. 99, §§21,22 (AMD). 1995, c. 393, §§22-24 (AMD). 1995, c. 511, §2 (AMD). 1995, c. 511, §3 (AFF). 2005, c. 10, §17 (AMD). 2007, c. 664, §§5-7 (AMD). 2015, c. 457, §4 (AMD).

§4593. STANDARDS FOR FACILITIES CONSTRUCTED OR ALTERED BETWEEN SEPTEMBER 1, 1974 AND JANUARY 1, 1982

1. **Public accommodations.** For any building or facility constructed specifically as a place of public accommodation on or after September 1, 1974 but before January 1, 1982, or when the estimated total costs for remodeling or enlarging an existing building exceed $250,000 and the remodeling or enlarging is begun before January 1, 1982, the following standards of construction must be met.

A. There must be at least one public walk not less than 40 inches wide with a slope not greater than one foot rise in 12 feet leading directly to a primary entrance. However, after April 1, 1977, the public walk must be not less than 48 inches wide. [1991, c. 99, §23 (AMD).]

B. There must be a door at the primary entrance with a clear opening of not less than 32 inches and operable by a single effort. If doors at a primary entrance are in a series, they must have a space between them of not less than 84 inches measured from their closed positions; and each must open in the same direction so that swings do not conflict. [1991, c. 99, §23 (AMD).]

C. Rest room facilities must have at least one stall that is not less than 4 feet wide, 5 feet in depth, a 32-inch wide door that swings out or slides, handrails on each side mounted 33 inches from the floor, and a water closet with a seat 20 inches high. [1991, c. 99, §23 (AMD).]

D. Doors that are not intended for normal use and that are dangerous if a blind person were to enter or exit by them must be made identifiable to touch by knurling the handle or knob. [2011, c. 322, §1 (AMD).]

E. There must be parking spaces designated for persons with physical disability set aside in adequate number and clearly marked for use only by the disabled. Set aside in adequate number means that, for every 25 parking spaces made available to the public on a public or private parking lot, at least one of those spaces must be made available in an appropriate location for parking exclusively used by persons with physical disability. [1991, c. 99, §23 (AMD).]

In any building designed and constructed specifically for public accommodations, the bathroom facilities and all accompanying fixtures must be arranged to permit access and use by a person in a wheelchair in at least 1% of the living units. The units must be constructed on ground level and must comply with paragraph C.

[2011, c. 322, §1 (AMD) .]

2. **Places of employment.** For any building or facility constructed specifically as a place of employment on or after September 1, 1974 but before January 1, 1982, or when the estimated total costs for remodeling or enlarging an existing building exceed $100,000 and the remodeling or enlarging is begun before January 1, 1982, the public accommodation provisions relating to walks, entries, rest room facilities and doors apply.

[2011, c. 322, §1 (AMD) .]

SECTION HISTORY
1973, c. 705, §12 (NEW). 1975, c. 355, §§12-14 (AMD). 1977, c. 80, §1 (AMD). 1981, c. 334, §§1,2 (AMD). 1983, c. 437, §4 (AMD). 1987, c. 390, §1 (AMD). 1991, c. 99, §23 (AMD). 1995, c. 393, §25 (AMD). 2011, c. 322, §1 (AMD).

§4594. STANDARDS FOR FACILITIES CONSTRUCTED OR ALTERED BETWEEN JANUARY 1, 1982 AND JANUARY 1, 1984

1. **Facilities attested.** This section applies for the following facilities:

A. Any building or facility constructed specifically as a place of public accommodation on or after January 1, 1982 but before January 1, 1984, or when the estimated total costs for remodeling or enlarging an existing building exceeds $250,000 and the remodeling or enlarging is begun after January 1, 1982 but before January 1, 1984; and [2011, c. 322, §2 (AMD).]

B. Any building or facility constructed specifically as a place of employment on or after January 1, 1982 but before January 1, 1984, or when the estimated total costs for remodeling or enlarging an existing building exceed $100,000 and the remodeling or enlarging is begun after January 1, 1982 but before January 1, 1984. [2011, c. 322, §2 (AMD).]

[2011, c. 322, §2 (AMD) .]

2. **Application.** Facilities subject to this section must meet the requirements of the 1981 standards of construction adopted pursuant to Title 25, former chapter 331, to implement the following 4 parts of the American National Standards Institute's "Specification for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People," (ANSI A 117.1-1980):

A. 4.3 Accessible Route; [1981, c. 334, §3 (NEW).]

B. 4.13 Doors; [1981, c. 334, §3 (NEW).]

C. 4.17 Toilet Stalls; [1987, c. 390, §2 (AMD).]

D. 4.29.3 Tactile Warnings on doors to Hazardous Areas; and [1987, c. 390, §2 (AMD).]

E. Parking spaces for use by persons with physical disability in adequate number, pursuant to section 4593, subsection 1, paragraph E. [1991, c. 99, §24 (AMD).]

[2011, c. 613, §15 (AMD); 2011, c. 613, §29 (AFF) .]

SECTION HISTORY
1981, c. 334, §3 (NEW). 1987, c. 390, §§2,3 (AMD). 1991, c. 99, §24 (AMD). 2011, c. 322, §2 (AMD). 2011, c. 613, §15 (AMD). 2011, c. 613, §29 (AFF).

§4594-A. STANDARDS FOR FACILITIES CONSTRUCTED OR ALTERED BETWEEN JANUARY 1, 1984 AND JANUARY 1, 1988

1. **Facilities attested.** This section applies to any building or facility constructed specifically as a place of public accommodation on or after January 1, 1984 but before January 1, 1988, or when the estimated total costs for remodeling or enlarging an existing building exceed $150,000 and the remodeling or enlarging is begun after January 1, 1984 but before January 1, 1988.

[2011, c. 322, §3 (AMD) .]

2. **Application.** Facilities subject to this section must meet the following standards.

A. Facilities subject to this section constructed on or after January 1, 1984 but before January 1, 1988 must meet the requirements of the 1981 standards of construction adopted pursuant to Title 25, former chapter 331. [2011, c. 613, §16 (AMD); 2011, c. 613, §29 (AFF).]

B. Plans to reconstruct, remodel or enlarge an existing place of public accommodation, when the estimated total cost exceeds $150,000, are subject to this section when the proposed reconstruction, remodeling or enlargement will substantially affect that portion of the building normally accessible to the public.

Facilities subject to this section that are remodeled, enlarged or renovated on or after January 1, 1984 but before January 1, 1988 must meet the requirements of the following 4 parts of the 1981 standards of construction adopted pursuant to Title 25, former chapter 331:

(1) 4.3 accessible route;

(2) 4.13 doors;

(3) 4.17 toilet stalls;

(4) 4.29.3 tactile warnings on doors to hazardous areas; and

(5) Parking spaces for use by persons with physical disability in adequate number, pursuant to section 4593, subsection 1, paragraph E. [2011, c. 613, §17 (AMD); 2011, c. 613, §29 (AFF).]

[2011, c. 613, §§16, 17 (AMD); 2011, c. 613, §29 (AFF) .]

SECTION HISTORY
1983, c. 437, §5 (NEW). 1987, c. 390, §4 (AMD). 1991, c. 99, §25 (AMD). 2011, c. 322, §3 (AMD). 2011, c. 613, §§16, 17 (AMD). 2011, c. 613, §29 (AFF).

§4594-B. STANDARDS FOR FACILITIES CONSTRUCTED OR ALTERED BETWEEN JANUARY 1, 1988 AND SEPTEMBER 1, 1988

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

A. "Builder" means the applicant for a building permit in a municipality that requires such permits or the owner of the property in a municipality that does not require building permits. [1987, c. 112, (NEW).]

B. "Design professional" means an architect or professional engineer registered to practice under Title 32. [1987, c. 112, (NEW).]

C. "Standards of construction" means the 1986 standards set forth by the American National Standards Institute in the publication "Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People," ANSI A 117.1-1986. [1987, c. 112, (NEW).]

[1987, c. 112, (NEW) .]

2. **Facilities attested.** This section applies to any building or facility constructed specifically as a place of public accommodation on or after January 1, 1988 but before September 1, 1988 or when the estimated total costs for remodeling or enlarging an existing building exceed $150,000 and the remodeling or enlarging is begun after January 1, 1988 but before September 1, 1988.

[2011, c. 322, §4 (AMD) .]

3. **Application.** Facilities subject to this section must meet the following standards.

A. Facilities subject to this section constructed on or after January 1, 1988 but before September 1, 1988 must meet the standards of construction. [2011, c. 322, §4 (AMD).]

B. Plans to reconstruct, remodel or enlarge an existing place of public accommodation, when the estimated total cost exceeds $150,000, are subject to this section when the proposed reconstruction, remodeling or enlargement will substantially affect that portion of the building normally accessible to the public.

Facilities subject to this section that are remodeled, enlarged or renovated on or after January 1, 1988 but before September 1, 1988 must meet the requirements of the following 4 parts of the standards of construction:

(1) 4.3 accessible routes;

(2) 4.13 doors;

(3) 4.17 toilet stalls; and

(4) 4.29.3 tactile warnings on doors to hazardous areas. [2011, c. 322, §4 (AMD).]

[2011, c. 322, §4 (AMD) .]

4. **Certification; inspection.** The builder of a facility to which this section applies shall obtain a certification from a design professional that the plans of the facility meet the standards of construction required by this section. Prior to commencing construction of the facility, the builder shall submit the certification to:

A. The municipal authority who reviews plans in the municipality where the facility will be constructed; or [1987, c. 112, (NEW).]

B. If the municipality where the facility will be constructed has no authority who reviews plans, the municipal officers of the municipality. [1987, c. 112, (NEW).]

If municipal officials of the municipality where the facility will be constructed inspect buildings for compliance with construction standards, that inspection shall include an inspection for compliance with the standards required by this section. The municipal officials shall require the facility inspected to meet the construction standards of this section before the municipal officials permit the facility to be occupied.

[1987, c. 112, (NEW) .]

SECTION HISTORY
1987, c. 112, (NEW). 1987, c. 402, Pt. B, §5 (AMD). 2011, c. 322, §4 (AMD).

§4594-C. STANDARDS FOR FACILITIES CONSTRUCTED OR ALTERED BETWEEN SEPTEMBER 1, 1988 AND JANUARY 1, 1991

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

A. "Builder" means the applicant for a building permit in a municipality that requires such permits or the owner of the property in a municipality that does not require building permits. [1987, c. 686, §1 (NEW).]

B. "Design professional" means an architect or professional engineer registered to practice under Title 32. [1987, c. 686, §1 (NEW).]

C. "Standards of construction" means the 1986 standards set forth by the American National Standards Institute in the publication "Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People," ANSI A 117.1-1986. [1987, c. 686, §1 (NEW).]

[1987, c. 686, §1 (NEW) .]

2. **Facilities attested.** This section applies to any building or facility constructed specifically as a place of public accommodation on or after September 1, 1988 but before January 1, 1991 or when the estimated total costs for remodeling or enlarging an existing building exceed $100,000 and the remodeling or enlarging is begun after September 1, 1988 but before January 1, 1991.

[2011, c. 322, §5 (AMD) .]

3. **Application.** Facilities subject to this section must meet the following standards.

A. Facilities subject to this section constructed on or after September 1, 1988 but before January 1, 1991 must meet the standards of construction, except that, in the case of toilet stalls, at least one toilet stall shall be the standard stall configuration pursuant to ANSI Figure 30(a). Any additional toilet stalls may be either standard stall configuration, ANSI Figure 30(a), or alternate stall configuration, ANSI Figure 30(b). [2011, c. 322, §5 (AMD).]

B. Plans to reconstruct, remodel or enlarge an existing place of public accommodation, when the estimated total cost exceeds $100,000, are subject to this section when the proposed reconstruction, remodeling or enlargement substantially affects that portion of the building normally accessible to the public.

Facilities subject to this section that are remodeled, enlarged or renovated on or after September 1, 1988 but before January 1, 1991 shall meet the requirements of the following 4 parts of the standards of construction:

(1) 4.3 accessible routes;

(2) 4.13 doors;

(3) 4.17 toilet stalls, at least one of which must be a standard toilet stall configuration pursuant to ANSI Figure 30(a). Any additional toilet stalls may be either standard stall configuration, ANSI Figure 30(a), or alternate stall configuration, ANSI Figure 30(b); and

(4) 4.29.3 tactile warnings on doors to hazardous areas. [2011, c. 322, §5 (AMD).]

[2011, c. 322, §5 (AMD) .]

4. **Certification; inspection.** The builder of a facility to which this section applies shall obtain a certification from a design professional that the plans of the facility meet the standards of construction required by this section. Prior to commencing construction of the facility, the builder shall submit the certification to:

A. The municipal authority who reviews plans in the municipality where the facility will be constructed; or [1987, c. 686, §1 (NEW).]

B. If the municipality where the facility will be constructed has no authority who reviews plans, the municipal officers of the municipality. [1987, c. 686, §1 (NEW).]

If municipal officials of the municipality where the facility will be constructed inspect buildings for compliance with construction standards, that inspection must include an inspection for compliance with the standards required by this section. The municipal officials shall require the facility inspected to meet the construction standards of this section before the municipal officials permit the facility to be occupied.

[2011, c. 322, §5 (AMD) .]

SECTION HISTORY
1987, c. 686, §1 (NEW). 2011, c. 322, §5 (AMD).

§4594-D. STANDARDS FOR FACILITIES CONSTRUCTED OR ALTERED BETWEEN JANUARY 1, 1991 AND JANUARY 1, 1996

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

A. "Builder" means the applicant for a building permit in a municipality that requires such permits or the owner of the property in a municipality that does not require building permits. [1989, c. 795, (NEW).]

B. "Design professional" means an architect or professional engineer registered to practice under Title 32. [1989, c. 795, (NEW).]

C. "Standards of construction" means the 1986 standards set forth by the American National Standards Institute in the publication "Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People," ANSI A 117.1-1986. [1989, c. 795, (NEW).]

[1989, c. 795, (NEW) .]

2. **Facilities attested.** This section applies to any building or facility constructed specifically as a place of public accommodation or place of employment on or after January 1, 1991 but before January 1, 1996 or when the estimated total costs for remodeling, enlarging or renovating an existing building exceed $100,000 and the remodeling, enlarging or renovating is begun after January 1, 1991 but before January 1, 1996.

[2011, c. 322, §6 (AMD) .]

3. **Application.** Facilities subject to this section must meet the following standards.

A. Places of employment or public accommodation and additions to these places constructed on or after January 1, 1991 but before January 1, 1996 must meet the standards of construction. [2011, c. 322, §6 (AMD).]

B. Except for repairs undertaken in accordance with the rules adopted pursuant to subsection 4, when the proposed remodeling or renovation substantially affects that portion of the building normally accessible to the public, places of employment or public accommodation remodeled or renovated on or after January 1, 1991 but before January 1, 1996 must meet the following 5 parts of the standards of construction:

(1) 4.3 accessible routes;

(2) 4.13 doors;

(3) 4.29.3 tactile warnings on doors to hazardous areas;

(4) Parking spaces for use by persons with physical disability in adequate number, pursuant to section 4593, subsection 1, paragraph E; and

(5) 4.17 toilet stalls, at least one of which must be a standard toilet stall configuration pursuant to ANSI Figure 30(a). Any additional toilet stalls within the same toilet room may be either standard stall configuration, ANSI Figure 30(a), or alternate stall configuration, ANSI Figure 30(b). [2011, c. 322, §6 (AMD).]

[2011, c. 322, §6 (AMD) .]

4. **Rules.** The commission may adopt, alter, amend and repeal rules designed to make buildings under this section accessible to, functional for and safe for use by persons with physical disability in accordance with subsection 3, and may adopt, alter, amend and repeal rules designed otherwise to enforce this section.

[1993, c. 349, §10 (AMD) .]

5. **Certification; inspection.** The builder of a facility to which this section applies shall obtain a certification from a design professional that the plans meet the standards of construction required by this section. The builder shall provide the certification to the Office of the State Fire Marshal with the plans of the facility. The builder shall also provide the certification to the municipality where the facility exists or will be built.

[1989, c. 795, (NEW) .]

6. **Training, education and assistance.** The commission and the Office of the State Fire Marshal shall, as necessary, develop information packets, lectures, seminars and educational forums on barrier-free design for the purpose of increasing the awareness and knowledge of owners, architects, design professionals, code enforcers, building contractors and other interested parties.

[1989, c. 795, (NEW) .]

7. **Mandatory plan review; certification; inspection.** Builders of the following newly constructed facilities must submit plans to the Office of the State Fire Marshal to ensure that the plans meet the standards of construction required by subsection 3:

A. Restaurants; [1989, c. 795, (NEW).]

B. Motels, hotels and inns; [1989, c. 795, (NEW).]

C. State, municipal and county buildings; and [1989, c. 795, (NEW).]

D. Schools, elementary and secondary. [1989, c. 795, (NEW).]

Fees for reviews are established by the Office of the State Fire Marshal.

No building permit may be issued by the municipal authority having jurisdiction to issue these permits unless the Office of the State Fire Marshal approves the plans and certifies that the facility covered by the mandatory plan review meets the standards of construction required by this section; if, however, no decision is rendered within 2 weeks of submission to the Office of the State Fire Marshal, the builder may submit the building permit request directly to the municipality with an attestation that the plans meet the standards of construction.

If officials of the municipality in which the facility is constructed, renovated, remodeled or enlarged inspect buildings for compliance with construction standards, that inspection must include an inspection for compliance with the certified plans. The municipal officials shall require that the facility be inspected for compliance with construction standards before the municipal officials permit the facility to be occupied.

[1993, c. 410, Pt. X, §2 (AMD) .]

8. **Voluntary plan review.** Builders of facilities not governed by subsection 7 may submit plans to the Office of the State Fire Marshal to ensure that the plans meet the standards of construction required by subsection 3. Fees for this review may be assessed by the Office of the State Fire Marshal.

[1989, c. 795, (NEW) .]

9. **Waivers; variance.** Builders of facilities governed by subsection 7 may file a petition with the State Fire Marshal requesting a waiver or variance of the standards of construction. If the representative of the Office of the State Fire Marshal determines in cases covered by mandatory plan review that compliance with this section and its rules is not technologically feasible or would result in excessive and unreasonable costs without any substantial benefit to persons with physical disability, the State Fire Marshal may provide for modification of, or substitution for, these standards. In all petitions for variance or waiver, the burden of proof is on the party requesting a variance or waiver to justify its allowance.

Requests for waivers or variances for buildings covered by mandatory plan review are heard by a designee of the Office of the State Fire Marshal. A decision must be provided in writing to the party requesting the waiver or variance.

[1993, c. 450, §1 (AMD) .]

10. **Appeals.** Decisions of the State Fire Marshal on requests for waivers or variances in cases covered by mandatory plan review are subject to review in Superior Court upon petition of the aggrieved party within 30 days after the issuance of the decision for which review is sought. The court may enter an order enforcing, modifying or setting aside the decision of the State Fire Marshal, or it may remand the proceeding to the State Fire Marshal for such further action as the court may direct.

[1993, c. 410, Pt. X, §3 (AMD) .]

11. **Report.**

[2015, c. 102, §9 (RP) .]

SECTION HISTORY
1989, c. 795, (NEW). 1991, c. 99, §26 (AMD). 1993, c. 349, §10 (AMD). 1993, c. 410, §§X2,3 (AMD). 1993, c. 450, §1 (AMD). 2011, c. 322, §6 (AMD). 2015, c. 102, §9 (AMD).

§4594-E. WAIVERS FOR EXISTING BUILDINGS

(REPEALED)

SECTION HISTORY
RR 1993, c. 2, §4 (COR). 1993, c. 450, §2 (NEW). 1995, c. 393, §26 (RP).

§4594-F. STANDARDS FOR FACILITIES CONSTRUCTED OR ALTERED BETWEEN JANUARY 1, 1996 AND MARCH 15, 2012

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

A. "Alteration" means a change to a place of public accommodation or a commercial facility that affects or could affect the usability of the building or facility or any part of the building or facility, including, but not limited to, reconstruction, remodeling, rehabilitation, historic restoration, changes or rearrangement in structural parts or elements and changes or rearrangement in the plan configuration of walls and full-height partitions. [1995, c. 393, §27 (NEW).]

B. "Builder" means the applicant for a building permit in a municipality that requires such permits or the owner of a property in a municipality that does not require building permits. [1995, c. 393, §27 (NEW).]

C. [1997, c. 630, §1 (RP).]

D. "Facility" means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots or other real or personal property, including the site where the building, property, structure or equipment is located. [1995, c. 393, §27 (NEW).]

E. "Historic preservation programs" means programs conducted by a public or private entity that have preservation of historic properties as a primary purpose. [1995, c. 393, §27 (NEW).]

F. "Historic properties" means those properties that are listed or eligible for listing in the National Register of Historic Places or the State of Maine Register of Historic Places. [1995, c. 393, §27 (NEW).]

G. "Maximum extent feasible" applies to the occasional case when the nature of an existing facility makes it virtually impossible to comply fully with applicable accessibility standards through a planned alteration. In these circumstances, the alteration must provide the maximum physical accessibility

feasible. Any altered features of the facility that can be made accessible must be made accessible. If providing accessibility in conformance with this section to individuals with certain disabilities would not be feasible, the facility must be made accessible to persons with other types of disabilities. [1995, c. 393, §27 (NEW).]

H. "New construction" includes, but is not limited to, the design and construction of facilities for first occupancy after January 1, 1996 or an alteration affecting at least 80% of the space of the internal structure of facilities after January 1, 1996. [1995, c. 393, §27 (NEW).]

I. "Readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include:

(1) The nature and cost of the action needed under this subchapter;

(2) The overall financial resources of the facility or facilities involved in the action, the number of persons employed at the facility, the effect on expenses and resources or other impacts of the action on the operation of the facility;

(3) The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of its employees and the number, type and location of its facilities; and

(4) The type of operation or operations of the covered entity, including the composition, structure and functions of the entity's work force, the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the covered entity. [1995, c. 393, §27 (NEW).]

J. "Standards of construction" means the standards set forth in the federal Americans with Disabilities Act Accessibility Guidelines, "ADAAG," standards. The ADAAG standards of construction replace ANSI standards and provide the architectural standards of construction. [1995, c. 393, §27 (NEW).]

[1997, c. 630, §1 (AMD) .]

2. **Facilities attested.** This section applies to any building or facility constructed specifically as a place of public accommodation or place of employment on or after January 1, 1996 but before March 15, 2012 or to any alterations of an existing place of public accommodation or place of employment when the alteration is begun after January 1, 1996 but before March 15, 2012, unless such construction or alteration is covered by section 4594-G, in which case section 4594-G and not this section applies. As an alternative to compliance with this section, any new construction or alterations covered by this section may comply with section 4594-G.

[2011, c. 322, §7 (AMD) .]

3. **Application.** Facilities subject to this section must meet the following standards.

A. Places of employment or public accommodation and additions to those places constructed on or after January 1, 1996 but before March 15, 2012 must meet the standards of construction, including, but not limited to, the 5 parts of the standards of construction in paragraph B, subparagraph (2). [2011, c. 1, §5 (COR).]

B. Alterations are governed by the following.

(1) Any alteration to a place of public accommodation, commercial facility or place of employment on or after January 1, 1996 but before March 15, 2012 must be made so as to ensure that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. If existing elements, spaces or common areas are altered, then each altered element, space or area must comply with the applicable provisions of the standards of construction.

(2) This subparagraph applies to only buildings remodeled or renovated or to any alterations if the estimated total costs for remodeling or renovating or for alterations to an existing building exceed $100,000.

(a) Except for repairs undertaken in accordance with the rules adopted pursuant to subsection 4, when the proposed alteration substantially affects that portion of the building normally accessible to the public, a place of employment or public accommodation altered on or after January 1, 1996 but before March 15, 2012 must meet the following 5 parts of the standards of construction or as otherwise indicated:

(i) 4.3 accessible routes;

(ii) 4.13 doors;

(iii) Tactile warnings on doors to hazardous areas. Doors that lead to areas that might prove dangerous to a blind person, for example, doors to loading platforms, boiler rooms, stages and the like, must be made identifiable to the touch by a textured surface on the door handle, knob, pull or other operating hardware. This textured surface may be made by knurling or roughening or by a material applied to the contact surface. Textured surfaces may not be provided for emergency exit doors or any doors other than those to hazardous areas;

(iv) Parking spaces for use by persons with physical disabilities pursuant to 4.1.2 of the standards of construction; and

(v) 4.17 toilet stalls, at least one of which must be a standard toilet stall configuration pursuant to ADAAG figure 30(a). Any additional toilet stalls within the same toilet room may be either standard stall configuration, ADAAG figure 30(a) or alternate stall configuration ADAAG figure 30(b).

(b) In addition to the 5 parts of the standards of construction specified in division (a), each of which must be met regardless of the cost of the 5 parts of the standards, when the entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones and drinking fountains serving the altered area are readily accessible to and usable by individuals with disabilities where such alterations to the path of travel or the bathrooms, telephones and drinking fountains serving the altered area to the extent that the costs to provide an accessible path of travel do not exceed 20% of the cost of the alteration to the primary function area.

If the cost to provide an accessible path of travel to the altered area exceeds 20% of the costs of the alteration to the primary function area, the path of travel must be made accessible to the extent that it can be made accessible without incurring disproportionate costs.

In determining whether the 20% cost figure has been met, the following analysis must be used. The analysis must include an evaluation of whether the following elements of access have been provided, using the following order of priority, before costing 20%, regardless of other elements of access that may have been provided which may affect the path of travel:

(i) An accessible entrance;

(ii) An accessible route to the altered area;

(iii) At least one accessible restroom for each sex or a single unisex restroom;

(iv) Accessible telephones;

(v) Accessible drinking fountains; and

(vi) When possible, additional accessible elements such as parking, storage and alarms.

The obligation to provide an accessible path of travel may not be evaded by performing a series of small alterations to the area served by a single path of travel if those alterations could have been performed as a single undertaking.

(3) This subparagraph applies to only buildings remodeled or renovated or to any alterations if the estimated total costs for remodeling or renovating or for alterations to an existing building do not exceed $100,000. When the entity is undertaking an alteration that affects or could affect usability or access to an area of the facility containing a primary function, the entity shall make the alterations in a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones and drinking fountains serving the altered area are readily accessible to and usable by individuals with disabilities, where the alterations to the path of travel or the bathrooms, telephones and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope. [2011, c. 322, §7 (AMD).]

C. This subsection may not be construed to require the installation of an elevator for a facility that is less than 3 stories in height or has less than 3,000 square feet per story unless the facility is a shopping center, a shopping mall, the professional office of a health care provider, a terminal, depot or other station used for specified public transportation or an airport passenger terminal or a facility covered by Title II of the Americans with Disabilities Act or unless the United States Attorney General determines that a particular category of facility requires the installation of elevators based on the usage of the facility. [1995, c. 393, §27 (NEW).]

[2011, c. 1, §5 (COR) .]

4. **Curb ramps.** Curb ramps or other slopes are required in the following situations.

A. Newly constructed or altered streets, roads and highways must contain curb ramps or other sloped areas at any intersection having curbs or other barriers to entry from a street-level pedestrian walkway. [1995, c. 393, §27 (NEW).]

B. Newly constructed or altered street-level pedestrian walkways must contain curb ramps or other sloped areas at intersections to streets, roads or highways. [1995, c. 393, §27 (NEW).]

[1995, c. 393, §27 (NEW) .]

5. **Rules.** The commission shall adopt, alter and amend rules designed to make facilities under this section accessible to, functional for and safe for use by persons with physical or mental disabilities in accordance with subsections 3 and 4 and shall adopt, alter and amend rules designed to enforce this section. The commission may repeal only those rules contrary to this chapter. The commission shall also adopt rules concerning procedures and requirements for alterations that will threaten or destroy the historic significance of qualified historic buildings and facilities as defined in 4.1.7(1) and (2) of the Uniform Federal Accessibility Standards, maintaining, at a minimum, the procedures and requirements established in 4.1.7(1) and (2) of the Uniform Federal Accessibility Standards.

[1995, c. 393, §27 (NEW) .]

6. **Barrier-free certification; inspection.** If the costs of construction or alterations are at least $50,000, the builder of a facility to which this section applies must obtain a certification from an architect, professional engineer, certified interior designer or landscape architect who is licensed, certified or registered to practice under Title 32 and is practicing within the scope of that individual's profession that the plans meet the standards of construction required by this section. The builder shall provide the certification to the Office of the State Fire Marshal with the plans of the facility. The builder shall also provide the certification to the municipality where the facility exists or will be built. Nothing in this section may be construed to change the scope of practice of any individual licensed, certified or registered to practice under Title 32.

[1997, c. 630, §2 (AMD) .]

7. **Training, education and assistance.** The commission and the Office of the State Fire Marshal, with input from organizations representing individuals with disabilities, shall develop, as necessary, information packets, lectures, seminars and educational forums on barrier-free design for the purpose of increasing the awareness and knowledge of owners, architects, professional engineers, certified interior designers, landscape architects, code enforcers, building contractors, individuals with disabilities and other interested parties.

[1997, c. 630, §2 (AMD) .]

8. **Mandatory plan review; certification; inspection.** Builders of newly constructed public buildings shall submit plans to the Office of the State Fire Marshal to ensure that the plans meet the standards of construction required by subsections 3 and 4.

A. For purposes of this subsection, "public building" means any building or structure constructed, operated or maintained for use by the general public, including, but not limited to, all buildings or portions of buildings used for:

(1) State, municipal or county purposes;

(2) Education;

(3) Health care;

(4) Public assembly;

(5) A hotel, motel or inn;

(6) A restaurant;

(7) Business occupancy; or

(8) Mercantile establishments occupying more than 3000 square feet. [1995, c. 393, §27 (NEW).]

B. The municipal authority having jurisdiction to issue building permits may not issue a building permit unless the Office of the State Fire Marshal approves the plans and certifies that the public building covered by this subsection meets the standards of construction required by this section. If no decision is rendered within 2 weeks of submission to the Office of the State Fire Marshal, the builder may submit the building permit request directly to the municipality with an attestation from an architect or professional engineer licensed or registered to practice under Title 32 that the plans meet the standards of construction. [1997, c. 630, §3 (AMD).]

C. If officials of the municipality in which a restaurant; motel; hotel; inn; state; municipal or county building; or an elementary or secondary school covered by this subsection is constructed, renovated, remodeled or enlarged inspect buildings for compliance with construction standards, that inspection must include an inspection for compliance with the certified plans. The municipal officials shall require that a facility covered by this paragraph be inspected for compliance with construction standards before the municipal officials permit a facility covered by this paragraph to be occupied. [1995, c. 393, §27 (NEW).]

[1997, c. 630, §3 (AMD) .]

9. **Voluntary plan review.** Builders of facilities not governed by subsection 8 may submit plans to the Office of the State Fire Marshal to ensure that the plans meet the standards of construction required by subsections 3 and 4. Certification for a voluntary plan review may be provided by an architect, professional engineer, certified interior designer or landscape architect licensed, certified or registered to practice under Title 32 and practicing within the scope of that individual's profession.

[1997, c. 630, §4 (AMD) .]

10. **Waivers; variance.** Builders of facilities governed by subsection 8 that are private entities, when the facilities are not to be owned or operated by, or leased to or by, a public entity, may file a petition with the State Fire Marshal requesting a waiver or variance of the standards of construction. If a representative of the Office of the State Fire Marshal determines, in cases covered by mandatory plan review pursuant to subsection 8, that compliance with this section and its rules is structurally impracticable, the State Fire Marshal may provide for modification of, or substitution for, these standards. In all petitions for variance or waiver, the burden of proof is on the party requesting the variance or waiver to justify its allowance.

[1995, c. 393, §27 (NEW) .]

11. **Appeals relating to mandatory plan reviews.** Decisions of the State Fire Marshal on requests for waivers or variances in cases covered by mandatory plan review under subsection 8 are subject to review in Superior Court upon petition of the aggrieved party within 30 days after the issuance of the decision for which review is sought. The court may enter an order enforcing, modifying or setting aside the decision of the State Fire Marshal, or it may remand the proceeding to the State Fire Marshal for further action as the court may direct.

[1995, c. 393, §27 (NEW) .]

12. **Fees.** The Office of the State Fire Marshal shall establish fees for reviews, waivers or variances under this section. The Office of the State Fire Marshal shall pay all fees to the Treasurer of State to be used to carry out this chapter. Any balance of these fees does not lapse but is carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

[1995, c. 393, §27 (NEW) .]

SECTION HISTORY
1995, c. 393, §27 (NEW). 1997, c. 630, §§1-4 (AMD). RR 2011, c. 1, §5 (COR). 2011, c. 322, §7 (AMD).

§4594-G. STANDARDS FOR FACILITIES CONSTRUCTED OR ALTERED AFTER MARCH 15, 2012

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

A. "Alteration" means a change to a place of public accommodation or a commercial facility that affects or could affect the usability of the building or facility or any part of the building or facility, including, but not limited to, reconstruction, remodeling, rehabilitation, historic restoration, changes or rearrangement in structural parts or elements and changes or rearrangement in the plan configuration of walls and full-height partitions. Normal maintenance, reroofing, painting or wallpapering, asbestos removal or changes to mechanical and electrical systems are not alterations unless they affect the usability of the building or facility. [2011, c. 322, §8 (NEW).]

B. "Builder" means the applicant for a building permit in a municipality that requires such permits or the owner of a property in a municipality that does not require building permits. [2011, c. 322, §8 (NEW).]

C. "Commuter rail transportation" means short-haul rail passenger service operating in metropolitan and suburban areas, whether within or across the geographical boundaries of a state, usually characterized by reduced fare, multiple ride and commutation tickets and by morning and evening peak period operations. This term does not include light or rapid rail transportation. [2011, c. 322, §8 (NEW).]

D. "Demand responsive system" means any system of transporting individuals, including the provision of designated public transportation service by public entities and the provision of transportation service by private entities, including but not limited to specified public transportation service, that is not a fixed-route system. [2011, c. 322, §8 (NEW).]

E. "Designated public transportation" means transportation provided by a public entity other than public school transportation by bus, rail or other conveyance other than transportation by aircraft or intercity or commuter rail transportation that provides the general public with general or special service, including charter service, on a regular and continuing basis. [2011, c. 322, §8 (NEW).]

F. "Facility" means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots or other real or personal property, including the site where the building, property, structure or equipment is located. [2011, c. 322, §8 (NEW).]

G. "Fixed-route system" means a system of transporting individuals other than by aircraft, including the provision of designated public transportation service by public entities and the provision of transportation service by private entities, including, but not limited to, specified public transportation service, on which a vehicle is operated along a prescribed route according to a fixed schedule. [2011, c. 322, §8 (NEW).]

H. "Intercity rail transportation" means transportation provided by the National Railroad Passenger Corporation, doing business as Amtrak. [2011, c. 322, §8 (NEW).]

I. "New construction" includes, but is not limited to, the design and construction of a facility for first occupancy or an alteration if the cost of the alteration is 75% or more of the replacement cost of the completed facility. [2011, c. 322, §8 (NEW).]

J. "Specified public transportation" means transportation by bus, rail or any other conveyance other than aircraft provided by a private entity to the general public, with general or special service, including charter service, on a regular and continuing basis. [2011, c. 322, §8 (NEW).]

K. "Standards of construction" means:

(1) For a transportation facility, the accessibility standards adopted by the federal Department of Transportation, 49 Code of Federal Regulations, Sections 37.9, 37.41, 37.43 and 37.45 (2010);

(2) For a facility constructed or altered by, on behalf of or for the use of a public entity, other than a transportation facility, the 2010 ADA Standards for Accessible Design, 28 Code of Federal Regulations, Sections 35.104 and 35.151; and

(3) For a place of public accommodation or a commercial facility, other than a facility covered by subparagraph (1) or (2), the 2010 ADA Standards for Accessible Design, 28 Code of Federal Regulations, Section 36.104 and Sections 36.401 to 36.406. [2011, c. 2, §3 (COR).]

L. "Transportation facility" means a facility constructed or altered by, on behalf of or for the use of:

(1) Any public entity that provides designated public transportation or intercity or commuter rail transportation;

(2) Any private entity that provides specified public transportation; or

(3) Any private entity that is not primarily engaged in the business of transporting people but operates a demand responsive system or fixed-route system. [2011, c. 322, §8 (NEW).]

[2011, c. 2, §3 (COR) .]

2. Facilities attested. This section applies to new construction and alterations of transportation facilities, places of public accommodation and commercial facilities and facilities constructed or altered by, on behalf of or for the use of a public entity, if:

A. The last application for a building permit or permit extension is certified to be complete by the appropriate state, county or local government entity on or after March 15, 2012; [2011, c. 322, §8 (NEW).]

B. In a jurisdiction where the government does not certify completion of applications, the last application for a building permit or permit extension is received by the appropriate state, county or local government entity on or after March 15, 2012; or [2011, c. 322, §8 (NEW).]

C. If no permit is required, the start of physical construction or alterations occurs on or after March 15, 2012. [2011, c. 322, §8 (NEW).]

[2011, c. 322, §8 (NEW) .]

3. **Unlawful discrimination.** In addition to failure to meet applicable accessible building requirements in subchapter 4, for purposes of this Act, unlawful discrimination includes, but is not limited to, the failure to meet the standards of construction for new construction or alterations subject to this section.

[2011, c. 322, §8 (NEW) .]

4. **Barrier-free certification.** If the costs of construction or alterations are at least $75,000, the builder of a facility to which this section applies must obtain a certification from an architect, professional engineer, certified interior designer or landscape architect who is licensed, certified or registered to practice under Title 32 and is practicing within the scope of that individual's profession that the plans meet the requirements of subsection 3. The builder shall provide the certification to the Office of the State Fire Marshal with the plans of the facility. The builder shall also provide the certification to the municipality where the facility exists or will be built. Nothing in this section may be construed to change the scope of practice of any individual licensed, certified or registered to practice under Title 32.

[2011, c. 322, §8 (NEW) .]

5. **Training, education and assistance.** The commission and the Office of the State Fire Marshal, with input from organizations representing persons with disabilities, shall develop, as necessary, information packets, lectures, seminars and educational forums on barrier-free design for the purpose of increasing the awareness and knowledge of owners, architects, professional engineers, certified interior designers, landscape architects, code enforcers, building contractors, persons with disabilities and other interested parties.

[2011, c. 322, §8 (NEW) .]

6. **Mandatory plan review; certification.** A builder of a proposed public building shall submit plans to the Office of the State Fire Marshal prior to construction to ensure that the plans meet the standards of construction.

A. For purposes of this subsection, "public building" means any building or structure constructed, operated or maintained for use by the general public, including, but not limited to, all buildings or portions of buildings used for:

(1) State, municipal or county purposes;

(2) Education;

(3) Health care, residential care nursing homes or any facility licensed by the Department of Health and Human Services;

(4) Public assembly;

(5) A hotel, motel, inn or rooming or lodging house;

(6) A restaurant;

(7) Business occupancy of more than 3,000 square feet or more than one story; or

(8) Mercantile occupancy of more than 3,000 square feet or more than one story. [2011, c. 322, §8 (NEW).]

B. The municipal authority having jurisdiction to issue building permits may not issue a building permit unless the Office of the State Fire Marshal approves the plans and certifies that the plans for the public building covered by this subsection meet the standards of construction. If the builder of a facility is required to obtain barrier-free certification, a permit for construction from the Office of the State Fire Marshal is also required. If no decision is rendered within 2 weeks of submission to the Office of the State Fire Marshal, the builder may submit the permit request directly to the municipality with an attestation from an architect or professional engineer licensed or registered to practice under Title 32 that the plans meet the standards of construction. [2011, c. 322, §8 (NEW).]

[2011, c. 322, §8 (NEW) .]

7. **Inspection.** If officials of the municipality in which a restaurant, motel, hotel or inn; state, municipal or county building; or an elementary or secondary school covered by this subsection is constructed, renovated, remodeled or enlarged inspect buildings for compliance with construction standards, that inspection must include an inspection for compliance with plans certified by the Office of the State Fire Marshal or by a professional pursuant to subsection 4. The municipal officials shall require that a facility covered by this paragraph be inspected for compliance with the standards of construction required by subsection 3 before the municipal officials permit a facility covered by this paragraph to be occupied.

[2011, c. 322, §8 (NEW) .]

8. **Voluntary plan review.** Builders of facilities not governed by subsection 6 may submit plans to the Office of the State Fire Marshal to ensure that the plans meet the standards of construction required by subsection 3. Certification for a voluntary plan review may be provided by an architect, professional engineer, certified interior designer or landscape architect licensed, certified or registered to practice under Title 32 and practicing within the scope of that individual's profession.

[2011, c. 322, §8 (NEW) .]

9. **Waivers; variance.** Builders of facilities governed by subsection 6 may file a petition with the State Fire Marshal requesting a waiver or variance of the standards of construction. If a representative of the Office of the State Fire Marshal determines, in cases covered by mandatory plan review pursuant to subsection 6, that compliance with this section and its rules is structurally impracticable, the State Fire Marshal may provide for modification of, or substitution for, these standards. In all petitions for variance or waiver, the burden of proof is on the party requesting the variance or waiver to justify allowing the variance or waiver.

[2011, c. 322, §8 (NEW) .]

10. **Appeals relating to mandatory plan reviews.** Decisions of the State Fire Marshal on requests for waivers or variances in cases covered by mandatory plan review under subsection 6 are subject to review in Superior Court upon petition of the aggrieved party within 30 days after the issuance of the decision for which review is sought. The court may enter an order enforcing, modifying or setting aside the decision of the State Fire Marshal, or it may remand the proceeding to the State Fire Marshal for further action as the court may direct.

[2011, c. 322, §8 (NEW) .]

11. **Fees.** The Office of the State Fire Marshal shall establish fees for reviews, waivers or variances under this section. The Office of the State Fire Marshal shall pay all fees to the Treasurer of State to be used to carry out this subchapter. Any balance of these fees does not lapse but is carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

[2011, c. 322, §8 (NEW) .]

SECTION HISTORY
RR 2011, c. 2, §3 (COR). 2011, c. 322, §8 (NEW).

Subchapter 5-A: A FAIR CREDIT EXTENSION

§4595. RIGHT TO FREEDOM FROM DISCRIMINATION SOLELY ON BASIS OF AGE, RACE, COLOR, SEX, SEXUAL ORIENTATION, MARITAL STATUS, ANCESTRY, RELIGION OR NATIONAL ORIGIN IN ANY CREDIT TRANSACTION

The opportunity for every individual to be extended credit without discrimination solely because of any one or more of the following factors: age; race; color; sex; sexual orientation; marital status; ancestry; religion or national origin is recognized as and declared to be a civil right. [2005, c. 10, §18 (AMD).]

SECTION HISTORY
1973, c. 668, (NEW). 1975, c. 355, §15 (AMD). 1975, c. 370, §1 (AMD). 1975, c. 770, §40 (RPR). 2005, c. 10, §18 (AMD).

§4596. UNLAWFUL CREDIT EXTENSION DISCRIMINATION

It is unlawful credit discrimination for any creditor to refuse the extension of credit to any person solely on the basis of any one or more of the following factors: age; race; color; sex; sexual orientation; marital status; ancestry; religion or national origin in any credit transaction. It is not unlawful credit discrimination to comply with the terms and conditions of any bona fide group credit life, accident and health insurance plan, for a financial institution extending credit to a married person to require both the husband and the wife to sign a note and a mortgage and to deny credit to persons under the age of 18 or to consider a person's age in determining the terms upon which credit will be extended. [2005, c. 10, §19 (AMD).]

SECTION HISTORY
1973, c. 668, (NEW). 1973, c. 788, §26 (AMD). 1975, c. 355, §16 (AMD). 1975, c. 370, §2 (AMD). 1975, c. 770, §41 (AMD). 2005, c. 10, §19 (AMD).

§4597. DEFINITIONS

As used in this subchapter, unless the context otherwise requires, the following words shall have the following meanings: [1973, c. 668, (NEW).]

1. **Application for credit.** "Application for credit" means any communication, oral or written, by a person to a creditor requesting an extension of credit to that person or to any other person, and includes any procedure involving the renewal or alteration of credit privileges or the changing of the name of the person to whom credit is extended;

[1973, c. 668, (NEW) .]

2. **Credit.** "Credit" means the right granted by a creditor to a person to defer payment of debt or to incur debt and defer its payment, or purchase property or services and defer payment therefor;

[1973, c. 668, (NEW) .]

3. **Credit sale.** "Credit sale" means any transaction with respect to which credit is granted or arranged by the seller. The term includes any contract in the form of a bailment or lease if the bailee or lessee contracts to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the property and services involved and it is agreed that the bailee or lessee will become the owner of the property upon full compliance with his obligations under the contract;

[1973, c. 668, (NEW) .]

4. **Credit transaction.** "Credit transaction" means any invitation to apply for credit, application for credit, extension of credit or credit sale.

[1973, c. 668, (NEW) .]

5. **Creditor.** "Creditor" means any person who regularly extends or arranges for the extension of credit for which the payment of finance charge or interest is required whether in connection with loans, sale of property or services or otherwise.

[1973, c. 668, (NEW) .]

6. **Extension of credit.** "Extension of credit" means any acts incident to the evaluation of an application for credit and the granting of credit.

[1973, c. 668, (NEW) .]

7. **Invitation to apply for credit.** "Invitation to apply for credit" means any communication, oral or written, by a creditor which encourages or prompts an application for credit.

[1973, c. 668, (NEW) .]

SECTION HISTORY
1973, c. 668, (NEW).

§4598. ENFORCEMENT

The Superintendent of Financial Institutions and the Superintendent of Consumer Credit Protection shall cooperate with the Maine Human Rights Commission in its enforcement of this subchapter. [1995, c. 17, §1 (AMD); 2001, c. 44, §11 (AMD); 2001, c. 44, §14 (AFF).]

SECTION HISTORY
1973, c. 668, (NEW). 1975, c. 355, §17 (AMD). 1979, c. 541, §A39 (AMD). 1995, c. 17, §1 (AMD). 2001, c. 44, §11 (AMD). 2001, c. 44, §14 (AFF).

Subchapter 5-B: EDUCATIONAL OPPORTUNITY

§4601. RIGHT TO FREEDOM FROM DISCRIMINATION IN EDUCATION

The opportunity for an individual at an educational institution to participate in all educational, counseling and vocational guidance programs and all apprenticeship and on-the-job training programs without discrimination because of sex, sexual orientation, a physical or mental disability, national origin or race is recognized and declared to be a civil right. [2005, c. 10, §20 (AMD).]

SECTION HISTORY
1983, c. 578, §3 (NEW). 1987, c. 478, §3 (AMD). 1989, c. 725, §1 (AMD). 1991, c. 99, §27 (AMD). 1991, c. 100, §1 (AMD). 1991, c. 824, §A4 (RPR). 2005, c. 10, §20 (AMD).

§4602. UNLAWFUL EDUCATIONAL DISCRIMINATION

1. **Unlawful educational discrimination on the basis of sex.** It is unlawful educational discrimination in violation of this Act, on the basis of sex, to:

A. Exclude a person from participation in, deny a person the benefits of, or subject a person to, discrimination in any academic, extracurricular, research, occupational training or other program or activity; [1985, c. 797, §1 (AMD).]

B. Deny a person equal opportunity in athletic programs; [1983, c. 578, §3 (NEW).]

C. Apply any rule concerning the actual or potential family or marital status of a person or to exclude any person from any program or activity because of pregnancy or related conditions; [1983, c. 578, §3 (NEW).]

D. Deny admission to the institution or program or to fail to provide equal access to and information about an institution or program through recruitment; or [1983, c. 578, §3 (NEW).]

E. Deny financial assistance availability and opportunity. [1983, c. 578, §3 (NEW).]

[1985, c. 797, §1 (AMD) .]

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

A. Exclude from participation in, deny the benefits of or subject to discrimination under any educational program or activity any otherwise qualified individual with physical or mental disability; [1991, c. 99, §28 (AMD).]

B. Deny any person equal opportunity in athletic programs, provided that no educational institution may be required under this subsection to provide separate athletic programs to serve persons with physical or mental disability; [1991, c. 99, §28 (AMD).]

C. Deny admission to any institution or program or fail to provide equal access to and information about an institution or program through recruitment; or [1987, c. 478, §4 (NEW).]

D. Deny financial assistance availability and opportunity. [1987, c. 478, §4 (NEW).]

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

[2005, c. 662, Pt. A, §1 (AMD) .]

3. **Unlawful educational discrimination on the basis of national origin or race.** It is unlawful educational discrimination in violation of this Act, on the basis of national origin or race, to:

A. Exclude a person from participation in, deny a person the benefits of, or subject a person to, discrimination in any academic, extracurricular, research, occupational training or other program or activity; [1989, c. 725, §2 (NEW).]

B. Deny admission to the institution or program or to fail to provide equal access to and information about an institution or program through recruitment; or [1989, c. 725, §2 (NEW).]

C. Deny financial assistance availability and opportunity. [1989, c. 725, §2 (NEW).]

[1991, c. 100, §2 (AMD) .]

4. **Unlawful education discrimination on the basis of sexual orientation.** It is unlawful education discrimination in violation of this Act, on the basis of sexual orientation, to:

A. Exclude a person from participation in, deny a person the benefits of or subject a person to discrimination in any academic, extracurricular, research, occupational training or other program or activity; [2005, c. 10, §21 (NEW).]

B. Deny a person equal opportunity in athletic programs; [2005, c. 10, §21 (NEW).]

C. Apply any rule concerning the actual or potential family or marital status of a person or to exclude any person from any program or activity because of their sexual orientation; [2005, c. 10, §21 (NEW).]

D. Deny admission to the institution or program or to fail to provide equal access to any information about an institution or program through recruitment; or [2005, c. 10, §21 (NEW).]

E. Deny financial assistance availability and opportunity. [2005, c. 10, §21 (NEW).]

The provisions in this subsection relating to sexual orientation do not apply to any education facility owned, controlled or operated by a bona fide religious corporation, association or society.

[2005, c. 10, §21 (NEW) .]

SECTION HISTORY
1983, c. 578, §3 (NEW). 1985, c. 797, §1 (AMD). 1987, c. 478, §4 (AMD). 1989, c. 725, §2 (AMD). 1991, c. 99, §28 (AMD). 1991, c. 100, §2 (AMD). 2005, c. 10, §21 (AMD). 2005, c. 662, §A1 (AMD).

§4603. RULEMAKING

The Commissioner of Education shall have joint rule-making authority with the commission to effectuate this subchapter. [1989, c. 700, Pt. A, §18 (AMD).]

SECTION HISTORY
1983, c. 578, §3 (NEW). 1989, c. 700, §A18 (AMD).

§4604. ENFORCEMENT

The Commissioner of Education, or a designee, may participate in predetermination resolution and conciliation efforts of the commission as follows: [1989, c. 700, Pt. A, §18 (AMD).]

1. **Notification of results of preliminary investigations.** The Commissioner of Education shall be informed of the results of preliminary investigations into complaints of unlawful educational discrimination concerning public schools and programs and private schools approved for tuition purposes.

[1989, c. 700, Pt. A, §18 (AMD) .]

2. **Notification of findings of unlawful educational discrimination; informal conciliation efforts.** The Commissioner of Education shall be informed of any finding that unlawful educational discrimination has occurred in a public school or program or a private school or program approved for tuition purposes. The commissioner may participate in informal conciliation efforts made pursuant to section 4612, subsection 3 and shall, upon request, have access to all information concerning these conciliation efforts.

[1989, c. 700, Pt. A, §18 (AMD) .]

SECTION HISTORY
1983, c. 578, §3 (NEW). 1989, c. 700, §A18 (AMD).

Subchapter 6: COMMISSION ACTION

§4611. COMPLAINT

Any aggrieved person, or any employee of the commission, may file a complaint under oath with the commission stating the facts concerning the alleged discrimination, except that a complaint must be filed with the commission not more than 300 days after the alleged act of unlawful discrimination. In addition, any person may file a complaint pursuant to section 4632. [2011, c. 613, §18 (AMD); 2011, c. 613, §29 (AFF).]

SECTION HISTORY
1971, c. 501, §1 (NEW). 1975, c. 355, §18 (AMD). 1975, c. 357, §1 (AMD). 1975, c. 770, §42 (RPR). 1977, c. 259, §2 (AMD). 1995, c. 393, §28 (AMD). 2009, c. 235, §1 (AMD). 2011, c. 613, §18 (AMD). 2011, c. 613, §29 (AFF).

§4612. PROCEDURE ON COMPLAINTS

1. **Predetermination resolution; investigation.** Upon receipt of such a complaint, the commission or its delegated single commissioner or investigator shall take the following actions.

A. The commission or its delegated single commissioner or investigator shall provide an opportunity for the complainant and respondent to resolve the matter by settlement agreement prior to a determination of whether there are reasonable grounds to believe that unlawful discrimination has occurred. Evidence of conduct or statements made in compromise settlement negotiations, offers of settlement and any final agreement are confidential and may not be disclosed without the written consent of the parties to the proceeding nor used as evidence in any subsequent proceeding, civil or criminal, except in a civil action alleging a breach of agreement filed by the commission or a party. Notwithstanding this paragraph, the commission and its employees have discretion to disclose such information to a party as is reasonably necessary to facilitate settlement. The commission may adopt rules providing for a 3rd-party neutral mediation program. The rules may permit one or more parties to a proceeding to agree to pay the costs of mediation. The commission may receive funds from any source for the purposes of implementing a 3rd-party neutral mediation program. [2007, c. 243, §5 (AMD).]

B. The commission or its delegated commissioner or investigator shall conduct such preliminary investigation as it determines necessary to determine whether there are reasonable grounds to believe that unlawful discrimination has occurred. In conducting an investigation, the commission, or its designated representative, must have access at all reasonable times to premises, records, documents, individuals and other evidence or possible sources of evidence and may examine, record and copy those materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation. The commission may issue subpoenas to compel access to or production of those materials or the appearance of those persons, subject to section 4566, subsections 4-A and 4-B, and may serve interrogatories on a respondent to the same extent as interrogatories served in aid of a civil action in the Superior Court. The commission may administer oaths. The complaint

and evidence collected during the investigation of the complaint, other than data identifying persons not parties to the complaint, is a matter of public record at the conclusion of the investigation of the complaint prior to a determination by the commission. An investigation is concluded upon issuance of a letter of dismissal or upon listing of the complaint on a published commission meeting agenda, whichever first occurs. Prior to the conclusion of an investigation, all information possessed by the commission relating to the investigation is confidential and may not be disclosed, except that the commission and its employees have discretion to disclose such information as is reasonably necessary to further the investigation. Notwithstanding any other provision of this section, the complaint and evidence collected during the investigation of the complaint may be used as evidence in any subsequent proceeding, civil or criminal. The commission must conclude an investigation under this paragraph within 2 years after the complaint is filed with the commission. [2009, c. 235, §2 (AMD).]

[2009, c. 235, §2 (AMD) .]

2. **Order of dismissal.** If the commission does not find reasonable grounds to believe that unlawful discrimination has occurred, it shall enter an order so finding, and dismiss the proceeding.

[1971, c. 501, §1 (NEW) .]

3. **Informal methods, conciliation.** If the commission finds reasonable grounds to believe that unlawful discrimination has occurred, but finds no emergency of the sort contemplated in subsection 4, paragraph B, it shall endeavor to eliminate such discrimination by informal means such as conference, conciliation and persuasion. Everything said or done as part of such endeavors is confidential and may not be disclosed without the written consent of the parties to the proceeding, nor used as evidence in any subsequent proceeding, civil or criminal, except in a civil action alleging a breach of agreement filed by the commission or a party. Notwithstanding this subsection, the commission and its employees have discretion to disclose such information to a party as is reasonably necessary to facilitate conciliation. If the case is disposed of by such informal means in a manner satisfactory to a majority of the commission, it shall dismiss the proceeding.

[2007, c. 243, §7 (AMD) .]

4. **Civil action by commission.**

A. If the commission finds reasonable grounds to believe that unlawful discrimination has occurred, and further believes that irreparable injury or great inconvenience will be caused the victim of such discrimination or to members of a racial, color, sex, sexual orientation, physical or mental disability, religious or nationality group or age group if relief is not immediately granted, or if conciliation efforts under subsection 3 have not succeeded, the commission may file in the Superior Court a civil action seeking such relief as is appropriate, including temporary restraining orders. In a complaint investigated pursuant to a memorandum of understanding between the commission and the United States Department of Housing and Urban Development that results in a reasonable grounds determination, the commission shall file a civil action for the use of complainant if conciliation efforts under subsection 3 are unsuccessful. [2011, c. 613, §19 (AMD); 2011, c. 613, §29 (AFF).]

B. Grounds for the filing of such an action before attempting conciliation include, but are not limited to:

(1) In unlawful housing discrimination, that the housing accommodation sought is likely to be sold or rented to another during the pendency of proceedings, or that an unlawful eviction is about to occur;

(2) In unlawful employment discrimination, that the victim of the discrimination has lost or is threatened with the loss of job and income as a result of such discrimination;

(3) In unlawful public accommodations discrimination, that such discrimination is causing inconvenience to many persons;

(4) In any unlawful discrimination, that the victim of the discrimination is suffering or is in danger of suffering severe financial loss in relation to circumstances, severe hardship or personal danger as a result of such discrimination. [1991, c. 99, §30 (AMD).]

[2011, c. 613, §19 (AMD); 2011, c. 613, §29 (AFF) .]

5. **Confidentiality of 3rd-party records.** The Legislature finds that persons who are not parties to a complaint under this chapter as a complainant or a respondent have a right to privacy. Any records of the commission that are open to the public under Title 1, chapter 13, must be kept in such a manner as to ensure that data identifying these 3rd parties is not reflected in the record. Only data reflecting the identity of these persons may be kept confidential.

[2011, c. 613, §20 (AMD); 2011, c. 613, §29 (AFF) .]

6. **Right to sue.** If, within 180 days of a complaint being filed with the commission, the commission has not filed a civil action in the case or has not entered into a conciliation agreement in the case, the complainant may request a right-to-sue letter, and, if a letter is given, the commission shall end its investigation.

[1995, c. 462, Pt. A, §7 (AMD) .]

SECTION HISTORY
1971, c. 501, §1 (NEW). 1973, c. 347, §13 (AMD). 1973, c. 415, §2 (AMD). 1973, c. 625, §37 (AMD). 1973, c. 705, §11 (AMD). 1973, c. 788, §28 (AMD). 1975, c. 358, §15 (AMD). 1977, c. 648, §2 (AMD). 1981, c. 6, (AMD). 1983, c. 281, §§1,2 (AMD). 1985, c. 585, §§1,2 (AMD). 1991, c. 99, §§29,30 (AMD). 1993, c. 303, §2 (AMD). 1993, c. 327, §2 (AMD). 1993, c. 578, §1 (AMD). 1995, c. 462, §A7 (AMD). 2005, c. 10, §22 (AMD). 2007, c. 243, §§5-7 (AMD). 2009, c. 235, §2 (AMD). 2011, c. 613, §§19, 20 (AMD). 2011, c. 613, §29 (AFF).

§4613. PROCEDURE IN SUPERIOR COURT

1. **Actions filed by commission.** Any such action filed by the commission shall be heard by the Superior Court and may be advanced on the docket and receive priority over other civil cases where the court shall determine that the interests of justice so require. Except as otherwise provided in this chapter, the court shall hear the case and grant relief as in other civil actions for injunctions. Any such action shall be brought in the name of the commission for the use of the victim of the alleged discrimination or of a described class, and the commission shall furnish counsel for the prosecution thereof. Any person aggrieved by the alleged discrimination may intervene in such an action. In no such action brought by the commission shall any injunction bond be required, nor shall damages be assessed for the wrongful issuance of an injunction.

[1979, c. 541, Pt. A, §40 (AMD) .]

2. **All actions under this Act.** In any action filed under this Act by the commission or by any other person:

A. Where any person who has been the subject of alleged unlawful housing discrimination has not acquired substitute housing, temporary injunctions against the sale or rental to others of the housing accommodation as to which the violation allegedly occurred, and against the sale or rental of other housing accommodations controlled by the alleged violator shall be liberally granted in the interests of furthering the purposes of this Act, when it appears probable that the plaintiff will succeed upon final disposition of the case. [1971, c. 501, §1 (NEW).]

B. If the court finds that unlawful discrimination occurred, its judgment must specify an appropriate remedy or remedies for that discrimination. The remedies may include, but are not limited to:

(1) An order to cease and desist from the unlawful practices specified in the order;

(2) An order to employ or reinstate a victim of unlawful employment discrimination, with or without back pay;

(3) An order to accept or reinstate such a person in a union;

(4) An order to rent or sell a specified housing accommodation, or one substantially identical to that accommodation if controlled by the respondent, to a victim of unlawful housing discrimination;

(5) An order requiring the disclosure of the locations and descriptions of all housing accommodations that the violator has the right to sell, rent, lease or manage and forbidding the sale, rental or lease of those housing accommodations until the violator has given security to ensure compliance with any order entered against the violator and with all provisions of this Act. An order may continue the court's jurisdiction until the violator has demonstrated compliance and may defer decision on some or all relief until after a probationary period and a further hearing on the violator's conduct during that period;

(6) An order to pay the victim, in cases of unlawful price discrimination, 3 times the amount of any excessive price demanded and paid by reason of that unlawful discrimination;

(7) An order to pay to the victim of unlawful discrimination, other than employment discrimination in the case of a respondent who has more than 14 employees, or, if the commission brings action on behalf of the victim, an order to pay to the victim, the commission or both, civil penal damages not in excess of $20,000 in the case of the first order under this Act against the respondent, not in excess of $50,000 in the case of a 2nd order against the respondent arising under the same subchapter of this Act and not in excess of $100,000 in the case of a 3rd or subsequent order against the respondent arising under the same subchapter of this Act, except that the total amount of civil penal damages awarded in any action filed under this Act may not exceed the limits contained in this subparagraph;

(8) In cases of intentional employment discrimination with respondents who have more than 14 employees, compensatory and punitive damages as provided in this subparagraph.

(a) In an action brought by a complaining party under section 4612 and this section against a respondent who engaged in unlawful intentional discrimination prohibited under sections 4571 to 4575, if the complaining party can not recover under 42 United States Code, Section 1981 (1994), the complaining party may recover compensatory and punitive damages as allowed in this subparagraph in addition to any relief authorized elsewhere in this subsection from the respondent.

(b) When a discriminatory practice involves the provision of a reasonable accommodation, damages may not be awarded under this subparagraph when the covered entity demonstrates good faith efforts, in consultation with the person with the disability who has informed the covered entity that accommodation is needed, to identify and make a reasonable accommodation that would provide that individual with an equally effective opportunity and would not cause an undue hardship on the operation of the business.

(c) A complaining party may recover punitive damages under this subparagraph against a respondent if the complaining party demonstrates that the respondent engaged in a discriminatory practice or discriminatory practices with malice or with reckless indifference to the rights of an aggrieved individual protected by this Act.

(d) Compensatory damages awarded under this subparagraph do not include back pay, interest on back pay or any other type of relief authorized elsewhere under this subsection.

(e) The sum of compensatory damages awarded under this subparagraph for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, other nonpecuniary losses and the amount of punitive damages awarded under this section may not exceed for each complaining party:

(i) In the case of a respondent who has more than 14 and fewer than 101 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $50,000;

(ii) In the case of a respondent who has more than 100 and fewer than 201 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $100,000;

(iii) In the case of a respondent who has more than 200 and fewer than 501 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $300,000; and

(iv) In the case of a respondent who has more than 500 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $500,000.

(f) Nothing in this subparagraph may be construed to limit the scope of, or the relief available under, 42 United States Code, Section 1981 (1994).

(g) If a complaining party seeks compensatory or punitive damages under this subparagraph, any party may demand a trial by jury, and the court may not inform the jury of the limitations described in division (e).

(h) This subparagraph does not apply to recoveries for a practice that is unlawful only because of its disparate impact.

(i) Punitive damages may not be included in a judgment or award against a governmental entity, as defined in Title 14, section 8102, subsection 2, or against an employee of a governmental entity based on a claim that arises out of an act or omission occurring within the course or scope of that employee's employment; and

(9) In addition to other remedies in subparagraphs (1) to (8), an order to pay actual and punitive damages in the case of discriminatory housing practices. This subparagraph is not intended to limit actual damages available to a plaintiff alleging other discrimination if the remedy of actual damages is otherwise available under this Act. Punitive damages under this subparagraph may not be included in a judgment or award against a governmental entity, as defined in Title 14, section 8102, subsection 2, or against an employee of a governmental entity based on a claim that arises out of an act or omission occurring within the course or scope of that employee's employment; [2011, c. 613, §21 (AMD); 2011, c. 613, §29 (AFF).]

C. The action must be commenced not more than either 2 years after the act of unlawful discrimination complained of or 90 days after any of the occurrences listed under section 4622, subsection 1, paragraphs A to D, whichever is later. [2009, c. 235, §3 (AMD).]

D. The obtaining of an approval of a plan certified by the Office of the State Fire Marshal under section 4594-F, subsection 8 or 9 is rebuttable evidence that the plan does meet or exceed the minimum requirements of section 4594-F, subsection 8 or 9. [1995, c. 393, §29 (NEW).]

[2011, c. 613, §21 (AMD); 2011, c. 613, §29 (AFF) .]

SECTION HISTORY
1971, c. 501, §1 (NEW). 1975, c. 357, §2 (AMD). 1979, c. 541, §A40 (AMD). 1981, c. 255, §§1,2 (AMD). 1981, c. 470, §A7 (AMD). 1987, c. 38, (AMD). 1989, c. 99, (AMD). 1991, c. 474, §1 (AMD). 1991, c. 474, §3 (AFF). 1995, c. 393, §29 (AMD). 1997, c. 400, §1 (AMD). 2007, c. 243, §8 (AMD). 2007, c. 457, §1 (AMD). 2007, c. 695, Pt. A, §7 (AMD). 2009, c. 235, §3 (AMD). 2011, c. 613, §21 (AMD). 2011, c. 613, §29 (AFF).

§4614. ATTORNEYS' FEES AND COSTS

In any civil action under this Act, the court, in its discretion, may allow the prevailing party, other than the commission, reasonable attorneys' fees and costs, and the commission shall be liable for attorneys' fees and costs the same as a private person. [1981, c. 255, §3 (NEW).]

SECTION HISTORY
1981, c. 255, §3 (NEW).

Subchapter 7: CIVIL ACTIONS BY AGGRIEVED PERSONS

§4621. CIVIL ACTION

Within the time limited, an aggrieved person may file a civil action in the Superior Court against the person or persons who committed the unlawful discrimination. [2011, c. 613, §22 (AMD); 2011, c. 613, §29 (AFF).]

SECTION HISTORY
1971, c. 501, §1 (NEW). 1979, c. 541, §A41 (AMD). 2011, c. 613, §22 (AMD). 2011, c. 613, §29 (AFF).

§4622. LIMITATIONS ON ATTORNEYS' FEES AND DAMAGES; PROCEDURES

1. **Limitation.** Attorney's fees under section 4614 and civil penal damages or compensatory and punitive damages under section 4613 may not be awarded to a plaintiff in a civil action under this Act unless the plaintiff alleges and establishes that, prior to the filing of the civil action, the plaintiff first filed a complaint with the commission and the commission either:

A. Dismissed the case under section 4612, subsection 2; [1993, c. 327, §3 (AMD).]

B. Failed, within 90 days after finding reasonable grounds to believe that unlawful discrimination occurred, to enter into a conciliation agreement to which the plaintiff was a party; [2003, c. 279, §1 (AMD).]

C. Issued a right-to-sue letter under section 4612, subsection 6; or [2009, c. 235, §4 (AMD).]

D. Dismissed the case in error. [2003, c. 279, §3 (NEW).]

This subsection does not apply to or limit any remedies for civil actions filed under subchapter 5 if one or more additional causes of action are alleged in the same civil action that do not require exhaustion of administrative remedies or subchapter 4 if the allegations are covered by the federal Fair Housing Act, 42 United States Code, Chapter 45.

[2011, c. 613, §23 (AMD); 2011, c. 613, §29 (AFF) .]

2. **Advancement on docket; priority.** If the plaintiff alleges and establishes that the conditions of subsection 1 have been met, the action may also be advanced on the docket and given priority over other civil actions.

[1981, c. 255, §4 (NEW) .]

SECTION HISTORY
1971, c. 501, §1 (NEW). 1973, c. 347, §14 (AMD). 1981, c. 255, §4 (RPR). 1993, c. 327, §§3,4 (AMD). 1995, c. 393, §30 (AMD). 1997, c. 400, §2 (AMD). 2003, c. 279, §§1-3 (AMD). 2009, c. 235, §4 (AMD). 2011, c. 613, §23 (AMD). 2011, c. 613, §29 (AFF).

§4623. CONSOLIDATION OF CASES

If it appears during the pendence of such private action that the commission has commenced an action against the same defendant, based on the same facts, the court shall, except for good cause shown, order consolidation of the cases, on such terms as justice may require. [1971, c. 501, §1 (NEW).]

SECTION HISTORY
1971, c. 501, §1 (NEW).

Subchapter 8: MISCELLANEOUS

§4631. BURDEN OF PROOF

In any civil action under this Act, the burden shall be on the person seeking relief to prove, by a fair preponderance of the evidence, that the alleged unlawful discrimination occurred. [1971, c. 501, §1 (NEW).]

SECTION HISTORY
1971, c. 501, §1 (NEW).

§4632. OFFENSIVE NAMES

1. **Complaint.** Any person, including any employee of the commission, may file a complaint with the commission which states the belief that a name of a place is offensive, as defined in Title 1, section 1101.

[1977, c. 259, §3 (NEW) .]

2. **Preliminary investigation.** Upon receipt of such a complaint, the commission or its delegated single commissioner or investigator shall conduct a brief preliminary investigation as it deems necessary to determine whether the name of the place is offensive.

[1977, c. 259, §3 (NEW) .]

3. **Order of dismissal.** If the commission finds that the place does not have an offensive name, it shall enter an order so finding, and shall dismiss the proceeding.

[1977, c. 259, §3 (NEW) .]

4. **Agreement.** If the commission finds that the place does have an offensive name, it shall endeavor to accomplish a change in the name by an agreement with the municipal officers or county commissioners to initiate and implement the actions required to change the name, as provided in Title 1, section 1104.

[1977, c. 259, §3 (NEW) .]

5. **Civil action by commission.** If the commission is unable to obtain an agreement under subsection 4 or if the agreement is not carried out, the commission shall file in the Superior Court a civil action seeking such relief as is appropriate.

[1977, c. 259, §3 (NEW) .]

6. **Procedure in Superior Court.** Any action filed by the commission pursuant to subsection 5 shall be heard by the Superior Court and shall be subject to the following provisions:

A. The court shall hear the case and grant relief as in other civil actions for injunctions. [1977, c. 259, §3 (NEW).]

B. Any such action shall be brought in the name of the commission. [1977, c. 259, §3 (NEW).]

C. Any person aggrieved by the alleged offensive name may intervene in such an action. [1977, c. 259, §3 (NEW).]

D. In no such action brought by the commission shall any injunction bond be required; nor shall damages be assessed for the wrongful issuance of an injunction. [1977, c. 259, §3 (NEW).]

E. If the court finds that a place has an offensive name, its judgment shall specify an appropriate remedy. Such remedy shall include an order requiring the municipal officers or county commissioners:

(1) To initiate procedures, which may be described in the order, for changing the name of the place, and

(2) To have completed the change of name and the notification as required in Title 1, section 1104, within 90 days of the issuance of the order. [1977, c. 259, §3 (NEW).]

[1977, c. 259, §3 (NEW) .]

SECTION HISTORY
1977, c. 259, §3 (NEW).

§4633. PROHIBITION AGAINST RETALIATION AND COERCION

1. **Retaliation.** A person may not discriminate against any individual because that individual has opposed any act or practice that is unlawful under this Act or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under this Act.

[1993, c. 303, §3 (NEW) .]

2. **Interference, coercion or intimidation.** It is unlawful for a person to coerce, intimidate, threaten or interfere with any individual in the exercise or enjoyment of the rights granted or protected by this Act or because that individual has exercised or enjoyed, or has aided or encouraged another individual in the exercise or enjoyment of, those rights.

[1993, c. 303, §3 (NEW) .]

3. **Remedies and procedures.** The remedies and procedures available under sections 4611 to 4614, 4621, 4622 and 4623 are available to aggrieved persons for violations of subsections 1 and 2.

[1993, c. 303, §3 (NEW) .]

SECTION HISTORY
1993, c. 303, §3 (NEW).

§4634. RIGHT TO BREAST-FEED

Notwithstanding any other provision of law, a mother may breast-feed her baby in any location, public or private, where the mother is otherwise authorized to be. [2001, c. 206, §1 (NEW).]

SECTION HISTORY
2001, c. 206, §1 (NEW).

Chapter 337-A: PROTECTION FROM HARASSMENT

§4651. DEFINITIONS

(CONFLICT)

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1987, c. 515, §1 (NEW).]

1. **Court.** "Court" means any District Court and, with regard to section 4659, the tribal court of the Passamaquoddy Tribe or the Penobscot Nation.

[1993, c. 469, §1 (AMD) .]

2. **Harassment.** "Harassment" means:

This definition does not include any act protected by law.

A. Three or more acts of intimidation, confrontation, physical force or the threat of physical force directed against any person, family or business that are made with the intention of causing fear, intimidation or damage to personal property and that do in fact cause fear, intimidation or damage to personal property; or [2011, c. 559, Pt. C, §1 (AMD).]

B. [2011, c. 559, Pt. C, §2 (RP).]

C. (CONFLICT: Text as amended by PL 2015, c. 410, Pt. C, §1) A single act or course of conduct constituting a violation of section 4681; Title 17, section 2931; or Title 17-A, sections 201, 202, 203, 204, 207, 208, 209, 210, 210-A, 211, 253, 301, 302, 303, 506-A, 511, 511-A, 556, 802, 805 or 806. [2015, c. 410, Pt. C, §1 (AMD).]

C. (CONFLICT: Text as amended by PL 2015, c. 443, §1) A single act or course of conduct constituting a violation of section 4681; Title 17, section 2931; or Title 17-A, section 201, 202, 203, 204, 207, 208, 209, 210, 210-A, 211, 253, 301, 302, 303, 506-A, 511, 556, 802, 805, 806, 852 or 853. [2015, c. 443, §1 (AMD).]

[2015, c. 410, Pt. C, §1 (AMD); 2015, c. 443, §1 (AMD) .]

3. **Law enforcement agency.** "Law enforcement agency" means the State Police, a sheriff's department or a municipal police department.

[1987, c. 515, §1 (NEW) .]

4. **Business.** "Business" means any corporation, partnership, limited liability corporation, professional corporation or any other legal business entity recognized under the laws of the State.

[1995, c. 265, §2 (NEW) .]

SECTION HISTORY
1987, c. 515, §1 (NEW). 1987, c. 695, §1 (AMD). 1991, c. 760, §1 (AMD). 1993, c. 199, §1 (AMD). 1993, c. 469, §1 (AMD). 1995, c. 265, §§1,2 (AMD). 1995, c. 650, §1 (AMD). 2001, c. 134, §1 (AMD). 2011, c. 559, Pt. C, §§1, 2 (AMD). 2015, c. 410, Pt. C, §1 (AMD). 2015, c. 443, §1 (AMD).

§4652. FILING OF COMPLAINT; JURISDICTION

Proceedings under this chapter must be filed, heard and determined in the District Court of the division in which either the plaintiff or the defendant resides. If the plaintiff has left the plaintiff's residence to avoid harassment, the plaintiff may bring an action in the division of the plaintiff's previous residence or new residence. [1991, c. 760, §2 (AMD).]

The District Court has jurisdiction over protection from harassment complaints. If a District Court judge is not available in the division in which a complaint requesting a temporary order is to be filed, the complaint may be presented to any other District Court judge or to any Superior Court justice who has the same authority as a District Court judge to grant or deny the temporary order. [2003, c. 658, §1 (AMD).]

A juvenile may be a party to an action under this chapter only when the juvenile has a representative through whom the action is brought or defended pursuant to the Maine Rules of Civil Procedure, Rule 17(b). The Department of Health and Human Services may act as a representative of the juvenile. If any notice or service is required by this chapter, the notice or service must be provided to both the juvenile and the juvenile's representative. [1995, c. 650, §2 (NEW); 2003, c. 689, Pt. B, §6 (REV).]

SECTION HISTORY
1987, c. 515, §1 (NEW). 1987, c. 708, §2 (AMD). 1991, c. 760, §2 (AMD). 1995, c. 650, §2 (AMD). 2003, c. 658, §1 (AMD). 2003, c. 689, §B6 (REV).

§4653. COMMENCEMENT OF PROCEEDINGS

1. **Filing.** A person who has been a victim of harassment, including a business, may seek relief by filing in an appropriate court:

A. A sworn complaint alleging harassment; and [2011, c. 559, Pt. C, §3 (NEW).]

B. If the alleged harassment does not meet the definition in section 4651, subsection 2, paragraph C or is not related to an allegation of domestic violence, violence against a dating partner, sexual assault or stalking, a copy of a notice to stop harassing the plaintiff issued to the defendant pursuant to Title 17-A, section 506-A, subsection 1, paragraph A, subparagraph (1), division (a) or a statement of good cause why such a notice was not sought or obtained. [2011, c. 559, Pt. C, §3 (NEW).]

[2011, c. 559, Pt. C, §3 (AMD) .]

2. **Assistance.** The court shall provide separate forms with a summons and clerical assistance to assist either party to proceed under this chapter in completing and filing a complaint or other necessary documents. This assistance may not include legal advice or assistance in drafting legal documents.

[2003, c. 658, §3 (AMD) .]

3. **Fees.** No fee may be charged for forms. A plaintiff may apply for the right to proceed in forma pauperis.

[1989, c. 371, §1 (AMD) .]

SECTION HISTORY
1987, c. 515, §1 (NEW). 1987, c. 708, §3 (AMD). 1989, c. 371, §1 (AMD). 1993, c. 199, §2 (AMD). 1995, c. 265, §3 (AMD). 1995, c. 650, §3 (AMD). RR 2003, c. 2, §7 (COR). 2003, c. 658, §§2,3 (AMD). 2011, c. 559, Pt. C, §3 (AMD).

§4654. HEARINGS

(CONFLICT)

1. **Full hearing.** A hearing must be held at which the plaintiff shall prove the allegation of harassment by a preponderance of the evidence.

[2003, c. 2, §8 (COR) .]

2. **Temporary orders.** The court may enter any temporary orders, authorized under subsection 4, without written or oral notice to the defendant or the defendant's attorney if:

A. It appears clearly from a verified complaint or an affidavit accompanying the complaint that:

(1) Before the defendant or the defendant's attorney can be heard, the plaintiff or the plaintiff's employees may be in immediate and present danger of physical abuse from the defendant or in immediate and present danger of suffering extreme emotional distress as a result of the defendant's conduct, or the plaintiff's business property is in immediate and present danger of suffering substantial damage as a result of the defendant's actions;

(2-A) If the alleged harassment does not meet the definition in section 4651, subsection 2, paragraph C or is not related to an allegation of domestic violence, violence against a dating partner, sexual assault or stalking, the plaintiff has obtained a copy of a notification issued against the other person as described in Title 17-A, section 506-A, subsection 1, paragraph A, subparagraph (1), division (a) or the plaintiff has filed a statement of good cause why such relief was not sought or why such a notice was not issued; and

(3) The plaintiff has provided sufficient information to substantiate the alleged harassment; and [2011, c. 559, Pt. C, §4 (AMD).]

B. [2011, c. 559, Pt. C, §5 (RP).]

C. The court provides written reasons for entering a temporary order. [1987, c. 515, §1 (NEW).]

[2011, c. 559, Pt. C, §§4, 5 (AMD) .]

3. **Emergency relief.** Emergency relief is available as follows.

A. When there is no judge available in the District Court having venue or the District Court courthouse is closed and no other provision can be made for protection of a victim of harassment, a complaint may be presented to any judge of the District Court or Justice of the Superior Court. Upon a meeting of the requirements of subsection 2, the court may enter any temporary orders, authorized under subsection 4, as the court considers necessary to protect the plaintiff from harassment. [2003, c. 658, §6 (AMD).]

B. If a complaint is presented under this subsection, the complaint and any order issued pursuant to the complaint must be immediately certified to the clerk of the District Court having venue for filing. This certification to the court has the effect of commencing proceedings and invoking the other provisions of this chapter. [2003, c. 658, §6 (AMD).]

C. An order remains in effect pending a hearing pursuant to subsection 1. [2003, c. 658, §6 (AMD).]

[2003, c. 658, §6 (AMD) .]

4. **Interim relief.** The court, in an ex parte proceeding, may enjoin the defendant from engaging in any of the following:

A. Imposing any restraint upon the person or liberty of the plaintiff or the plaintiff's employees; [1995, c. 265, §5 (AMD).]

B. Threatening, assaulting, molesting, harassing or otherwise disturbing the peace of the plaintiff or the plaintiff's employees; [1995, c. 265, §5 (AMD).]

C. Entering the plaintiff's residence or property, provided that the court may not use this subsection to evict a defendant from the rental premises in an action brought by a plaintiff; [1995, c. 265, §6 (AMD).]

D. Taking, converting or damaging property in which the plaintiff may have a legal interest; [1993, c. 680, Pt. A, §11 (AMD).]

E. [1995, c. 650, §5 (RP).]

F. Repeatedly and without reasonable cause:

(1) Following the plaintiff; or

(2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment; [2015, c. 410, Pt. C, §2 (AMD); 2015, c. 443, §2 (AMD).]

G. Having any direct or indirect contact with the plaintiff; or [2015, c. 410, Pt. C, §3 (AMD); 2015, c. 443, §3 (AMD).]

H. (CONFLICT: Text as enacted by PL 2015, c. 410, Pt. C, §4) Engaging in the unauthorized dissemination of certain private images as prohibited pursuant to Title 17-A, section 511-A. [2015, c. 410, Pt. C, §4 (NEW).]

H. (CONFLICT: Text as enacted by PL 2015, c. 443, §4) Destroying, transferring or tampering with the plaintiff's passport or other immigration document in the defendant's possession. [2015, c. 443, §4 (NEW).]

If the court enjoins the defendant under this subsection, and the enjoined conduct constitutes harassment under Title 17-A, section 506-A, the court shall include in the order a warning in conformity with Title 17-A, section 506-A.

[2015, c. 410, Pt. C, §§2-4 (AMD); 2015, c. 443, §§2-4 (AMD) .]

5. **Service of order.** If the court issues a temporary order or orders emergency or interim relief, the court shall order a law enforcement agency or, if the defendant is present in the courthouse, a court security officer qualified pursuant to Title 4, section 17, subsection 15 or, if the defendant is in the custody of the Department of Corrections, the Department of Corrections to serve the defendant personally with the order, the complaint and the summons. The court shall cause the order to be delivered to the law enforcement agency, the court security officer or the correctional facility in which the defendant is incarcerated as soon as practicable following the issuance of the order, and the law enforcement agency, court security officer or chief administrative officer of the correctional facility or the chief administrative officer's designee shall make a good faith effort to serve process expeditiously.

[2009, c. 94, §1 (AMD) .]

6. **Dissolution or modification.** Notwithstanding any statutory provision to the contrary, on 2 days' notice to the plaintiff or on such shorter notice as the court may order, a person who is subject to any order may appear and move the dissolution or modification of the order and in that event the court shall proceed to hear and determine the motion. The hearing on the motion may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. At that hearing, the plaintiff has the burden of justifying any finding in the ex parte order that the defendant has challenged by affidavit. Nothing in this section may be construed to abolish or limit any means, otherwise available by law, for obtaining dissolution, modification or discharge of an order.

[2011, c. 559, Pt. C, §6 (AMD) .]

7. **Extension.** If a hearing under subsection 1 is continued, the court may make or extend such temporary orders as it deems necessary.

[1987, c. 515, §1 (NEW) .]

8. **Service of order; use of electronic copies.** Notwithstanding any other provision of law, service of an order may be made pursuant to this section through the use of electronically transmitted printed copies of orders that have been transmitted directly from the court to the law enforcement agency or correctional facility making service. Return of proof of service may be made by electronic transmission of the proof of service directly to the court from the law enforcement officer making service or the chief administrative officer, or the chief administrative officer's designee, of the correctional facility making service.

In any subsequent criminal prosecution for violation of this section when the service of an order was made through the use of an electronically transmitted printed copy of the order, with 10 days' advance written notice to the prosecution, the defendant may request that the prosecution call as a witness the law enforcement officer who served the order or the chief administrative officer, or the chief administrative officer's designee, of the correctional facility that served the order.

[2009, c. 555, §1 (NEW) .]

SECTION HISTORY
1987, c. 515, §1 (NEW). 1987, c. 708, §4 (AMD). 1989, c. 164, (AMD). 1991, c. 760, §3 (AMD). 1993, c. 199, §§3-5 (AMD). 1993, c. 475, §1 (AMD). 1993, c. 680, §§A10-13 (AMD). 1995, c. 265, §§4-6 (AMD). 1995, c. 650, §§4-7 (AMD). 1999, c. 542, §1 (AMD). 2001, c. 134, §2 (AMD). RR 2003, c. 2, §8 (COR). 2003, c. 658, §§4-7 (AMD). 2009, c. 94, §1 (AMD). 2009, c. 555, §1 (AMD). 2011, c. 559, Pt. C, §§4-6 (AMD). 2015, c. 410, Pt. C, §§2-4 (AMD). 2015, c. 443, §§2-4 (AMD).

§4655. RELIEF

(CONFLICT)

1. **Protection order; consent agreement.** The court, after a hearing and upon finding that the defendant has committed the harassment alleged, may grant any protection order or approve any consent agreement to bring about a cessation of harassment, which may include:

A. Directing the defendant to refrain from harassing, threatening, assaulting, molesting, attacking or otherwise abusing the plaintiff or the plaintiff's employees; [1995, c. 265, §7 (AMD).]

B. Directing the defendant to refrain from going on the premises of the plaintiff's residence or property, provided that the court may not use this subsection to evict a defendant from the rental premises in an action brought by a plaintiff; [1995, c. 265, §8 (AMD).]

C. Directing the defendant to refrain from interference with or destruction of the plaintiff's property; [1993, c. 199, §6 (AMD).]

C-1. Directing the defendant to refrain from repeatedly and without reasonable cause:

(1) Following the plaintiff; or

(2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment; [1993, c. 475, §2 (NEW).]

C-2. Directing the defendant to refrain from having any direct or indirect contact with the plaintiff; [2001, c. 134, §3 (NEW).]

D. Ordering payment of monetary compensation to the plaintiff for losses suffered as a direct result of the harassment. Compensatory losses are limited to loss of earnings or support; reasonable expenses incurred for safety protection; reasonable expenses incurred for personal injuries or property damage; and reasonable moving expenses. Upon the motion of either party, for sufficient cause, the court may set a later hearing on the issue of the amount of damages, if any, to be awarded. If it appears from the

complaint that an order under this paragraph may be granted, the plaintiff or defendant may remove the issue of monetary compensation to the Superior Court where a jury trial may be had. Removal must be requested by motion prior to a hearing under section 4654; [2003, c. 658, §8 (AMD).]

E. Ordering the defendant to pay court costs or reasonable attorney's fees; [2015, c. 410, Pt. C, §5 (AMD); 2015, c. 443, §5 (AMD).]

F. (CONFLICT: Text as amended by PL 2015, c. 410, Pt. C, §5) Entering any other orders determined necessary or appropriate in the discretion of the court; [2015, c. 410, Pt. C, §5 (AMD).]

F. (CONFLICT: Text as amended by PL 2015, c. 443, §5) Entering any other orders determined necessary or appropriate in the discretion of the court; and [2015, c. 443, §5 (AMD).]

G. (CONFLICT: Text as enacted by PL 2015, c. 410, Pt. C, §6) With respect to unauthorized dissemination of certain private images as described in Title 17-A, section 511-A, ordering the defendant to remove, destroy or return or to direct the removal, destruction or return of the private images, ordering the defendant to cease the dissemination of the private images and prohibiting the defendant from disseminating the private images; or [2015, c. 410, Pt. C, §6 (NEW).]

G. (CONFLICT: Text as enacted by PL 2015, c. 443, §6) Prohibiting the defendant from destroying, transferring or tampering with the plaintiff's passport or other immigration document in the defendant's possession. [2015, c. 443, §6 (NEW).]

H. With respect to unauthorized dissemination of certain private images as described in Title 17-A, section 511-A, entering any orders determined necessary or appropriate in the discretion of the court, including but not limited to ordering the defendant to pay costs associated with removal, destruction or return of the private images. [2015, c. 410, Pt. C, §6 (NEW).]

If the court enjoins the defendant under this subsection, and the enjoined conduct constitutes harassment under Title 17-A, section 506-A, the court shall include in the order a warning in conformity with Title 17-A, section 506-A.

[2015, c. 410, Pt. C, §§5, 6 (AMD); 2015, c. 443, §§5, 6 (AMD) .]

1-A. **Judgment against plaintiff.** If a judgment is entered against the plaintiff and the court finds that the complaint is frivolous, the court may order the plaintiff to pay court costs, reasonable attorney's fees or both.

[2009, c. 263, §1 (NEW) .]

2. **Duration.** Any protective order or approved consent agreement shall be for a fixed period not to exceed one year. At the expiration of that time, the court may extend an order, upon motion of the plaintiff, for such additional time as it deems necessary to protect the plaintiff from harassment. Upon motion by either party, for sufficient cause, the court may modify the order or agreement from time to time as circumstances require.

[1987, c. 515, §1 (NEW) .]

3. **Consequences of violation.** Any protective order or approved consent agreement shall indicate, in a clear and conspicuous manner, the potential consequences of violation of the order or agreement.

[1987, c. 515, §1 (NEW) .]

4. **Title to property.** No order or agreement may affect title to any real property.

[1987, c. 515, §1 (NEW) .]

5. **Bond prohibited.** The court shall not require the execution of a bond by the plaintiff prior to issuance of any order of protection.

[1987, c. 515, §1 (NEW) .]

6. **Service of order or consent decree.** The court shall order a law enforcement agency; or, if the defendant is present in the courthouse, a court security officer qualified pursuant to Title 4, section 17, subsection 15; or, if the defendant is in the custody of the Department of Corrections, the chief administrative officer or the chief administrative officer's designee at the correctional facility, to serve the defendant personally with a protective order or consent decree.

A. Notwithstanding any other provision of law, service of an order may be made pursuant to this section through the use of electronically transmitted printed copies of orders that have been transmitted directly from the court to the law enforcement agency or correctional facility making service. Return of proof of service may be made by electronic transmission of the proof of service directly to the court from the law enforcement officer making service or the chief administrative officer, or the chief administrative officer's designee, of the correctional facility making service. [2009, c. 555, §2 (NEW).]

B. In any subsequent criminal prosecution for violation of this section when the service of an order was made through the use of an electronically transmitted printed copy of the order, with 10 days' advance written notice to the prosecution, the defendant may request that the prosecution call as a witness the law enforcement officer who served the order or the chief administrative officer, or the chief administrative officer's designee, of the correctional facility that served the order. [2009, c. 555, §3 (NEW).]

[2009, c. 555, §§2, 3 (AMD) .]

SECTION HISTORY
1987, c. 515, §1 (NEW). 1987, c. 708, §5 (AMD). 1993, c. 199, §6 (AMD). 1993, c. 475, §2 (AMD). 1995, c. 265, §§7-9 (AMD). 1999, c. 542, §2 (AMD). 2001, c. 134, §3 (AMD). 2003, c. 658, §8 (AMD). 2009, c. 94, §2 (AMD). 2009, c. 263, §1 (AMD). 2009, c. 555, §§2, 3 (AMD). 2015, c. 410, Pt. C, §§5, 6 (AMD). 2015, c. 443, §§5, 6 (AMD).

§4656. IDENTIFYING INFORMATION SEALED

If a party alleges in an affidavit or a pleading under oath that the health, safety or liberty of a party or child would be jeopardized by disclosure of identifying information, the information must be sealed by the clerk and not disclosed to the other party or to the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety or liberty of the party or child and determines that the disclosure is in the interest of justice. [2001, c. 134, §4 (RPR).]

SECTION HISTORY
1987, c. 515, §1 (NEW). 2001, c. 134, §4 (RPR).

§4657. NOTIFICATION

The clerk shall issue, without fee, a copy of an order, agreement, amendment or revocation to the plaintiff, the defendant and, as the court directs, to the law enforcement agencies most likely to enforce it. [1987, c. 515, §1 (NEW).]

SECTION HISTORY
1987, c. 515, §1 (NEW).

§4658. PROCEDURE

1. **Civil rules apply.** Unless otherwise indicated in this chapter, all proceedings shall be in accordance with the Maine Rules of Civil Procedure. Appeals may be taken as provided by the Maine Rules of Civil Procedure and may be only for error of law or abuse of discretion.

[1987, c. 515, §1 (NEW) .]

2. **Proceedings independent.** A proceeding under this chapter shall be in addition to any other available civil or criminal remedies.

[1987, c. 515, §1 (NEW) .]

3. **Self-defense.** The right to relief, under this chapter, shall not be affected by the plaintiff's use of reasonable force in response to harassment by the defendant.

[1987, c. 708, §6 (AMD) .]

4. **Intoxication.** Voluntary intoxication shall not be a defense to an action under this chapter.

[1987, c. 515, §1 (NEW) .]

5. **Referee.** The court may not mandate appointment of referees in actions brought under this chapter. If an action under this chapter is joined with another proceeding, this subsection does not prohibit the court from mandating appointment of a referee on any issue, other than harassment, that is part of the other proceeding.

[2001, c. 243, §1 (NEW) .]

SECTION HISTORY
1987, c. 515, §1 (NEW). 1987, c. 708, §6 (AMD). 2001, c. 243, §1 (AMD).

§4659. VIOLATION

1. **Crime committed.** Violation of a temporary, emergency, interim or final protective order, an order of a tribal court of the Passamaquoddy Tribe or the Penobscot Nation or a court-approved consent agreement, when the defendant has prior actual notice of the order or agreement, is a Class D crime, except when the only provision that is violated concerns relief authorized under section 4655, subsection 1, paragraphs D to G. Violation of these paragraphs must be treated as contempt and punished in accordance with law.

[2015, c. 443, §7 (AMD) .]

2. **Warrantless arrest.** Notwithstanding any statutory provision to the contrary, an arrest for criminal violation as defined in this section of an order or consent agreement may be made without warrant upon probable cause whether or not the violation is committed in the presence of the law enforcement officer. The law enforcement officer may verify, if necessary, the existence of a protective order by telephone or radio communication with a law enforcement agency with knowledge of the order.

[1993, c. 469, §2 (AMD) .]

SECTION HISTORY
1987, c. 515, §1 (NEW). 1987, c. 695, §2 (AMD). 1993, c. 469, §2 (AMD). 2015, c. 443, §7 (AMD).

§4660. LAW ENFORCEMENT AGENCY RESPONSIBILITIES

(REPEALED)

SECTION HISTORY
1987, c. 515, §1 (NEW). 1987, c. 695, §3 (RP).

§4660-A. LAW ENFORCEMENT AGENCY RESPONSIBILITIES

1. **Reports.** Each law enforcement agency shall report all incidents of harassment as required by the State Bureau of Identification under Title 25, section 1544.

[1987, c. 695, §4 (NEW) .]

2. **Agency procedures.** Law enforcement agencies shall establish procedures to ensure that dispatchers and officers at the scene of an alleged incident of harassment or violation of an order of protection can be informed of any recorded prior incident of harassment involving the harassed party and can verify the effective dates and terms of any recorded protection order.

[1987, c. 695, §4 (NEW) .]

3. **Officer training.** Law enforcement agencies shall provide officers employed by them with an education and training program designed to inform the officers of the problems of harassment, procedures to deal with these problems and the provisions of this chapter. The amount and degree of officer training, beyond the distribution of information, shall be determined by each local law enforcement agency.

[1987, c. 695, §4 (NEW) .]

4. **Officer responsibilities.** Whenever a law enforcement officer has reason to believe that a person has been a victim of harassment, the officer shall immediately use all reasonable means to prevent further harassment, including:

A. Remaining on the scene as long as he reasonably believes there is a danger to the physical safety of that person without the presence of a law enforcement officer; [1987, c. 695, §4 (NEW).]

B. Assisting that person in obtaining medical treatment necessitated by an assault; [1987, c. 695, §4 (NEW).]

C. Giving that person written notice of his rights, which shall include information summarizing the procedures and relief available to victims of harassment; or [1987, c. 695, §4 (NEW).]

D. Arresting the harassing party with or without a warrant pursuant to section 4659, subsection 2. [1987, c. 695, §4 (NEW).]

[1987, c. 695, §4 (NEW) .]

SECTION HISTORY
1987, c. 695, §4 (NEW).

§4661. ACCESS TO CERTAIN PRIVATE IMAGES AND WRITTEN INFORMATION

Access to and dissemination of certain private images as described in Title 17-A, section 511-A and any written information describing and directly pertaining to the images contained in court records are governed by rule or administrative order adopted by the Supreme Judicial Court. [2015, c. 410, Pt. C, §7 (NEW).]

SECTION HISTORY
2015, c. 410, Pt. C, §7 (NEW).

Chapter 337-B: CIVIL RIGHTS ACT

§4681. VIOLATIONS OF CONSTITUTIONAL RIGHTS; CIVIL ACTION BY ATTORNEY GENERAL

1. **Interference with rights; action by Attorney General.** Whenever any person, whether or not acting under color of law, intentionally interferes or attempts to intentionally interfere by physical force or violence against a person, damage or destruction of property or trespass on property or by the threat of physical force or violence against a person, damage or destruction of property or trespass on property with the exercise or enjoyment by any other person of rights secured by the United States Constitution or the laws of the United States or of rights secured by the Constitution of Maine or laws of the State or violates section 4684-B, the Attorney General may bring a civil action for injunctive or other appropriate equitable relief in order to protect the peaceable exercise or enjoyment of the rights secured.

[2001, c. 50, §1 (NEW) .]

2. **Place and name of action.** A civil action under subsection 1 must be brought in the name of the State and instituted in the Superior Court for the county where the alleged violator resides or has a principal place of business or where the alleged violation occurred.

[2001, c. 50, §1 (NEW) .]

3. **Jury trial.** There is a right to a jury at the trial of an action on the merits under this section, but there is no right to a jury at the hearing of an application for a preliminary injunction or a temporary restraining order.

[2001, c. 50, §1 (NEW) .]

4. **Civil penalty for violation.** Each violation of this section is a civil violation for which a civil penalty of not more than $5,000 for each defendant may be adjudged. These penalties must be applied by the Attorney General in carrying out this chapter.

[2001, c. 50, §1 (NEW) .]

5. **Service of order or injunction.** Each temporary restraining order or preliminary or permanent injunction issued under this section must include a statement describing the penalties provided in this section for a knowing violation of the order or injunction. The clerk of the Superior Court shall transmit one certified copy of each order or injunction issued under this section to the appropriate law enforcement agency having jurisdiction over locations where the defendant is alleged to have committed the act giving rise to

the action, and service of the order or injunction must be accomplished pursuant to the Maine Rules of Civil Procedure. Unless otherwise ordered by the court, service must be made by the delivery of a copy in hand to the defendant.

[2001, c. 50, §1 (NEW) .]

6. **Violation of restraining order or injunction.** A person who knowingly violates a temporary restraining order or preliminary or permanent injunction issued under this section commits a Class D crime.

[2001, c. 50, §1 (NEW) .]

SECTION HISTORY
1989, c. 582, (NEW). 1991, c. 821, §1 (AMD). 1993, c. 442, §1 (AMD). 1995, c. 417, §1 (AMD). 2001, c. 50, §1 (RPR).

§4682. VIOLATIONS OF CONSTITUTIONAL RIGHTS; CIVIL ACTIONS BY AGGRIEVED PERSONS

1. **Remedy.**

[1991, c. 821, §2 (RP) .]

1. (REALLOCATED TO T. 5, §4682, sub-§1-A) **Interference with rights; private actions.**

[2001, c. 1, §11 (RAL); 2001, c. 50, §2 (RPR) .]

1-A. (REALLOCATED FROM T. 5, §4682, sub-§1) **Interference with rights; private actions.** Whenever any person, whether or not acting under color of law, intentionally interferes or attempts to intentionally interfere by physical force or violence against a person, damage or destruction of property or trespass on property or by the threat of physical force or violence against a person, damage or destruction of property or trespass on property with the exercise or enjoyment by any other person of rights secured by the United States Constitution or the laws of the United States or of rights secured by the Constitution of Maine or laws of the State or violates section 4684-B, the person whose exercise or enjoyment of these rights has been interfered with, or attempted to be interfered with, may institute and prosecute in that person's own name and on that person's own behalf a civil action for legal or equitable relief.

[2001, c. 1, §11 (RAL) .]

2. **Place of action.** The action under subsection 1 must be instituted in the Superior Court for the county where the alleged violator resides or has a principal place of business.

[2001, c. 50, §2 (NEW) .]

3. **Jury trial.** There is a right to a jury at the trial of an action on the merits under this section, but there is no right to a jury at the hearing of an application for a preliminary injunction or a temporary restraining order.

[2001, c. 50, §2 (NEW) .]

4. **Service of order or injunction.** Each temporary restraining order or preliminary or permanent injunction issued under this section must include a statement describing the penalties provided in this section for a knowing violation of the order or injunction. The clerk of the Superior Court shall transmit one certified copy of each order or injunction issued under this section to the appropriate law enforcement agency having jurisdiction over locations where the defendant is alleged to have committed the act giving rise to

the action, and service of the order or injunction must be accomplished pursuant to the Maine Rules of Civil Procedure. Unless otherwise ordered by the court, service must be made by the delivery of a copy in hand to the defendant.

[2001, c. 50, §2 (NEW) .]

5. **Violation of restraining order or injunction.** A person who knowingly violates a temporary restraining order or preliminary or permanent injunction issued under this section commits a Class D crime.

[2001, c. 50, §2 (NEW) .]

SECTION HISTORY
1989, c. 582, (NEW). 1991, c. 821, §2 (RPR). 1993, c. 442, §2 (AMD). 1995, c. 417, §2 (AMD). RR 2001, c. 1, §11 (COR). 2001, c. 50, §2 (RPR).

§4683. ATTORNEY'S FEES AND COSTS

In any civil action under this chapter, the court, in its discretion, may allow the prevailing party, other than the State, reasonable attorney's fees and costs, and the State shall be liable for attorney's fees and costs in the same manner as a private person. [1989, c. 582, (NEW).]

SECTION HISTORY
1989, c. 582, (NEW).

§4684. APPLICATION INCLUDES INTERFERENCE BY PRIVATE PARTIES

For the purposes of this chapter and Title 17, section 2931, rights secured by the Constitution of the United States and the laws of the United States and by the Constitution of Maine and the laws of the State include rights that would be protected from interference by governmental actors regardless of whether the specific interference complained of is performed or attempted by private parties. [1991, c. 821, §3 (NEW).]

SECTION HISTORY
1991, c. 821, §3 (NEW).

§4684-A. CIVIL RIGHTS

For purposes of this chapter and Title 17, section 2931, a person has the right to engage in lawful activities without being subject to physical force or violence, damage or destruction of property, trespass on property or the threat of physical force or violence, damage or destruction of property or trespass on property motivated by reason of race, color, religion, sex, ancestry, national origin, physical or mental disability or sexual orientation. [1993, c. 379, §1 (NEW).]

SECTION HISTORY
1993, c. 379, §1 (NEW).

§4684-B. ADDITIONAL PROTECTIONS

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

A. "Building" means any structure having a roof or a partial roof supported by columns or walls that is used or intended to be used for shelter or enclosure of persons or objects regardless of the materials of which it is constructed. [1995, c. 417, §3 (NEW).]

B. "Health service" means any medical, surgical, laboratory, testing or counseling service relating to the human body. [1995, c. 417, §3 (NEW).]

C. "Physical obstruction" means rendering impassable ingress to or egress from a building or rendering passage to or from a building unreasonably difficult or hazardous. [1995, c. 417, §3 (NEW).]

[1995, c. 417, §3 (NEW) .]

2. **Violation.** It is a violation of this section for any person, whether or not acting under color of law, to intentionally interfere or attempt to intentionally interfere with the exercise or enjoyment by any other person of rights secured by the United States Constitution or the laws of the United States or of rights secured by the Constitution of Maine or laws of the State by any of the following conduct:

A. Engaging in the physical obstruction of a building; [1995, c. 417, §3 (NEW).]

B. Making or causing repeated telephone calls to a person or a building, whether or not conversation ensues, with the intent to impede access to a person's or building's telephone lines or otherwise disrupt a person's or building's activities; [1995, c. 417, §3 (NEW).]

C. Activating a device or exposing a substance that releases noxious and offensive odors within a building; or [1995, c. 417, §3 (NEW).]

D. After having been ordered by a law enforcement officer to cease such noise, intentionally making noise that can be heard within a building and with the further intent either:

(1) To jeopardize the health of persons receiving health services within the building; or

(2) To interfere with the safe and effective delivery of those services within the building. [1995, c. 417, §3 (NEW).]

[1985, c. 417, §3 (NEW) .]

SECTION HISTORY
1995, c. 417, §3 (NEW).

§4685. SHORT TITLE

This chapter may be known and cited as the "Maine Civil Rights Act." [1991, c. 821, §3 (NEW).]

SECTION HISTORY
1991, c. 821, §3 (NEW).

Chapter 337-C: CIVIL REMEDIES FOR HUMAN TRAFFICKING

§4701. REMEDIES FOR HUMAN TRAFFICKING

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

A. "Trafficked person" means a victim of a human trafficking offense. [2007, c. 684, Pt. B, §1 (NEW); 2007, c. 684, Pt. H, §1 (AFF).]

B. "Criminal proceeding" includes the investigation and prosecution of criminal charges. A criminal proceeding remains pending until final adjudication in the trial court. [2007, c. 684, Pt. B, §1 (NEW); 2007, c. 684, Pt. H, §1 (AFF).]

C. "Human trafficking offense" includes:

(1) Aggravated sex trafficking and sex trafficking under Title 17-A, sections 852 and 853, respectively; and

(2) All offenses in Title 17-A, chapters 11, 12 and 13 if accompanied by the destruction, concealment, removal, confiscation or possession of any actual or purported passport or other immigration document or other actual or purported government identification document of the other person or done using any scheme, plan or pattern intended to cause the other person to believe that if that person does not perform certain labor or services, including prostitution, that the person or a 3rd person will be subject to a harm to their health, safety or immigration status. [2013, c. 407, §1 (RPR).]

[2013, c. 407, §1 (AMD) .]

2. **Civil action for damages, relief.** A trafficked person may bring a civil action for actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those or any other appropriate relief. A prevailing plaintiff is entitled to an award of attorney's fees and costs.

[2007, c. 684, Pt. B, §1 (NEW); 2007, c. 684, Pt. H, §1 (AFF) .]

3. **Statute of limitations.** An action brought pursuant to this section must be commenced within 10 years of the date on which the trafficked person was freed from the trafficking situation.

A. If a person entitled to bring an action under this section is under disability when the cause of action accrues so that it is impossible or impracticable for the person to bring an action, the time during which the person is under disability tolls the running of the time limit for the commencement of the action. For the purposes of this paragraph, a person is under disability if the person is a minor or is mentally ill, imprisoned, outside the United States or otherwise incapacitated or incompetent. [2007, c. 684, Pt. B, §1 (NEW); 2007, c. 684, Pt. H, §1 (AFF).]

B. The statute of limitations is tolled for an incompetent or minor plaintiff even if a guardian ad litem has been appointed. [2007, c. 684, Pt. B, §1 (NEW); 2007, c. 684, Pt. H, §1 (AFF).]

C. A defendant is estopped from asserting a defense of the statute of limitations if the trafficked person did not file before the expiration of the statute of limitations due to:

(1) Conduct by the defendant inducing the plaintiff to delay the filing of the action or preventing the plaintiff from filing the action; or

(2) Threats made by the defendant that caused duress to the plaintiff. [2007, c. 684, Pt. B, §1 (NEW); 2007, c. 684, Pt. H, §1 (AFF).]

D. The statute of limitations is tolled during the pendency of any criminal proceedings against the trafficked person. [2007, c. 684, Pt. B, §1 (NEW); 2007, c. 684, Pt. H, §1 (AFF).]

[2007, c. 684, Pt. B, §1 (NEW); 2007, c. 684, Pt. H, §1 (AFF) .]

4. **Cause of action on trafficked person's behalf.** A legal guardian, family member, representative of the trafficked person or court appointee may represent the trafficked person or the trafficked person's estate if deceased.

[2007, c. 684, Pt. B, §1 (NEW); 2007, c. 684, Pt. H, §1 (AFF) .]

SECTION HISTORY
2007, c. 684, Pt. B, §1 (NEW). 2007, c. 684, Pt. H, §1 (AFF). 2013, c. 407, §1 (AMD).

Part 13: MAINE STATE ENERGY RESOURCES ACT

Chapter 338: ENERGY RESOURCES

§5001. TITLE

(REPEALED)

SECTION HISTORY
1973, c. 770, §2 (NEW). 1989, c. 501, §DD14 (RP).

§5002. POLICY AND PURPOSE

(REPEALED)

SECTION HISTORY
1973, c. 770, §2 (NEW). 1989, c. 501, §DD14 (RP).

§5003. OFFICE OF ENERGY RESOURCES

(REPEALED)

SECTION HISTORY
1973, c. 770, §2 (NEW). 1989, c. 501, §DD14 (RP).

§5004. DIRECTOR OF OFFICE OF ENERGY RESOURCES

(REPEALED)

SECTION HISTORY
1973, c. 770, §2 (NEW). 1975, c. 587, §1 (RPR). 1975, c. 771, §90 (AMD). 1977, c. 674, §9 (AMD). 1979, c. 503, §1 (AMD). 1981, c. 634, §1 (AMD). 1981, c. 701, §§1-3 (AMD). 1985, c. 312, §1 (AMD). 1985, c. 481, §§A14,15 (AMD). 1985, c. 785, §B37 (AMD). 1989, c. 501, §DD14 (RP).

§5005. OFFICE OF ENERGY RESOURCES

(REPEALED)

SECTION HISTORY
1973, c. 770, §2 (NEW). 1975, c. 587, §2 (RPR). 1977, c. 376, §2 (AMD). 1977, c. 542, §1 (AMD). 1977, c. 631, (AMD). 1977, c. 685, §1 (AMD). 1979, c. 277, §1 (AMD). 1979, c. 372, §1 (AMD). 1979, c. 388, §§1-3 (AMD). 1981, c. 61, §1 (AMD). 1981, c. 470, §§A8,A8-A (AMD). 1981, c. 698, §8 (AMD). 1981, c. 701, §§4-7 (AMD). 1983, c. 553, §46 (AMD). 1985, c. 481, §A16 (AMD). 1987, c. 737, §§C9,C106 (AMD). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,C10 (AMD). 1989, c. 501, §DD14 (RP).

§5006. MAINE ENERGY RESOURCES DEVELOPMENT PROGRAM

(REPEALED)

SECTION HISTORY

1973, c. 770, §2 (NEW). 1975, c. 587, §3 (RPR). 1981, c. 701, §8 (AMD). 1985, c. 481, §A17 (AMD). 1989, c. 501, §DD14 (RP).

§5007. STATE ENERGY RESOURCES ADVISORY BOARD

(REPEALED)

SECTION HISTORY
1973, c. 770, §2 (NEW). 1975, c. 587, §4 (RPR). 1975, c. 771, §91 (AMD). 1979, c. 652, (AMD). 1983, c. 5, (AMD). 1983, c. 812, §34 (AMD). 1985, c. 763, §A9 (AMD). 1989, c. 501, §DD14 (RP). MRSA T. 3, §23 (RP).

§5008. DUTIES

(REPEALED)

SECTION HISTORY
1975, c. 587, §5 (NEW). 1985, c. 763, §A10 (AMD). 1989, c. 501, §DD14 (RP).

§5009. RESTRICTIONS ON EMPLOYEE INTERESTS

(REPEALED)

SECTION HISTORY
1975, c. 587, §5 (NEW). 1979, c. 734, §5 (AMD). 1989, c. 501, §DD14 (RP).

§5010. DEFINITIONS; REPORTING OF PETROLEUM INVENTORIES AND DELIVERIES

(REPEALED)

SECTION HISTORY
1979, c. 372, §2 (NEW). 1979, c. 574, §12 (AMD). 1981, c. 134, §§1-4 (AMD). 1989, c. 501, §DD14 (RP).

§5011. STATE PETROLEUM SET-ASIDE

(REPEALED)

SECTION HISTORY
1981, c. 664, (NEW). 1989, c. 501, §DD14 (RP).

§5012. STATE STANDARDS FOR APPLIANCE ENERGY EFFICIENCY

(REPEALED)

SECTION HISTORY
1985, c. 312, §2 (NEW). 1989, c. 501, §DD14 (RP).

§5013. STATE ENERGY EFFICACY STANDARDS FOR FLUORESCENT LIGHTING

(REPEALED)

SECTION HISTORY
1987, c. 757, (NEW). 1989, c. 501, §DD14 (RP).

§5014. STATE ELECTRICAL USE

(REPEALED)

SECTION HISTORY
1987, c. 757, (NEW). 1989, c. 501, §DD14 (RP).

Part 14: OCCUPATIONAL LICENSE DISQUALIFICATION

Chapter 341: OCCUPATIONAL LICENSE DISQUALIFICATION ON BASIS OF CRIMINAL RECORD

§5301. ELIGIBILITY FOR OCCUPATIONAL LICENSE, REGISTRATION OR PERMIT

1. **Effect of criminal history record information respecting certain convictions.** Subject to subsection 2 and sections 5302 and 5303, in determining eligibility for the granting of any occupational license, registration or permit issued by the State, the appropriate State licensing agency may take into consideration criminal history record information from Maine or elsewhere relating to certain convictions which have not been set aside or for which a full and free pardon has not been granted, but the existence of such information shall not operate as an automatic bar to being licensed, registered or permitted to practice any profession, trade or occupation.

[1989, c. 84, §1 (AMD) .]

2. **Criminal history record information which may be considered.** A licensing agency may use in connection with an application for an occupational license, registration or permit criminal history record information pertaining to the following:

A. Convictions for which incarceration for less than one year may be imposed and which involve dishonesty or false statement; [1977, c. 287, §1 (RPR).]

B. Convictions for which incarceration for less than one year may be imposed and which directly relate to the trade or occupation for which the license or permit is sought; [1977, c. 287, §1 (RPR).]

C. Convictions for which no incarceration can be imposed and which directly relate to the trade or occupation for which the license or permit is sought; [1989, c. 84, §1 (AMD).]

D. Convictions for which incarceration for one year or more may be imposed; or [1989, c. 84, §1 (AMD).]

E. Convictions for which incarceration for less than one year may be imposed and that involve sexual misconduct by an applicant for massage therapy licensure or a licensed massage therapist or an applicant or licensee of the Board of Licensure in Medicine, the Board of Osteopathic Licensure, the Board of Dental Practice, the State Board of Examiners of Psychologists, the State Board of Social Worker Licensure, the Board of Chiropractic Licensure, the State Board of Examiners in Physical Therapy, the State Board of Alcohol and Drug Counselors, the Board of Respiratory Care Practitioners, the Board of Counseling Professionals Licensure, the Board of Occupational Therapy Practice, the Board of Speech, Audiology and Hearing, the Radiologic Technology Board of Examiners, the Nursing Home Administrators Licensing Board, the Board of Licensure of Podiatric Medicine, the Board of Complementary Health Care Providers, the Maine Board of Pharmacy, the Board of Trustees of the Maine Criminal Justice Academy, the State Board of Nursing and the Emergency Medical Services' Board. [2011, c. 286, Pt. O, §1 (AMD); 2015, c. 429, §23 (REV).]

[2011, c. 286, Pt. O, §1 (AMD); 2015, c. 429, §23 (REV) .]

SECTION HISTORY

1975, c. 150, (NEW). 1977, c. 287, §1 (RPR). 1989, c. 84, §1 (AMD). 1993, c. 600, §§B20-22 (AMD). 1995, c. 131, §1 (AMD). 1995, c. 162, §1 (AMD). 1995, c. 625, §A11 (AMD). 2005, c. 347, §A1 (AMD). 2007, c. 369, Pt. A, §1 (AMD). 2007, c. 369, Pt. C, §5 (AFF). 2011, c. 286, Pt. O, §1 (AMD). 2015, c. 429, §23 (REV).

§5302. DENIAL, SUSPENSION, REVOCATION OR OTHER DISCIPLINE OF LICENSEES BECAUSE OF CRIMINAL RECORD

1. **Reasons for disciplinary action.** Licensing agencies may refuse to grant or renew, or may suspend, revoke or take other disciplinary action against any occupational license, registration or permit on the basis of the criminal history record information relating to convictions denominated in section 5301, subsection 2, but only if the licensing agency determines that the applicant, licensee, registrant or permit holder so convicted has not been sufficiently rehabilitated to warrant the public trust. The applicant, licensee, registrant or permit holder shall bear the burden of proof that there exists sufficient rehabilitation to warrant the public trust.

[1989, c. 84, §2 (AMD) .]

2. **Reasons to be stated in writing.** The licensing agency shall explicitly state in writing the reasons for a decision which prohibits the applicant, licensee, registrant or permit holder from practicing the profession, trade or occupation if that decision is based in whole or in part on conviction of any crime described in section 5301, subsection 2.

[1989, c. 84, §2 (AMD) .]

SECTION HISTORY
1975, c. 150, (NEW). 1977, c. 287, §§2,3 (AMD). 1989, c. 84, §2 (AMD).

§5303. TIME LIMIT ON CONSIDERATION OF PRIOR CRIMINAL CONVICTION

1. **Three-year limits.** Except as set forth in this subsection and subsection 2, the procedures outlined in sections 5301 and 5302 for the consideration of prior criminal conviction as an element of fitness to practice a licensed profession, trade or occupation shall apply within 3 years of the applicant's or licensee's final discharge, if any, from the correctional system. Beyond the 3-year period, ex-offender applicants or licensees with no additional convictions are to be considered in the same manner as applicants or licensees possessing no prior criminal record for the purposes of licensing decisions. There is no time limitation for consideration of an applicant's or licensee's conduct which gave rise to the criminal conviction if that conduct is otherwise a ground for disciplinary action against a licensee.

[1989, c. 84, §3 (NEW) .]

2. **Ten-year limits.** For applicants to and licensees and registrants of the Board of Licensure in Medicine, the Board of Osteopathic Licensure, the Board of Dental Practice, the State Board of Examiners of Psychologists, the State Board of Social Worker Licensure, the State Board of Nursing, the Board of Chiropractic Licensure, the Board of Trustees of the Maine Criminal Justice Academy, the State Board of Examiners in Physical Therapy, the State Board of Alcohol and Drug Counselors, the Board of Respiratory Care Practitioners, the Board of Counseling Professionals Licensure, the Board of Occupational Therapy Practice, the Board on Speech-language Pathology, Audiology and Hearing Aid Dealing and Fitting, the Radiologic Technology Board of Examiners, the Nursing Home Administrators Licensing Board, the Board of Licensure of Podiatric Medicine, the Board of Complementary Health Care Providers, the Maine Board of Pharmacy, and the Emergency Medical Services' Board and applicants for massage therapy licensure or licensed massage therapists, the following apply.

A. The procedures outlined in sections 5301 and 5302 for the consideration of prior criminal conviction as an element of fitness to practice a licensed profession, trade or occupation apply within 10 years of the applicant's or licensee's final discharge, if any, from the correctional system. [1995, c. 625, Pt. A, §12 (RPR).]

B. Beyond the 10-year period, ex-offender applicants or licensees with no additional convictions must be considered in the same manner as applicants or licensees possessing no prior criminal record for the purposes of licensing decisions. [1995, c. 625, Pt. A, §12 (RPR).]

C. There is no time limitation for consideration of a registrant's, an applicant's or licensee's conduct that gave rise to the criminal conviction if that conduct is otherwise a ground for disciplinary action. [1995, c. 625, Pt. A, §12 (RPR).]

[2007, c. 369, Pt. A, §2 (AMD); 2007, c. 369, Pt. C, §5 (AFF); 2015, c. 429, §23 (REV) .]

SECTION HISTORY
1975, c. 150, (NEW). 1989, c. 84, §3 (RPR). 1993, c. 600, §§B20-22 (AMD). 1995, c. 131, §2 (AMD). 1995, c. 162, §2 (AMD). 1995, c. 625, §A12 (AMD). 2005, c. 347, §A2 (AMD). 2007, c. 369, Pt. A, §2 (AMD). 2007, c. 369, Pt. C, §5 (AFF). 2015, c. 429, §23 (REV).

§5304. APPEALS

Any person who is aggrieved by the decision of any licensing agency in possible violation of this chapter may file a statement of complaint with the District Court designated in chapter 375. [1999, c. 547, Pt. B, §14 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

SECTION HISTORY
1975, c. 150, (NEW). 1987, c. 402, §A54 (AMD). 1999, c. 547, §B14 (AMD). 1999, c. 547, §B80 (AFF).

Part 15: MAINE-CANADIAN AFFAIRS

Chapter 351: MAINE-CANADIAN EXCHANGE ADVISORY COMMISSION AND OFFICE

§6001. TITLE

(REPEALED)

SECTION HISTORY
1975, c. 485, (NEW). 1977, c. 605, §2 (RP).

§6002. POLICY AND PURPOSE

(REPEALED)

SECTION HISTORY
1975, c. 485, (NEW). 1977, c. 579, §J1 (AMD). 1977, c. 605, §2 (RP).

§6003. MAINE-CANADIAN EXCHANGE OFFICE

(REPEALED)

SECTION HISTORY
1975, c. 485, (NEW). 1977, c. 605, §2 (RP).

§6004. DIRECTOR

(REPEALED)

SECTION HISTORY
1975, c. 485, (NEW). 1977, c. 579, §J2 (RPR). 1977, c. 605, §2 (RP).

§6005. DIRECTOR; POWERS AND DUTIES

(REPEALED)

SECTION HISTORY
1975, c. 485, (NEW). 1977, c. 605, §2 (RP).

§6006. FUNDS

(REPEALED)

SECTION HISTORY
1975, c. 485, (NEW). 1977, c. 605, §2 (RP).

§6007. MAINE-CANADIAN EXCHANGE ADVISORY COMMISSION

(REPEALED)

SECTION HISTORY
1975, c. 485, (NEW). 1977, c. 579, §J3 (AMD). 1977, c. 605, §2 (RP).

§6008. DUTIES; MEETINGS

(REPEALED)

SECTION HISTORY
1975, c. 485, (NEW). 1977, c. 605, §2 (RP).

Part 15-A: LAND FOR MAINE'S FUTURE

Chapter 353: LAND FOR MAINE'S FUTURE

§6200. FINDINGS

The Legislature finds that Maine is blessed with an abundance of natural resources unique to the northeastern United States; that these natural resources provide Maine residents and visitors to the State with an unparalleled diversity of outdoor recreation opportunities during all seasons of the year and a quality of life unmatched in this nation; that the continued availability of public access to these recreation opportunities and the protection of the scenic and natural environment are essential for preserving the State's high quality of life; that public acquisition programs have not kept pace with the State's expanding population and changing land use patterns so that Maine ranks low among the states in publicly owned land as a percentage of total state area; that rising land values are putting the State's real estate in shoreland and resort areas out of reach to most Maine citizens and that sensitive lands and resources of statewide significance are currently not well protected and are threatened by the rapid pace of development; and that public interest in the future quality and availability for all Maine people of lands for recreation and conservation is best served by significant additions of lands to the public domain. [1993, c. 728, §2 (AMD).]

The Legislature further finds that Maine's private, nonprofit organizations, local conservation commissions, local governments and federal agencies have made significant contributions to the protection of the State's natural areas and that these agencies should be encouraged to further expand and coordinate their efforts by working with state agencies as "cooperating entities" in order to help acquire, pay for and manage new state acquisitions of high priority natural lands. [1987, c. 506, §§ 1, 4 (NEW).]

The Legislature declares that the future social and economic well-being of the citizens of this State depends upon maintaining the quality and availability of natural areas for recreation, hunting and fishing, conservation, wildlife habitat, vital ecologic functions and scenic beauty and that the State, as the public's trustee, has a responsibility and a duty to pursue an aggressive and coordinated policy to assure that this Maine heritage is passed on to future generations. [1987, c. 506, §§ 1, 4 (NEW).]

SECTION HISTORY
1987, c. 506, §§1,4 (NEW). 1993, c. 728, §2 (AMD).

§6201. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1987, c. 506, §§1, 4 (NEW).]

1. **Appraised value.** "Appraised value" means the fair market value of property without the consideration of the effect, if any, of dedication or other preservation-related restrictions.

[1987, c. 506, §§1, 4 (NEW) .]

1-A. **Commercial fisheries business.** "Commercial fisheries business" means an enterprise directly or indirectly concerned with the commercial harvest of wild or aquacultured marine organisms, whose primary source of income is derived from these activities. "Commercial fisheries business" includes, but is not limited to:

A. Licensed commercial fishermen, aquaculturists and fishermen's cooperatives; [2011, c. 266, Pt. B, §1 (NEW).]

B. Persons providing direct services to commercial fishermen, aquaculturists or fishermen's cooperatives, as long as provision of these direct services requires the use of working waterfront property; and [2011, c. 266, Pt. B, §1 (NEW).]

C. Municipal and private piers and wharves operated to provide waterfront access to commercial fishermen, aquaculturists or fishermen's cooperatives. [2011, c. 266, Pt. B, §1 (NEW).]

[2011, c. 266, Pt. B, §1 (NEW) .]

2. **Cooperating entities.** "Cooperating entities" means those private nonprofit organizations, municipal conservation commissions, local governments, federal agencies or other bodies designated by the Land for Maine's Future Board pursuant to section 6203, as able to assist the State in the acquisition or management of conservation lands.

[1987, c. 506, §§1, 4 (NEW) .]

3. **Matching funds.** "Matching funds" means any combination of public and private funds used in conjunction with the Land for Maine's Future Fund or the Public Access to Maine Waters Fund for the purpose of this chapter, including, but not limited to: private contributions of cash or securities; money from municipal or other public agencies; money from a federal matching program, subject to the limitations of applicable federal and state laws, in an amount authorized by the federal program; contributions of real property, or interest in real property, that serves the acquisition needs of the State as determined by the Land for Maine's Future Board; in-kind contributions; or any combination of those funds. Contributions of land or interest in land must be valued, for purposes of this section, in the amount of their appraised value.

[1993, c. 728, §3 (AMD) .]

4. **Stewardship account.** "Stewardship account" means an account held separate and apart from all other money, funds and accounts of a state agency for the purposes of management of land owned in fee or less-than-fee simple meeting the criteria established in section 6207.

[1987, c. 506, §§1, 4 (NEW) .]

5. **Working waterfront or working waterfront property.** "Working waterfront" or "working waterfront property" means land, legally filled lands and piers and wharves and other improvements to land adjacent to the navigable coastal waters of the State and used by a commercial fisheries business.

[2011, c. 266, Pt. B, §2 (NEW) .]

SECTION HISTORY
1987, c. 506, §§1,4 (NEW). 1993, c. 728, §3 (AMD). 2011, c. 266, Pt. B, §§1, 2 (AMD).

§6202. LAND FOR MAINE'S FUTURE BOARD

The Land for Maine's Future Board, as established in chapter 379, shall be an Executive Department Board and shall be referred to in this chapter as the "board." [1987, c. 506, §§ 1, 4 (NEW).]

SECTION HISTORY
1987, c. 506, §§1,4 (NEW).

§6203. LAND FOR MAINE'S FUTURE FUND

1. **Fund established.** There is established the Land for Maine's Future Fund that is administered by the board. The Land for Maine's Future Fund consists of the proceeds from the sale of any bonds authorized for the purposes set forth in subsection 3 and any funds received as contributions from private and public sources for those purposes. The Land for Maine's Future Fund must be held separate and apart from all other money,

funds and accounts. Eligible investment earnings credited to the assets of the Land for Maine's Future Fund become part of the assets of that fund. Any balance remaining in the Land for Maine's Future Fund at the end of any fiscal year must be carried forward for the next fiscal year.

[1993, c. 728, §4 (AMD) .]

2. **Fund available.** The Land for Maine's Future Fund is available to state agencies and designated cooperating entities upon authorization of the board for the purposes identified in subsection 3.

[1993, c. 728, §4 (AMD) .]

3. **Fund proceeds.** The proceeds of the Land for Maine's Future Fund may be applied and expended to:

A. Acquire property or an interest in property that is determined by the board to be of state significance under the guidelines of this chapter; [1999, c. 769, §1 (AMD).]

B. When interest in land is acquired with proceeds from the Land for Maine's Future Fund, fund minor capital improvements on such lands and on adjoining lands in the same ownership or under the same management to improve accessibility, as long as these improvements do not exceed 5% of the appraised value of the acquired property; and [2009, c. 178, §1 (AMD).]

C. When interest in farmland is acquired with proceeds from the Land for Maine's Future Fund, fund the development of a business plan and capital improvements to provide for the land's continuing use as a working farm, as long as these improvements do not exceed 5% of the appraised value of the acquired property. Capital improvements under this paragraph may also be made on adjoining farmland in the same ownership or under the same management. [2009, c. 178, §2 (AMD).]

[2009, c. 178, §§1, 2 (AMD) .]

SECTION HISTORY
1987, c. 506, §§1,4 (NEW). 1993, c. 728, §4 (AMD). 1999, c. 769, §§1,2 (AMD). 2009, c. 178, §§1, 2 (AMD).

§6203-A. PUBLIC ACCESS TO MAINE WATERS FUND

1. **Fund established.** There is established the Public Access to Maine Waters Fund that is administered by the board. The Public Access to Maine Waters Fund consists of the proceeds from the sale of bonds authorized for the purposes set forth in subsection 3 and funds received as contributions from private and public sources for those purposes. The Public Access to Maine Waters Fund must be held separate and apart from all other money, funds and accounts. Eligible investment earnings credited to the assets of the Public Access to Maine Waters Fund become part of the assets of that fund. Any balance remaining in the Public Access to Maine Waters Fund at the end of a fiscal year must be carried forward for the next fiscal year.

[1993, c. 728, §5 (NEW) .]

2. **Fund available.** The Public Access to Maine Waters Fund is available to state agencies and designated cooperating entities upon authorization of the board for the purposes identified in subsection 3.

[1993, c. 728, §5 (NEW) .]

3. **Fund proceeds.** The proceeds of the Public Access to Maine Waters Fund may be applied and expended to:

A. Acquire property or interests in property abutting fresh or coastal waters when public access to those waters does not exist or when the board determines that existing points of public access are not sufficient; and [1993, c. 728, §5 (NEW).]

B. Provide minor capital improvements on lands acquired by proceeds from the Public Access to Maine Waters Fund to provide public access or improve accessibility, as long as these improvements do not exceed 5% of the appraised value of the acquired property. [1993, c. 728, §5 (NEW).]

[1993, c. 728, §5 (NEW) .]

SECTION HISTORY
1993, c. 728, §5 (NEW).

§6203-B. MAINE WORKING WATERFRONT ACCESS PROTECTION FUND

1. **Fund established.** The Maine Working Waterfront Access Protection Fund, referred to in this section as "the fund," is established and is administered by the board in cooperation with the Commissioner of Marine Resources under the provisions of this chapter and Title 12, section 6031-A. The fund consists of the proceeds from the sale of bonds authorized for the purposes set forth in subsection 3 and funds received as contributions from private and public sources for those purposes. The fund must be held separate and apart from all other money, funds and accounts. Eligible investment earnings credited to the assets of the fund become part of the assets of the fund. Any balance remaining in the fund at the end of a fiscal year must be carried forward for the next fiscal year.

[2011, c. 266, Pt. B, §3 (NEW) .]

2. **Grants.** The board may make grants to state agencies and designated cooperating entities for the purposes identified in subsection 3. Grants are made according to rules adopted by the board. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2011, c. 266, Pt. B, §3 (NEW) .]

3. **Fund proceeds.** The proceeds of the fund may be applied and expended to acquire property or interests in property that are designed to protect access to working waterfront property consistent with the provisions of Title 12, section 6042. The board shall include as a condition of an acquisition or grant made under this section the requirement that the protected property may not be used, altered or developed in a manner that precludes its use by a commercial fisheries business consistent with the provisions of Title 33, chapter 6-A. Consistent with the provisions of Title 12, section 6042, working waterfront covenants obtained through expenditures of these funds are held by the Commissioner of Marine Resources.

[2011, c. 266, Pt. B, §3 (NEW) .]

4. **Matching funds.** For each grant made under this section, the board shall require the grant recipient to provide matching funds at least equal to the amount of the grant.

[2011, c. 266, Pt. B, §3 (NEW) .]

SECTION HISTORY
2011, c. 266, Pt. B, §3 (NEW).

§6204. BOARD COMPOSITION

1. **Composition.** The board consists of 9 members, 6 who are private citizens and 3 who are permanent members. The permanent members are the Commissioner of Inland Fisheries and Wildlife; the Commissioner of Marine Resources; and the Commissioner of Agriculture, Conservation and Forestry.

[2011, c. 655, Pt. II, §11 (AFF); 2011, c. 657, Pt. X, §3 (AMD) .]

2. **Appointments.** The 6 private citizens are appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over matters pertaining to state parks and public lands and to confirmation by the Legislature.

[1999, c. 603, §3 (AMD) .]

3. **Qualifications.** The 6 private citizens must be selected for their knowledge of the State's natural resources and landscape and their demonstrated commitment to land conservation. Appointments must provide broad geographic representation.

[1993, c. 728, §6 (AMD) .]

4. **Terms; compensation.** The appointed private citizen members are appointed to staggered 4-year terms. The initial appointments are: Two members for 2-year terms; 2 members for 3-year terms; and 2 members for 4-year terms. Appointed private citizen members may not serve more than 2 consecutive 4-year terms. The appointed members receive the legislative per diem pursuant to chapter 379.

[1993, c. 728, §6 (AMD) .]

5. **Chair.** The Governor shall appoint the chair of the board.

[1993, c. 728, §6 (AMD) .]

6. **Assistance.** The Department of Inland Fisheries and Wildlife; the Department of Transportation; the Department of Agriculture, Conservation and Forestry; and all other state agencies shall provide staff support and assistance considered necessary by the board to fulfill the objectives of this chapter. If agency assistance is not available, consultants may be hired from the proceeds of either the Land for Maine's Future Fund or the Public Access to Maine Waters Fund to assist the board in carrying out its responsibilities.

[2011, c. 655, Pt. II, §11 (AFF); 2011, c. 657, Pt. X, §4 (AMD) .]

SECTION HISTORY
1987, c. 506, §§1,4 (NEW). 1987, c. 858, §§1,2 (AMD). 1989, c. 502, §B2 (AMD). 1993, c. 728, §6 (AMD). 1999, c. 603, §3 (AMD). 2011, c. 655, Pt. II, §§1, 2 (AMD). 2011, c. 655, Pt. II, §11 (AFF). 2011, c. 657, Pt. X, §§3, 4 (AMD).

§6205. BOARD MEETINGS; RULES AND ADMINISTRATIVE PROCEEDINGS

1. **Meetings.** The board shall meet at least 4 times each year. The chair shall call the meetings of the board.

[1993, c. 728, §7 (AMD) .]

2. **Rules.** The board, acting in accordance with section 8052, may adopt rules it considers necessary for the conduct of its business.

[1993, c. 728, §7 (AMD) .]

3. **Compensation.** Appointed members are entitled to receive compensation equal to legislative per diem and travel expenses as allowed under section 12004-G, subsection 29 while engaged in board activities.

[1993, c. 728, §7 (AMD) .]

4. **Quorum.** A quorum of the board for the transaction of business is 5 members.

[2013, c. 92, §1 (AMD) .]

5. **Personal bias.** If a charge of bias or personal financial interest, direct or indirect, is filed against a member requesting that member to withdraw from a proceeding of the board, that member shall determine whether or not to withdraw and shall make that determination part of the record of that proceeding.

[1993, c. 728, §7 (AMD) .]

SECTION HISTORY
1987, c. 506, §§1,4 (NEW). 1987, c. 858, §3 (AMD). 1989, c. 503, §B22 (AMD). 1993, c. 728, §7 (AMD). 2013, c. 92, §1 (AMD).

§6206. BOARD RESPONSIBILITIES

1. **Responsibilities.** The board shall:

A. Complete an assessment of the State's public land acquisition needs and develop a strategy and guidelines, based on that assessment, for use in allocating the proceeds of the Land for Maine's Future Fund and the Public Access to Maine Waters Fund. Both the assessment and the development of a strategy and guidelines must be conducted with opportunities for participation by interested state agencies and the public; [1993, c. 728, §8 (AMD).]

B. [1993, c. 728, §8 (RP).]

C. Receive and review funding requests from state agencies and cooperating entities for acquisition projects meeting state guidelines; [1987, c. 858, §4 (RPR).]

D. In accordance with the strategy and guidelines developed under paragraph A, authorize distribution of proceeds from the Land for Maine's Future Fund and the Public Access to Maine Waters Fund for acquisitions of property or interests in property; and [1993, c. 728, §8 (AMD).]

E. On January 1st of every odd-numbered year, report to the joint standing committee of the Legislature having jurisdiction over matters pertaining to state parks and public lands on expenditures from the Land for Maine's Future Fund and the Public Access to Maine Waters Fund and revisions to the strategies and guidelines. This report must include a description of access to land and interest in land acquired during the report period. If an acquisition has been made that does not include guaranteed public vehicular access to the land acquired, the board must provide justification for that acquisition and a plan for continuing efforts to acquire guaranteed public access to the land. This report must include a summary of the board's experience during the reporting period with projects funded pursuant to section 6203 or 6203-A and in which the land or interest in land is acquired by a cooperating entity. This report must also include on a county-by-county basis a summary of the expenditures made by the board and acreage conserved through acquisition of fee or less-than-fee interest by the board during the report period. Each report must include cumulative totals by county of acreage conserved through acquisition of fee or less-than-fee interest through action by the board.

The report must include maps based on available information and at a statewide level that show federal, state and other public lands and permanent interests in lands held for conservation purposes. The maps must also provide a representation of the amount of land affected by conservation easements under Title 33, chapter 7, subchapter 8-A. Other state agencies holding conservation lands and interests in lands held for conservation purposes shall assist in the preparation of the maps. [2007, c. 331, §1 (AMD).]

[2007, c. 331, §1 (AMD) .]

SECTION HISTORY

1987, c. 506, §§1,4 (NEW). 1987, c. 858, §4 (RPR). 1993, c. 728, §8 (AMD). 1999, c. 603, §4 (AMD). 2001, c. 466, §1 (AMD). 2001, c. 548, §2 (AMD). 2005, c. 215, §1 (AMD). 2007, c. 331, §1 (AMD).

§6206-A. NOMINATIONS

Prior to taking an action to designate land for negotiation for acquisition, the board shall send by certified mail or otherwise deliver a notice of this intention to the owner or owners of land within the area proposed by the board for acquisition, as the identity and address of such owner or owners is shown on the tax maps or other tax records of the municipality in which the land is located. If the land is located within the unorganized territory, notice must be sent to the owner or owners as shown on the tax maps or other tax records of the State Tax Assessor. After the completion of negotiations, the board shall publish a notice of its intent to designate land for acquisition in a newspaper or newspapers of general circulation that identifies the land proposed by the board for acquisition and that notifies the residents of the area that the board will accept public comments on the proposed acquisition. [1993, c. 728, §9 (AMD).]

Any owner of land that has been nominated for acquisition and is subject to the notice requirements of this section may submit a properly sworn affidavit to the board indicating the owner's unwillingness to sell. The affidavit is notice to the board that continued evaluation of that land is inappropriate and, unless the board intends to acquire an interest in the land through the use of eminent domain pursuant to section 6207-A, the board may not consider that land for acquisition. [1993, c. 728, §9 (AMD).]

SECTION HISTORY
1989, c. 485, §1 (NEW). 1989, c. 603, §1 (RPR). 1989, c. 607, (AMD). 1993, c. 728, §9 (AMD).

§6207. ACQUISITION CRITERIA

1. **Distribution of funds.** The board shall authorize the distribution of funds from the Land for Maine's Future Fund and the Public Access to Maine Waters Fund to state agencies and cooperating entities for the acquisition of natural lands that meet the criteria set forth in this chapter.

[1993, c. 728, §10 (AMD) .]

2. **Determination of state significance.** In determining whether a proposed acquisition must be funded, in full or in part, by the Land for Maine's Future Fund or the Public Access to Maine Waters Fund, the board shall consider whether the site is of state significance and:

A. Contains recreation lands, prime physical features of the Maine landscape, areas of special scenic beauty, farmland or open space, undeveloped shorelines, significant undeveloped archeological sites, wetlands, fragile mountain areas or lands with other conservation, wilderness or recreation values; [2007, c. 64, §1 (AMD).]

B. Is habitat for plant or animal species or natural communities considered rare, threatened or endangered in the State; [2007, c. 353, §1 (AMD).]

C. Provides nonmotorized or motorized public access to recreation opportunities or those natural resources identified in this section; or [2007, c. 353, §2 (AMD).]

D. Provides public water supply protection when that purpose is consistent and does not conflict with the natural resource conservation and recreation purposes of this chapter. [2007, c. 353, §3 (NEW).]

[2007, c. 64, §1 (AMD); 2007, c. 353, §§1-3 (AMD) .]

3. **Priorities.** Whenever possible, the Land for Maine's Future Fund and the Public Access to Maine Waters Fund must be used for land acquisition projects when matching funds are available from cooperating entities, as long as the proposed acquisition meets all other criteria set forth in this chapter. For acquisitions funded by the Land for Maine's Future Fund, the board shall give priority to projects that conserve lands with multiple outstanding resource or recreation values or a single exceptional value, conserve and protect deer wintering areas, provide geographic representation and build upon or connect existing holdings.

When acquiring land or interest in land, the board shall examine public vehicular access rights to the land and, whenever possible and appropriate, acquire guaranteed public vehicular access as part of the acquisition.

[2011, c. 381, §1 (AMD) .]

4. **Nonqualifying expenditures.** The board may not fund:

A. Facilities for organized recreational activities, including, but not limited to, ballparks, tennis courts or playgrounds; [1987, c. 506, §§1,4 (NEW).]

B. Except as provided in section 6203, subsection 3, paragraph B and section 6203-A, subsection 3, paragraph B, capital improvements on any publicly owned facilities; and [1993, c. 728, §10 (AMD).]

C. The acquisition of land of which the primary use value has been and will be as commercially harvested or harvestable forest land. [1993, c. 728, §10 (AMD).]

[1993, c. 728, §10 (AMD) .]

5. **Estimation of monitoring and management costs.** Prior to final approval of a project under this chapter, a person submitting a proposal to acquire property or an interest in property with funding from the Land for Maine's Future Fund or the Public Access to Maine Waters Fund shall provide:

A. A description of the management envisioned for the property for the first 10 years following acquisition. When the application proposes acquiring an interest in property, the application must provide a description of the anticipated management responsibilities retained by the landowner and those to be assumed by the State or a cooperating entity; [2001, c. 564, §1 (NEW).]

B. Preliminary estimates of the costs to the State or a cooperating entity of managing the land for the uses proposed in the application; and [2001, c. 564, §1 (NEW).]

C. Preliminary estimates of the costs associated with monitoring compliance with an easement when an interest in land is acquired. [2001, c. 564, §1 (NEW).]

[2001, c. 564, §1 (NEW) .]

SECTION HISTORY
1987, c. 506, §§1,4 (NEW). 1989, c. 876, §B1 (AMD). 1993, c. 728, §10 (AMD). 1995, c. 462, §D1 (AMD). 2001, c. 466, §2 (AMD). 2001, c. 564, §1 (AMD). 2007, c. 64, §1 (AMD). 2007, c. 353, §§1-3 (AMD). 2011, c. 381, §1 (AMD).

§6207-A. USE OF EMINENT DOMAIN

The board may expend funds to acquire an interest in land obtained by the use of eminent domain only if the acquisition has been approved by the Legislature or is with the consent of the owner or owners of the land, as the identity and address of the owner or owners is shown on the tax maps or other tax records of the municipality in which the land is located. If the land is located within the unorganized territory, for purposes of this section the identity of the owner or owners must be as shown on the tax maps or other tax records of the State Tax Assessor. [1995, c. 139, §1 (AMD).]

SECTION HISTORY

1989, c. 485, §2 (NEW). 1989, c. 603, §2 (RPR). 1993, c. 728, §11 (AMD). 1995, c. 139, §1 (AMD).

§6208. MUNICIPAL APPROVAL

1. **Approval.** Approval by the elected municipal officials is required when more than 1% of a municipality's state valuation is considered for acquisition under a bond issue.

[1993, c. 728, §12 (AMD) .]

2. **Transactions.** Any acquisition by eminent domain funded by the board, when the land exceeds either 50 acres or $100,000 in assessed value, is subject to the approval of the municipality in which the land is located. That approval may be obtained either from the elected municipal officials or, if those officials do not approve, by vote of the town meeting or by referendum of the electorate. If the land involved is located within the unorganized territory, this requirement does not apply.

[1993, c. 728, §12 (AMD) .]

SECTION HISTORY
1987, c. 506, §§1,4 (NEW). 1989, c. 603, §3 (AMD). 1993, c. 728, §12 (AMD).

§6208-A. UNORGANIZED TERRITORY; COUNTY APPROVAL

1. **Approval.** Approval by the county commissioners is required if land proposed to be acquired under a bond issue within the unorganized territory in a county constitutes more than 1% of the state valuation within the county.

[1999, c. 514, Pt. B, §1 (NEW) .]

2. **Transactions.** Any acquisition of land within an unorganized territory by eminent domain funded by the board, when the land exceeds either 50 acres or $100,000 in assessed value, must be approved by the county in which the land is located. That approval may be obtained either from the county commissioners or, if they do not approve, by referendum of the legal voters within the county.

[1999, c. 514, Pt. B, §1 (NEW) .]

SECTION HISTORY
1999, c. 514, §B1 (NEW).

§6209. OWNERSHIP; TITLE; MANAGEMENT

1. **Uses of funds.** The board may use the Land for Maine's Future Fund and the Public Access to Maine Waters Fund to acquire real property in both fee and less-than-fee simple interest, including, but not limited to, conservation easements, access easements, scenic easements, other permanent interests in land and long-term leases of at least 99 years, provided that those acquisitions are primarily natural lands meeting the criteria set forth in this chapter.

[1993, c. 728, §13 (AMD) .]

2. **Title.** Title to all lands acquired pursuant to this chapter must be vested solely in the State. Management responsibilities for the acquired lands may be contracted by the land-owning state agency to cooperating entities, subject to appropriate lease arrangements, upon the recommendation of the agency's commissioner and approval of the board.

[1993, c. 728, §13 (AMD) .]

3. **Matching funds.** When matching funds for a project include cash not derived from a bond request, an allocation of up to 20% of the appraised value of the acquired land or the amount of cash, whichever is less, may be put into the stewardship account of the state agency holding title to the land.

[1993, c. 728, §13 (AMD) .]

4. **Payments.** Payments from the fund may be made to cooperating entities for qualifying lands acquired on behalf of the State, provided that a state agency has issued to the cooperating entity a letter of intent requesting assistance in the acquisition. Upon submission to the state agency of a cooperating entity's direct expenses for acquisition and related costs of an authorized acquisition, the board shall authorize payment of those expenses, provided that the total of all expenses does not exceed the appraised value of the acquired property. Expenses must be paid at intervals during the acquisition process, as determined by the board.

[1993, c. 728, §13 (AMD) .]

5. **Land evaluated.** All lands acquired with money from the Land for Maine's Future Fund or the Public Access to Maine Waters Fund must be evaluated for rare, threatened or endangered species of plants and animals, exemplary natural communities, features of historic significance and other high priority natural features and ecologic functions as determined by the board, with reference to the best inventory data available to the State. Subsequent management by state agencies holding properties found to have such important features and functions must reflect the objective of maintaining and protecting those features and functions.

[1993, c. 728, §13 (AMD) .]

6. **Legislative approval.** Except as provided in subsection 7, land acquired under this chapter may not be sold or used for purposes other than those stated in this chapter, unless approved by a 2/3 majority of the Legislature.

[2011, c. 278, §1 (AMD) .]

7. **Conveyance of an access easement across a rail trail.** Notwithstanding any other provision of law, the Director of the Bureau of Parks and Lands within the Department of Agriculture, Conservation and Forestry, with the approval of the Governor and the Commissioner of Agriculture, Conservation and Forestry, may sell or otherwise convey in accordance with Title 12, section 1814-A access rights by easement across a rail trail acquired under this chapter.

For the purposes of this subsection, "rail trail" means a former railroad right-of-way in which the Department of Agriculture, Conservation and Forestry holds an ownership interest and that is:

A. No longer used for rail service; and [2011, c. 278, §2 (NEW).]

B. Managed by the Department of Agriculture, Conservation and Forestry for use as a recreational trail. [2011, c. 278, §2 (NEW); 2011, c. 657, Pt. W, §5 (REV).]

[2011, c. 278, §2 (NEW); 2011, c. 657, Pt. W, §§5-7 (REV); 2013, c. 405, Pt. A, §24 (REV) .]

SECTION HISTORY

1987, c. 506, §§1, 4 (NEW). 1993, c. 728, §13 (AMD). 2011, c. 278, §§1, 2 (AMD). 2011, c. 657, Pt. W, §§5-7 (REV). 2013, c. 405, Pt. A, §24 (REV).

§6210. DATA SHARING

If the board transfers in writing to any local or federal agency any written information acquired by the board under this chapter concerning any land, the board shall, upon transfer, notify the landowner of the transfer by certified mail. [1989, c. 485, §3 (NEW).]

SECTION HISTORY
1989, c. 485, §3 (NEW).

§6211. LAND FOR MAINE'S FUTURE BOARD-SPONSORED CREDIT CARD

1. **Land for Maine's Future Board-sponsored credit card.** The Land for Maine's Future Board may enter into an agreement with a financial institution, as defined in Title 9-B, section 131, subsection 17, a credit union, as defined in Title 9-B, section 131, subsection 12, or other credit card issuer to issue a credit card for the benefit of the Land for Maine's Future Board.

[1995, c. 516, §1 (AMD) .]

2. **Agreement.** If the Land for Maine's Future Board enters into an agreement with a financial institution, credit union or other credit card issuer in accordance with subsection 1, the Land for Maine's Future Board shall negotiate the most favorable agreement for the Land for Maine's Future Board, considering such factors as:

A. The rate for the Land for Maine's Future Board's fee by a credit card issuer; [1995, c. 358, §1 (NEW).]

B. The ability of the financial institution or other credit card issuer to market the card successfully; and [1995, c. 516, §1 (AMD).]

C. Customer service offered by the financial institution or other credit card issuer. [1995, c. 516, §1 (AMD).]

[1995, c. 516, §1 (AMD) .]

3. **Distribution of proceeds.** Funds received by the Land for Maine's Future Board under the agreement with the financial institution, credit union or other credit card issuer must be deposited in a separate, interest-bearing account within the Land for Maine's Future Fund. The account must be held separate and apart from all other money, funds and accounts. Eligible investment earnings credited to the assets of the account become part of the assets of the account. Any balance remaining in the account at the end of any fiscal year must be carried forward to the next fiscal year. Notwithstanding section 6203, subsection 3, the board may expend funds deposited in the account pursuant to this section to cover administrative costs and for staff support and consulting services, as determined necessary by the board to carry out its duties under this chapter.

[1999, c. 731, Pt. H, §1 (AMD) .]

SECTION HISTORY
1995, c. 358, §1 (NEW). 1995, c. 516, §1 (AMD). 1999, c. 731, §H1 (AMD).

Part 15-B: WATER RESOURCES MANAGEMENT BOARD

Chapter 355: WATER RESOURCES MANAGEMENT BOARD

§6301. BOARD CREATED; DUTIES

(REPEALED)

SECTION HISTORY
1989, c. 571, §B2 (NEW). MRSA T. 5, §6306 (RP).

§6302. BOARD MEMBERSHIP; CHAIR

(REPEALED)

SECTION HISTORY
1989, c. 571, §B2 (NEW). MRSA T. 5, §6306 (RP).

§6303. BOARD COMPENSATION

(REPEALED)

SECTION HISTORY
1989, c. 571, §B2 (NEW). MRSA T. 5, §6306 (RP).

§6304. MEETINGS; STAFF

(REPEALED)

SECTION HISTORY
1989, c. 571, §B2 (NEW). MRSA T. 5, §6306 (RP).

§6305. REPORT; REPORTING DEADLINE

(REPEALED)

SECTION HISTORY
1989, c. 571, §B2 (NEW). 1991, c. 35, (AMD). MRSA T. 5, §6306 (RP).

§6306. REPEAL

(REPEALED)

SECTION HISTORY
1989, c. 571, §B2 (NEW). MRSA T. 5, §6306 (RP).

Part 16: STATE DEVELOPMENT OFFICE

Chapter 361: STATE DEVELOPMENT OFFICE

§7001. STATE DEVELOPMENT OFFICE

(REPEALED)

SECTION HISTORY
1975, c. 481, §3 (NEW). 1987, c. 534, §§A16,A19 (RP).

§7002. STATE DEVELOPMENT DIRECTOR

(REPEALED)

SECTION HISTORY
1975, c. 481, §3 (NEW). 1975, c. 771, §92 (AMD). 1975, c. 777, §8 (AMD). 1977, c. 308, (AMD). 1977, c. 360, §34 (AMD). 1977, c. 696, §46 (AMD). 1979, c. 547, §1 (AMD). 1981, c. 173, §§1,2 (AMD). 1981, c. 456, §A20 (AMD). 1981, c. 512, §1 (AMD). 1981, c. 698, §9 (AMD). 1983, c. 135, (AMD). 1983, c. 477, Pt. E, Subpt. 26, §§2, 3 (AMD). 1983, c. 519, §1 (AMD). 1985, c. 464, §§1,4 (AMD). 1985, c. 471, §§1,2 (AMD). 1985, c. 779, §21 (AMD). 1987, c. 534, §§A16,A19 (RP). 1987, c. 542, §§I1,I6 (AMD). 1987, c. 769, §A14 (AMD).

§7003. TOURISM PROMOTION AND INFORMATION SERVICES

(REPEALED)

SECTION HISTORY
1979, c. 567, §1 (NEW). 1981, c. 505, §1 (AMD). 1983, c. 477, Pt. E, Subpt. 26, §4 (RP).

§7004. TOURISM PROMOTION AND INFORMATION SERVICES

(REPEALED)

SECTION HISTORY
1983, c. 477, Pt. E, Subpt. 26, §5 (NEW). 1987, c. 534, §§A16,A19 (RP).

§7005. MAINE VACATION-TRAVEL COMMISSION

(REPEALED)

SECTION HISTORY
1983, c. 477, Pt. E, Subpt. 26, §5 (NEW). 1983, c. 812, §§35, 36 (AMD). 1987, c. 534, §§A16, A19 (RP).

§7006. TRAVEL PROMOTION MATCHING FUND PROGRAM

(REPEALED)

SECTION HISTORY
1983, c. 477, Pt. E, Subpt. 26, §5 (NEW). 1985, c. 785, §A79 (AMD). 1987, c. 534, §§A16,A19 (RP).

§7007. APPROPRIATION

(REPEALED)

SECTION HISTORY
1983, c. 477, Pt. E, Subpt. 26, §5 (NEW). 1987, c. 534, §§A16,A19 (RP).

§7008. REPORT TO LEGISLATURE

(REPEALED)

SECTION HISTORY
1983, c. 477, Pt. E, Subpt. 26, §5 (NEW). 1987, c. 534, §§A16,A19 (RP).

Subchapter 2: COMMUNITY INDUSTRIAL BUILDINGS PROGRAM

§7010. DEFINITIONS

(REPEALED)

SECTION HISTORY
1983, c. 519, §2 (NEW). 1987, c. 534, §§A16,A19 (RP).

§7011. COMMUNITY INDUSTRIAL BUILDINGS FUND

(REPEALED)

SECTION HISTORY
1983, c. 519, §2 (NEW). 1987, c. 534, §§A16,A19 (RP).

§7012. ASSISTANCE TO DEVELOPMENT CORPORATIONS

(REPEALED)

SECTION HISTORY
1983, c. 519, §2 (NEW). 1985, c. 825, (AMD). 1987, c. 534, §§A16,A19 (RP).

Subchapter 3: BUSINESS ASSISTANCE AND SERVICE REFERRAL PROGRAM

§7015. PROGRAM; DESIGN

(REPEALED)

SECTION HISTORY
1985, c. 464, §§2,4 (NEW). 1987, c. 534, §§A16,A19 (RP).

§7016. PROGRAM TO BE PROMOTED

(REPEALED)

SECTION HISTORY
1985, c. 464, §§2,4 (NEW). 1987, c. 534, §§A16,A19 (RP).

§7017. AGENCIES TO COOPERATE

(REPEALED)

SECTION HISTORY

1985, c. 464, §§2,4 (NEW). 1987, c. 534, §§A16,A19 (RP).

§7018. STATE PLANNING OFFICE TO PROVIDE NOTICE OF FEDERAL GRANT APPROVAL

(REPEALED)

SECTION HISTORY
1985, c. 464, §§2,4 (NEW). 1987, c. 534, §§A16,A19 (RP).

Part 16-A: MAINE QUALITY OF PLACE

Chapter 363: MAINE QUALITY OF PLACE JOBS CREATION AND INVESTMENT STRATEGY

§7019. DEFINITIONS

(REPEALED)

SECTION HISTORY
2009, c. 483, §1 (NEW). 2011, c. 655, Pt. EE, §30 (AFF). 2011, c. 655, Pt. EE, §3 (RP).

§7020. MAINE QUALITY OF PLACE COUNCIL

(REPEALED)

SECTION HISTORY
2009, c. 483, §1 (NEW). 2011, c. 655, Pt. EE, §30 (AFF). 2011, c. 655, Pt. EE, §3 (RP).

§7020-A. COUNCIL RESPONSIBILITIES

(REPEALED)

SECTION HISTORY
2009, c. 483, §1 (NEW). 2011, c. 655, Pt. EE, §30 (AFF). 2011, c. 655, Pt. EE, §3 (RP).

Part 17: STATUS OF WOMEN

Chapter 371: MAINE COMMISSION FOR WOMEN

§7021. COMMISSION ESTABLISHED

(REPEALED)

SECTION HISTORY
P&SL 1975, c. 147, §G1 (NEW). 1983, c. 812, §37 (RPR). 1989, c. 503, §B23 (AMD). 1991, c. 622, §S5 (RP).

§7022. MEMBERSHIP

(REPEALED)

SECTION HISTORY
P&SL 1975, c. 147, §G1 (NEW). 1991, c. 376, §23 (AMD). 1991, c. 622, §S5 (RP).

§7023. TERM OF OFFICE

(REPEALED)

SECTION HISTORY
P&SL 1975, c. 147, §G1 (NEW). 1991, c. 622, §S5 (RP).

§7024. VACANCIES

(REPEALED)

SECTION HISTORY
P&SL 1975, c. 147, §G1 (NEW). 1991, c. 622, §S5 (RP).

§7025. CHAIRPERSON

(REPEALED)

SECTION HISTORY
P&SL 1975, c. 147, §G1 (NEW). 1991, c. 622, §S5 (RP).

§7026. POWERS AND DUTIES

(REPEALED)

SECTION HISTORY
P&SL 1975, c. 147, §G1 (NEW). 1991, c. 376, §§24,25 (AMD). 1991, c. 622, §S5 (RP).

§7027. MEETINGS; COMPENSATION

(REPEALED)

SECTION HISTORY
P&SL 1975, c. 147, §G1 (NEW). 1983, c. 812, §38 (AMD). 1991, c. 622, §S5 (RP).

§7028. STAFF; FUNDING

(REPEALED)

SECTION HISTORY
P&SL 1975, c. 147, §G1 (NEW). 1991, c. 622, §S5 (RP).

Chapter 371-A: PERMANENT COMMISSION ON THE STATUS OF WOMEN

§7029. COMMISSION ESTABLISHED

The Permanent Commission on the Status of Women, established by section 12004-I, subsection 88-A and referred to in this chapter as "the commission," is an independent commission. The commission shall promote, carry out and coordinate programs designed to improve opportunities for women in the State. [2009, c. 191, §1 (NEW).]

SECTION HISTORY
2009, c. 191, §1 (NEW).

§7030. MEMBERSHIP

The commission consists of 17 members, including 7 appointed by the Governor, 5 appointed by the President of the Senate and 5 appointed by the Speaker of the House of Representatives. In making these appointments, the Governor, the President of the Senate and the Speaker of the House of Representatives shall consider and appoint residents of the State who have a knowledge of problems facing women in the State, who have experience in advocacy relating to women's issues and who provide leadership in programs or activities that improve opportunities for women. The members of the commission must be chosen from throughout the State, and the majority of members must be women. A member of the Legislature may not be appointed to the commission. The Governor shall appoint 7 members, each of whom represents one of the following interests: minorities, the elderly, low-income people, persons with disabilities, youth, working with victims of domestic violence and federally recognized tribes in the State. [2009, c. 191, §1 (NEW).]

SECTION HISTORY
2009, c. 191, §1 (NEW).

§7030-A. TERM OF OFFICE

Members of the commission are appointed for 2-year terms, except that, of those members first appointed, 4 appointed by the Governor, 2 appointed by the President of the Senate and 2 appointed by the Speaker of the House must be appointed for one-year terms. The term of office of each member must be designated at the time of appointment. [2009, c. 191, §1 (NEW).]

Members of the commission may serve after the expiration of their terms until their successors have taken office. The Governor, the President of the Senate and the Speaker of the House may terminate the membership of their respective appointees for good cause. The reason for the termination must be communicated in writing to a member whose membership is terminated. The membership of any member of the commission must be terminated if the member is absent from 3 consecutive meetings without communicating good cause to the chair of the commission. [2009, c. 191, §1 (NEW).]

SECTION HISTORY
2009, c. 191, §1 (NEW).

§7030-B. VACANCIES

A member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed serves only for the remainder of that term and must be appointed by the same appointing authority. Any vacancy on the commission does not affect its powers. [2009, c. 191, §1 (NEW).]

SECTION HISTORY
2009, c. 191, §1 (NEW).

§7030-C. CHAIR

The Governor shall select from among the members of the commission a chair. The chair is authorized to appoint subcommittees. [2013, c. 104, §1 (AMD).]

SECTION HISTORY
2009, c. 191, §1 (NEW). 2013, c. 104, §1 (AMD).

§7030-D. POWERS AND DUTIES

The commission shall advise and consult with the Governor and the Legislature about, and assist them in improving, opportunities for women in the State by: [2009, c. 191, §1 (NEW).]

1. **Research.** Carrying out research programs necessary to determine the status of women in the State;

[2009, c. 191, §1 (NEW) .]

2. **Activities.** Promoting and coordinating activities on state and local levels designed to meet the problems of women in the State;

[2009, c. 191, §1 (NEW) .]

3. **Advocate.** Serving as an advocate for women in making recommendations on proposed budgetary, legislative and policy actions to the Governor, the Legislature and other officials of the State and the Federal Government with respect to state and federal policies, programs and other activities affecting or relating to women in the State;

[2009, c. 191, §1 (NEW) .]

4. **Information.** Informing the public about the presence or absence of opportunities for women in the State;

[2009, c. 191, §1 (NEW) .]

5. **Meetings.** Conducting public hearings, conferences, workshops and other such meetings to obtain information about, discuss and publicize the needs of and solutions to the problems of women; and

[2009, c. 191, §1 (NEW) .]

6. **Reports.** Making a biennial report to the Governor and the Legislature concerning the work and interests of the commission.

[2009, c. 191, §1 (NEW) .]

The commission may accept funds from the Federal Government, from a political subdivision of the State or from an individual, a foundation or a corporation and may expend funds for purposes that are consistent with this chapter. Funds received under this section must be deposited in a nonlapsing Other Special Revenue Funds account within the Department of the Secretary of State to support the work of the commission. [2013, c. 104, §2 (NEW).]

SECTION HISTORY
2009, c. 191, §1 (NEW). 2013, c. 104, §2 (AMD).

§7030-E. MEETINGS; COMPENSATION

The commission shall meet at the call of the chair not less than 4 times each year. [2009, c. 191, §1 (NEW).]

SECTION HISTORY
2009, c. 191, §1 (NEW).

§7030-F. STAFF SUPPORT

The Secretary of State shall provide staffing support as required. [2009, c. 191, §1 (NEW).]

SECTION HISTORY
2009, c. 191, §1 (NEW).

Part 17-A: CIVIL SERVICE

Chapter 372: STATE CIVIL SERVICE SYSTEM

Subchapter 1: STRUCTURE AND AUTHORITY

Article 1: BUREAU OF HUMAN RESOURCES

§7031. PURPOSE AND MISSION

The Legislature finds that State Government is the largest single employer in the State and has a substantial impact, not only upon the growth and development of the State, but also with respect to policies that directly affect Maine citizens. The Legislature further finds that state employees are a valuable human resource who possess valuable skills and knowledge necessary to the effective operation of State Government and to the general health, safety and welfare of Maine citizens. [1985, c. 785, Pt. B, §38 (NEW).]

The Legislature further finds that it is essential to the welfare of all Maine citizens for state employees to undertake their duties and responsibilities in a conscientious and dependable manner. It is also of vast importance to the efficient and effective operation of State Government that all qualified Maine citizens have fair and equal opportunity to enter the service of State Government on the basis of merit and to work free from the forces of favoritism, nepotism and political patronage. Further, it is essential that individuals possessing the knowledge and skills necessary for the effective operation of State Government are hired and retained. [1985, c. 785, Pt. B, §38 (NEW).]

To achieve these goals, it is vital that the personnel administrative organization of State Government recognize and develop the talents, contributions and potential of state employees and applicants for employment. [1985, c. 785, Pt. B, §38 (NEW).]

It is in the public interest and is the policy of the State of Maine to foster and encourage an educational leave program to permit employees of the State to increase knowledge and skills and to improve work techniques and procedures. This would permit the agencies themselves and the citizens of Maine to benefit by what the employee has learned and will impart to others upon return. [2001, c. 519, §3 (NEW).]

It is the intent of the Legislature to establish the Bureau of Human Resources as the agency responsible for the administration of the human resources activities of State Government and that shall act as a service organization to respond quickly and effectively to the needs of state employees and state agencies. It is also the intent of the Legislature that the Bureau of Human Resources operate flexibly to expedite the duties and responsibilities of state employees and state agencies. [2007, c. 240, Pt. HH, §3 (AMD).]

Every employee of the Bureau of Human Resources and any other affected state agency shall act to assure that the provisions of the Civil Service Law are carried out in an open, fair and expeditious manner, with the objective of hiring and retaining the best person for a position as quickly as possible. To this end, all state agencies shall take steps to speed up handling of matters and to reduce and simplify the procedures and paperwork required by the Civil Service Law. [1991, c. 2, §10 (COR).]

It is not the intent of the Legislature in this chapter or any part of it to limit or restrict the rights of state employees to bargain collectively as provided in Title 26. [1985, c. 785, Pt. B, §38 (NEW).]

SECTION HISTORY
1985, c. 785, §B38 (NEW). RR 1991, c. 2, §10 (COR). 2001, c. 519, §3 (AMD). 2007, c. 240, Pt. HH, §3 (AMD).

§7032. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1985, c. 785, Pt. B, §38 (NEW).]

1. **Appeals board.** "Appeals board" means the State Civil Service Appeals Board.

[1985, c. 785, Pt. B, §38 (NEW) .]

2. **Appointing authority.** "Appointing authority" means the officer, board, commission, person or group of persons having the power by virtue of the Constitution of Maine, a statute or lawfully delegated authority to make appointments.

[1985, c. 785, Pt. B, §38 (NEW) .]

3. **Classified service.** "Classified service" means all offices and positions of trust and employment in state service, except those placed in the unclassified service by chapter 71.

[1985, c. 785, Pt. B, §38 (NEW) .]

4. **Director.** "Director" means the Director of Human Resources.

[1985, c. 785, Pt. B, §38 (NEW) .]

5. **Eligible register.** "Eligible register" means any book or other type of record or list on which the names of persons are placed who are qualified for the specific job classification for which the register is created.

[1985, c. 785, Pt. B, §38 (NEW) .]

6. **Employee.** "Employee" means any person holding a position subject to appointment by an appointing authority.

[1985, c. 785, Pt. B, §38 (NEW) .]

6-A. **Employee from the executive branch in the unclassified service.** "Employee from the executive branch in the unclassified service" means all executive branch employees listed in section 931, but does not include any elective or constitutional officers listed in that section or their direct appointees.

[1997, c. 498, §2 (NEW) .]

7. **Policy Review Board.**

[1999, c. 668, §8 (RP) .]

8. **Resident.** "Resident" means a person who is domiciled in this State.

[1985, c. 785, Pt. B, §38 (NEW) .]

SECTION HISTORY
1985, c. 785, §B38 (NEW). 1997, c. 498, §2 (AMD). 1999, c. 668, §8 (AMD).

§7033. BUREAU OF HUMAN RESOURCES; ESTABLISHED

1. **Goals and objectives.** The Bureau of Human Resources is established within the Department of Administrative and Financial Services as the administrative agency for state civil service matters and as a service agency to state agencies and departments. In addition to any other goals and objectives established in this chapter, the Bureau of Human Resources shall strive to:

A. Establish within State Government a high concern for state employees as people; [1985, c. 785, Pt. B, §38 (NEW).]

B. Provide managers with the skills and knowledge needed to manage people effectively with particular emphasis on "people soundness;" [1985, c. 785, Pt. B, §38 (NEW).]

C. Establish a civil service system that provides State Government with highly qualified and motivated employees; [1985, c. 785, Pt. B, §38 (NEW).]

D. Encourage state employees to realize their potential and thereby increase the quality of service; [1985, c. 785, Pt. B, §38 (NEW).]

E. Establish itself as a service agency to assist other agencies and departments of State Government to perform their duties in an efficient and quality manner; [1985, c. 785, Pt. B, §38 (NEW).]

F. Preserve the integrity of the civil service system; [2007, c. 240, Pt. HH, §4 (AMD).]

G. Establish a civil service system with sufficient flexibility to adopt new technologies, procedures and policies in order to respond quickly and effectively to the needs of state agencies and employees; and [2007, c. 240, Pt. HH, §4 (AMD).]

H. Promote effective labor relations. [2007, c. 240, Pt. HH, §4 (NEW).]

[2007, c. 240, Pt. HH, §4 (AMD) .]

SECTION HISTORY
1985, c. 785, §B38 (NEW). 2007, c. 240, Pt. HH, §4 (AMD).

§7034. BUREAU OF HUMAN RESOURCES; DUTIES

The Bureau of Human Resources shall be responsible for the administration of the civil service system of State Government. The bureau shall: [1985, c. 785, Pt. B, §38 (NEW).]

1. **Act in a professional, courteous manner.** Perform its duties in a highly professional and helpful manner;

[1985, c. 785, Pt. B, §38 (NEW) .]

2. **Cooperate with agencies.** Cooperate and work closely with all state agencies with respect to the personnel needs and matters of each agency. The bureau shall strive to ensure that personnel policies are understood and carried out by the agencies;

[1999, c. 668, §9 (AMD) .]

3. **Respond quickly to requests.** Act expeditiously upon requests of state agencies and state employees with respect to civil service matters;

[1985, c. 785, Pt. B, §38 (NEW) .]

4. **Provide managerial training.** To the extent that resources are available, provide training in management and supervision to all persons who enter into management and supervisory positions in State Government and provide management and supervisory training on a periodic basis to ensure that managerial and supervisory personnel are knowledgeable of the most current management theories and practices.

Managerial and supervisory training shall include, among other factors, training in employee evaluation. This training at a minimum shall include at least one day of training for every supervisor during their first probationary period as a supervisor;

[1987, c. 349, Pt. H, §5 (AMD) .]

5. **Update registers.** Update, at least annually, all registers of eligibility in the classified service, upon implementation of necessary automated procedures;

[1985, c. 785, Pt. B, §38 (NEW) .]

6. **Review applications.** Review applications for positions in State Government and determine the eligibility of the applicants in an expeditious manner;

[1991, c. 528, Pt. III, §15 (AMD); 1991, c. 528, Pt. RRR, (AFF); 1991, c. 591, Pt. III, §15 (AMD) .]

7. **Implementation.** Implement, in a conscientious manner, the tasks and duties assigned by the director;

[1991, c. 528, Pt. III, §15 (AMD); 1991, c. 528, Pt. RRR, (AFF); 1991, c. 591, Pt. III, §15 (AMD) .]

8. **Administer state employee health program.** Develop and maintain policies and programs directed to a healthful and safe working environment for state employees to include the administration of a first aid and health service in the State House complex for state employees and State House visitors;

[1991, c. 528, Pt. III, §16 (NEW); 1991, c. 528, Pt. RRR, (AFF); 1991, c. 591, Pt. III, §16 (NEW) .]

9. **Administer state employee health insurance program.** Administer a health insurance program that is consistent with the rules adopted by the State Employee Health Commission and the requirements of sections 285 to 286-A;

[1991, c. 780, Pt. Y, §93 (AMD) .]

10. **Administer state employee assistance program.** Administer assessment and referral services for employees in need of these services in accordance with the program defined by section 957; and

[1991, c. 780, Pt. Y, §93 (AMD) .]

11. **Administer state employee workers' compensation program.** Administer the program of workers' compensation for state employees in conjunction with the programs for health and wellness and health insurance.

[1991, c. 780, Pt. Y, §94 (NEW) .]

12. **Represent departments, agencies and commissions.** Represent all departments, agencies and commissions of the Executive Branch, as directed by the Governor, pursuant to Title 26, section 979-A, et seq.

[2007, c. 240, Pt. HH, §5 (NEW) .]

SECTION HISTORY

1985, c. 785, §B38 (NEW). 1987, c. 349, §H5 (AMD). 1991, c. 528, §§III15,16 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §§III15,16 (AMD). 1991, c. 780, §§Y93,94 (AMD). 1999, c. 668, §9 (AMD). 2007, c. 240, Pt. HH, §5 (AMD).

§7035. DIRECTOR OF HUMAN RESOURCES

The Director of Human Resources must be qualified by education or experience in the administration of personnel systems, public or private, and in human resource management. The commissioner shall appoint the Director of Human Resources who serves at the pleasure of the commissioner. [1997, c. 632, §1 (AMD).]

The director may name a designee to conduct employee relations activities set forth in Title 26, chapter 9-B and other proceedings such as negotiations, mediation, fact-finding, arbitration, grievance proceedings, unemployment compensation proceedings, workers' compensation proceedings, human rights proceedings and other labor relations proceedings. [2007, c. 240, Pt. HH, §6 (NEW).]

1. **Education and experience in personnel systems.**

[1997, c. 632, §1 (RP) .]

2. **Restricted political activity.**

[1997, c. 632, §1 (RP) .]

3. **Record of achievement.**

[1997, c. 632, §1 (RP) .]

SECTION HISTORY
1985, c. 785, §B38 (NEW). 1997, c. 498, §3 (AMD). 1997, c. 632, §1 (AMD). 2007, c. 240, Pt. HH, §6 (AMD).

§7036. DUTIES OF THE DIRECTOR

The Director of Human Resources shall be responsible for the administration of this chapter. In carrying out these duties and responsibilities, the director shall: [2007, c. 240, Pt. HH, §7 (AMD).]

1. **Develop administrative procedures.** Develop administrative procedures which are not subject to the Maine Administrative Procedure Act, chapter 375, with respect to the internal management of the office and the interaction of the office with other state agencies;

[1985, c. 785, Pt. B, §38 (NEW) .]

1-A. **Conduct employee relations activities.** Act as directed by the Governor, through the Commissioner of Administrative and Financial Services, to carry out all employee relations functions as set forth in Title 26, section 979-A, subsection 5, paragraphs A to G.

[2007, c. 240, Pt. HH, §8 (NEW) .]

2. **Develop training programs.** Provide for a statewide coordinated training and organizational development system and services; develop and implement training programs to ensure that managers and supervisors have the skills and knowledge needed to manage people effectively; provide career and professional development programs for employees; provide state agencies with organizational development

and management consulting services; provide technical assistance and other programs for training and organizational development; and provide supported employment and special appointment counseling and placement.

A. The director may employ staff and contract for professional services as necessary to develop and conduct training, organizational development and managerial development programs. [1989, c. 501, Pt. P, §19 (NEW).]

B. Charges may be made to state agencies for programs and services provided. Any rate schedule recommended by the director is subject to the approval of the commissioner. [2007, c. 466, Pt. A, §13 (AMD).]

C. The Training and Organizational Development Fund is established as a dedicated revenue account fund for the purposes of this subsection. [1989, c. 501, Pt. P, §19 (NEW).]

D. No expenditures may be made from the Training and Organizational Development Fund for the purpose of providing any state employee, elected official or appointee with training intended specifically to enhance and promote their image as an individual without the authorization of the Governor; [1989, c. 501, Pt. P, §19 (NEW); 1989, c. 702, Pt. E, §3 (AMD).]

[2007, c. 466, Pt. A, §13 (AMD) .]

3. **Provide information.**

[2007, c. 240, Pt. HH, §9 (RP) .]

4. **Develop career information.** Develop and distribute brochures to provide periodic seminars to state employees that provide information regarding:

A. Careers available in State Government; [1985, c. 785, Pt. B, §38 (NEW).]

B. Job descriptions of the different careers or job classifications; [1985, c. 785, Pt. B, §38 (NEW).]

C. Basic qualifications for and requirements of the careers or job classifications; and [1985, c. 785, Pt. B, §38 (NEW).]

D. The process by which a person obtains additional information about and applies for different positions in the classified service; [1985, c. 785, Pt. B, §38 (NEW).]

[1985, c. 785, Pt. B, §38 (NEW) .]

5. **Be responsible for development and implementation of system of registers of eligibles.** Be responsible for the development and use of registers of eligibles and the updating of these registers.

After meeting and consulting with collective bargaining representatives of affected employees, the director shall implement the procedures authorized by this subsection with the goal to establish an efficient hiring process that meets the satisfaction of the agencies that the office serves;

[2015, c. 442, §1 (AMD) .]

6. **Develop and oversee job application process.** Develop and oversee the administration of the job application process with the goal to establish a very efficient process that meets the needs established in subsection 4;

[1999, c. 668, §10 (AMD) .]

7. **Work closely with state agencies.** Work closely and cooperate with state agencies with respect to personnel matters and personnel needs of state agencies and state employees. Personnel matters and personnel needs include, but are not limited to, the following:

A. Requests of state agencies' lists of eligible persons to fill vacant or new positions; [1985, c. 785, Pt. B, §38 (NEW).]

B. Requests of state agencies for reclassifications and reallocations of positions; [1985, c. 785, Pt. B, §38 (NEW).]

C. Requests of state employees for information about job opportunities in State Government; and [1985, c. 785, Pt. B, §38 (NEW).]

D. Requests of state employees for job reclassifications and reallocations. [1985, c. 785, Pt. B, §38 (NEW).]

The director shall, at least once a year, meet with the commissioners and directors of other state agencies to discuss, individually, the personnel needs and problems of each state agency and proposed solutions that may be offered by the various agencies. The director shall also discuss with each agency any future changes to the civil service system that the director intends to propose;

[2007, c. 466, Pt. A, §14 (AMD) .]

8. **Establish and implement job performance evaluation process.** Establish and implement an employee job performance evaluation process to be used by all agencies with employees in the classified service. The job performance evaluation procedure must be consistent in its use and application among all classified service employees;

[1999, c. 668, §10 (AMD) .]

9. **Respond to requests of applicants for information concerning their qualifications for positions in State Government.** Respond to requests of applicants and provide information to the applicants with respect to their qualifications, including their test scores, strengths of the applicants, weaknesses of the applicants, areas in need of improvement and the means by which the applicants may improve qualifications;

[1985, c. 785, Pt. B, §38 (NEW) .]

10. **Undertake long-term and short-term planning.** Undertake long-term and short-term planning with respect to the needs of the civil service system within the ensuing year and in the next 5 years. The director shall focus on the types of positions, qualifications and requirements for these positions, technologies and types of procedures necessary to maintain an efficient, modern, comprehensive, conscientious and effective state employee labor force;

[1985, c. 785, Pt. B, §38 (NEW) .]

11. **Investigate complaints.** Investigate complaints and problems relating to the administration and operation of the civil service system and inform the joint standing committee of the Legislature having jurisdiction over State Government of any legislation necessary to resolve the problems;

[1985, c. 785, Pt. B, §38 (NEW) .]

12. **Coordinate and use State Government services.** Coordinate and use the services available to State Government to create an effective, motivated state employee labor force, including the services of the Bureau of Employment Services; the Welfare Employment, Education and Training, WEET, program of the Department of Health and Human Services; and any other services that are appropriate to the purpose of the Bureau of Human Resources;

[1995, c. 560, Pt. G, §4 (AMD); 1995, c. 560, Pt. G, §29 (AFF); 2003, c. 689, Pt. B, §6 (REV) .]

13. **Evaluate the operation of the civil service system.** Evaluate the operation of the civil service system and report its findings to the joint standing committee of the Legislature having jurisdiction over State Government by October 15th of each year. This report shall include, at a minimum, the following:

A. The turnover rate in the state employee labor force for the classified and the unclassified services for the previous fiscal year; [1985, c. 785, Pt. B, §38 (NEW).]

B. The turnover rate for each job classification for the previous fiscal year; [1985, c. 785, Pt. B, §38 (NEW).]

C. The total number and disposition of job reclassification requests, which shall also indicate the period of time for a final decision for each request; [1985, c. 785, Pt. B, §38 (NEW).]

D. The number of vacancies, occurring in the previous fiscal year, which required recruitment of personnel and the length of time required to fill each vacancy. The time period shall be measured from the time of notice of departure, transfer or promotion of the previous incumbent to the successor's assumption of the position; [1985, c. 785, Pt. B, §38 (NEW).]

E. The reason for the occurrence of each vacancy that occurred in the previous fiscal year to include job promotion, problems with management and any other causes for the vacancies; and [1985, c. 785, Pt. B, §38 (NEW).]

F. The training programs instituted by the bureau and the number of persons completing these programs in the previous fiscal year; [1985, c. 785, Pt. B, §38 (NEW).]

[1985, c. 785, Pt. B, §38 (NEW) .]

14. **Employ staff and other assistance.** Employ staff, who must be employed in the classified service in accordance with the Civil Service Law. Persons appointed to major policy-influencing positions are unclassified and serve at the pleasure of the director. The classified and unclassified employees in the Bureau of Human Resources shall comply with section 7056-A, defining the political activities in which the employees may engage. All managerial, policy-influencing and professional employees in the bureau must be qualified by education, training and experience in the administration of personnel systems;

[1997, c. 498, §4 (AMD) .]

15. **Prepare a budget.** Prepare a budget for the administration and operation of the Bureau of Human Resources in accordance with the provisions of law that apply to departments of State Government;

[1985, c. 785, Pt. B, §38 (NEW) .]

16. **Meet with Policy Review Board.**

[1999, c. 668, §11 (RP) .]

17. **Adopt rules.** Adopt rules in accordance with the Maine Administrative Procedure Act, chapter 375, with respect to:

A. Provisional, emergency, exceptional and temporary appointments; [1985, c. 785, Pt. B, §38 (NEW).]

B. Leave of absence, resignation, hours of service, vacation and sick leave; [1985, c. 785, Pt. B, §38 (NEW).]

C. Personnel records; [1985, c. 785, Pt. B, §38 (NEW).]

D. Suspension, lay off, dismissal and demotion; [1985, c. 785, Pt. B, §38 (NEW).]

E. Promotion in the classified service; [1985, c. 785, Pt. B, §38 (NEW).]

F. Probationary periods; [1985, c. 785, Pt. B, §38 (NEW).]

G. Certification of payrolls; [1985, c. 785, Pt. B, §38 (NEW).]

H. Eligible registers; [1985, c. 785, Pt. B, §38 (NEW).]

I. Classification of positions in the classified service; [1985, c. 785, Pt. B, §38 (NEW).]

J. Compensation plan; [1985, c. 785, Pt. B, §38 (NEW).]

K. Examination for admission to the classified service; [1985, c. 785, Pt. B, §38 (NEW).]

L. Transfer; [1985, c. 785, Pt. B, §38 (NEW).]

M. In-service training; [1985, c. 785, Pt. B, §38 (NEW).]

N. Service ratings; and [1985, c. 785, Pt. B, §38 (NEW).]

O. Alternative work hours; [1985, c. 785, Pt. B, §38 (NEW).]

[1985, c. 785, Pt. B, §38 (NEW) .]

18. **Records.**

[1987, c. 402, Pt. B, §§6, 7 (RP) .]

19. **Hearings.** In the course of any investigations under chapters 56, 65, 67, 71 and this chapter, hold hearings for the purpose of gathering information. The hearings are not adjudicatory proceedings under the Maine Administrative Procedure Act, chapter 375. In conjunction with the hearings, the director may administer oaths and subpoena and require the attendance of witnesses and the production of books, papers, public records and other documentary evidence pertinent to the investigation.

In case of the refusal of any person to comply with any subpoena issued under this subsection or to testify to any matter regarding which that person may be lawfully interrogated, the Superior Court in any county on application of the commissioner may issue an order requiring that person to comply with the subpoena and to testify; and any failure to obey the order of the court may be punished by the court as a contempt of the court;

[2001, c. 2, Pt. A, §8 (COR) .]

20. **Contract and enter into agreements.** Enter into contracts and agreements to achieve the purposes of this chapter;

[1985, c. 785, Pt. B, §38 (NEW) .]

21. **Enforcement.** To enforce the observance of the Civil Service Law and the rules made under it;

[1985, c. 785, Pt. B, §38 (NEW) .]

22. **Records.** Keep a full and complete record of adjudicatory proceedings, including hearings on matters of classification, reclassification or allocation, in accordance with the Maine Administrative Procedure Act, chapter 375, sections 9059 and 9061, and to keep a record of votes taken in rule-making proceedings in accordance with the Maine Administrative Procedure Act, section 8056, and to keep full and complete minutes of investigatory hearings. These records and minutes must be open to public inspection unless otherwise provided by law;

[1991, c. 528, Pt. III, §17 (AMD); 1991, c. 528, Pt. RRR, (AFF); 1991, c. 591, Pt. III, §17 (AMD) .]

23. **Organization and decentralization.** Organize the bureau as the director determines most efficient and to decentralize personnel management among the various departments and agencies of the State consistent with the requirements of section 7031 and determined in the best interest of efficient administration;

[1991, c. 528, Pt. III, §17 (AMD); 1991, c. 528, Pt. RRR, (AFF); 1991, c. 591, Pt. III, §17 (AMD) .]

24. **Administer state employee health insurance program for state employees.** Administer the Employee Health Insurance Program and the fund accounts established for this purpose by sections 286, 286-A and 1731;

[1991, c. 528, Pt. III, §18 (NEW); 1991, c. 528, Pt. RRR, (AFF); 1991, c. 591, Pt. III, §18 (NEW) .]

25. **Administer proactive state employee health and safety program.** Work with other bureaus and departments and state employees and their representatives to establish policies and programs that minimize the risk of injury to and incidence of illness among state employees, to include the administration of a first aid and health service in the State House complex for state employees and State House visitors;

[2007, c. 240, Pt. HH, §10 (AMD) .]

26. **Administer employee assistance program for state employees.** Oversee and direct an employee assistance program for the purpose of assisting state employees to address and overcome personal difficulties that interfere with performance and productivity;

[2003, c. 230, §1 (AMD) .]

27. **Administer state employee workers' compensation program.** Administer the program of workers' compensation for state employees in conjunction with the programs for health and wellness and health insurance; and

[2003, c. 230, §2 (AMD) .]

28. **Ensure establishment of policies regarding complaints against state employees.** Ensure that each state agency establishes a policy that makes certain that complaints filed by the public against a state employee or group of state employees are addressed by that agency. Each agency policy must ensure that there are written instructions describing the most effective way for the public to file a complaint with the agency, a procedure for the agency to address complaints from the public and a provision that requires the agency to notify a complainant of the outcome of the complaint. This subsection does not authorize the release of confidential information that may not otherwise be released to the public.

[2003, c. 230, §3 (NEW) .]

SECTION HISTORY
1985, c. 785, §B38 (NEW). 1987, c. 402, §§B6,B7 (AMD). 1989, c. 501, §P19 (AMD). 1989, c. 702, §E3 (AMD). 1991, c. 528, §§III17,18 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §§III17,18 (AMD). 1991, c. 780, §§Y95,96 (AMD). 1995, c. 560, §G4 (AMD). 1995, c. 560, §G29 (AFF). 1997, c. 498, §4 (AMD). 1999, c. 668, §§10,11 (AMD). RR 2001, c. 2, §A8 (COR). 2003, c. 230, §§1-3 (AMD). 2003, c. 689, §B6 (REV). 2007, c. 240, Pt. HH, §§7-10 (AMD). 2007, c. 466, Pt. A, §§13, 14 (AMD). 2015, c. 442, §1 (AMD).

§7037. LIMITATIONS ON COLLECTIVE BARGAINING ACTIVITY

(REPEALED)

SECTION HISTORY
1985, c. 785, §B38 (NEW). 2007, c. 240, Pt. HH, §11 (RP).

§7038. COMMUNICATIONS BETWEEN MANAGEMENT AND EMPLOYEES

The director is responsible for the development and monitoring of a communications process between management and subordinate employees in each agency of State Government. [1999, c. 668, §12 (AMD).]

1. **Factors to be considered.** In the development of a communications' process for each agency, the director shall:

A. Consider the uniqueness and the responsibilities of each agency; [1985, c. 785, Pt. B, §38 (NEW).]

B. Consider the valuable information that nonsupervisory employees may contribute to the operation of each agency; [1985, c. 785, Pt. B, §38 (NEW).]

C. Consider the means, including confidentiality of identity, by which nonsupervisory employees may communicate information about department policies, procedures and practices to the management without intimidation or fear of reprisal from management; [1985, c. 785, Pt. B, §38 (NEW).]

D. Consider the need for communication between supervisory personnel and policy-influencing persons which is necessary for the efficient and effective implementation of department policies and procedures; [1985, c. 785, Pt. B, §38 (NEW).]

E. Consider employee evaluation of supervisors as a means of improving supervisory skills and management-employee relations; [1985, c. 785, Pt. B, §38 (NEW).]

F. Consider the means by which professional and nonprofessional employees discuss issues of mutual concern on a regular basis; [1985, c. 785, Pt. B, §38 (NEW).]

G. Emphasize an approach that promotes cooperation between management and nonsupervisory personnel; and [1985, c. 785, Pt. B, §38 (NEW).]

H. Any other variable considered by the director to be important to the process. [1985, c. 785, Pt. B, §38 (NEW).]

[1985, c. 785, Pt. B, §38 (NEW) .]

2. **Prohibitions.** Any department policy, practice or procedure that any agency of State Government adopts or implements and which discriminates against persons for reasons other than merit, special skills or job qualifications or reasons authorized under collective bargaining agreements is void.

[1985, c. 785, Pt. B, §38 (NEW) .]

3. **Communication on a regular basis.** Any communications' process established pursuant to this section shall function on a regular basis.

[1985, c. 785, Pt. B, §38 (NEW) .]

4. **Penalty for failure to comply.** The Commissioner of Administrative and Financial Services may not authorize payment of any debts or liabilities of a department or salaries of persons in policy-influencing positions in a department or agency that, upon written notification by the director, is not in compliance with this section.

[1991, c. 780, Pt. Y, §97 (AMD) .]

5. **Schedules.** The Department of Health and Human Services shall be the first state agency scheduled for review by the Bureau of Human Resources. Findings of this process shall be reported to the joint standing committees of the Legislature having jurisdiction over audit and program review and human resources prior to June 1, 1988.

[1987, c. 395, Pt. A, §23 (NEW); 2003, c. 689, Pt. B, §6 (REV) .]

SECTION HISTORY
1985, c. 785, §B38 (NEW). 1987, c. 395, §A23 (AMD). 1991, c. 780, §Y97 (AMD). 1999, c. 668, §12 (AMD). 2003, c. 689, §B6 (REV).

§7039. CIVIL SERVICE LAW

The Civil Service Law consists of chapters 65, 67, 68, 69, 71 and this chapter. Whenever reference is made in statute or rule to the Civil Service Law, the chapters delineated in this section apply. [2001, c. 2, Pt. A, §9 (COR).]

SECTION HISTORY
1985, c. 785, §B38 (NEW). 1987, c. 402, §§B8,B9 (AMD). RR 1999, c. 2, §3 (COR). RR 2001, c. 2, §A9 (COR).

Article 2: POLICY REVIEW BOARD

§7041. POLICY REVIEW BOARD; ESTABLISHMENT; MEMBERSHIP; COMPENSATION

(REPEALED)

SECTION HISTORY
1985, c. 785, §B38 (NEW). 1985, c. 819, §A6 (AMD). 1991, c. 780, §§Y98-100 (AMD). 1993, c. 349, §11 (AMD). RR 1995, c. 2, §6 (COR). 1999, c. 668, §13 (RP).

§7042. DUTIES AND RESPONSIBILITIES OF THE POLICY REVIEW BOARD

(REPEALED)

SECTION HISTORY
1985, c. 785, §B38 (NEW). 1987, c. 240, §2 (AMD). 1999, c. 668, §14 (RP).

Subchapter 2: EMPLOYEE POLICIES, PRACTICES AND RESTRICTIONS

Article 1: CITZENSHIP, RESIDENCY, HIRING PRACTICES AND VETERANS' PREFERENCE

§7051. GENERAL PROVISIONS

The following provisions apply to the classified and unclassified services or to the specific services as specified in this section. [1985, c. 785, Pt. B, §38 (NEW).]

1. **Citizenship.** In making appointments to or recruiting for any position on an open competitive basis in the classified service, preference shall be given to citizens of the United States. This requirement may be waived by the director on an individual basis when there exists compelling reasons for the waiver.

[1985, c. 785, Pt. B, §38 (NEW) .]

2. **Discrimination prohibited.** In carrying out this chapter, no discrimination may be made on account of political or religious opinions or affiliations or because of race or national origin, sex or marital status or age or physical disability, unless based upon a bona fide occupational qualification.

[1985, c. 785, Pt. B, §38 (NEW) .]

3. **Hiring and promoting neutrality.** The final decision of whether a person will be hired or promoted by the State may not be made in part or wholly by a person related to the job candidate by consanguinity or affinity within the 4th degree. The director by rules shall insure that this section will not deprive any applicant or employee of full consideration for hiring or promotion.

[1985, c. 785, Pt. B, §38 (NEW) .]

4. **Employees in military service; substitutes.** Whenever any employee, regularly employed in other than a temporary position for a period of at least 6 months by the State or by any department, bureau, commission or office of the State, or by the University of Maine System, community colleges, Maine School Building Authority, Maine Turnpike Authority, Finance Authority of Maine or any other state or quasi-state agency, or by any county, municipality, township or school district within the State shall in time of war, contemplated war, emergency or limited emergency, enlist, enroll, be called or ordered or be drafted into the Armed Forces of the United States or any branch or unit thereof, or shall be regularly drafted under federal manpower regulations, the employee shall not be deemed or held to have thereby resigned from or abandoned employment, nor shall be removable during the period of service. "Temporary," for the purpose of this section means employment based on a seasonal or on-call basis or employment based on a contract of less than 6 months' duration.

A. [2001, c. 662, §1 (RP).]

B. [2001, c. 662, §2 (RP).]

C. [2001, c. 662, §2 (RP).]

D. [2001, c. 662, §3 (RP).]

E. When a permanent classified employee is on extended leave, a substitute may be employed, subject to personnel rules, until return or separation of the incumbent. [1985, c. 785, Pt. B, §38 (NEW).]

[2001, c. 662, §1-3 (AMD); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF) .]

5. **Probationary period; permanent appointments.** All original appointments to the classified service and all subsequent promotional appointments within the classified service shall be for a probationary period. The duration of the probationary period shall be determined by the director in consultation with the director or commissioner of the agency, but in no case may it be for less than 6 months.

A. Probationary employees shall be reviewed at the end of their 3rd month of employment by their supervisors. The supervisor and the employee shall mutually discuss the job tasks and the performance of the employee, including any necessary improvements. [1987, c. 240, §3 (NEW).]

B. Probationary employees shall be included in the payroll of the department in which they have been hired at the time of the commencement of their duties. Probationary employees shall be compensated in the same manner as permanent full-time employees, provided they have been hired in accordance with all applicable laws and procedures. [1987, c. 240, §3 (NEW).]

[1987, c. 240, §3 (AMD) .]

6. **Temporary and provisional appointments.** Whenever it is impossible to certify eligible persons for appointment to a vacancy in the classified service, the appointing authority may nominate a person to the director. If the nominee is found by the director to have had experience and training that appear to qualify the nominee for the position, the nominee may be temporarily appointed to fill the vacancy in accordance with policies and procedures developed by the director.

A. The director may make a provisional appointment to fill a technical or professional position that requires a specialized knowledge or training to carry out the duties of the position and that cannot be filled from the eligible register. [2007, c. 466, Pt. A, §15 (AMD).]

B. The director shall establish a policy to protect persons in temporary positions from remaining in a temporary position for an unreasonable period of time that may not exceed one year except that an extension may be granted to an individual by the director when unusual circumstances warrant that extension. [2015, c. 442, §2 (AMD).]

C. The director may authorize, without requiring competitive tests, the appointment of unskilled laborers or persons engaged in custodial and domestic work in state institutions or departments. [1985, c. 785, Pt. B, §38 (NEW).]

[2015, c. 442, §2 (AMD) .]

7. **Dismissal and disciplinary action.** An appointing authority may dismiss, suspend or otherwise discipline an employee in the classified service for cause. This right is subject to the right of appeal and arbitration of grievances set forth in the applicable labor contract, in sections 7081 to 7084 or by civil service rule; and sections 7081 to 7084 shall apply to any employee who has satisfactorily completed an initial probationary period. This subsection does not apply to unclassified employees listed in section 931, nor does this subsection in any way limit the collective bargaining rights of classified and unclassified employees. This subsection does not apply to an employee appointed to a major policy-influencing position listed in sections 932 to 953.

Notwithstanding any other provision of law, the head of any institution under the control of the Department of Health and Human Services as the appointing authority may suspend with pay any employee who is charged by indictment with the commission of a criminal offense involving acts alleged to have been perpetrated upon any resident or residents of any such institution. Any suspension with pay may be authorized by the appointing authority only when to permit the employee to remain on duty at the institution would be against the best interest of any one or more of the residents of the institution, and authorization for suspension with pay shall apply only during the pendency of the criminal proceedings in the trial court, but not longer than 30 working days. Sections 7081 to 7084 shall not apply to suspension with pay ordered by the appointing authority under this paragraph.

[1987, c. 9, §3 (AMD); 1995, c. 560, Pt. K, §82 (AMD); 1995, c. 560, Pt. K, §83 (AFF); 2001, c. 354, §3 (AMD); 2003, c. 689, Pt. B, §6 (REV) .]

SECTION HISTORY

1985, c. 785, §B38 (NEW). 1987, c. 9, §3 (AMD). 1987, c. 240, §3 (AMD). 1987, c. 402, §A55 (AMD). 1989, c. 443, §11 (AMD). 1995, c. 560, §K82 (AMD). 1995, c. 560, §K83 (AFF). 1999, c. 668, §15 (AMD). 2001, c. 354, §3 (AMD). 2001, c. 662, §§1-3 (AMD). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF). 2003, c. 689, §B6 (REV). 2007, c. 466, Pt. A, §15 (AMD). 2009, c. 415, Pt. A, §4 (AMD). 2015, c. 442, §2 (AMD).

§7052. APPOINTMENTS AND PROMOTIONS

Appointments to and promotions in the classified service must be made according to merit and fitness, from eligible lists developed by the director pursuant to procedures and policies established by the director. A person may not be appointed, transferred, promoted or reduced as an officer, clerk or employee or laborer in the classified service in any manner or by any means other than those prescribed by law or rule pursuant to this chapter. [1999, c. 668, §16 (AMD).]

SECTION HISTORY
1985, c. 785, §B38 (NEW). 1999, c. 668, §16 (AMD).

§7053. INTERMITTENT EMPLOYEES

It is the policy of the State to permit all employees of the State to participate to the fullest extent possible in the benefits of the civil service system for classified and unclassified employees. This policy shall be extended to full-time, part-time, intermittent and all other categories of employees. [1985, c. 785, Pt. B, §38 (NEW).]

The Director of Human Resources shall, not later than July 1, 1986, adopt rules to assure the attainment of this policy for intermittent employees. At a minimum, the rules must: [1997, c. 2, §15 (COR).]

1. **Define intermittent positions.** Define intermittent positions and must in the definition limit the use of any position to employment for not more than 1040 hours in any consecutive 12-month period;

[1995, c. 502, Pt. F, §3 (AMD) .]

2. **Eligibility provisions.** Provide that a person who has been employed in an intermittent position for more than 1,040 hours shall:

A. Be eligible to accrue and use vacation and sick leave days at the same rate, pro rata, as full-time state employees; [1985, c. 785, Pt. B, §38 (NEW).]

B. Be eligible to receive holiday pay at the same rate, pro rata, at the same rate as full-time state employees, provided that the intermittent employee works on the days before and after the holiday; [1985, c. 785, Pt. B, §38 (NEW).]

C. Be eligible to receive an increase in salary to the next step on the same basis as full-time employees, that is, after completing 2,080 hours of work; [1985, c. 785, Pt. B, §38 (NEW).]

D. Be considered a classified employee for the purposes of:

(1) Eligible registers;

(2) Classification of positions;

(3) The compensation plan;

(4) Promotion in the classified service;

(5) Provisional, emergency, exceptional and temporary appointments;

(6) Probationary period;

(7) Transfer;

(8) Reinstatement;

(9) Demotion;

(10) Suspension, layoff and dismissal;

(11) Leave of absence and resignation;

(12) Personnel records;

(13) In-service training;

(14) Service ratings; and

(15) Certification of payrolls; [1985, c. 785, Pt. B, §38 (NEW).]

E. Be eligible to participate on a pro rata basis in the retirement program for state employees; and [1985, c. 785, Pt. B, §38 (NEW).]

F. Be eligible to participate in health and hospitalization insurance programs at rates of participation reduced to reflect the less than full-time status; and [1985, c. 785, Pt. B, §38 (NEW).]

[1985, c. 785, Pt. B, §38 (NEW) .]

3. **Restricted application.** This section shall not apply if provided pursuant to Title 26, chapter 9-B.

[1985, c. 785, Pt. B, §38 (NEW) .]

SECTION HISTORY
1985, c. 785, §B38 (NEW). 1987, c. 320, (AMD). 1995, c. 502, §F3 (AMD). RR 1997, c. 2, §15 (COR).

§7054. VETERANS' PREFERENCE

(REPEALED)

SECTION HISTORY
1985, c. 785, §B38 (NEW). 1985, c. 811, (AMD). 1987, c. 402, §§A56,A57 (AMD). 1989, c. 20, (AMD). 1989, c. 443, §12 (AMD). 1993, c. 427, §§1,2 (AMD). 1995, c. 115, §1 (AMD). 1999, c. 462, §1 (AMD). RR 2001, c. 2, §A10 (COR). 2001, c. 512, §§1-3 (AMD). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF). 2015, c. 438, §1 (RP).

§7054-A. ACCESS TO REGISTER FOR ASPIRE-JOBS PARTICIPANTS

In making referrals to a position on an open competitive basis in the classified service, preference must be given to ASPIRE-JOBS participants as set forth in this section. [1993, c. 385, §2 (NEW).]

1. **Eligibility.** Candidates must be active participants of the ASPIRE-JOBS Program, as defined in Title 22, chapter 1054-A, or current recipients of Temporary Assistance for Needy Families who have completed the ASPIRE-JOBS Program within the past year at the time an application for employment is filed with the Bureau of Human Resources in order to be eligible for preference under this section. Candidates shall make their status in the ASPIRE-JOBS Program known to the Director of Human Resources in a manner prescribed by the director. Eligibility for preference continues for a period of one year after the date of application for employment and may be renewed at the end of one year at the request of the candidate if the candidate continues to meet the other eligibility criteria specified in this subsection. A candidate receives preference only if the candidate has earned a qualifying rating on all relevant examinations.

[1993, c. 385, §2 (NEW); 1997, c. 530, Pt. A, §34 (AMD) .]

2. **Certification preference.** Preference is limited to referral of the highest scoring ASPIRE-JOBS Program participant as an additional candidate to be interviewed. If the normal certification procedure includes an eligible ASPIRE-JOBS Program participant, further preferential certification may not be made. Preference under this section may not exclude a person who would be referred normally.

[1993, c. 385, §2 (NEW) .]

SECTION HISTORY
1993, c. 385, §2 (NEW). 1997, c. 530, §A34 (AMD).

§7054-B. VETERAN PREFERENCE

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

A. "Gold star spouse" means a widow or widower of a veteran who is eligible to receive a gold star lapel pin under 10 United States Code, Section 1126 (2010). [2015, c. 438, §2 (NEW).]

B. "Veteran" means a person who has served on active duty in the United States Armed Forces including the Reserves of the United States Armed Forces and the National Guard and received a discharge other than dishonorable. [2015, c. 438, §2 (NEW).]

[2015, c. 438, §2 (NEW) .]

2. **Interview.** In filling any position in the classified service, the employing agency shall offer an interview to any veteran or gold star spouse who meets the minimum qualifications established for the position.

[2015, c. 438, §2 (NEW) .]

3. **Retention preference.** In any reduction in personnel in the state service, employees who are veterans or gold star spouses must be retained in preference to all other competing employees in the same classification with equal seniority, status and performance reviews.

[2015, c. 438, §2 (NEW) .]

SECTION HISTORY
2015, c. 438, §2 (NEW).

§7055. REOPENING OF EXAMINATIONS

(REPEALED)

SECTION HISTORY
1985, c. 785, §B38 (NEW). 2015, c. 438, §3 (RP).

§7056. POLITICAL ACTIVITY

(REPEALED)

SECTION HISTORY
1985, c. 785, §B38 (NEW). 1987, c. 487, (AMD). 1997, c. 498, §5 (RP).

§7056-A. POLITICAL ACTIVITY

1. **Use of official authority.** An officer or employee in the classified service or an employee from the executive branch in the unclassified service of this State may not use that officer's or employee's official authority, influence or supervisory position for the purpose of:

A. Interfering with or affecting the result of a partisan election or nomination for elective office; or [1997, c. 498, §6 (NEW).]

B. Attempting to intimidate, threaten, coerce, command or influence a person to give or withhold a political contribution or to engage or not to engage in any form of political activity as defined in this section. [1997, c. 498, §6 (NEW).]

For the purpose of this subsection, "use of official authority or influence" includes promising to confer or conferring a benefit such as compensation, a grant, contract, license or ruling; effecting or threatening to effect a reprisal, such as deprivation of compensation, a grant, contract, license or ruling; or taking, directing others to take, recommending, processing or approving any personnel action.

[1997, c. 498, §6 (NEW) .]

2. **Political contributions.** An officer or employee in the classified service or an employee from the executive branch in the unclassified service of this State may not:

A. Give or offer to give a political contribution to an individual to vote or refrain from voting or to vote for or against any candidate or measure in any partisan election; [1997, c. 498, §6 (NEW).]

B. Solicit, accept or receive a political contribution to vote or refrain from voting or to vote for or against any candidate or measure in any partisan election; [1997, c. 498, §6 (NEW).]

C. Knowingly give or hand over a political contribution to a superior of the employee; [1997, c. 498, §6 (NEW).]

D. Knowingly solicit, accept or receive or be in any manner concerned with soliciting, accepting or receiving a political contribution from another employee or a member of another employee's immediate family who is a subordinate of the employee; or [1997, c. 498, §6 (NEW).]

E. Knowingly solicit, accept or receive a political contribution from or give a political contribution to any person who:

(1) Has or is seeking to obtain contractual or other business or financial relations with the agency in which the employee is employed;

(2) Conducts operations or activities that are regulated by that agency; or

(3) Has interests that may be substantially affected by the performance or nonperformance of the employee's official duties. [1997, c. 498, §6 (NEW).]

[1997, c. 498, §6 (NEW) .]

3. **Political activity.** An officer or employee in the classified service or an employee from the executive branch in the unclassified service of this State may not engage in political activity:

A. When the employee is on duty; [1997, c. 498, §6 (NEW).]

B. In state-owned or leased work space occupied in the discharge of official duties or by using the facilities or services of the State; or [1997, c. 498, §6 (NEW).]

C. When wearing a uniform or official insignia identifying the office or position of the employee or while using a vehicle owned or leased by the State or its agencies. [1997, c. 498, §6 (NEW).]

As used in this subsection, political activity means to advocate expressly for the election or defeat of any candidate for a federal office, a constitutional office or any candidate for partisan elective municipal, county or state office, including leadership positions in the Senate and the House of Representatives or to solicit contributions reportable under Title 21-A, chapter 13.

[1997, c. 498, §6 (NEW) .]

4. **Candidacy for elective office.** An officer or employee in the classified service or an employee from the executive branch in the unclassified service of this State, except for an officer or enlisted person in the Maine National Guard, may not be a candidate for elective office in a partisan public election other than for a local office. This subsection may not be construed as prohibiting an officer or employee of the State from being a candidate in an election if none of the candidates is nominated or elected at that election as representing a party whose candidates for presidential elector received votes in the last preceding election during which presidential electors were selected. Law enforcement officers continue to be subject to departmental rules regarding procedures on candidacy.

[2007, c. 130, §1 (AMD) .]

5. **Rights of voting and free expression.** An officer or employee in the classified service or an employee from the executive branch in the unclassified service of this State retains the right to vote as that officer or employee chooses and to express opinions on political subjects and candidates.

[1997, c. 498, §6 (NEW) .]

6. **Rights of participation in political organizations and activities.** An officer or an employee of the classified service or an employee from the executive branch in the unclassified service of this State may:

A. Campaign for and hold an elective office in political clubs and organizations; [1997, c. 498, §6 (NEW).]

B. Contribute money to political organizations or attend political fundraising functions; [1997, c. 498, §6 (NEW).]

C. Donate personal time and service to a political cause; [1997, c. 498, §6 (NEW).]

D. Be a candidate for public office in a nonpartisan election; and [1997, c. 498, §6 (NEW).]

E. Participate in any other activity not specifically prohibited by state or federal law. [1997, c. 498, §6 (NEW).]

[1997, c. 498, §6 (NEW) .]

7. **Exemption of official duties.** This section may not be construed to apply to any actions taken in order to carry out the duties and responsibilities of an officer's or employee's position, including but not limited to advocacy on policy issues or legislation.

[1997, c. 498, §6 (NEW) .]

SECTION HISTORY
1997, c. 498, §6 (NEW). 2007, c. 130, §1 (AMD).

Article 2: JOB CLASSIFICATION, COMPENSATION AND QUALIFICATIONS

§7061. CLASSIFICATION PLAN

The director, in accordance with policies and procedures established by the director and in accordance with this section, shall record the duties and responsibilities of all positions in state service and establish classes for these positions. The titles of the positions and classes must be used in all personnel, accounting, budget, appropriation and financial records of all state departments, commissions and institutions. [1999, c. 668, §17 (AMD).]

1. **Involvement of commissioners and directors.** In recording the duties and responsibilities of each position, the commissioners and directors of the departments and agencies of State Government shall be involved to the greatest extent possible.

[1987, c. 541, (RPR) .]

2. **Development of job classifications.** Job classifications created pursuant to this section shall be developed to meet the needs of each department in the most efficient and pertinent manner.

[1987, c. 541, (RPR) .]

2-A. **Mental health professionals.** Job classifications adopted by the director under subsection 2 must allow a person licensed as a marriage and family therapist under Title 32, chapter 119 to qualify for mental health therapist positions within the civil service system.

[2011, c. 6, §1 (NEW) .]

3. **Collective bargaining.**

[1987, c. 724, §1 (REEN); T. 5, §7061, sub-§7 (RP) .]

4. **Implementation.** The procedure established pursuant to this section shall be implemented by the bureau in conjunction with state agencies. State agencies shall provide sufficient employees and resources to efficiently and effectively implement this section.

A. The procedure shall provide for periodic updating of job descriptions at least every 5 years to accurately reflect current duties and responsibilities of each job classification. [1987, c. 541, (NEW).]

[1987, c. 541, (NEW) .]

5. **Reclassification requests.** The bureau shall act as expeditiously as possible on job reclassification requests which occur while this section is in effect. Nothing in this section may be construed to authorize the bureau to defer from acting expeditiously on job reclassification requests while the issue of job classifications is being addressed pursuant to this section.

[1987, c. 541, (NEW) .]

6. **Report.** The director shall submit a progress report on or before February 15, 1988, to the joint standing committee of the Legislature having jurisdiction over state and local government.

[1987, c. 541, (NEW) .]

7. **Sunset.** Subsection 3 is repealed March 15, 1990.

[1987, c. 724, §2 (AMD) .]

SECTION HISTORY

1985, c. 785, §B38 (NEW). 1987, c. 541, (RPR). 1987, c. 724, §§1,2 (AMD). 1999, c. 668, §17 (AMD). 2011, c. 6, §1 (AMD).

§7062. REGISTERS OF ELIGIBILITY

The director, in accordance with policies and procedures established by the director, shall prepare for each class of positions in the classified service registers of persons eligible for appointment to positions in each class. Each eligible register consists of a list of all the persons who have shown by competitive tests, as provided in section 7063, that they possess the qualifications that entitle them to be considered eligible for appointment to any position in the class for which the eligible register is to be prepared, and of employees who have resigned or been dismissed, laid off or granted leaves of absence and whose names have been restored to the eligible register in accordance with this chapter. [1999, c. 668, §18 (AMD).]

1. **Placement of names on register.** In establishing registers of eligible persons pursuant to this section, the names of all persons attaining the minimum final earned ratings established by the director must be placed on the register.

[2015, c. 442, §3 (AMD) .]

2. **Establishment of direct hire procedures.** The director shall, based on recruitment and retention needs and the provision of section 7036, subsection 22, establish where practicable direct hire procedures.

[1999, c. 668, §19 (AMD) .]

3. **Removal from list prohibited under certain circumstances.** A person may not be removed from a register of eligibles for:

A. Specifying the conditions under which the applicant will accept employment in a classification; [1985, c. 785, Pt. B, §38 (NEW).]

B. Specifying a department, bureau or division in which the applicant will accept employment in a classification; or [2015, c. 442, §3 (AMD).]

C. Specifying a department, bureau or division in which the applicant will not accept employment in a classification. [2015, c. 442, §3 (AMD).]

D. [2015, c. 442, §3 (RP).]

E. [2015, c. 442, §3 (RP).]

[2015, c. 442, §3 (AMD) .]

SECTION HISTORY
1985, c. 785, §B38 (NEW). 1999, c. 668, §§18,19 (AMD). 2015, c. 442, §3 (AMD).

§7063. EXAMINATIONS

Any examinations for positions in the classified service shall relate to those matters which will fairly test the capacity and fitness of the persons examined to discharge the duties of the office or employment for which they apply. For the purpose of sections 7062 and 7063, "competitive test" means any written examination, evaluation of training and experience, service rating, oral board or other device used to measure an applicant's knowledge, skills and abilities or to provide a relative ranking for certification purposes. [1985, c. 785, Pt. B, §38 (NEW).]

The director shall determine the character, type and content of examination for admission to the classified service; the time and place for holding examinations; the form of application blanks for admission to the examination to be filed by applicants; the minimum requirements for admission to the examination; and

the value of each phase of the tests used in determining the average rating of the applicant. The director may adjust initial test results only to eliminate questions that are proven not relevant to the purposes of the test or that have a bias that is prohibited by state or federal law. Once a minimum final earned rating is established for a particular test, it may not be changed. [2007, c. 466, Pt. A, §16 (AMD).]

Public notice of every examination or test shall be given in the manner prescribed by rules drawn up by the director. [1985, c. 785, Pt. B, §38 (NEW).]

1. **Examination content.** In developing examinations for classifications, the examinations shall be constructed to test the most current knowledge, skills and use of equipment required in each classification.

[1985, c. 785, Pt. B, §38 (NEW) .]

2. **Administration of tests.** The director may establish policies and procedures to allow departments and agencies of State Government to administer the tests and to interview persons taking the tests.

[1985, c. 785, Pt. B, §38 (NEW) .]

3. **Applicant and examination results.** Any applicant, upon the applicant's request, shall be provided with the applicant's strengths, weaknesses and areas in need of improvement as determined from a test score or interview.

[1985, c. 785, Pt. B, §38 (NEW) .]

4. **Objectives of testing.** In addition to determining the merit of applicants for positions in the classified service on a fair and just basis, it shall also be an objective to administer tests as often as possible to establish registers of eligible persons with sufficient numbers of names of persons who are currently interested in employment in each classification and thereby reduce to a minimum the length of time to fill positions.

[1985, c. 785, Pt. B, §38 (NEW) .]

5. **Educational requirements; experience.** No application for a position in State Government may be rejected solely because the applicant lacks educational qualifications. Acceptable equivalent combinations of appropriate experience, including verifiable uncompensated experience, or education may be substituted for formal educational qualifications, except where the educational qualifications are reflected in necessary registrations, such as to practice law, medicine or engineering or where the educational requirements are set as standards by federal agencies making grants-in-aid or otherwise contributing to state programs.

[1985, c. 785, Pt. B, §38 (NEW) .]

SECTION HISTORY
1985, c. 785, §B38 (NEW). 2007, c. 466, Pt. A, §16 (AMD).

§7064. FILLING OF POSITIONS

Positions in the classified service must be filled by original appointment, promotion, transfer, reinstatement or demotion in accordance with policies and procedures developed by the director. These policies and procedures must provide for the direct hire of positions in the classified service where appropriate. [2007, c. 466, Pt. A, §17 (AMD).]

1. **Objective.** In developing policies and procedures for filling positions, the director must be guided by the principle of filling each position as efficiently and expeditiously as possible. The director shall strive to fill each position in 30 days and no later than 45 days from the date a request to fill a position has been received from a state agency.

[2007, c. 466, Pt. A, §18 (AMD) .]

2. **Eligibility of unclassified employees for classified service.** In addition to any other provisions in this chapter, unclassified employees listed in section 931, subsection 1, paragraph H, and other unclassified employees, except those cited in section 931, subsection 1, paragraphs A to G, and paragraphs I and J, and in sections 932 to 953, are eligible for appointment to the classified service on the same basis as other members of the classified service.

[2003, c. 177, §1 (AMD) .]

Notwithstanding any provision of this section to the contrary, a permanent, classified employee who accepts appointment to a major policy-influencing position listed in section 931 and in sections 932 to 952 retains, for the duration of the appointment, promotion, transfer and demotion rights consistent with this section. [2015, c. 2, §2 (COR).]

SECTION HISTORY
1985, c. 785, §B38 (NEW). 1987, c. 402, §B10 (AMD). 2003, c. 177, §1 (AMD). 2007, c. 466, Pt. A, §§17, 18 (AMD). RR 2015, c. 2, §2 (COR).

§7065. COMPENSATION PLAN

The director shall, as soon as practicable after the adoption of the classification plan, submit to the Legislature a proposed plan of compensation developed by the director showing for each class or position in the classified service minimum and maximum salary rates and such intermediate rates as the director considers desirable. [2007, c. 466, Pt. A, §19 (AMD).]

1. **Salary reductions.** When the compensation plan has become effective through its adoption by the Legislature, it shall constitute the official schedule of salaries for all classes or positions in the classified service, except that, if the adoption of a compensation plan results in the reduction of salary of an employee, the director shall certify to the proper fiscal officer of the State that the employee's salary shall not be subject to any reduction for a period of one year from the effective date of adoption of the plan.

[1985, c. 785, Pt. B, §38 (NEW) .]

2. **Salary limits.** No position may be assigned a salary greater than the maximum or less than the minimum rates fixed in the compensation plan except as provided by subsection 2-D.

[1993, c. 705, §1 (AMD) .]

2-A. **Recruitment and retention adjustments.**

[1989, c. 418, §§2, 4 (RPR); 1991, c. 591, Pt. III, §19 (AMD); T. 5, §7065, sub-§2-A (RP) .]

2-B. **Limitations on recruitment and retention adjustment.**

[1989, c. 418, §§2, 4 (RPR); 1991, c. 591, Pt. III, §19 (AMD); T. 5, §7065, sub-§2-B (RP) .]

2-C. **Recruitment and retention adjustment process.**

[1989, c. 418, §3 (NEW); 1991, c. 591, Pt. III, §20 (AMD); T. 5, §7065, sub-§2-C (RP) .]

2-D. **Recruitment and retention adjustments.** Subject to this subsection, the director, with the agreement of the bargaining agent, if applicable, may approve payment of recruitment and retention adjustments when the payment of a labor market adjustment is required to recruit and retain an adequate work force.

A. Payment of a recruitment and retention adjustment may be authorized only when justified by the following conditions.

(1) High turnover exists or long-term vacancies exist within State Government in the relevant occupational classifications or job series.

(2) The relevant occupational classification or job series has a clear, geographically definable labor market within which the State must compete.

(3) All appropriate recruitment and retention efforts have been attempted and have proven ineffective at the current levels of compensation.

(4) Comprehensive, verifiable documentation of labor market compensation levels for the relevant occupation has been compiled to determine competitive pay levels within the defined labor market. This documentation must demonstrate that a labor market disparity exists and that the disparity represents a long-term, not transitory or seasonal, problem. [1993, c. 705, §2 (NEW).]

B. The labor market adjustment must be reviewed at least every 2 years and adjusted to changes in the labor market or the overall relation of the standard pay policy to the specialized labor market. If the subsequent review provided in this paragraph results in the adjustment being decreased or discontinued, an employee receiving the recruitment and retention adjustment may not be subject to a reduction in pay. [1993, c. 705, §2 (NEW).]

C. To assist the director in making a determination under paragraphs A and B, a committee must be formed to evaluate each request from an agency or bargaining agent for a recruitment or retention adjustment. The committee must be composed of a representative of the bureau, a representative of the employing agency or agencies and a representative of the bargaining agent, if applicable. The committee shall evaluate the request against the criteria specified in paragraphs A and B and shall conduct studies as the committee considers necessary to evaluate the request. The committee shall, by majority vote, provide the director, the agency and the bargaining agent, if applicable, with a report recommending and documenting adjustments authorized under this subsection. The director, the agency and the bargaining agent, if applicable, shall act on this report. If a funding request is necessary to implement an approved adjustment, the director shall submit the cost items for inclusion in the Governor's next operating budget within 10 days after action on the report. [1993, c. 705, §2 (NEW).]

[1993, c. 705, §2 (NEW) .]

3. **Salary increases based on merit.** Salary advancements within an established range shall not be automatic, but shall be dependent upon specific recommendation of the appointing officer and approval of the commissioner. The recommendation shall be based upon standards of performance as indicated by merit ratings or other pertinent data. No advancements in salary may be made until the employee has completed the probationary period.

[1985, c. 785, Pt. B, §38 (NEW) .]

4. **Compensation above the minimum step.** In hiring any employee, the director or appointing authority may employ a person who is new to a state job classification above the minimum level established for that classification in order to compensate that person for the experience or outstanding qualifications that the person may possess. The director shall establish a policy to reflect the intent of this subsection.

[2007, c. 466, Pt. A, §20 (AMD) .]

SECTION HISTORY

1985, c. 785, §B38 (NEW). 1987, c. 402, §§A58,A59 (AMD). 1987, c. 431, §§1,2 (AMD). 1989, c. 418, §§1-4 (AMD). 1991, c. 528, §§III19,20 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §§III19,20 (AMD). 1993, c. 705, §§1,2 (AMD). 2007, c. 466, Pt. A, §§19, 20 (AMD).

Article 3: EMPLOYEE BENEFITS, RECORDS AND TRAINING

§7068. OBLIGATION TO INFORM EMPLOYEE

1. **Orientation session.** The director shall provide that during the first 6 months of state employment each employee shall attend an employee orientation workshop which shall be work time for the employee. Such training shall describe the nature and costs of benefits available to state employees generally, the nature and costs of benefits available to the employee and the circumstances under which the employee's benefit eligibility or cost may be changed. These benefits include, but are not limited to, vacation, holiday and sick leave, insurance programs and retirement programs.

A. In carrying out these programs, the director shall invite and include, to the extent they wish to participate, representatives of the Bureau of Employee Health, the Maine Public Employees Retirement System and employee representatives who are bargaining agents for any or all of the state employees attending the conference. Such employee representatives shall participate as the director provides in the program, but shall at least be given the chance to address employees in represented bargaining units on the rights and obligations of employees under the contract for their bargaining unit and as to insurance programs and other benefits that are available from the employee representative. [1985, c. 785, Pt. B, §38 (NEW); 2007, c. 58, §3 (REV).]

[1985, c. 785, Pt. B, §38 (NEW); 2007, c. 58, §3 (REV) .]

2. **Information provided to employees.** The appointing authority shall be responsible for attendance of new employees at the orientation session, and shall provide every new employee with written information as to the employee's rate of pay and circumstances under which the rate may be changed, including merit increases.

A. The appointing authority shall also be responsible for distributing to new employees such written information as deemed appropriate by the director to carry out the spirit of this law and such information as provided in applicable labor agreements. [1985, c. 785, Pt. B, §38 (NEW).]

[1985, c. 785, Pt. B, §38 (NEW) .]

SECTION HISTORY
1985, c. 785, §B38 (NEW). 2007, c. 58, §3 (REV).

§7069. DIRECTOR TO DEVELOP BROCHURE OR PUBLICATION

The director shall develop a brochure or publication by which the information in section 7068 is clearly and simply presented. The brochure or publication shall be made available to new employees upon arrival at their jobs and to other state employees upon request. [1985, c. 785, Pt. B, §38 (NEW).]

SECTION HISTORY
1985, c. 785, §B38 (NEW).

§7070. PERSONNEL RECORDS

Every appointment, transfer, promotion, demotion, dismissal, vacancy, change of salary rate, leave of absence, absence from duty and other temporary or permanent change in status of employees in both the classified service and the unclassified service of the Executive and Legislative Departments shall be reported to the director at such time, in such form and together with such supportive or pertinent information as he shall by rule prescribe. [1985, c. 785, Pt. B, §38 (NEW).]

The director shall maintain a perpetual roster of all officers and employees in the classified and unclassified services, showing for each person such data that the director considers pertinent. [2007, c. 466, Pt. A, §21 (AMD).]

Records of the Bureau of Human Resources shall be public records and open to inspection of the public during regular office hours at reasonable times and in accordance with the procedure as the director may provide. [1985, c. 785, Pt. B, §38 (NEW).]

The following records shall be confidential and not open to public inspection, and shall not be "public records," as defined in Title 1, section 402, subsection 3: [1985, c. 785, Pt. B, §38 (NEW).]

1. **Papers relating to applications, examinations or evaluations of applicants.** Except as provided in this subsection, applications, resumes, letters and notes of reference, working papers, research materials, records, examinations and any other documents or records and the information they contain, solicited or prepared either by the applicant or the State for use in the examination or evaluation of applicants for positions as state employees.

A. Notwithstanding any confidentiality provision other than this subsection, applications, resumes and letters and notes of reference, other than those letters and notes of reference expressly submitted in confidence, pertaining to the applicant hired are public records after the applicant is hired, except that personal contact information is not a public record as provided in Title 1, section 402, subsection 3, paragraph O. [2007, c. 597, §5 (AMD).]

B. Telephone numbers are not public records if they are designated as "unlisted" or "unpublished" in an application, resume or letter or note of reference. [1989, c. 402, §1 (NEW).]

C. This subsection does not preclude union representatives from access to personnel records, consistent with subsection 4, which may be necessary for the bargaining agent to carry out its collective bargaining responsibilities. Any records available to union representatives which are otherwise covered by this subsection shall remain confidential and are not open to public inspection; [1989, c. 402, §1 (NEW).]

[2007, c. 597, §5 (AMD) .]

2. **Personal information.** Records containing the following, except they may be examined by the employee to whom they relate when the examination is permitted or required by law:

A. Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders; [1985, c. 785, Pt. B, §38 (NEW).]

B. Performance evaluations and personal references submitted in confidence; [1985, c. 785, Pt. B, §38 (NEW).]

C. Information pertaining to the credit worthiness of a named employee; [1985, c. 785, Pt. B, §38 (NEW).]

D. Information pertaining to the personal history, general character or conduct of members of the employee's immediate family; [1997, c. 124, §2 (AMD).]

D-1. Personal information pertaining to the employee's race, color, religion, sex, national origin, ancestry, age, physical disability, mental disability and marital status; social security number; personal contact information as provided in Title 1, section 402, subsection 3, paragraph O; and personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans,

pension plans, health insurance and life insurance. When there is a work requirement for public access to personal information under this paragraph that is not otherwise protected by law, that information may be made public. The Director of the Bureau of Human Resources, upon the request of the employing agency, shall make the determination that the release of certain personal information not otherwise protected by law is allowed; and [2007, c. 597, §6 (AMD).]

E. Except as provided in section 7070-A, complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final written report, with regard to that employee, is public.

For purposes of this paragraph, "final written decision" means:

(1) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or

(2) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written decision of the neutral arbitrator is not issued and released before the expiration of the 120 days; [1997, c. 770, §1 (AMD).]

This subsection does not preclude union representatives from having access to personnel records, consistent with subsection 4, that may be necessary for the bargaining agent to carry out its collective bargaining responsibilities. Any records available to union representatives that are otherwise covered by this subsection remain confidential and are not open for public inspection;

[2007, c. 597, §6 (AMD) .]

3. **Other information.** Other information to which access by the general public is prohibited by law.

[1985, c. 785, Pt. B, §38 (NEW) .]

4. **Disclosure of certain information for grievance and other proceedings.** The Director of Human Resources may release specific information designated confidential by this section to be used in negotiations, mediation, fact-finding, arbitration, grievance proceedings and other proceedings in which the State is a party. For the purpose of this subsection, "other proceedings" means unemployment compensation proceedings, workers' compensation proceedings, human rights proceedings and labor relations proceedings.

Confidential information provided under this subsection shall be governed by the following.

A. The information to be released shall be information only as necessary and directly related to the proceeding as determined by the Director of Human Resources. [1987, c. 673, §1 (NEW).]

B. [2007, c. 240, Pt. HH, §12 (RP).]

C. The proceeding for which the confidential information is provided shall be private and not open to the public; or, if the proceeding is open to the public, the confidential information shall not be disclosed except exclusively in the presence of the fact finder, the parties and counsel of record, and the employee who is the subject of the proceeding and provisions are made to ensure that there is no public access to the confidential information. [1987, c. 673, §1 (NEW).]

The State may use this confidential information in proceedings and provide copies to the employee organization that is a party to the proceedings, provided the information is directly related to those proceedings as defined by the applicable collective bargaining agreement. Confidential personnel records in the possession of the Bureau of Human Resources may not be open to public inspection and may not be "public records," as defined in Title 1, section 402, subsection 3.

[2007, c. 240, Pt. HH, §12 (AMD) .]

5. **Constitutional obligations of a prosecutor.** Notwithstanding this section or any other provision of law, this section does not preclude the disclosure of confidential personnel records and the information contained in those records to the Attorney General, a deputy attorney general, an assistant attorney general, a district attorney, a deputy district attorney, an assistant district attorney or the equivalent departments or offices in a federal jurisdiction that are related to the determination of and compliance with the constitutional obligations of the State or the United States to provide discovery to a defendant in a criminal matter. A person or entity participating in good faith disclosure under this subsection or participating in a related proceeding is immune from criminal and civil liability for the act of disclosure or for participating in the proceeding.

[2013, c. 201, §1 (NEW) .]

SECTION HISTORY
1985, c. 785, §B38 (NEW). 1987, c. 673, §1 (AMD). 1989, c. 402, §1 (AMD). 1991, c. 229, §1 (AMD). 1991, c. 729, §1 (AMD). 1997, c. 124, §2 (AMD). 1997, c. 770, §1 (AMD). 2007, c. 240, Pt. HH, §12 (AMD). 2007, c. 466, Pt. A, §21 (AMD). 2007, c. 597, §§5, 6 (AMD). 2013, c. 201, §1 (AMD).

§7070-A. PERSONNEL RECORDS; DEADLY FORCE OR PHYSICAL FORCE BY LAW ENFORCEMENT OFFICER

The name of a law enforcement officer is not confidential under section 7070, subsection 2, paragraph E in cases involving: [1991, c. 729, §2 (NEW).]

1. **Deadly force.** The use of deadly force by a law enforcement officer; or

[1991, c. 729, §2 (NEW) .]

2. **Physical force.** The use of physical force by a law enforcement officer resulting in death or serious bodily injury.

[1991, c. 729, §2 (NEW) .]

In cases specified in subsections 1 and 2, regardless of whether disciplinary action is taken, the findings of any investigation into the officer's conduct are no longer confidential when the investigation is completed and a decision on whether to bring criminal charges has been made, except that if criminal charges are brought, the findings of the investigation remain confidential until the conclusion of the criminal case. [1991, c. 729, §2 (NEW).]

SECTION HISTORY
1991, c. 729, §2 (NEW).

§7071. EMPLOYEE RIGHT TO REVIEW PERSONNEL FILE

The director shall, upon written request from an employee, provide the employee, former employee or his duly authorized representative with an opportunity to review his personnel file. These reviews shall take place in the Bureau of Human Resources and during its normal office hours. Time spent by an employee

in reviewing his personnel file shall not be considered as time worked. For the purposes of this section, a personnel file shall include, but not be limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits which the director has in his possession. [1985, c. 785, Pt. B, §38 (NEW).]

SECTION HISTORY
1985, c. 785, §B38 (NEW).

§7072. TRAINING AND APPRENTICESHIP PROGRAMS

The director shall devise plans for and cooperate with appointing authorities and other supervising officials in the development and conduct of employee training and registered apprenticeship programs to recruit and develop well qualified employees, to aid in meeting affirmative action requirements and to otherwise carry out the State's role as a responsible and effective employer. [1985, c. 785, Pt. B, §38 (NEW).]

The Department of Labor, Bureau of Employment Services shall assist the director in determining which classifications are apprenticeable and in encouraging and assisting state agencies to utilize the benefits of registered apprenticeship programs or other training programs. [2011, c. 491, §2 (AMD).]

1. **Listing of apprenticeable classifications.**

[2011, c. 491, §4 (RP) .]

2. **Agency review.**

[2011, c. 491, §5 (RP) .]

3. **Annual report.** The director shall include in the annual report of the Bureau of Human Resources the following information:

A. A review of the development and operation of training and registered apprenticeship programs; [1993, c. 630, Pt. B, §4 (AMD).]

B. [2011, c. 491, §6 (RP).]

C. A summary of the agencies and types of positions involved; [1985, c. 785, Pt. B, §38 (NEW).]

D. A summary of registered apprenticeships; [1985, c. 785, Pt. B, §38 (NEW).]

E. The number of persons who applied for registered apprenticeship positions under this chapter; [1993, c. 630, Pt. B, §4 (AMD).]

F. The number of persons who were accepted into the registered apprenticeship program under this chapter; [1993, c. 630, Pt. B, §4 (AMD).]

G. The number of persons, under this chapter, who successfully completed and the number of persons who failed to complete the program established under this chapter; [1985, c. 785, Pt. B, §38 (NEW).]

H. The number of persons who, following the successful completion of the program, remain employed; [1985, c. 785, Pt. B, §38 (NEW).]

I. A summary of other training programs established; and [1985, c. 785, Pt. B, §38 (NEW).]

J. A breakdown of the total number of persons, defined in paragraphs E, F and G, by sex, race and any other characteristics deemed by the director to be pertinent to the intent of this chapter. [1985, c. 785, Pt. B, §38 (NEW).]

[2011, c. 491, §6 (AMD) .]

4. **Bargaining agreements.** Nothing in this section may operate to invalidate or supersede the provisions of a collective bargaining agreement between an employee organization and the State.

[1985, c. 785, Pt. B, §38 (NEW) .]

SECTION HISTORY
1985, c. 785, §B38 (NEW). 1993, c. 630, §§B2-4 (AMD). 1997, c. 530, §A34 (AMD). 2011, c. 491, §§2-6 (AMD).

Subchapter 3: STATE CIVIL SERVICE APPEALS BOARD

§7081. MEMBERSHIP; TERM; COMPENSATION

The State Civil Service Appeals Board, established by section 12004-B, subsection 4, shall be composed of 5 members with experience in personnel management or labor relations. No more than 3 members of the board may be of the same political party. No member may be a state employee. [1989, c. 503, Pt. B, §24 (AMD).]

Each member shall be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over State Government and to confirmation by the Legislature. [1985, c. 785, Pt. B, §38 (NEW).]

One member of the appeals board shall be designated by the Governor as chairman. Except as otherwise provided by law, each member shall be appointed for a term of 4 years and until his successor has been appointed and qualified. Any vacancy shall be filled for the unexpired portion of the term by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over State Government and to confirmation by the Legislature. [1985, c. 785, Pt. B, §38 (NEW).]

The members of the board shall be compensated as provided by chapter 379. [1985, c. 785, Pt. B, §38 (NEW).]

SECTION HISTORY
1985, c. 785, §B38 (NEW). 1989, c. 503, §B24 (AMD).

§7082. POWERS AND DUTIES OF THE STATE CIVIL SERVICE APPEALS BOARD

The State Civil Service Appeals Board shall be an impartial board and: [1985, c. 785, Pt. B, §38 (NEW).]

1. **Administer subchapter.** Shall administer this subchapter. In exercising its authority, the board may adopt policies and procedures to administer this subchapter. The appeals board shall employ, subject to the Civil Service Law, assistants as may be necessary to carry out this subchapter;

[1985, c. 785, Pt. B, §38 (NEW) .]

2. **Adopt rules.** Shall adopt rules necessary to effectuate the purposes of this subchapter;

[1985, c. 785, Pt. B, §38 (NEW) .]

3. **Report.** Shall report biennially to the Governor and Legislature facts and recommendations relating to the administration and needs of the board;

[1985, c. 785, Pt. B, §38 (NEW) .]

4. **Mediate grievances and disputes.** May mediate the final settlement of all grievances and disputes between individual state employees, both classified and unclassified, and their respective state agencies. All complaints between a state employee and the state agency by which he is employed shall be made and heard in the manner provided by this chapter for the mediation and settlement of the complaints. During the procedure for settlement, an employee may be represented at each step by his designated representative. The decision of the appeals board shall be final and binding upon the state agency and state employees involved in the dispute, and shall supersede any prior action taken by the state agency with reference to the employment and working conditions of the employees.

A. In the course of any investigation under this chapter, any member of the appeals board may subpoena and require the attendance of witnesses and the production thereby of books, papers, public records and other documentary evidence pertinent to that investigation. In the case of the refusal of any person to comply with any subpoena issued under this subsection or to testify to any matter regarding which he may be lawfully interrogated, the Superior Court in any county on application of any one of the members of the board may issue an order requiring that person to comply with the subpoena and to testify. Any failure to obey the order of the court may be punished by the court as a contempt of the court; and [1985, c. 785, Pt. B, §38 (NEW).]

[1985, c. 785, Pt. B, §38 (NEW) .]

5. **Hear appeals.** May hear appeals in accordance with this subchapter. Except where otherwise provided by a governing bargaining agreement, any employee or appointing authority aggrieved by the determination of the Director of Human Resources concerning the classification of positions, the allocation of new positions or the reallocation of existing positions in the classified service may appeal from the determination to the State Civil Service Appeals Board. The appeal must be made within 30 days after receipt of written notice of the determination from the director. The employee or appointing authority, or his representative, shall be afforded a public hearing before the appeals board. The appeals board shall examine and review the appeal and, upon the vote of at least 3 of its members, make changes in such classification, allocation or reallocation as may be just and equitable. Determinations of the appeals board shall be transmitted to the State Budget Officer, the Director of Human Resources, and the employees and department heads affected by the determinations.

A. Any classification of a position and any allocation or reallocation of a position made by the director or the appeals board pursuant to this section shall become effective on the first day of the fiscal year following approval by the State Budget Officer and the appropriation of funds for the classification, except that the State Budget Officer may, if he determines that sufficient funds exist, authorize an effective date prior to the first day of the ensuing fiscal year. [1985, c. 785, Pt. B, §38 (NEW).]

B. Any request for classification of positions, the allocation of new positions or the reallocation of existing positions in the classified service or the unclassified service shall be processed by the director and the director's determination made within 25 days from the date of filing the request with the Bureau of Human Resources. Any employee or appointing authority that is a party to the request may appeal to the appeals board within 10 days after the expiration of the 25 days allotted for the process of the requests for hearing and review. The appeals board shall examine and review the appeal and make such changes as provided in this section. The appeals board's decision in the appeal shall be given within 30 days after the hearing on the appeal has been concluded. [1985, c. 785, Pt. B, §38 (NEW).]

C. A hearing before the appeals board is an adjudicatory proceeding under the Maine Administrative Procedure Act, chapter 375, and shall be held in accordance with chapter 375, subchapter IV. [1985, c. 785, Pt. B, §38 (NEW).]

[1985, c. 785, Pt. B, §38 (NEW) .]

SECTION HISTORY
1985, c. 785, §B38 (NEW).

§7083. PROCEDURE FOR SETTLEMENT

A grievance or dispute between a state employee and the agency of the State by whom he is employed shall be entertained by the board upon the application of the employee, provided that there shall have been compliance with the following requirements: [1985, c. 785, Pt. B, §38 (NEW).]

1. **Adjust dispute.** That the employee aggrieved or his representative, or both, shall have attempted to adjust the dispute through oral communication with the employee's immediate supervisor within 7 working days of the time that the employee is aware of the grievable incident. The immediate supervisor is then required to render an oral decision to the employee within 3 working days;

[1985, c. 785, Pt. B, §38 (NEW) .]

2. **Grievance in writing.** If the employee is dissatisfied with the oral decision of his immediate supervisor, he or his representative, or both, may, before the end of the 10th working day following the day of the oral decision, present the grievance to his supervisor again, this time in written form. The supervisor is then required to make his decision in writing and present it to the employee within 10 working days;

[1985, c. 785, Pt. B, §38 (NEW) .]

3. **Appeal to the department head.** If the employee is dissatisfied with the supervisor's written decision, he or his representative, or both, then may, before the end of the 20th working day following receipt of the decision, appeal in writing to the department head. The department head shall meet with the employee or his designated representative, or both, within 20 working days of receipt of the employee's notice of dissatisfaction and attempt to adjust the dispute. Within 5 working days, the department head shall render a decision in writing to the aggrieved employee and his representative;

[1985, c. 785, Pt. B, §38 (NEW) .]

4. **Appeal to Director of Human Resources.** If the classified employee is dissatisfied with the written decision following the meeting with the department head, he may appeal in writing to the Director of Human Resources within 7 working days of meeting with the department head. The director shall within 10 working days reply in writing to the aggrieved employee, his representative and the department head involved stating his decision, based on the Civil Service Law and rules;

[1985, c. 785, Pt. B, §38 (NEW) .]

5. **Submission to board.** In the event the grievance shall not have been satisfactorily adjusted under subsections 1 to 4, within the time limits in those sections, the dispute may be submitted to the appeals board within 10 working days following receipt of the director's written decision. The appeals board shall investigate the matters in controversy, shall hear all interested persons who come before it and make a written decision, which shall be binding on the parties involved. The appeals board's written decision shall be issued within 30 working days after the hearing on the dispute is concluded, unless both parties agree that an extension of the time limit should be allowed; and

[1985, c. 785, Pt. B, §38 (NEW) .]

6. **Procedure.** Any member of the appeals board may administer oaths and subpoena and require the attendance of witnesses and the production of books, papers, public records and other relevant documentary evidence or certified copies of the evidence by the department head pertinent to the dispute and shall do so if requested in writing by any party to the dispute or the party's representative. A witness summonsed by subpoena is entitled to witness fees and travel allowance in the amount allowed for appearance in District Court, the costs of which must be advanced by the party requesting the subpoena prior to issuance of the subpoena. A state employee subpoenaed under this subsection may not lose pay to which the employee would otherwise be entitled.

[2013, c. 2, §4 (COR) .]

SECTION HISTORY
1985, c. 785, §B38 (NEW). RR 2013, c. 2, §4 (COR).

§7084. EXTENSION OF TIME LIMIT

1. **Application for extension.** The chairman of the appeals board may extend any time limit specified in section 7083, subsections 1 to 4, upon written application of either party on condition the application is submitted within time provided for in the applicable step. Failure of an employee to pursue a grievance within prescribed time limits shall constitute an acceptance of the last response by the department. Failure of the department to respond within stipulated time limits provided for in the applicable step shall constitute an automatic waiver of that step and the employee may proceed to the next step as outlined in this section.

A. At least one day prior to the presentation of the employee's grievance to his supervisor, the employee's representative, if any, shall have access to the work location of the employee involved during the working hours for the purpose of investigating the grievance. [1985, c. 785, Pt. B, §38 (NEW).]

B. The department head may designate a representative, with authority to take appropriate action, who shall be at the deputy or assistant department head or labor specialist level to represent him in section 7083, subsections 2 and 3. [1985, c. 785, Pt. B, §38 (NEW).]

[1985, c. 785, Pt. B, §38 (NEW) .]

SECTION HISTORY
1985, c. 785, §B38 (NEW).

§7085. APPLICATIONS OF SECTIONS 7081 TO 7084

This subchapter applies to those employees who are excluded from bargaining pursuant to Title 26, sections 979 and 1021 to 1034. [1985, c. 785, Pt. B, §38 (NEW).]

SECTION HISTORY
1985, c. 785, §B38 (NEW).

Part 17-B: COMMUNITY SERVICE

Chapter 373: MAINE COMMISSION FOR COMMUNITY SERVICE

§7501. COMMISSION ESTABLISHED

There is established the Maine Commission for Community Service, referred to in this chapter as the "commission," to foster the State's ethic of community service; encourage community service and volunteerism as a means of meeting critical human, environmental, educational and public safety needs throughout the State; serve as the State's liaison regarding national and community service and volunteer activities; foster collaboration among service agencies; receive gifts and grants, implement statewide service programs and make subgrants to state and local entities in accordance with the National and Community Service Trust Act of 1993, 42 United States Code, Sections 12501 to 12682 (1994). [1995, c. 625, Pt. A, §13 (AMD).]

SECTION HISTORY
1995, c. 54, §1 (NEW). 1995, c. 625, §A13 (AMD).

§7502. MEMBERSHIP; TERMS

1. **Membership; qualifications.** The commission consists of no fewer than 15 and no more than 25 voting members appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over state and local government matters. The commission must include the following:

A. A representative of a community-based agency or organization; [1995, c. 54, §1 (NEW).]

B. The Commissioner of Education or the commissioner's designee; [1995, c. 54, §1 (NEW).]

C. A representative of local government; [1995, c. 54, §1 (NEW).]

D. A representative of a local labor organization; [1995, c. 54, §1 (NEW).]

E. A representative of business; [1995, c. 54, §1 (NEW).]

F. An individual who is at least 16 years of age but no more than 25 years of age and who is a participant in or supervisor of a service program for youth or a campus-based or national service program; [1995, c. 54, §1 (NEW).]

G. A representative of a national service program; [1995, c. 54, §1 (NEW).]

H. An individual with expertise in the education, training and development needs of youth, particularly disadvantaged youth; [1995, c. 54, §1 (NEW).]

I. An individual with experience in promoting the involvement of adults aged 55 and older in national service and volunteerism; and [1995, c. 54, §1 (NEW).]

J. A representative of the State's volunteer community. [1995, c. 54, §1 (NEW).]

A member may fulfill the representation requirement for more than one category in this subsection.

The appointments may also include educators, including representatives from institutions of higher education and local education agencies; experts in the delivery of human, educational, environmental or public safety services to communities and persons; representatives of Native American tribes and nations; out-of-school or at-risk youth; and representatives of programs that are administered or receive assistance under the federal Domestic Volunteer Service Act of 1973, 42 United States Code, Section 4951, et seq. (1973). The commission also must include a nonvoting liaison designated by the federal Corporation for National and Community Service. The appointments must reflect diversity with respect to geography, race, ethnicity, age,

gender, disability characteristics and political affiliation. Not more than 50% plus one member may be from the same political party. The number of voting members who are officers or employees of the State may not exceed 25% of the total membership.

The chair must be an appointed voting member of the commission, selected by the voting members. Members may not vote on issues affecting organizations they have served in a staff or volunteer capacity at any time during the preceding 12 months.

[1995, c. 54, §1 (NEW) .]

2. **Terms of office.** The appointed members serve 3-year staggered terms. Terms expire on September 1st. The Governor shall appoint members to vacancies on the commission as they occur or upon expiration of terms. Any vacancy must be filled for the unexpired portion of the term in which the vacancy occurs.

[1995, c. 54, §1 (NEW) .]

2-A. **Members serve duration of terms.**

[1995, c. 54, §1 (NEW); T. 5, §7502, sub-§2-A (RP) .]

3. **Reimbursement.** Members are entitled to compensation for expenses incurred in the performance of their duties on the commission in the same manner as state employees.

[1995, c. 54, §1 (NEW) .]

SECTION HISTORY
1995, c. 54, §1 (NEW).

§7503. DUTIES

The commission shall: [1995, c. 54, §1 (NEW).]

1. **Vision.** Develop a state vision statement for national, state and community service;

[1995, c. 54, §1 (NEW) .]

2. **Ethic of service.** Demonstrate an ethic of service through its activities and procedures utilizing decision-making by consensus and annually evaluate how effectively its procedures and bylaws are fostering the state vision and service ethic;

[1995, c. 54, §1 (NEW) .]

3. **National and community service plan.** Develop a 3-year comprehensive national and community service plan and update the plan annually. The commission shall ensure an open and inclusive process for maximum participation in development of the plan and determination of state priorities;

[1995, c. 54, §1 (NEW) .]

4. **Preselect programs and prepare applications.** Preselect national service programs as defined in the National Service Trust Act, 42 United States Code, Section 12501, et seq. and prepare a grant application to the Corporation for National and Community Service;

[1995, c. 2, §7 (COR) .]

5. **Assist state education agencies.** Assist the Department of Education and institutions of higher education in the preparation of applications for national and community service grants;

[1995, c. 54, §1 (NEW) .]

6. **Administer grant programs.** Evaluate, monitor and administer grant programs;

[1995, c. 54, §1 (NEW) .]

7. **Provide technical assistance.** Serve as a clearinghouse for information on national and community service and provide technical assistance to local nonprofit organizations and other entities in planning, applying for funds and implementing national service programs;

[1995, c. 54, §1 (NEW) .]

8. **Provide program development assistance and training.** Provide program development assistance and training to national service programs in the State;

[1995, c. 54, §1 (NEW) .]

9. **Recruitment and placement.** Serve as a clearinghouse for people interested in national and community service placements and agencies recruiting volunteers;

[1995, c. 54, §1 (NEW) .]

10. **State priorities.** Make recommendations to the Corporation for National and Community Service with respect to priorities within the State for programs receiving assistance under the federal Domestic Volunteer Service Act of 1973, 42 United States Code, Section 4951, et seq. (1973);

[1995, c. 54, §1 (NEW) .]

11. **Coordination.** Foster collaboration among state agencies, colleges, universities, municipalities, federal agencies and volunteer service programs;

[1995, c. 54, §1 (NEW) .]

12. **Advisory committees.** Establish advisory committees as needed, with membership not limited to commission members;

[1995, c. 54, §1 (NEW) .]

13. **Fund raising.** Carry out fund-raising efforts to supplement federal funding and to meet all federal matching requirements; and

[1995, c. 54, §1 (NEW) .]

14. **Annual report.** Submit an annual report to the Governor, the Legislature and the joint standing committee of the Legislature having jurisdiction over state and local government matters by January 31st of each year.

[1995, c. 54, §1 (NEW) .]

SECTION HISTORY
RR 1995, c. 2, §7 (COR). 1995, c. 54, §1 (NEW).

§7504. STAFF AND ADMINISTRATIVE SERVICES

The Department of Education shall provide staff and administrative services as follows. [2011, c. 655, Pt. LL, §1 (AMD); 2011, c. 655, Pt. LL, §3 (AFF).]

1. **Executive director.** The Commissioner of Education, in consultation with the commission, shall hire an executive director as a member of the Department of Education staff. The executive director oversees day-to-day operations of the commission, hires staff members with the approval of the commission and the Commissioner of Education and carries out other responsibilities as directed by the commission.

[2011, c. 655, Pt. LL, §1 (AMD); 2011, c. 655, Pt. LL, §3 (AFF) .]

2. **Administrative services.** The Department of Education shall provide the executive director and the commission with continuing administrative support as appropriate. The Department of Education may establish a dedicated account on behalf of the commission to receive funds contributed by private and public agencies for use solely for commission purposes.

[2011, c. 655, Pt. LL, §1 (AMD); 2011, c. 655, Pt. LL, §3 (AFF) .]

SECTION HISTORY
1995, c. 54, §1 (NEW). 2011, c. 655, Pt. LL, §1 (AMD). 2011, c. 655, Pt. LL, §3 (AFF).

§7505. PRIVATE SUPPORT ORGANIZATION

1. **Designation of private support organization.** The executive director of the commission, with the consent of the voting members of the commission, shall designate a nonprofit corporation as the private support organization for the commission. The nonprofit corporation must be incorporated under the laws of this State and for purposes that are consistent with the goals, objectives, programs, responsibilities and functions of the commission.

The commission's private support organization must be organized and operated exclusively to receive, hold, invest and administer property and funds and to make expenditures to and for the benefit of the commission.

[2015, c. 94, §1 (NEW) .]

2. **Board of directors.** A member of the private support organization's board of directors may not also be a member of the commission. The executive director of the commission, or the executive director's designee, shall serve as a nonvoting ex-officio member of the private support organization's board of directors.

[2015, c. 94, §1 (NEW) .]

3. **Scope of work.** The private support organization shall operate under a memorandum of understanding negotiated annually by the commission that outlines a plan of work consistent with the purposes and goals of the commission and shall submit an annual budget for review and approval by the commission by June 1st.

The memorandum of understanding must further stipulate the reversion to the commission, or to the State if the commission ceases to exist, of money and property held in trust by the private support organization if the private support organization is no longer designated by the commission pursuant to subsection 1.

[2015, c. 94, §1 (NEW) .]

4. **Use of property.** The commission may authorize the private support organization to use the commission's facilities, equipment and other property, except money, in keeping with the purposes of the private support organization.

[2015, c. 94, §1 (NEW) .]

SECTION HISTORY
2015, c. 94, §1 (NEW).

Part 18: ADMINISTRATIVE PROCEDURES

Chapter 375: MAINE ADMINISTRATIVE PROCEDURE ACT

Subchapter 1: GENERAL PROVISIONS

§8001. SHORT TITLE

This chapter is known and may be cited as the "Maine Administrative Procedure Act." [1999, c. 547, Pt. B, §15 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

SECTION HISTORY
1977, c. 551, §3 (NEW). 1977, c. 568, §1 (NEW). 1977, c. 694, §§29-A (AMD). 1977, c. 696, §48 (RAL). 1999, c. 547, §B15 (AMD). 1999, c. 547, §B80 (AFF).

§8002. DEFINITIONS

As used in this Act, unless the context otherwise indicates, the following words and phrases shall have the following meanings. [1977, c. 694, §29-B (AMD).]

1. **Adjudicatory proceeding.** "Adjudicatory proceeding" means any proceeding before an agency in which the legal rights, duties or privileges of specific persons are required by constitutional law or statute to be determined after an opportunity for hearing.

[1977, c. 551, §3 (NEW) .]

1-A. **Adopt.** "Adopt" means action certified by the dated signature of an authorized representative that a rule is accepted as official by an agency.

[1993, c. 362, §1 (NEW) .]

2. **Agency.** "Agency" means any body of State Government authorized by law to adopt rules, to issue licenses or to take final action in adjudicatory proceedings, including, but not limited to, every authority, board, bureau, commission, department or officer of the State Government so authorized; but the term does not include the Legislature, Governor, courts, University of Maine System, Maine Maritime Academy, community colleges, the Commissioner of Education for schools of the unorganized territory, school administrative units, community action agencies as defined in Title 22, section 5321, special purpose districts or municipalities, counties or other political subdivisions of the State.

[1995, c. 246, §1 (AMD); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF) .]

3. **Agency member.** "Agency member" means an individual appointed or elected to the agency who is charged by statute with that agency's decision-making functions. It does not include counsel to the agency or agency staff.

[1977, c. 551, §3 (NEW) .]

3-A. **Effective date.** "Effective date" means the date a rule goes into effect. If a date is not assigned by the agency, the effective date is assigned by the Secretary of State in accordance with section 8052, subsection 6. Unless otherwise stated in law, emergency rules filed in accordance with section 8054 are effective at the time they are filed with the Secretary of State.

[1993, c. 362, §1 (NEW) .]

3-B. **Authorized representative.** "Authorized representative" means the chair of a board or commission, an individual in a major policy-influencing position as defined by chapter 71, or the chief executive officer of an agency, within the agency adopting a rule.

[1995, c. 373, §2 (NEW) .]

3-C. **Consensus-based rule development process.** "Consensus-based rule development process" means a collaborative process when a draft rule is developed by an agency and a representative group of participants with an interest in the subject of the rulemaking.

[1999, c. 307, §1 (NEW) .]

4. **Final agency action.** "Final agency action" means a decision by an agency which affects the legal rights, duties or privileges of specific persons, which is dispositive of all issues, legal and factual, and for which no further recourse, appeal or review is provided within the agency.

[1977, c. 551, §3 (NEW) .]

5. **License.** "License" includes the whole or any part of any agency permit, certificate, approval, registration, charter or similar form of permission required by law which represents an exercise of the state's regulatory or police powers.

[1977, c. 551, §3 (NEW) .]

6. **Licensing.** "Licensing" means the administrative process resulting in the grant, denial, renewal, revocation, suspension or modification of a license.

[1977, c. 551, §3 (NEW) .]

7. **Party.** "Party" means:

A. The specific person whose legal rights, duties or privileges are being determined in the proceeding; [1977, c. 551, §3 (NEW).]

B. Any person participating in the adjudicatory proceeding pursuant to section 9054, subsection 1 or 2; and [1977, c. 696, §47 (AMD).]

C. Any agency bringing a complaint to District Court under section 10051. [1999, c. 547, Pt. B, §16 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

[1999, c. 547, Pt. B, §16 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

8. **Person.** "Person" means any individual, partnership, corporation, governmental entity, association or public or private organization of any character, other than the agency conducting the proceeding.

[1977, c. 551, §3 (NEW) .]

8-A. **Proposed rule.** "Proposed rule" or "proposed agency rule" means a rule that an agency has formally proposed for adoption through submission of the rule to the Secretary of State for publication pursuant to section 8053, subsection 5.

[1997, c. 110, §1 (NEW) .]

9. **Rule.** "Rule" is defined as follows.

A. "Rule" means the whole or any part of every regulation, standard, code, statement of policy, or other agency guideline or statement of general applicability, including the amendment, suspension or repeal of any prior rule, that is or is intended to be judicially enforceable and implements, interprets or makes specific the law administered by the agency, or describes the procedures or practices of the agency. [2011, c. 304, Pt. G, §1 (AMD).]

B. The term does not include:

(1) Policies or memoranda concerning only the internal management of an agency or the State Government and not judicially enforceable;

(2) Advisory rulings issued under subchapter 3;

(3) Decisions issued in adjudicatory proceedings; or

(4) Any form, instruction or explanatory statement of policy that in itself is not judicially enforceable, and that is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges. [2011, c. 304, Pt. G, §1 (AMD).]

A rule is not judicially enforceable unless it is adopted in a manner consistent with this chapter.

[2011, c. 304, Pt. G, §1 (AMD) .]

SECTION HISTORY
1977, c. 551, §3 (NEW). 1977, c. 568, §1 (NEW). 1977, c. 661, §3 (AMD). 1977, c. 694, §§29-B TO 32 (AMD). 1977, c. 696, §47 (AMD). 1977, c. 696, §48 (RAL). 1979, c. 425, §3 (AMD). 1981, c. 464, §1 (AMD). 1985, c. 490, §1 (AMD). 1985, c. 779, §22 (AMD). 1989, c. 443, §13 (AMD). 1989, c. 574, §1 (AMD). 1989, c. 700, §A19 (AMD). 1993, c. 362, §1 (AMD). 1995, c. 246, §1 (AMD). 1995, c. 373, §2 (AMD). 1997, c. 110, §1 (AMD). 1999, c. 307, §1 (AMD). 1999, c. 547, §B16 (AMD). 1999, c. 547, §B80 (AFF). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF). 2011, c. 304, Pt. G, §1 (AMD).

§8003. INCONSISTENT PROVISIONS

Except where expressly authorized by statute, any statutory provision now existing or hereafter adopted which is inconsistent with the express provisions of the Maine Administrative Procedure Act shall yield and the applicable provisions of this Act shall govern in its stead. [1977, c. 694, §33 (NEW).]

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 694, §33 (NEW). 1977, c. 696, §48 (RAL).

§8004. MATTERS PENDING NOT AFFECTED

The Maine Administrative Procedure Act shall not apply to: [1977, c. 694, §34 (NEW).]

1. **Adjudicatory proceedings.** Adjudicatory proceedings commenced by filing of an application, request for a hearing, agency notice of a hearing or otherwise in accordance with preexisting law, prior to July 1, 1978;

[1977, c. 694, §34 (NEW) .]

2. **Licensing proceedings.** Licensing proceedings commenced by filing an application for a license, or renewal or reissuance thereof, or by notice of agency proceedings affecting an existing license, prior to July 1, 1978; or

[1977, c. 694, §34 (NEW) .]

3. **Judicial review.** Judicial review of any of the foregoing.

[1977, c. 694, §34 (NEW) .]

4. **Collective bargaining.** State personnel rules negotiated as part of any collective bargaining agreement.

[1977, c. 694, §34 (NEW) .]

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 694, §34 (NEW). 1977, c. 696, §48 (RAL).

§8005. GOVERNOR'S OFFICE OF HEALTH POLICY AND FINANCE

Notwithstanding any provision of law to the contrary, the provisions of this subchapter and subchapters 2 and 2-A apply to rulemaking by the Governor's Office of Health Policy and Finance or its successor agency. [2005, c. 394, §1 (NEW).]

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 696, §48 (RAL). 2005, c. 394, §1 (NEW).

§8006. EXPENSES OF LOAN AUTHORITY BOARD

(REALLOCATED TO TITLE 5, SECTION 15006)

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 696, §48 (RAL).

§8007. LOAN INSURANCE FUND

(REALLOCATED TO TITLE 5, SECTION 15007)

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 696, §48 (RAL).

§8008. ADDITIONS TO

(REALLOCATED TO TITLE 5, SECTION 15008)

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 696, §48 (RAL).

§8009. INSURANCE OF LOANS

(REALLOCATED TO TITLE 5, SECTION 15009)

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 696, §48 (RAL).

§8010. LOAN INSURANCE PREMIUMS

(REALLOCATED TO TITLE 5, SECTION 15010)

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 696, §48 (RAL).

§8011. ACQUISITION AND DISPOSAL OF PROPERTY

(REALLOCATED TO TITLE 5, SECTION 15011)

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 696, §48 (RAL).

§8012. LOANS ELIGIBLE FOR INVESTMENT

(REALLOCATED TO TITLE 5, SECTION 15012)

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 696, §48 (RAL).

§8013. SAFEGUARDING THE FUND

(REALLOCATED TO TITLE 5, SECTION 15013)

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 696, §48 (RAL).

§8014. ACCOUNTS

(REALLOCATED TO TITLE 5, SECTION 15014)

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 696, §48 (RAL).

§8015. RECORDS CONFIDENTIAL

(REALLOCATED TO TITLE 5, SECTION 15015)

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 696, §48 (RAL).

Subchapter 2: RULEMAKING

§8051. ADOPTION OF RULES OF PRACTICE

In addition to other rule-making requirements imposed by law, each agency shall adopt rules of practice governing the conduct of adjudicatory proceedings, licensing proceedings and the rendering of advisory rulings, except to the extent that such rules are provided by law. The first time after October 1, 1995 that an agency proposes to adopt or modify the rules of practice governing the conduct of adjudicatory proceedings or licensing proceedings, the agency shall also propose any rules reasonably necessary to promote, when

appropriate, the efficient and cost-effective use of alternative dispute resolution techniques, including the use of neutral facilitators, mediators or arbitrators. If the agency determines that it is unnecessary or inappropriate to propose these rules, it shall so state in the notice of rulemaking required under section 8053. A written explanation of the reasons for the agency's determination must be included in the basis statement of rule. Any agency rule of practice that imposes a time period or deadline for the filing of any submission or for the service of any paper must provide that filing or service is complete: [1995, c. 249, §1 (AMD).]

1. **Upon an agency.** Upon an agency, when the agency receives the submission or the paper by mail, in-hand delivery or any other means specified by the agency; or

[1989, c. 297, §1 (NEW) .]

2. **Upon a party.** Upon a party, when the paper is mailed to the party or the party's attorney, by in-hand delivery to the recipient or by delivery to the recipient's office.

[1995, c. 249, §1 (AMD) .]

SECTION HISTORY
1977, c. 551, §3 (NEW). 1989, c. 297, §1 (AMD). 1995, c. 249, §1 (AMD).

§8051-A. APPOINTMENT OF LIAISON

The commissioner or director of each state agency shall designate a person to serve as a liaison between the agency and the general public, the Legislature, the Secretary of State and the office of the Attorney General with respect to rulemaking. The liaison shall serve as a representative of the agency with respect to providing information about agency rules. The liaison is responsible for implementing the procedural provisions of this subchapter. The Secretary of State shall maintain a list of all agency liaisons and their contact information on a publicly accessible website. [2007, c. 581, §1 (AMD).]

SECTION HISTORY
1989, c. 574, §2 (NEW). 2007, c. 581, §1 (AMD).

§8051-B. CONSENSUS-BASED RULE DEVELOPMENT PROCESS

1. **Agency authority.** An agency may voluntarily engage in a consensus-based rule development process. An agency that develops a draft rule through a consensus-based rule development process retains the sole discretion over whether to submit the rule as a proposed rule and as to the final language of the proposed rule.

[1999, c. 307, §2 (NEW) .]

2. **Initial considerations.** As part of a consensus-based rule development process, an agency shall:

A. Establish a representative group of participants with an interest in the subject of the rulemaking; [1999, c. 307, §2 (NEW).]

B. Develop ground rules for the operation of the consensus-based rule development process that are mutually acceptable to the agency and the participants; [1999, c. 307, §2 (NEW).]

C. Disclose the funding and time constraints on the agency; [1999, c. 307, §2 (NEW).]

D. Give prior notice of all meetings to the representative group of participants and establish a mechanism for other interested parties to receive notice and information regarding all meetings; [1999, c. 307, §2 (NEW).]

E. Select an agency employee or another individual contracted by the agency to chair or facilitate the meetings; and [1999, c. 307, §2 (NEW).]

F. Distribute a summary and submitted materials from all meetings to the representative group of participants and other interested parties. [1999, c. 307, §2 (NEW).]

[1999, c. 307, §2 (NEW) .]

3. **Record.** An agency that engages in a consensus-based rule development process that results in a proposed rule shall maintain:

A. A list of all meetings held, the participants at each meeting and the interests or organizations they represented; [1999, c. 307, §2 (NEW).]

B. A summary of each of the meetings; and [1999, c. 307, §2 (NEW).]

C. A description by the agency of the consensus-based rule development process and an analysis of the decisions that came out of that process, including the extent to which consensus was reached on the decisions. [1999, c. 307, §2 (NEW).]

[1999, c. 307, §2 (NEW) .]

4. **Judicial review.** An agency action to engage in or terminate a consensus-based rule development process is not subject to judicial review. This section does not bar judicial review of a rule finally adopted by an agency following a consensus-based rule development process if such a review is otherwise available by law as long as the basis for review is other than procedural error in the consensus-based rule development process.

[1999, c. 307, §2 (NEW) .]

SECTION HISTORY
1999, c. 307, §2 (NEW).

§8052. RULEMAKING

1. **Notice; public hearing.** Prior to the adoption of any rule, the agency shall give notice as provided in section 8053 and may hold a public hearing, except that a public hearing must be held if otherwise required by statute or requested by any 5 interested persons or if the rule is a major substantive rule as defined in section 8071, subsection 2, paragraph B.

A public meeting or other public forum held by an agency for any purpose that includes receiving public comments on a proposed agency rule is a public hearing and is subject to all the provisions of this subchapter regarding public hearings.

[2007, c. 581, §2 (AMD) .]

2. **Requirements.** Any public hearing shall comply with any requirements imposed by statute, but shall not be subject to subchapter IV. Any public hearing shall be held and conducted as follows.

A. In the case of a rule authorized to be adopted by more than one agency member, at least 1/3 of the agency members shall be present. [1981, c. 524, §2 (NEW).]

B. In the case of a rule authorized to be adopted by a single agency member, either the agency member, a person in a major policy-influencing position, as listed in chapter 71, or a designee who has responsibility over the subject matter to be discussed at the hearing shall hold and conduct the hearing. [1993, c. 362, §2 (AMD).]

[1993, c. 362, §2 (AMD) .]

3. **Statements and arguments filed.** When a public hearing is held, written statements and arguments concerning the proposed rule may be filed with the agency within 10 days after the close of the public hearing, or within such longer time as the agency may direct.

[1977, c. 551, §3 (NEW) .]

4. **Relevant information considered.** The agency shall consider all relevant information available to it, including, but not limited to, economic, environmental, fiscal and social impact analyses and statements and arguments filed, before adopting any rule.

[1991, c. 632, §1 (AMD) .]

5. **Written statement adopted.** At the time of adoption of any rule, the agency shall adopt a written statement explaining the factual and policy basis for the rule. The agency shall list the names of persons whose comments were received, including through testimony at hearings, the organizations the persons represent and summaries of their comments. The agency shall address the specific comments and concerns expressed about any proposed rule and state its rationale for adopting any changes from the proposed rule, failing to adopt the suggested changes or drawing findings and recommendations that differ from those expressed about the proposed rule.

A. If the same or similar comments or concerns about a specific issue were expressed by different persons or organizations, the agency may synthesize these comments and concerns into a single comment that accurately reflects the meaning and intent of these comments and concerns to be addressed by the agency, listing the names of the persons who commented and the organizations they represent. [1993, c. 446, Pt. A, §19 (AMD).]

B. A rule may not be adopted unless the adopted rule is consistent with the terms of the proposed rule, except to the extent that the agency determines that it is necessary to address concerns raised in comments about the proposed rule, or specific findings are made supporting changes to the proposed rule. The agency shall maintain a file for each rule adopted that must include, in addition to other documents required by this Act, testimony, comments, the names of persons who commented and the organizations they represent and information relevant to the rule and considered by the agency in connection with the formulation, proposal or adoption of a rule. If an agency determines that a rule that the agency intends to adopt is substantially different from the proposed rule, the agency shall request comments from the public concerning the changes from the proposed rule. The agency may not adopt the rule for a period of 30 days from the date comments are requested pursuant to this paragraph. Notice of the request for comments must be published by the Secretary of State in the same manner as notice for proposed rules. [2011, c. 380, Pt. NNN, §1 (AMD).]

C. If the adoption under this subsection is final adoption of a major substantive rule under subchapter II-A, the agency must include in its written statement citation of the legislative act authorizing final adoption of that rule; or, if authorization is the result of failure of the Legislature to act under section 8072, subsection 7, the agency must indicate that fact and identify the date the agency filed the rule for review under section 8072. [1997, c. 196, §1 (NEW).]

[2011, c. 380, Pt. NNN, §1 (AMD) .]

5-A. **Impact on small business.** In adopting rules, the agencies shall seek to reduce any economic burdens through flexible or simplified reporting requirements and may seek to reduce burdens through flexible or simplified timetables that take into account the resources available to the affected small businesses. The agency may consider clarification, consolidation or simplification of compliance or reporting requirements. For the purposes of this subsection, "small business" means businesses that have 20 or fewer employees.

Prior to the adoption of any proposed rule that may have an adverse impact on small businesses, the agency shall prepare an economic impact statement that includes the following:

A. An identification of the types and an estimate of the number of the small businesses subject to the proposed rule; [2007, c. 181, §1 (NEW).]

B. The projected reporting, record-keeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record; [2007, c. 181, §1 (NEW).]

C. A brief statement of the probable impact on affected small businesses; and [2007, c. 181, §1 (NEW).]

D. A description of any less intrusive or less costly, reasonable alternative methods of achieving the purposes of the proposed rule. [2007, c. 181, §1 (NEW).]

[2007, c. 181, §1 (AMD) .]

6. **Effective date.** No rule, except emergency rules adopted under section 8054, becomes effective until at least 5 days after filing with the Secretary of State under section 8056, subsection 1, paragraph B.

When the effective date of a rule is contingent upon the occurrence or nonoccurrence of an event, notification of the occurrence or nonoccurrence must be filed with the Secretary of State when known.

[1993, c. 362, §3 (AMD) .]

7. **Adoption of rule.** A rule may not take effect unless:

A. The agency adopts it within 120 days of the final date by which data, views or arguments may be submitted to the agency for consideration in adopting the rule; and [1985, c. 39, §1 (NEW).]

B. This adopted rule is approved by the Attorney General as to form and legality, as required by section 8056, within 150 days of the final date by which those comments may be submitted. [1985, c. 39, §1 (NEW).]

The final date for comments may be extended if notice of doing so is published within 14 days after the most recently published comment deadline, in the consolidated notice referred to in section 8053.

[1995, c. 373, §3 (AMD) .]

8. **Appropriate reference to underlying federal and state laws and regulations.** At the time of adoption of any rule, the agency shall refer with particularity to any underlying federal or state law or regulation which serves as the basis of the rule.

[1985, c. 77, §1 (NEW) .]

SECTION HISTORY
1977, c. 551, §3 (NEW). 1977, c. 694, §34-A (AMD). 1979, c. 425, §4 (AMD). 1981, c. 524, §§1-6 (AMD). 1985, c. 39, §1 (AMD). 1985, c. 77, §1 (AMD). 1985, c. 506, §§A2,3 (AMD). 1985, c. 680, §§1,2 (AMD). 1985, c. 737, §A18 (AMD). 1989, c. 574, §§3,4 (AMD). 1991, c. 632, §1 (AMD). 1993, c. 362, §§2,3 (AMD). 1993, c. 446, §A19 (AMD). RR 1995, c. 2, §8 (COR). 1995, c. 373, §3 (AMD). 1995, c. 463, §1 (AMD). 1997, c. 110, §2 (AMD). 1997, c. 196, §1 (AMD). 2007, c. 181, §1 (AMD). 2007, c. 581, §2 (AMD). 2011, c. 380, Pt. NNN, §1 (AMD).

§8053. NOTICE

1. **Notice of rulemaking without hearing.** At least 20 days prior to the comment deadline of any rule without hearing, the agency shall deliver or mail written notice or, with written or electronic agreement of the party, provide electronic notice to:

A. Any person specified by the statute authorizing the rulemaking; [1981, c. 470, Pt. A, §9 (NEW).]

B. Any person who has filed within the past year a written or electronic request with the agency for notice of rulemaking; [2011, c. 479, §1 (AMD).]

C. Any trade, industry, professional, interest group or regional publication that the agency considers effective in reaching the persons affected; and [2011, c. 479, §2 (AMD).]

D. [1985, c. 39, §2 (RP).]

E. The primary sponsor of the legislation that was enacted and authorized the rulemaking, as long as the legislation was enacted within the previous 2 years. [2011, c. 479, §3 (NEW).]

Notification to subscribers under paragraph B must be by mail or, with written or electronically submitted agreement of the subscriber, electronic notice or otherwise in writing to the last address provided to the agency by that person. Subscribers under paragraph B may request to receive a copy of each proposed rule with the written notice. The agency shall provide the copy at the same time the notice is sent.

Written or electronic notice must also be given to the Secretary of State, by the deadline established by the Secretary of State, for publication in accordance with subsection 5. This notice must be in a format approved by the Secretary of State.

[2011, c. 479, §§1-3 (AMD) .]

2. **Notice of rulemaking hearing.** When an agency holds a public hearing prior to adoption of a rule, notice of the hearing shall be given in the manner described in subsections 1 and 5, using the date of the hearing to calculate the time periods involved;

[1979, c. 425, §5 (RPR) .]

3. **Contents of notice.** Except for notices governed by subsections 5 and 7, a notice under this section must:

A. Refer to the statutory authority under which the adoption of the rule is proposed; [1979, c. 425, §5 (NEW).]

B. State the time and place of any scheduled public hearing or state the manner in which a hearing may be requested; [1979, c. 425, §5 (NEW).]

C. State the manner and time within which data, views or arguments may be submitted to the agency for consideration, whether or not a hearing is held; [1985, c. 77, §2 (AMD).]

C-1. State the name, address and phone number of the staff person responsible for providing additional information or a printed version of the proposed rule; [2009, c. 256, §1 (NEW).]

D. If possible, contain the express terms of the proposed rule or otherwise describe the substance of the proposed rule, stating the subjects and issues involved and indicate where a copy of the proposed rule may be obtained; [2007, c. 181, §2 (AMD).]

E. Refer to the substantive state or federal law to be implemented by the rules; and [2007, c. 181, §3 (AMD).]

F. Indicate where a copy of the statement of impact on small business pursuant to section 8052, subsection 5-A may be obtained. [2007, c. 181, §4 (NEW).]

[2009, c. 256, §1 (AMD) .]

3-A. **Copies of proposed rules available upon request.** At least 20 days prior to hearing on any proposed rule and at least 20 days prior to the comment deadline of any rule without a hearing, the agency shall make copies of the proposed rule available in writing or, with agreement of the requestor, electronically to persons upon request.

[2003, c. 207, §2 (AMD) .]

4. **Fee schedule.** The agency may establish a fee schedule for notice and for proposed rules under subsection 1, paragraph B, imposing a cost reasonably related to the actual expense entailed. Fees may vary depending upon the method of transmission of notice and the rules being transmitted.

[2003, c. 207, §3 (AMD) .]

5. **Publication.** Using the format of notice pursuant to subsection 7, the Secretary of State shall:

A. Arrange for the weekly publication of a consolidated notice of rule making of all state agencies, which shall also include a brief explanation to assist the public in participating in the rule-making process. Notice of each rule-making proceeding shall be published once 17 to 24 days prior to the public hearing on the proposed rule or at least 30 days prior to the last date on which views and arguments may be submitted to the agency for consideration if no public hearing is scheduled; [1981, c. 698, §12 (RPR).]

B. Designate certain newspapers, which together have general circulation throughout the State, as papers of record for the purpose of publishing notice under paragraph A. Notice of proposed rules affecting only a particular locality or region need only be published in the designated newspapers having general circulation in the area affected; [2009, c. 256, §2 (AMD).]

C. Designate one day as rules day for publication of notices on rulemaking as set forth in this subsection; and [1991, c. 837, Pt. A, §11 (AMD).]

D. Be reimbursed for the cost of publication of rule-making notice by the agencies proposing the rulemaking. The total costs of each consolidated publication will be prorated by the Secretary of State among all agencies submitting notice for a particular week. [1979, c. 425, §5 (NEW).]

[2009, c. 256, §2 (AMD) .]

6. **Electronic publication.** In addition to the printed publication required in subsection 5, the Secretary of State shall maintain a publicly accessible website for posting the notices of all proposed and adopted rules. The contents of the notice for electronic publication are pursuant to subsection 3. An agency, on its publicly accessible website, shall either post its proposed and adopted rules or provide a link to the proposed or adopted rules posted on the Secretary of State's website. Notice of each rule-making proceeding must be published on the Secretary of State's website 17 to 24 days prior to the public hearing on the proposed rule or at least 30 days prior to the last date on which views and arguments may be submitted to the agency for consideration if no public hearing was scheduled.

[2011, c. 326, §1 (AMD) .]

7. **Contents of notice for newspaper publication.** The notice for publication in the newspaper under subsection 5 is shorter than the notice provided for all other purposes pursuant to subsection 3. The notice for newspaper publication must:

A. State the time and place of any scheduled public hearing or state the manner in which a hearing may be requested; [2009, c. 256, §4 (NEW).]

B. State the manner and time within which data, views or arguments may be submitted to the agency for consideration, whether or not a hearing is held; [2009, c. 256, §4 (NEW).]

C. State the name, address and phone number of the staff person responsible for providing additional information or a printed version of the proposed rule; [2009, c. 256, §4 (NEW).]

D. Include a brief and general summary of the substance of the proposed rule; [2009, c. 256, §4 (NEW).]

E. Provide the website address where the long notice pursuant to subsection 3 is posted; [2009, c. 256, §4 (NEW).]

F. Indicate where a copy of the statement of impact on small business pursuant to section 8052, subsection 5-A may be obtained; and [2009, c. 256, §4 (NEW).]

G. Indicate the impact on municipalities or counties only if there is an expected financial impact on municipalities identified under section 8063. [2009, c. 256, §4 (NEW).]

[2009, c. 256, §4 (NEW) .]

SECTION HISTORY
1977, c. 551, §3 (NEW). 1977, c. 692, §1 (AMD). 1977, c. 694, §34-B (AMD). 1979, c. 127, §38 (AMD). 1979, c. 425, §5 (RPR). 1979, c. 596, §2 (AMD). 1981, c. 456, §A21 (AMD). 1981, c. 470, §A9 (AMD). 1981, c. 524, §§7-10 (AMD). 1981, c. 698, §§10-12 (AMD). 1985, c. 39, §2 (AMD). 1985, c. 77, §2 (AMD). 1991, c. 837, §A11 (AMD). 1995, c. 373, §§4,5 (AMD). 2003, c. 207, §§1-3 (AMD). 2007, c. 181, §§2-4 (AMD). 2007, c. 581, §3 (AMD). 2009, c. 256, §§1-4 (AMD). 2011, c. 326, §1 (AMD). 2011, c. 479, §§1-3 (AMD).

§8053-A. NOTICE TO LEGISLATIVE COMMITTEES

1. **Proposed rules.** At the time of giving notice of rulemaking under section 8053 or within 10 days following the adoption of an emergency rule, the agency shall provide to the Legislature, in accordance with subsection 3, a fact sheet providing the information as described in section 8057-A, subsection 1.

A. If an agency determines that a rule which it intends to adopt will be substantially different from the proposed rule, it shall provide the Legislature with a revised fact sheet with the information defined in section 8057-A, subsection 1, as it relates to the substantially different rule. The revised fact sheet shall be provided to the Legislature in accordance with subsection 3. [1989, c. 574, §5 (RPR).]

B. [1989, c. 574, §5 (RP).]

C. [1989, c. 574, §5 (RP).]

D. [1989, c. 574, §5 (RP).]

[1989, c. 574, §5 (RPR) .]

2. **Regulatory agenda.** The agency shall provide copies of its agency regulatory agenda, as provided in section 8060, to the Legislature at the time that the agenda is issued.

[1989, c. 574, §5 (RPR) .]

3. **Submission of materials to the Legislature.** When an agency, pursuant to subsection 1 or 2, provides materials to the Legislature, it shall provide them to the Executive Director of the Legislative Council, who shall refer the materials to the appropriate committee or committees of the Legislature for review. The agency shall provide sufficient copies of the materials for each member of the appropriate committee or committees.

[1989, c. 574, §5 (NEW) .]

4. **Adopted rules.** When an agency adopts rules, it shall provide a copy of the adopted rules, the statement required by section 8052, subsection 5, and the checklist required by section 8056-A to the Secretary of State who shall compile the adopted rules by agency.

[1989, c. 574, §5 (NEW) .]

5. **Annual lists of rule-making activity.** By February 1st of each year, the Secretary of State shall provide the Executive Director of the Legislative Council lists by agency of all rules adopted by each agency in the previous calendar year. The Executive Director of the Legislative Council shall refer each list to the appropriate joint standing committee or committees of the Legislature for review. Each list must include for each rule the following information, which must be submitted by each agency to the Secretary of State:

A. The statutory authority for the rule and the rule chapter number and title; [2011, c. 479, §4 (NEW).]

B. The principal reason or purpose for the rule; [2011, c. 479, §4 (NEW).]

C. A written statement explaining the factual and policy basis for each rule adopted pursuant to section 8052, subsection 5; [2011, c. 479, §4 (NEW).]

D. If the rule adopted was routine technical or major substantive; [2011, c. 479, §4 (NEW).]

E. If the rule was adopted as an emergency; and [2011, c. 479, §4 (NEW).]

F. The fiscal impact of the rule. [2011, c. 479, §4 (NEW).]

[2011, c. 479, §4 (NEW) .]

6. **Authority to report out legislation.** After each appropriate joint standing committee of the Legislature has received a list of rule-making activity pursuant to subsection 5, the committee may require an agency to appear before the committee, and the committee may report out legislation in the same legislative session in which the report is received to adjust rule-making authority related to the rules adopted in the previous calendar year.

[2011, c. 479, §4 (NEW) .]

SECTION HISTORY
1985, c. 270, (NEW). 1985, c. 528, (AMD). 1985, c. 680, §§3,4 (AMD). 1985, c. 737, §B13 (AMD). 1987, c. 402, §§A60,A61 (AMD). 1989, c. 574, §5 (RPR). 2011, c. 479, §4 (AMD).

§8054. EMERGENCY RULEMAKING

1. **Emergency.** If the agency finds that immediate adoption of a rule by procedures other than those set forth in sections 8052 and 8053 is necessary to avoid an immediate threat to public health, safety or general welfare, it may modify those procedures to the minimum extent required to enable adoption of rules designed to mitigate or alleviate the threat found. Emergency rules shall be subject to the requirements of section 8056.

[1977, c. 551, §3 (NEW) .]

2. **Agency findings.** Any emergency rule must include, with specificity, the agency's findings with respect to the existence of an emergency, including any modifications of procedures, and such findings are subject to judicial review under section 8058. Such findings must be included in the basis statement for any adopted emergency rule in a section labeled "findings of emergency." No emergency may be found to exist when the primary cause of the emergency is delay caused by the agency involved.

[2011, c. 244, §1 (AMD) .]

3. **Emergency period.** Any emergency rule shall be effective only for 90 days, or any lesser period of time specified in an enabling statute or in the emergency rule. After the expiration of the emergency period, such rule shall not thereafter be adopted except in the manner provided by section 8052.

[1977, c. 551, §3 (NEW) .]

4. **Fiscal impact; curtailment orders.** An emergency rule adopted in whole or in part to satisfy the requirements of a temporary curtailment order by the Governor under section 1668 must include a specification of the dollar amount of curtailed funds attributable to each change adopted in the rule.

[2011, c. 244, §2 (NEW) .]

SECTION HISTORY
1977, c. 551, §3 (NEW). 1979, c. 425, §6 (AMD). 2007, c. 581, §4 (AMD). 2011, c. 244, §§1, 2 (AMD).

§8055. PETITION FOR ADOPTION OR MODIFICATION OF RULES

1. **Petition.** Any person may petition an agency for the adoption or modification of any rule.

[1977, c. 551, §3 (NEW) .]

2. **Form designated.** Each agency shall designate the form for such petitions and the procedure for their submission, consideration and disposition.

[1977, c. 551, §3 (NEW) .]

3. **Receipt of petition.** Within 60 days after receipt of a petition, the agency shall either notify the petitioner in writing of its denial, stating the reasons therefor, or initiate appropriate rule-making proceedings. Whenever a petition to adopt or modify a rule is submitted by 150 or more registered voters of the State, the agency shall initiate appropriate rulemaking proceedings within 60 days after receipt of the petition. The petition must be verified and certified in the same manner provided in Title 21-A, section 354, subsection 7, prior to its presentation to the agency.

[1985, c. 506, Pt. A, §4 (AMD) .]

SECTION HISTORY
1977, c. 551, §3 (NEW). 1979, c. 425, §7 (AMD). 1981, c. 280, §§1,2 (AMD). 1985, c. 506, §A4 (AMD).

§8056. FILING AND PUBLICATION

1. **Requirements.** With respect to every rule adopted, the agency shall:

A. Submit the rule to the Attorney General for approval as to form and legality; [1977, c. 551, §3 (NEW).]

B. File the original rule as signed by the Attorney General or an assistant attorney general and the authorized representative of the agency, and the statement required by section 8052, subsection 5, with the Secretary of State in a form prescribed by the Secretary of State, which form is susceptible to frequent and easy revision.

(1) Through rulemaking, an agency may incorporate by reference all or any part of a code, standard, rule or regulation that has been adopted by an agency of the United States or of this State or by a nationally recognized organization or association.

(2) The reference in the agency rules must fully identify the incorporated matter by exact title, edition or version and date of publication.

(3) The rules must state where copies of the incorporated matter are available at cost from the agency issuing the rule or where copies are available from the agency of the United States, this State or an organization or association originally issuing that matter.

(4) An agency incorporating a matter by reference shall submit a copy of the incorporated matter to the Secretary of State; [1999, c. 261, §1 (AMD).]

C. Supply, without cost or at actual cost, copies of each such rule to any person who has filed with the agency within the past year a written request to be supplied with all copies of the agency's rules; and [1981, c. 524, §11 (AMD).]

D. Publish, pursuant to the procedures set forth in section 8053, subsection 6, a notice containing the following information: A statement that the rule has been adopted, its effective date, a brief description of the substance of the rule, and the address where a copy may be obtained. [2011, c. 380, Pt. NNN, §2 (AMD).]

[2011, c. 380, Pt. NNN, §2 (AMD) .]

2. **Form.** With respect to every rule adopted by the agency and in effect, the agency shall print and compile and make available to any person, at each of its offices, for inspection at no charge and for copying with or without cost, as the agency shall determine, and for distribution free or at actual cost, complete sets of such rules currently in effect.

[1977, c. 551, §3 (NEW) .]

3. **Secretary of State.** The Secretary of State shall:

A. Maintain and make available at the Secretary of State's office, for inspection at no charge and for copying or purchase, current copies of complete rules for all agencies filed in accordance with subsection 1, paragraph B; [1995, c. 373, §7 (AMD).]

A-1. Compile, edit, index and arrange for publication and distribution all current rules of state agencies as available resources permit. Compilations must be supplemented or revised at least annually; [1993, c. 362, §4 (AMD).]

A-2. Publish an annual list of current rules of state agencies; [1993, c. 362, §5 (NEW).]

B. Supply, at actual cost, annually updated copies of complete sets of rules of an agency to any person who has filed with the Secretary of State within the past year a written request for such sets of rules; and [1991, c. 541, §1 (AMD).]

C. Codify all current state agency rules in an electronic text file data base, in consultation with affected state agencies and in accordance with subsections 7 and 8, as available resources permit. [1991, c. 541, §1 (NEW).]

[1995, c. 373, §7 (AMD) .]

4. **Additional requirements.** The requirements of subsection 2 shall additionally be applicable to the agency's forms, instructions, explanatory statements and other items defined in section 8002, subsection 9, paragraph B, subparagraph (4).

[1977, c. 551, §3 (NEW) .]

5. **Record of vote.** In addition to the foregoing, each agency shall keep, at its principal office, and make available for inspection to any person a record of the vote of each member of the agency taken in rule-making proceedings.

[1977, c. 551, §3 (NEW) .]

6. **Attorney General review and approval.** The review required in subsection 1 may not be performed by any person involved in the formulation or drafting of the proposed rule. The Attorney General may not approve a rule if it is reasonably expected to result in a taking of private property under the Constitution of Maine unless such a result is directed by law or sufficient procedures exist in law or in the proposed rule to allow for a variance designed to avoid such a taking.

[1995, c. 537, §6 (AMD) .]

7. **Codification of rules.** The Secretary of State, in consultation with affected state agencies, shall develop a plan to codify all current rules of state agencies within its available resources. The codified rules must be maintained on an electronic text file data base. To develop the electronic text file data base, agencies may refile an existing rule or parts of an existing rule. If an agency refiles a rule or portion of a rule:

A. The agency may not make at the time of refiling any substantive changes in that rule or portion of that rule; and [1991, c. 554, §2 (NEW).]

B. The refiled rule or portion of the rule must be adopted in accordance with the Maine Administrative Procedure Act except that public comment on the refiling under section 8057-A, subsection 3 is limited to documenting where the refiled rule or portion of the rule is substantively different from the existing rule. [1991, c. 554, §2 (NEW).]

[1991, c. 554, §2 (NEW) .]

8. **Electronic text file procedures.** Under subsection 1, the Secretary of State may establish by rule in accordance with the Maine Administrative Procedure Act procedures and criteria for the filing of rules in electronic text file format.

[1991, c. 554, §2 (NEW) .]

9. **Certification of published rules.** The Secretary of State may certify that a publication of the codified rules and any supplements or replacement volumes to that publication are a correct transcript of the text of the original rules.

A. Certified publications must contain a printed certificate of the Secretary of State stating that the publication is the official copy. A facsimile of the signature of the Secretary of State imprinted by or at the direction of the Secretary of State has the same validity as a written signature of the Secretary of State. [1991, c. 554, §2 (NEW).]

B. A publication of the rules certified by the Secretary of State constitutes prima facie evidence of the rules. [1991, c. 554, §2 (NEW).]

C. Any publication of a rule or rules that is not certified by the Secretary of State:

(1) May neither state nor imply that the publication is an official copy of the rules; and

(2) Must state in a conspicuous location where the Secretary of State's certified copy is located. [1991, c. 554, §2 (NEW).]

[1991, c. 554, §2 (NEW) .]

10. **Minor errors.** The Secretary of State may correct minor, nonsubstantive errors in spelling and format in proposed or adopted rules if the agency is notified.

[1993, c. 362, §6 (NEW) .]

SECTION HISTORY
1977, c. 551, §3 (NEW). 1979, c. 425, §§8,9 (AMD). 1981, c. 524, §§11-13 (AMD). 1985, c. 39, §3 (AMD). 1991, c. 554, §§1,2 (AMD). 1993, c. 362, §§4-6 (AMD). 1995, c. 373, §§6,7 (AMD). 1995, c. 537, §6 (AMD). 1999, c. 261, §1 (AMD). 2011, c. 380, Pt. NNN, §2 (AMD).

§8056-A. TECHNICAL ASSISTANCE; ANNUAL REPORT

1. **Checklist.** The Secretary of State shall establish and implement a checklist that must be completed by agencies and attached to adopted rules filed with the Secretary of State after December 31, 1989. The checklist must include the timing of filing and notices as well as other procedural requirements of this subchapter.

[1991, c. 554, §3 (AMD) .]

2. **Technical assistance.** The Secretary of State shall develop uniform drafting instructions for use by all agencies that propose rules under this subchapter and shall compile those instructions in a drafting manual. In addition, the Secretary of State shall provide assistance to any agency regarding the form for drafting of rules and supporting materials and the other requirements of this subchapter.

[1991, c. 554, §3 (AMD) .]

3. **Report.** The Secretary of State shall report to the Governor and the joint standing committee of the Legislature having jurisdiction over state and local government prior to February 1st of each year with respect to rule-making activities for the prior year. The report must include statistical information on agency rule-making activities, agency experience with procedural requirements of this subchapter, an evaluation of the codification process, the impact of the electronic text file data base on state agencies and users of the rules and recommendations for improvements to the rule-making process. In preparing the report, the Secretary of State shall solicit comments on this subchapter from agencies and their legal counsels, the Executive Director of the Legislative Council and the public.

[1991, c. 554, §3 (AMD) .]

SECTION HISTORY
1989, c. 574, §6 (NEW). 1991, c. 554, §3 (AMD).

§8057. COMPLIANCE

1. **Rules; exception.** Rules adopted in a manner other than that prescribed by section 8052, subsections 1, 2, 3, 4, 5-A and 7 and by sections 8053 and 8054 are void and of no legal effect, except that insubstantial deviations from the requirements of section 8053 do not invalidate the rule subsequently adopted. Rules in effect prior to July 1, 1978 become void and of no legal effect on July 1, 1979, unless originally adopted after notice published in a newspaper of general circulation in some area of the State and opportunity for hearing or unless adopted in accordance with this subchapter.

[2007, c. 181, §5 (AMD) .]

2. **Rules not approved.** Rules not approved and filed in the manner prescribed by section 8056, subsection 1, paragraphs A and B, shall be void and of no legal effect. Rules in effect prior to July 1, 1978, become void and of no legal effect on December 31, 1979, unless filed with the Secretary of State in accordance with section 8056, subsection 1, paragraph B.

[1979, c. 425, §10 (AMD) .]

3. **Agency, responsibility.** The requirements of this subchapter do not relieve any agency of the responsibility of compliance with any statute requiring that its rules be filed with or approved by any designated person before they become effective.

[1977, c. 551, §3 (NEW) .]

SECTION HISTORY
1977, c. 551, §3 (NEW). 1977, c. 694, §35 (AMD). 1979, c. 425, §10 (AMD). 1985, c. 680, §5 (AMD). 2007, c. 181, §5 (AMD).

§8057-A. PREPARATION AND ADOPTION OF RULES

In preparing and adopting rules, each agency shall strive to the greatest possible extent to follow the procedure defined in this section. [1989, c. 574, §7 (NEW).]

1. **Preparation of rules.** At the time that an agency is preparing a rule, the agency shall consider the goals and objectives for which the rule is being proposed, possible alternatives to achieve the goals and objectives and the estimated impact of the rule. The agency's estimation of the impact of the rule must be based on the information available to the agency and any analyses conducted by the agency or at the request of the agency. The agency shall establish a fact sheet that provides the citation of the statutory authority of the rule. In addition, the agency, to the best of its ability, shall also include in the fact sheet:

A. The principal reasons for the rule; [1989, c. 574, §7 (NEW).]

B. A comprehensive but concise description of the rule that accurately reflects the purpose and operation of the rule; [1989, c. 574, §7 (NEW).]

C. An estimate of the fiscal impact of the rule; [2007, c. 581, §5 (AMD).]

D. An analysis of the rule; and [2007, c. 581, §5 (AMD).]

E. A brief summary of the relevant information considered during the development of the rule. [2007, c. 581, §5 (NEW).]

[2007, c. 581, §5 (AMD) .]

2. **Additional information for existing rules.** For existing rules having an estimated fiscal impact greater than $1,000,000, the fact sheet shall also include the following:

A. A description of the economic impact of the rule including effects that cannot be quantified in monetary terms; [1989, c. 574, §7 (NEW).]

B. A description and examples of individuals, major interest groups and types of businesses that will be affected by the rule and how they will be affected; and [1989, c. 574, §7 (NEW).]

C. A description of the benefits of the rule including those that cannot be quantified. [1989, c. 574, §7 (NEW).]

[1989, c. 574, §7 (NEW) .]

3. **Public comment period.** During the public comment period and prior to adoption of any rule, the agency shall strive to obtain and evaluate relevant information from the public and other information reasonably available to the agency with respect to relevant provisions in subsection 1.

[1989, c. 574, §7 (NEW) .]

4. **Adoption of rules.** At the time of adoption of any rule, the agency shall file with the Secretary of State the information developed by the agency pursuant to subsections 1 and 2 and, except for emergency rules, citations for up to 3 primary sources of information relied upon by the agency in adopting the rule. Professional judgment may be cited as one of those primary sources of information. Citations to primary sources of information are not subject to judicial review.

[2011, c. 304, Pt. E, §1 (AMD) .]

SECTION HISTORY
1989, c. 574, §7 (NEW). 2007, c. 181, §6 (AMD). 2007, c. 581, §5 (AMD). 2011, c. 304, Pt. E, §1 (AMD).

§8058. JUDICIAL REVIEW OF RULES

1. **Judicial review.** Judicial review of an agency rule, or of an agency's refusal or failure to adopt a rule where the adoption of a rule is required by law, may be had by any person who is aggrieved in an action for declaratory judgment in the Superior Court conducted pursuant to Title 14, section 5951, et seq., which provisions shall apply to such actions wherever not inconsistent with this section. Insofar as the court finds that a rule exceeds the rule-making authority of the agency, or is void under section 8057, subsection 1 or 2, it shall declare the rule invalid. In reviewing any other procedural error alleged, the court may invalidate the rule only if it finds the error to be substantial and related to matters of such central relevance to the rule that there is a substantial likelihood that the rule would have been significantly changed if the error had not occurred. If the court finds that the rule is not procedurally invalid and not in excess of the agency's rule-making authority, its substantive review of that rule shall be to determine whether the rule is arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law. The phrase "otherwise not in accordance with law" shall apply only to the review authorized in the preceding sentence and shall not be construed so as to limit or replace in any way section 8003. In the event that the court finds that an agency has failed to adopt a rule as required by law, the court may issue such orders as are necessary and appropriate to remedy such failure.

[1985, c. 680, §6 (AMD) .]

2. **Failure to seek judicial review.** The failure to seek judicial review of an agency rule in the manner provided by subsection 1 shall not preclude judicial review thereof in any civil or criminal proceeding.

[1977, c. 551, §3 (NEW) .]

SECTION HISTORY
1977, c. 551, §3 (NEW). 1979, c. 669, §1 (AMD). 1985, c. 680, §6 (AMD).

§8059. INCONSISTENT RULES

When 2 rules are inconsistent or in conflict with one another, so that compliance with both is impossible, then compliance with either rule shall be deemed to be compliance with the other. [1985, c. 680, §7 (RPR).]

SECTION HISTORY
1979, c. 669, §2 (NEW). 1985, c. 680, §7 (RPR).

§8060. REGULATORY AGENDA

Each agency with the authority to adopt rules shall issue to the appropriate joint standing committee or committees of the Legislature and to the Secretary of State an agency regulatory agenda as provided in this section. [1989, c. 547, §8 (NEW).]

1. **Contents of agenda.** Each agency regulatory agenda to the maximum possible extent shall contain the following information:

A. A list of rules that the agency expects to propose prior to the next regulatory agenda due date and whether the agency anticipates engaging in any consensus-based rule development process; [1999, c. 307, §3 (AMD).]

B. The statutory or other basis for adoption of the rule; [1989, c. 547, §8 (NEW).]

C. The purpose of the rule; [1989, c. 547, §8 (NEW).]

D. The contemplated schedule for adoption of the rule; [1989, c. 547, §8 (NEW).]

E. An identification and listing of potentially benefited and regulated parties; and [1989, c. 547, §8 (NEW).]

F. A list of all emergency rules adopted since the previous regulatory agenda due date. [1989, c. 547, §8 (NEW).]

[1999, c. 307, §3 (AMD) .]

2. **Due date.** A regulatory agenda must be issued between the beginning of a regular legislative session and 100 days after adjournment.

[1993, c. 362, §7 (AMD) .]

3. **Legislative copies.** The agency shall provide copies of the agency regulatory agenda to the Legislature as provided in section 8053-A.

[1989, c. 547, §8 (NEW) .]

4. **Availability.** An agency which issues an agency regulatory agenda shall provide copies to interested persons.

[1989, c. 547, §8 (NEW) .]

5. **Legislative review of agency regulatory agendas.** Each regulatory agenda shall be reviewed by the appropriate joint standing committee of the Legislature at a meeting called for the purpose. The committee may review more than one agenda at a meeting.

[1989, c. 547, §8 (NEW) .]

6. **Application.** Nothing in this section or section 8053-A may be construed to prohibit agencies from adopting emergency rules that have not been listed or included in the regulatory agenda pursuant to this section.

[1991, c. 540, §1 (AMD) .]

7. **Agenda listing required.** Notwithstanding any provision of law to the contrary, a rule may not be proposed pursuant to Title 38, chapter 16-D unless the chemicals affected by that proposed rule were specifically disclosed to the Legislature prior to the initiation of the rule-making process as part of a

regulatory agenda, except that this subsection may not be construed to prohibit an agency from initiating appropriate rule-making proceedings in response to any person who petitions for adoption or modification of rules pursuant to section 8055.

[2011, c. 319, §1 (NEW) .]

SECTION HISTORY
1989, c. 574, §8 (NEW). 1991, c. 540, §1 (AMD). 1993, c. 362, §7 (AMD). 1999, c. 307, §3 (AMD). 2011, c. 319, §1 (AMD).

§8061. STYLE

All rules and any other materials required by this subchapter to be provided to the public or to the Legislature shall, to the maximum extent feasible, use plain and clear English, which can readily be understood by the general public. The use of technical language shall be avoided to the greatest possible extent. [1989, c. 574, §8 (NEW).]

SECTION HISTORY
1989, c. 574, §8 (NEW).

§8062. PERFORMANCE STANDARDS

When legislation authorizing any regulated activity requires that certain criteria be met in order that any license, permit, authorization or certification to undertake the regulated activity be granted and when an agency determines that performance standards will assist regulated parties in complying with the criteria, the standards shall be developed during the rule-making process and incorporated into adopted rules when performance standards are equally effective in meeting applicable statutory criteria. [1989, c. 574, §8 (NEW).]

SECTION HISTORY
1989, c. 574, §8 (NEW).

§8063. FISCAL IMPACT

Every rule proposed by an agency must contain a fiscal impact note at the end of the rule. The note must be placed on the rule prior to any public hearing and, in the case of rules adopted without a hearing, prior to the sending of notice under section 8053. The fiscal impact note must describe the estimated cost to municipalities and counties for implementing or complying with the proposed rule. If the proposed rule will not impose any cost on municipalities or counties, the fiscal impact note must state that fact. [1991, c. 233, (NEW).]

This section does not apply to emergency rules. [1991, c. 233, (NEW).]

SECTION HISTORY
1991, c. 233, (NEW).

§8063-A. ANALYSIS OF BENEFITS AND COSTS

In addition to the economic impact statement required under section 8052, subsection 5-A and the fiscal impact note required under section 8063, an agency may, within existing budgeted resources and in instances in which the consideration of costs is permitted, conduct an analysis of the benefits and costs of a proposed rule to evaluate the effects of the rule on the distribution of benefits and costs for specific groups and on the overall economic welfare of the State. [2011, c. 304, Pt. B, §1 (NEW).]

1. **Contents of a cost-benefit analysis.** To the extent permitted within existing resources, a cost-benefit analysis conducted under this section must include, at a minimum, the following information:

A. Specification of the baseline condition for the analysis, including all required parameters for the analysis, all assumptions made in specifying the baseline condition and specification of the analysis period; [2011, c. 304, Pt. B, §1 (NEW).]

B. A description of the methods used to discount future benefits and costs, preferably based on the federal Office of Management and Budget's discount rate for federal projects; [2011, c. 304, Pt. B, §1 (NEW).]

C. An analysis of changes in the level of economic activity in the State as measured by employment, income and outputs; and [2011, c. 304, Pt. B, §1 (NEW).]

D. An estimate of the discounted benefits and costs of the proposed rule over the baseline condition, including benefits and costs to specific groups and changes in the economic welfare of the State as a whole over the baseline condition. [2011, c. 304, Pt. B, §1 (NEW).]

[2011, c. 304, Pt. B, §1 (NEW) .]

Prior to conducting a cost-benefit analysis under this section, an agency shall determine that sufficient staff expertise and budgeted resources exist within the agency to complete the analysis. The agency shall include a cost-benefit analysis with a copy of a proposed rule when responding to a request for the proposed rule under section 8053, subsection 3-A. When the analysis is conducted on a provisionally adopted major substantive rule, the analysis must be included with the materials submitted to the Executive Director of the Legislative Council under section 8072, subsection 2. A cost-benefit analysis conducted under this section is not subject to judicial review under section 8058. [2011, c. 304, Pt. B, §1 (NEW).]

SECTION HISTORY
2011, c. 304, Pt. B, §1 (NEW).

§8063-B. IDENTIFICATION OF PRIMARY SOURCE OF INFORMATION

For every rule proposed by an agency, except for emergency rules, the agency shall file with the Secretary of State citations for up to 3 primary sources of information relied upon by the agency in developing the proposed rule. The agency shall include that information with a copy of the proposed rule when responding to a request under section 8053, subsection 3-A. Professional judgment may be cited as one of those primary sources of information. Citations to primary sources of information are not subject to judicial review. [2011, c. 304, Pt. E, §2 (NEW).]

SECTION HISTORY
2011, c. 304, Pt. E, §2 (NEW).

§8064. LIMITATION

Except for emergency rules as provided in section 8060, subsection 6, an agency may not adopt any rule unless the agency has complied with the provisions in sections 8053-A and 8060, which include legislative review of the rule. When an agency proposes a rule not in its current regulatory agenda, the agency must file an amendment to its agenda with the Legislature and Secretary of State under section 8053-A at the time of rule proposal. [1993, c. 362, §8 (AMD).]

SECTION HISTORY
1991, c. 540, §2 (NEW). 1993, c. 362, §8 (AMD).

Subchapter 2-A: RULEMAKING PROCEDURES GOVERNING RULES AUTHORIZED AND ADOPTED AFTER JANUARY 1, 1996

§8071. LEGISLATIVE REVIEW OF CERTAIN AGENCY RULES

Except as otherwise provided in this subchapter, rules adopted pursuant to rule-making authorization delegated to an agency after January 1, 1996 are subject to the procedures of this subchapter and subchapter II. [1995, c. 463, §2 (NEW).]

1. **Legislative action.** All new rules authorized to be adopted by delegation of legislative authority that is enacted after January 1, 1996, including new rules authorized by amendment of provisions of laws in effect on that date, must be assigned by the Legislature to one of 2 categories and subject to the appropriate level of rule-making procedures as provided in this subchapter. The Legislature shall assign the category and level of review to all rules at the time it enacts the authorizing legislation. The Legislature may assign different categories and levels of review to different types of rules authorized by the same legislation.

[1995, c. 574, §1 (AMD) .]

2. **Categories of rules.** There are 2 categories of rules authorized for adoption after January 1, 1996.

A. Routine technical rules are procedural rules that establish standards of practice or procedure for the conduct of business with or before an agency and any other rules that are not major substantive rules as defined in paragraph B. Routine technical rules include, but are not limited to, forms prescribed by an agency; they do not include fees established by an agency except fees established or amended by agency rule that are below a cap or within a range established by statute. [1995, c. 463, §2 (NEW).]

B. Major substantive rules are rules that, in the judgment of the Legislature:

(1) Require the exercise of significant agency discretion or interpretation in drafting; or

(2) Because of their subject matter or anticipated impact, are reasonably expected to result in a significant increase in the cost of doing business, a significant reduction in property values, the loss or significant reduction of government benefits or services, the imposition of state mandates on units of local government as defined in the Constitution of Maine, Article IX, Section 21, or other serious burdens on the public or units of local government. [1995, c. 463, §2 (NEW).]

[1995, c. 463, §2 (NEW) .]

3. **Levels of rule-making process.** In order to provide for maximum agency flexibility in the adoption of rules while retaining appropriate legislative oversight over certain rules that are expected to be controversial or to have a major impact on the regulated community, each agency rule authorized and adopted after January 1, 1996 is subject to one of 2 levels of rule-making requirements.

A. Routine technical rules are subject to the rule-making requirements of subchapter II only. [1995, c. 463, §2 (NEW).]

B. Major substantive rules are subject to the requirements of section 8072. After January 1, 1996, any grant of general or specific rule-making authority to adopt major substantive rules is considered to be permission only to provisionally adopt those rules subject to legislative review. Final adoption may occur only after legislative review of provisionally adopted rules as provided in section 8072.

The establishment or amendment of an agency fee by rulemaking is a major substantive rule, except for the establishment or amendment of a fee that falls under a cap or within a range set in statute, which is a routine technical rule. [1995, c. 463, §2 (NEW).]

[1995, c. 463, §2 (NEW) .]

SECTION HISTORY
1995, c. 463, §2 (NEW). 1995, c. 574, §1 (AMD).

§8071-A. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [2011, c. 244, §3 (NEW).]

1. **Legislative review session.** "Legislative review session" means the regular session of the Legislature convening after the beginning of the legislative rule acceptance period.

[2011, c. 244, §3 (NEW) .]

2. **Legislative rule acceptance period.** "Legislative rule acceptance period" means the period beginning on the July 1st preceding the convening of a regular session of the Legislature and ending at 5:00 p.m. on the 2nd Friday in January after the convening of that regular session of the Legislature.

[2011, c. 244, §3 (NEW) .]

SECTION HISTORY
2011, c. 244, §3 (NEW).

§8072. LEGISLATIVE REVIEW OF MAJOR SUBSTANTIVE RULES

As provided in section 8071, major substantive rules are subject to an increased level of rule-making requirements. The rule-making requirements of subchapter II for routine technical rules apply to the adoption of major substantive rules, except that the 120-day period for adoption and the 150-day period for approval as to form and legality under section 8052, subsection 7, paragraphs A and B apply to provisional adoption of major substantive rules, not final adoption. In addition to the other rule-making requirements, every major substantive rule is also subject to legislative review as provided in this section. [1995, c. 463, §2 (NEW).]

1. **Preliminary adoption of major substantive rules.** An agency proposing a major substantive rule other than an emergency rule, after filing the notice of proposed rulemaking required by section 8052, shall proceed with rule-making procedures to the point of, but not including, final adoption. At that point, known in this section as "provisional adoption," the agency shall file the provisionally adopted rule and related materials with the Secretary of State as provided in section 8056, subsection 1, paragraph B and submit the rule to the Legislature for review and authorization for final adoption as provided in this section. The rule has legal effect only after review by the Legislature followed by final adoption by the agency.

[1997, c. 196, §2 (AMD) .]

2. **Submission of materials.** At the time an agency provisionally adopts a rule, the agency shall submit to the Executive Director of the Legislative Council 20 copies of:

A. The full text of the rule provisionally adopted by the agency with new language underlined and with language to be deleted from any existing rule stricken through but clearly legible; [1995, c. 463, §2 (NEW).]

B. A concise summary of the content of the rule and a description and a copy of any existing rule the agency proposes to amend or repeal; [1995, c. 463, §2 (NEW).]

C. A statement of the circumstances that require the rule; [1995, c. 463, §2 (NEW).]

D. A statement of the economic impact of the rule on the State and its residents; and [1995, c. 463, §2 (NEW).]

E. Any other information required by law. [1995, c. 463, §2 (NEW).]

[1995, c. 463, §2 (NEW) .]

3. **Legislative review; legislative instrument prepared.** If the required copies of the provisionally adopted rule and related information are received by the Executive Director of the Legislative Council during the legislative rule acceptance period, the Executive Director shall notify the Revisor of Statutes, who shall draft an appropriate legislative instrument to allow for legislative review and action upon the provisionally adopted rule during the legislative review session. The Secretary of the Senate and the Clerk of the House shall place the legislative instrument on the Advance Journal and Calendar . The secretary and clerk shall jointly suggest reference of the legislative instrument to a joint standing committee of the Legislature that has jurisdiction over the subject matter of the proposed rule and shall provide for publication of that suggestion in the Advance Journal and Calendar first in the Senate and then in the House of Representatives no later than the next legislative day following receipt of the legislative instrument. After floor action on referral of the legislative instrument to committee is completed, the Secretary of the Senate and the Clerk of the House of Representatives shall send copies of the rule and related information to each member of that committee. Each rule submitted for legislative review during the legislative rule acceptance period must be reviewed by the appropriate joint standing committee at a meeting called for that purpose in accordance with legislative rules. A committee may review more than one rule and the rules of more than one agency at a meeting. The committee shall notify the affected agency of the meeting on its proposed rules.

[2011, c. 244, §4 (AMD) .]

4. **Committee review.** The committee shall review each provisionally adopted rule and, in its discretion, may hold public hearings on that rule. A public hearing under this subsection must be advertised in the same manner as required by legislative rules then in effect for advertisement of public hearings on proposed legislation. The committee's review must include, but is not limited to, a determination of:

A. Whether the agency has exceeded the scope of its statutory authority in approving the provisionally adopted rule; [1995, c. 463, §2 (NEW).]

B. Whether the provisionally adopted rule is in conformity with the legislative intent of the statute the rule is intended to implement, extend, apply, interpret or make specific; [1995, c. 463, §2 (NEW).]

C. Whether the provisionally adopted rule conflicts with any other provision of law or with any other rule adopted by the same or a different agency; [1995, c. 463, §2 (NEW).]

D. Whether the provisionally adopted rule is necessary to fully accomplish the objectives of the statute under which the rule was proposed; [1995, c. 463, §2 (NEW).]

E. Whether the provisionally adopted rule is reasonable, especially as it affects the convenience of the general public or of persons particularly affected by it; [1995, c. 463, §2 (NEW).]

F. Whether the provisionally adopted rule could be made less complex or more readily understandable for the general public; [1995, c. 537, §7 (AMD).]

G. Whether the provisionally adopted rule was proposed in compliance with the requirements of this chapter and with requirements imposed by any other provision of law; and [1995, c. 537, §7 (AMD).]

H. For a rule that is reasonably expected to result in a significant reduction in property values, whether sufficient variance provisions exist in law or in the rule to avoid an unconstitutional taking, and whether, as a matter of policy, the expected reduction is necessary or appropriate for the protection of the public health, safety and welfare advanced by the rule. [1995, c. 537, §8 (NEW).]

[1995, c. 537, §§7, 8 (AMD) .]

5. **Committee recommendation.** After reviewing a rule referred to it by the Legislature, the committee shall recommend:

A. That the Legislature authorize the final adoption of the rule; [1995, c. 463, §2 (NEW).]

B. That the Legislature authorize the final adoption of a specified part of the rule; [1995, c. 463, §2 (NEW).]

C. That the Legislature authorize the final adoption of the rule with certain specified amendments; or [1995, c. 463, §2 (NEW).]

D. That the final adoption of the rule be disapproved by the Legislature. [1995, c. 463, §2 (NEW).]

The committee shall notify the agency proposing the rule of its recommendation. When the committee makes a recommendation under paragraph B, C or D, the notice must contain a statement of the reasons for that recommendation.

[2011, c. 244, §5 (AMD) .]

6. **Draft legislation.**

[2011, c. 244, §6 (RP) .]

7. **Report to the Legislature.** Unless otherwise provided by the Legislature, each joint standing committee of the Legislature that receives a rule submitted during the legislative rule acceptance period shall report to the Legislature its recommendations concerning final adoption of the rule no later than 30 days before statutory adjournment of the legislative review session as provided in Title 3, section 2.

[2011, c. 244, §7 (AMD) .]

8. **Final adoption; effective date.** Unless otherwise provided by law, final adoption of a rule or part of a rule by an agency must occur within 60 days of the effective date of the legislation approving that rule or part of that rule or of the adjournment of the session in which the Legislature failed to act on the rule or part of the rule as specified in subsection 11. Finally adopted rules must be filed with the Secretary of State as provided in section 8056, subsection 1, paragraph B and notice must be published as provided in section 8056, subsection 1, paragraph D. Except as otherwise specified by law, the rules become effective 30 days after filing with the Secretary of State or at a later date specified by the agency.

[2011, c. 244, §8 (AMD) .]

9. **Consideration at special session.** If appropriate, the committee recommendation regarding an agency rule or rules may be submitted to and considered by a special session of the Legislature.

[1995, c. 463, §2 (NEW) .]

10. **Rules submitted outside legislative rule acceptance period.** The Legislature may act or decline to act upon any rules submitted outside the legislative rule acceptance period.

[2011, c. 244, §9 (NEW) .]

11. **Prohibited final adoption.** A provisionally adopted rule or part of a provisionally adopted rule may not be finally adopted by an agency unless:

A. Legislation authorizing adoption of the rule or part of the rule is enacted into law; or [2011, c. 244, §10 (NEW).]

B. The agency submits the rule or part of the rule in accordance with this section during the legislative rule acceptance period and the Legislature fails to act on the rule or part of the rule. [2011, c. 244, §10 (NEW).]

For purposes of this subsection, the Legislature fails to act on a rule or part of a rule if the Legislature fails to enact legislation authorizing adoption or disapproving adoption of the rule or part of the rule during the legislative review session or during any subsequent session to which a legislative instrument expressly providing for approval or disapproval of the rule or part of the rule is carried over. Nothing in this section requires the Legislature to use the legislative instrument produced pursuant to subsection 3 to approve or disapprove of a rule or part of a rule.

[2011, c. 244, §10 (NEW) .]

SECTION HISTORY
1995, c. 463, §2 (NEW). 1995, c. 537, §§7,8 (AMD). 1995, c. 574, §2 (AMD). 1997, c. 196, §2 (AMD). 2005, c. 586, §1 (AMD). 2011, c. 244, §§4-10 (AMD).

§8073. EMERGENCY MAJOR SUBSTANTIVE RULES

Major substantive rules are subject to the emergency rule-making procedures required under subchapter II, except that a major substantive rule adopted on an emergency basis after the deadline for submission to the Legislature for review under section 8072 may be effective for up to 12 months or until the Legislature has completed review as provided in that section. After the expiration of the emergency period, an emergency rule may not be adopted except in the manner provided by section 8072. [1995, c. 463, §2 (NEW).]

SECTION HISTORY
1995, c. 463, §2 (NEW).

§8074. FEDERALLY MANDATED RULES

Major substantive rules that must be adopted to comply with federal law or regulations or to qualify for federal funds and over the adoption of which the agency exercises no option or discretion are not subject to the legislative review requirement of this subchapter unless they impose requirements or conditions that exceed the federal requirements. An agency must file notice of the adoption of major substantive rules that are required by federal law and that do not exceed federal requirements with the Legislature in the same manner as it files notice of proposed rules under section 8053-A. [1995, c. 463, §2 (NEW).]

SECTION HISTORY
1995, c. 463, §2 (NEW).

Subchapter 3: ADVISORY RULINGS

§9001. ADVISORY RULINGS

1. **Written request.** Upon written request of any interested person, an agency may make an advisory ruling with respect to the applicability of any statute or rule administered by that agency to him or his property or actual state of facts.

[1977, c. 551, §3 (NEW) .]

2. **Rules written.** All advisory rulings shall be in writing.

[1977, c. 551, §3 (NEW) .]

3. **Advisory ruling not binding.** An advisory ruling shall not be binding upon an agency, provided that in any subsequent enforcement action initiated by the agency which made the ruling, any person's justifiable reliance upon the ruling shall be considered in mitigation of any penalty sought to be assessed.

[1977, c. 551, §3 (NEW) .]

4. **Advisory rulings.** Each agency shall prescribe by rule, in accordance with section 8051, the procedure for the submission, consideration and disposition of requests for advisory rulings. In issuing an advisory ruling, the agency need not comply with the requirements of subchapters II or IV.

[1977, c. 551, §3 (NEW) .]

SECTION HISTORY
1977, c. 551, §3 (NEW).

Subchapter 4: ADJUDICATORY PROCEEDINGS

§9051. SCOPE

1. **Adjudicatory proceeding.** In any adjudicatory proceedings, except those proceedings involving correctional facilities, the Workers' Compensation Board, the Maine Motor Vehicle Franchise Board or the State Parole Board, the procedures of this subchapter apply.

[2005, c. 61, §1 (AMD) .]

2. **Hearing.** Unless a hearing is required by statute, the requirements of this subchapter, except the notice provisions of section 9052, subsection 1, shall not apply until a request for a hearing is made under section 9052, subsection 1, paragraph A, or a hearing is set by the agency.

[1977, c. 551, §3 (NEW) .]

3. **Filing and service.** The filing of any submission in any adjudicatory proceeding or the service of any paper on a party to an adjudicatory proceeding is complete:

A. Upon an agency when the agency receives the submission or the paper by mail, in-hand delivery or any other means specified by the agency; or [1989, c. 297, §2 (NEW).]

B. Upon a party upon mailing of the paper to the party or the party's attorney, upon in-hand delivery to the recipient or by delivery to the recipient's office. [1989, c. 297, §2 (NEW).]

[1989, c. 297, §2 (NEW) .]

SECTION HISTORY
1977, c. 551, §3 (NEW). 1977, c. 616, §1 (AMD). 1977, c. 694, §§35-A (AMD). 1979, c. 127, §39 (AMD). 1989, c. 297, §2 (AMD). 1991, c. 885, §D2 (AMD). 2005, c. 61, §1 (AMD).

§9051-A. NOTICE OF ENVIRONMENTAL AGENCY ADJUDICATORY PROCEEDINGS

Whenever adjudicatory hearings are held by the Department of Agriculture, Conservation and Forestry, the Department of Environmental Protection and the Board of Pesticides Control, the hearings shall be held in accordance with the provisions of this section. [1987, c. 653, §1 (NEW); 2011, c. 657, Pt. W, §5 (REV).]

1. **Notice of opportunity for hearing; license applications with substantial public interest.** When the applicable law or the Constitution of Maine requires that an opportunity for a hearing be provided or an agency deems in any proceeding that a substantial public interest is involved, notice shall be given as follows.

A. Notice of the pending license application shall be provided 30 days next prior to the date of the expected date of an agency decision. Notice shall be provided by mail to:

(1) The person or persons whose legal rights, duties or privileges are at issue;

(2) The municipality or municipalities affected by the license application, as determined by the agency or board to the best of its ability;

(3) The county, if the affected locality as determined by the agency or board to the best of its ability is an unorganized territory;

(4) The Legislators of the geographic area or areas affected by the issue; and

(5) Persons who have made timely requests to be notified of an agency deliberation of a specific license application.

Interested persons may prepare and submit evidence and argument to the agency and request a hearing on the issue. [1987, c. 653, §1 (NEW).]

[1987, c. 653, §1 (NEW) .]

2. **Hearing required.** When a hearing is required by the Constitution of Maine, the applicable law or by agency regulation or has been requested pursuant to subsection 1, notice of the hearing shall be provided 30 days next prior to the scheduled initial hearing.

A. The notice shall be provided by mail to:

(1) The person or persons whose legal rights, duties or privileges are at issue;

(2) The municipality or municipalities affected by the license application, as determined by the agency or board to the best of its ability;

(3) The county, if the affected locality as determined by the agency or board to the best of its ability is an unorganized territory;

(4) The Legislators of the geographic area or areas affected by the issue;

(5) Intervenors;

(6) Persons who have made timely requests to be notified of a specific hearing; and

(7) Persons who have filed a written request, within the calendar year, to be notified of hearings.

In the event that new hearings on a pending license application or an existing license are required, notice shall be provided 30 days next prior to the scheduled hearing as herein provided. When hearings are continued with respect to a license application, this 30 days' notice shall not apply. [1987, c. 653, §1 (NEW).]

[1987, c. 653, §1 (NEW) .]

3. **Notice to the public.** Notice to the public must be given by:

A. Publication twice in a newspaper of general circulation in the area of the proposed activity and in areas affected by the license application as determined by the agency or board to the best of its ability.

(1) Notice must be published in plain and clear English that can be readily understood by the general public.

(2) The notice must be published in the legal notices section in a form readily noticeable by the general public.

(3) With respect to notice of an opportunity for a hearing pursuant to subsection 1, the date of the first publication must be 30 days next prior to the date of the expected agency decision on the license application.

(4) With respect to notice of a hearing pursuant to subsection 2, the date of the first publication must be 30 days next prior to the hearing.

(5) With respect to notice of an opportunity for a hearing pursuant to subsection 1, the date of the 2nd publication must be at least 7 days and no more than 13 days before the date of the expected agency decision on the license application.

(6) With respect to notice of an opportunity for a hearing pursuant to subsection 2, the date of the 2nd publication must be at least 7 days and no more than 13 days before the date of the hearing. [2013, c. 300, §2 (AMD).]

B. [2013, c. 300, §2 (RP).]

C. [2013, c. 300, §2 (RP).]

[2013, c. 300, §2 (AMD) .]

SECTION HISTORY
1987, c. 653, §1 (NEW). 2011, c. 657, Pt. W, §5 (REV). 2013, c. 300, §2 (AMD).

§9052. NOTICE

1. **Notice of hearing.** When the applicable statute or constitutional law requires that an opportunity for hearing shall be provided, notice shall be given as follows:

A. To the person or persons whose legal rights, duties or privileges are at issue, by regular mail, sufficiently in advance of the anticipated time of the decision to afford an adequate opportunity to prepare and submit evidence and argument, and to request a hearing if so desired; and [1977, c. 551, §3 (NEW).]

B. In any proceeding deemed by the agency to involve the determination of issues of substantial public interest, to the public sufficiently in advance of the anticipated time of the decision to afford interested persons an adequate opportunity to prepare and submit evidence and argument, and to request a hearing if so desired. [1977, c. 551, §3 (NEW).]

[1977, c. 551, §3 (NEW) .]

2. **Hearing required.** When a hearing is required by the applicable statute or by agency regulation, or has been requested pursuant to subsection 1, paragraph A, or has been set in an exercise of the agency's discretion, notice shall be given as follows:

A. To the person or persons whose legal rights, duties or privileges are at issue, by regular mail, sufficiently in advance of the hearing date to afford an adequate opportunity to prepare and submit evidence and argument; and [1977, c. 551, §3 (NEW).]

B. In any proceeding deemed by the agency to involve the determination of issues of substantial public interest, to the public sufficiently in advance of the hearing date to afford interested persons an adequate opportunity to prepare and submit evidence and argument and to petition to intervene pursuant to section 9054. [1977, c. 551, §3 (NEW).]

[1977, c. 551, §3 (NEW) .]

3. **Notice to the public.** Notice to the public shall be given:

A. By publication, at least twice in a newspaper of general circulation in the area of the state affected; [1977, c. 551, §3 (NEW).]

B. By publication in any other trade, industry, professional or interest group publication which the agency deems effective in reaching persons who would be entitled to intervene as of right under section 9054, subsection 1; and [1977, c. 551, §3 (NEW).]

C. In any other manner deemed appropriate by the agency. [1977, c. 551, §3 (NEW).]

[1977, c. 551, §3 (NEW) .]

4. **Notice.** Notice shall consist of:

A. A statement of the legal authority and jurisdiction under which the proceeding is being conducted; [1977, c. 551, §3 (NEW).]

B. A reference to the particular substantive statutory and rule provisions involved; [1977, c. 551, §3 (NEW).]

C. A short and plain statement of the nature and purpose of the proceeding and of the matters asserted; [1977, c. 551, §3 (NEW).]

D. A statement of the time and place of the hearing, or the time within which a hearing may be requested; [1977, c. 551, §3 (NEW).]

E. A statement of the manner and time within which evidence and argument may be submitted to the agency for consideration, whether or not a hearing has been set; and [1977, c. 551, §3 (NEW).]

F. When a hearing has been set, a statement of the manner and time within which applications for intervention under section 9054 may be filed. [1977, c. 551, §3 (NEW).]

[1977, c. 551, §3 (NEW) .]

5. **Cancellation or change of hearing.** If a scheduled hearing is cancelled or postponed to a later date, the agency shall provide timely notice to the persons described in section 9051 and, if applicable, to the persons and localities listed in section 9051-A and other persons the agency is required to notify or customarily notifies of hearings.

[1987, c. 653, §2 (NEW) .]

SECTION HISTORY
1977, c. 551, §3 (NEW). 1987, c. 653, §2 (AMD).

§9052-A. HOLDING OF HEARINGS

Whenever an agency, including environmental agencies, holds a hearing pursuant to this subchapter, the agency shall strive to hold a hearing in the area or areas of the State which are significantly affected by the license application or which are concerned about the issue. [1987, c. 653, §3 (NEW).]

SECTION HISTORY
1987, c. 653, §3 (NEW).

§9053. DISPOSITION WITHOUT FULL HEARING

Unless otherwise provided by law, agencies may: [1977, c. 551, §3 (NEW).]

1. **Responsibility.** Place on any party the responsibility of requesting a hearing if the agency notifies him in writing of his right to a hearing, and of his responsibility to request the hearing;

[1977, c. 551, §3 (NEW) .]

2. **Stipulation, settlement, consent order.** Make informal disposition of any adjudicatory proceeding by stipulation, agreed settlement or consent order;

[1977, c. 551, §3 (NEW) .]

3. **Default.** Make informal disposition of any adjudicatory proceeding by default, provided that notice has been given that failure to take required action may result in default, and further provided that any such default may be set aside by the agency for good cause shown; and

[1977, c. 551, §3 (NEW) .]

4. **Issues limited.** Limit the issues to be heard or vary any procedure prescribed by agency rule or this subchapter if the parties and the agency agree to such limitation or variation, or if no prejudice to any party will result.

[1977, c. 551, §3 (NEW) .]

SECTION HISTORY
1977, c. 551, §3 (NEW).

§9054. PUBLIC PARTICIPATION

1. **Intervention.** On timely application made pursuant to agency rules, the agency conducting the proceedings shall allow any person showing that he is nor may be, or is a member of a class which is or may be, substantially and directly affected by the proceeding, or any other agency of federal, state or local government, to intervene as a party to the proceeding.

[1977, c. 551, §3 (NEW) .]

2. **Intervention; interested person.** The agency may, by order, allow any other interested person to intervene and participate as a full or limited party to the proceeding. This subsection shall not be construed to limit public participation in the proceeding in any other capacity.

[1977, c. 551, §3 (NEW) .]

3. **Participation limited or denied.** When participation of any person is limited or denied, the agency shall include in the record an entry to that effect and the reasons therefor.

[1977, c. 551, §3 (NEW) .]

4. **Consolidation of presentations.** Where appropriate, the agency may require consolidation of presentations of evidence and argument by members of a class entitled to intervene under subsection 1, or by persons allowed to intervene under subsection 2.

[1977, c. 551, §3 (NEW) .]

5. **Participation.** The agency shall allow any of its staff to appear and participate in any adjudicatory proceeding.

[1977, c. 551, §3 (NEW) .]

SECTION HISTORY
1977, c. 551, §3 (NEW).

§9055. EX PARTE COMMUNICATIONS; SEPARATION OF FUNCTIONS

1. **Communication prohibited.** In any adjudicatory proceeding, no agency members authorized to take final action or presiding officers designated by the agency to make findings of fact and conclusions of law may communicate directly or indirectly in connection with any issue of fact, law or procedure, with any party or other persons legally interested in the outcome of the proceeding, except upon notice and opportunity for all parties to participate.

[1985, c. 506, Pt. A, §5 (AMD) .]

2. **Communication permitted.** This section shall not prohibit any agency member or other presiding officer described in subsection 1 from:

A. Communicating in any respect with other members of the agency or other presiding officers; or [1977, c. 551, §3 (NEW).]

B. Having the aid or advice of those members of his own agency staff, counsel or consultants retained by the agency who have not participated and will not participate in the adjudicatory proceeding in an advocate capacity. [1979, c. 425, §11 (AMD).]

[1979, c. 425, §11 (AMD) .]

SECTION HISTORY
1977, c. 551, §3 (NEW). 1979, c. 425, §11 (AMD). 1985, c. 506, §A5 (AMD).

§9056. OPPORTUNITY TO BE HEARD

1. **Opportunity for hearing.** The opportunity for hearing in an adjudicatory proceeding shall be afforded without undue delay.

[1977, c. 551, §3 (NEW) .]

2. **Rights.** Unless limited by stipulation under section 9053, subsection 4, or by agency order pursuant to section 9054, subsections 2 or 4, or unless otherwise limited by the agency to prevent repetition or unreasonable delay in proceedings, every party shall have the right to present evidence and arguments on all issues, and at any hearing to call and examine witnesses and to make oral cross-examination of any person present and testifying.

[1977, c. 551, §3 (NEW) .]

SECTION HISTORY
1977, c. 551, §3 (NEW).

§9057. EVIDENCE

1. **Rules of privilege.** Unless otherwise provided by statute, agencies need not observe the rules of evidence observed by courts, but shall observe the rules of privilege recognized by law.

[1977, c. 551, §3 (NEW) .]

2. **Evidence.** Evidence shall be admitted if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Agencies may exclude irrelevant or unduly repetitious evidence.

[1977, c. 551, §3 (NEW) .]

3. **Witnesses.** All witnesses shall be sworn.

[1977, c. 551, §3 (NEW) .]

4. **Prefiling testimony.** Subject to these requirements, an agency may, for the purposes of expediting adjudicatory proceedings, require procedures for the prefiling of all or part of the testimony of any witness in written form. Every such witness shall be subject to oral cross-examination.

[1977, c. 551, §3 (NEW) .]

5. **Written evidence; exception.** No sworn written evidence shall be admitted unless the author is available for cross-examination or subject to subpoena, except for good cause shown.

[1977, c. 551, §23 (NEW) .]

6. **Confidential information.** Information may be disclosed that is confidential pursuant to Title 22, chapters 958-A and 1071 and sections 7703 and 1828; Title 24, section 2506; and Title 34-A, except for information, the disclosure of which is absolutely prohibited under Title 34-A, section 1216. Disclosure may be only for the determination of issues involving unemployment compensation proceedings relating to a state employee, state agency personnel actions and professional or occupational board licensure, certification or registration.

A. For the purpose of this subsection, "hearing officer" means presiding officer, judge, board chair, arbitrator or any other person considered responsible for conducting a proceeding or hearing subject to this subsection. In the case of the Civil Service Appeals Board, the presiding officer is the entire board. "Employees of the agency" means employees of a state agency or department or members, agents or employees of a board who are directly related to and whose official duties involve the matter at issue. [2003, c. 205, §1 (AMD).]

B. The confidential information disclosed pursuant to this subsection is subject to the following limitations:

(1) The hearing officer determines that introduction of the confidential information is necessary for the determination of an issue before the hearing officer;

(2) During the introduction of confidential information, the proceeding is open only to the hearing officer, employees of the agency, parties, parties' representatives, counsel of record and the witness testifying regarding the information, and access to the information is limited to these people. Disclosure is limited to information directly related to the matter at issue;

(3) Witnesses are sequestered during the introduction of confidential information, except when offering testimony at the proceeding;

(4) The names or identities of reporters of confidential information or of other persons may not be disclosed, except when disclosure is determined necessary and relevant by the hearing officer; and

(5) After hearing, the confidential information is sealed within the record and may not be further disclosed, except upon order of court. [1997, c. 271, §1 (AMD).]

[2003, c. 205, §1 (AMD) .]

SECTION HISTORY
1977, c. 551, §3 (NEW). 1987, c. 714, §1 (AMD). 1989, c. 175, §1 (AMD). 1997, c. 271, §1 (AMD). 2003, c. 205, §1 (AMD).

§9058. OFFICIAL NOTICE

1. **Official notice.** Agencies may take official notice of any facts of which judicial notice could be taken, and in addition may take official notice of general, technical or scientific matters within their specialized knowledge and of statutes, regulations and nonconfidential agency records. Parties shall be notified of the material so noticed, and they shall be afforded an opportunity to contest the substance or materiality of the facts noticed.

[1977, c. 551, §3 (NEW) .]

2. **Facts.** Facts officially noticed shall be included and indicated as such in the record.

[1977, c. 551, §3 (NEW) .]

3. **Evaluation of evidence.** Notwithstanding the foregoing, agencies may utilize their experience, technical competence and specialized knowledge in the evaluation of the evidence presented to them.

[1977, c. 551, §3 (NEW) .]

SECTION HISTORY
1977, c. 551, §3 (NEW).

§9059. RECORD

1. **Record.** In an adjudicatory proceeding, the agency shall make a record consisting of:

A. All applications, pleadings, motions, preliminary and interlocutory rulings and orders; [1977, c. 551, §3 (NEW).]

B. Evidence received or considered; [1977, c. 551, §3 (NEW).]

C. A statement of facts officially noticed; [1977, c. 551, §3 (NEW).]

D. Offers of proof, objections and rulings thereon; [1977, c. 551, §3 (NEW).]

E. Proposed findings and exceptions, if any; [1977, c. 551, §3 (NEW).]

F. The recommended decision, opinion or report, if any, by the presiding officer; [1977, c. 551, §3 (NEW).]

G. The decision of the agency; and [1977, c. 551, §3 (NEW).]

H. All staff memoranda submitted to the members of the agency or other presiding officers by agency staff in connection with their consideration of the case, except memoranda of counsel to the agency. [1977, c. 551, §3 (NEW).]

[1977, c. 551, §3 (NEW) .]

2. **Hearings recorded.** The agency shall record all hearings in a form susceptible to transcription. Portions of the record as required and specified in subsection 1 may be included in the recording. The agency shall transcribe the recording when necessary for the prosecution of an appeal.

[1977, c. 551, §3 (NEW) .]

3. **Record; copies.** The agency shall make a copy of the record, including recordings made pursuant to subsection 2, available at its principal place of operation, for inspection by any person during normal business hours; and shall make copies of the record, copies of recordings or transcriptions of recordings available to any person at actual cost. Notwithstanding the provisions of this subsection, the agency shall withhold, obliterate or otherwise prevent the dissemination of any portions of the record which are made confidential by state or federal statute, but shall do so in the least restrictive manner feasible.

[1977, c. 551, §3 (NEW) .]

4. **Decision on the record.** All material, including records, reports and documents in the possession of the agency, of which it desires to avail itself as evidence in making a decision, shall be offered and made a part of the record and no other factual information or evidence shall be considered in rendering a decision.

[1977, c. 551, §3 (NEW) .]

5. **Documentary evidence.** Documentary evidence may be incorporated in the record by reference when the materials so incorporated are made available for examination by the parties before being received in evidence.

[1977, c. 551, §3 (NEW) .]

SECTION HISTORY
1977, c. 551, §3 (NEW).

§9060. SUBPOENAS AND DISCOVERY

1. **Proceedings.** In any adjudicatory proceeding for which the agency, by independent statute, has authority to issue subpoenas, any party shall be entitled as of right to their issuance in the name of the agency to require the attendance and testimony of witnesses and the production of any evidence relating to any issue of fact in the proceeding.

In any proceeding in which the conducting agency lacks independent authority to issue subpoenas, any party may request the issuance of a subpoena by the agency, and the agency is hereby authorized to issue the same if it first obtains the approval of the Attorney General or of any deputy attorney general. Such approval shall be given when the testimony or evidence sought is relevant to any issue of fact in the proceeding.

When properly authorized, subpoenas may be issued by the agency or by any person designated by the agency for that purpose, in accordance with the following provisions:

A. The agency may prescribe the form of subpoena, but it shall adhere, insofar as practicable, to the form used in civil cases before the courts. Witnesses shall be subpoenaed only within the territorial limits and in the same manner as witnesses in civil cases before the courts, unless another territory or manner is provided by law. Witnesses subpoenaed shall be paid the same fees for attendance and travel as in civil cases before the courts. Such fees shall be paid by the party requesting the subpoena. [1977, c. 551, §3 (NEW).]

B. Any subpoena issued shall show on its face the name and address of the party at whose request it was issued. [1977, c. 551, §3 (NEW).]

C. Any witness subpoenaed may petition the agency to vacate or modify a subpoena issued in its name. The agency shall give prompt notice to the party who requested issuance of the subpoena. After such investigation as the agency considers appropriate, it may grant the petition in whole or in part upon a finding that the testimony or the evidence whose production is required does not relate with reasonable directness to any matter in question, or that a subpoena for the attendance of a witness or the production of evidence is unreasonable or oppressive or has not been issued a reasonable period in advance of the time when the evidence is requested. [1977, c. 551, §3 (NEW).]

D. Failure to comply with a subpoena lawfully issued in the name of the agency and not revoked or modified by the agency as provided in this section shall be punishable as for contempt of court. [1977, c. 694, §36 (AMD).]

[1977, c. 694, §36 (AMD) .]

2. **Adoption of rules.** Each agency having power to conduct adjudicatory proceedings may adopt rules providing for discovery to the extent and in the manner appropriate to its proceeding.

[1977, c. 551, §3 (NEW) .]

SECTION HISTORY
1977, c. 551, §3 (NEW). 1977, c. 694, §36 (AMD).

§9061. DECISIONS

Every agency decision made at the conclusion of an adjudicatory proceeding shall be in writing or stated in the record, and shall include findings of fact sufficient to apprise the parties and any interested member of the public of the basis for the decision. A copy of the decision shall be delivered or promptly mailed to each party to the proceeding or his representative of record. Written notice of the party's rights to review or appeal of the decision within the agency or review of the decision by the courts, as the case may be, and of the action required and the time within which such action must be taken in order to exercise the right of review or appeal, shall be given to each party with the decision. [1977, c. 551, §3 (NEW).]

The agency shall maintain a record of the vote of each member of the agency with respect to the agency decision. [1977, c. 551, §3 (NEW).]

SECTION HISTORY
1977, c. 551, §3 (NEW).

§9062. PRESIDING OFFICERS

1. **Presiding officer.** An agency may authorize any agency member, employee or agent to act as presiding officer in any hearing.

[1977, c. 551, §3 (NEW) .]

2. **Substitute officer.** Whenever a presiding officer is disqualified or it becomes impracticable for him to continue the hearing, another presiding officer may be assigned to continue with the hearing; provided that, if it is shown substantial prejudice to any party will thereby result, the substitute officer shall commence the hearing anew.

[1977, c. 551, §3 (NEW) .]

3. **Presiding officer; duties.** Subject to rules or limitations imposed by the agency, presiding officers may:

A. Administer oaths and affirmations; [1977, c. 551, §3 (NEW).]

B. Rule on the admissibility of evidence; [1977, c. 551, §3 (NEW).]

C. Regulate the course of the hearing, set the time and place for continued hearings, and fix the time for filing of evidence, briefs and other written submissions; and [1977, c. 551, §3 (NEW).]

D. Take other action authorized by statute or agency rule consistent with this subchapter. [1977, c. 551, §3 (NEW).]

[1977, c. 551, §3 (NEW) .]

4. **Report.** In the event that the presiding officer prepares any report or proposed findings for the agency, the report or findings shall be in writing. A copy of the report or findings shall be provided to each party and an opportunity shall be provided for response or exceptions to be filed by each party.

[1977, c. 551, §3 (NEW) .]

SECTION HISTORY
1977, c. 551, §3 (NEW).

§9063. BIAS OF PRESIDING OFFICER OR AGENCY MEMBER

1. **Hearings; impartial.** Hearings shall be conducted in an impartial manner. Upon the filing in good faith by a party of a timely charge of bias or of personal or financial interest, direct or indirect, of a presiding officer or agency member in the proceeding requesting that that person disqualify himself, that person shall determine the matter as a part of the record.

[1977, c. 551, §3 (NEW) .]

2. **Counsel.** Notwithstanding section 9055, the person involved may consult with private counsel concerning the charge.

[1977, c. 551, §3 (NEW) .]

SECTION HISTORY
1977, c. 551, §3 (NEW).

§9064. ENFORCEMENT

The agency shall be entitled to enforce its order in the courts by way of injunction or other appropriate legal remedy. [1977, c. 551, §3 (NEW).]

SECTION HISTORY
1977, c. 551, §3 (NEW).

Subchapter 5: LICENSING

§10001. ADJUDICATORY PROCEEDINGS

When licensing is required as a matter of constitutional right or by statute to be preceded by notice and opportunity for hearing, the provisions of subchapter IV concerning adjudicatory proceedings shall apply. [1977, c. 551, §3 (NEW).]

SECTION HISTORY
1977, c. 551, §3 (NEW).

§10002. EXPIRATION

Except as otherwise provided in this subchapter, when a licensee has made timely and sufficient application for renewal of a license, the existing license shall not expire until the application has been finally determined by the agency. [1977, c. 551, §3 (NEW).]

SECTION HISTORY
1977, c. 551, §3 (NEW).

§10003. RIGHT TO HEARING

1. **Opportunity for hearing.** Subject to the provisions of section 10004, an agency may not amend or modify any license unless it has afforded the licensee an opportunity for hearing in conformity with subchapter IV, nor may it refuse to renew any license unless it has afforded the licensee either an opportunity for an agency hearing in conformity with subchapter IV or an opportunity for a hearing in the District Court. In any such proceeding determined by the agency to involve a substantial public interest, an opportunity for public comment and participation must also be given by public notice in conformity with subchapter IV.

[1999, c. 547, Pt. B, §17 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

2. **Proceeding.** In any proceeding involving a proposed modification or amendment of a license which was the subject of an earlier hearing, the agency shall give notice thereof to all parties to the earlier proceeding and in any other manner required by section 9052, and may reopen the earlier proceeding for consideration of the proposed amendment or modification.

[1977, c. 551, §3 (NEW) .]

SECTION HISTORY
1977, c. 551, §3 (NEW). 1977, c. 694, §37 (AMD). 1999, c. 547, §B17 (AMD). 1999, c. 547, §B80 (AFF).

§10004. ACTION WITHOUT HEARING

Notwithstanding the provisions of sections 10003 and 10051, an agency may revoke, suspend or refuse to renew any license without proceedings in conformity with subchapters IV or VI, when: [1977, c. 694, §38 (RPR).]

1. **Judicial action.** The decision to take that action rests solely upon a finding or conviction in court of any violation which by statute is expressly made grounds for revocation;

[1977, c. 694, §38 (NEW) .]

2. **Reciprocal license.** The Maine license has been issued upon the basis of a reciprocal agreement with another government, and the Maine action is based upon evidence, in the form of a certified copy, that the authority issuing the license which provided the basis for reciprocal licensing in Maine has revoked or suspended their license;

[1977, c. 694, §38 (NEW) .]

3. **Health or safety hazard.** The health or physical safety of a person or the continued well-being of a significant natural resource is in immediate jeopardy at the time of the agency's action, and acting in accordance with subchapter IV or VI would fail to adequately respond to a known risk, provided that the revocation, suspension or refusal to renew shall not continue for more than 30 days;

[1977, c. 694, §38 (NEW) .]

4. **Certified inspector.** The action is based solely upon the physical test, examination or inspection by a state-certified inspector of any product, animal, material or equipment, from which the agency concludes that action in accordance with subchapter IV or VI would not adequately protect public health or safety, provided that action under this subsection shall not be effective for a period of more than 30 days.

[1977, c. 694, §38 (NEW) .]

4-A. **Gambling.** The action is based on a violation of laws or rules at gambling facilities that are cited by the Department of Public Safety, Gambling Control Board, established pursuant to Title 8, chapter 31, or the Gambling Control Board or its designees determine that acting in accordance with subchapters 4 and 6 would fail to serve the public interest; however, the suspension, revocation or refusal to renew may not continue for more than 30 days.

[2003, c. 687, Pt. A, §1 (NEW); 2003, c. 687, Pt. B, §11 (AFF) .]

5. **Rules of sportsmanship.** In the course of any professional sporting event directly regulated by an agency, the agency determines that a licensee has:

A. Engaged in physical contact which is prohibited by the rules of the sport with another contestant or official immediately before, during or immediately after the regulated sporting event; [1977, c. 694, §38 (NEW).]

B. Engaged in a use or administration of drugs which is prohibited by the rules of the sport; [1977, c. 694, §38 (NEW).]

C. Failed to disclose to proper authorities or officials a known medical or mental condition of a contestant which was required to be disclosed or which could affect the public health and safety; or [1977, c. 694, §38 (NEW).]

D. Failed to fulfill contracts or obligations to make payments to contestants and officials for their participation in professional athletic events; provided that the revocation, suspension or refusal to renew shall not continue for more than 30 days; or [1977, c. 694, §38 (NEW).]

[1977, c. 694, §38 (NEW) .]

6. **Horse racing.** Violations of rules which occur at race tracks and cited by a commission, or its licensed designee, if acting in accordance with subchapters IV and VI would fail to immediately remedy the needs of the sport; provided that the revocation, suspension or refusal to renew shall not continue for more than 30 days.

[1977, c. 694, §38 (NEW) .]

SECTION HISTORY
1977, c. 551, §3 (NEW). 1977, c. 694, §38 (RPR). 2003, c. 687, §A1 (AMD). 2003, c. 687, §B11 (AFF).

§10005. DECISION AND RECORD

Any licensing decision not involving an adjudicatory proceeding, as defined in section 8002, subsection 1, shall be made in writing and shall be made only on the basis of evidence relevant to the case. When the requested license is denied, or only conditionally approved, the decision shall contain or reflect the agency's reasoning, in a manner sufficient to inform the applicant and the public of the basis for the agency's action. [1985, c. 680, §8 (NEW).]

SECTION HISTORY
1985, c. 680, §8 (NEW).

Subchapter 6: ADMINISTRATIVE COURT

§10051. JURISDICTION OF DISTRICT COURT; RETAINED POWERS OF AGENCY

1. **Jurisdiction.** Except as provided in section 10004; Title 8, section 279-B; Title 10, section 8003; Title 20-A, sections 10712 and 10713; Title 29-A; and Title 32, chapters 2-B, 114 and 135, the District Court has exclusive jurisdiction upon complaint of any agency or, if the licensing agency fails or refuses to act within a reasonable time, upon complaint of the Attorney General to revoke or suspend licenses issued by the agency and has original jurisdiction upon complaint of an agency to determine whether renewal or reissuance of a license of that agency may be refused.

[2005, c. 65, Pt. C, §3 (AMD) .]

2. **Complaining agency.** The complaining agency retains every other power granted to it by statute or necessarily implied therein, except the power of revoking or suspending licenses issued by it. Such retained powers include, but are not limited to, the granting or renewing of licenses, the investigating and determining of grounds for the filing of a complaint under this section and the prosecution of such complaints.

[1999, c. 547, Pt. B, §19 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

3. **Appellate jurisdiction.** The District Court has exclusive jurisdiction to review licensing decisions of the Department of Administrative and Financial Services taken pursuant to Title 28-A, sections 453-A, 458 and 653. Chapter 375, subchapter 7 governs these proceedings as far as applicable, substituting "District Court" for "Superior Court."

[2013, c. 368, Pt. V, §3 (AMD) .]

4. **Violations.**

[2003, c. 505, §2 (RP) .]

SECTION HISTORY
1977, c. 551, §3 (NEW). 1977, c. 694, §39 (AMD). 1979, c. 265, §2 (AMD). 1981, c. 698, §13 (AMD). 1983, c. 171, §§3,4 (AMD). 1983, c. 683, §1 (AMD). 1983, c. 818, §1 (AMD). 1985, c. 748, §§3,4 (AMD). 1987, c. 141, §§B3,B4 (AMD). 1989, c. 203, §1 (AMD). 1991, c. 377, §4 (AMD). 1991, c. 563, §2 (AMD). 1991, c. 824, §A5 (AMD). 1995, c. 65, §A9 (AMD). 1995, c. 65, §§A153,C15 (AFF). 1995, c. 140, §1 (AMD). 1999, c. 547, §B19 (AMD). 1999, c. 547, §B80 (AFF). 2001, c. 229, §2 (AMD). 2003, c. 451, §T3 (AMD). 2003, c. 505, §§1,2 (AMD). 2005, c. 65, §C3 (AMD). 2009, c. 112, Pt. B, §3 (AMD). 2013, c. 368, Pt. V, §3 (AMD).

Subchapter 7: JUDICIAL REVIEW - FINAL AGENCY ACTION

§11001. RIGHT TO REVIEW

1. **Agency action.** Except where a statute provides for direct review or review of a pro forma judicial decree by the Supreme Judicial Court or where judicial review is specifically precluded or the issues therein limited by statute, any person who is aggrieved by final agency action shall be entitled to judicial review

thereof in the Superior Court in the manner provided by this subchapter. Preliminary, procedural, intermediate or other nonfinal agency action shall be independently reviewable only if review of the final agency action would not provide an adequate remedy.

[1979, c. 127, §40 (AMD) .]

2. **Failure or refusal of agency to act.** Any person aggrieved by the failure or refusal of an agency to act shall be entitled to judicial review thereof in the Superior Court. The relief available in the Superior Court shall include an order requiring the agency to make a decision within a time certain.

[1977, c. 551, §3 (NEW) .]

SECTION HISTORY
1977, c. 551, §3 (NEW). 1977, c. 616, §2 (AMD). 1977, c. 694, §40 (AMD). 1979, c. 127, §40 (AMD).

§11002. COMMENCEMENT OF ACTION

1. **Proceedings instituted.** Proceedings for judicial review of final agency action or the failure or refusal of an agency to act shall be instituted by filing a petition for review in the Superior Court for the county where:

A. One or more of the petitioners reside or have their principal place of business; [1977, c. 551, §3 (NEW).]

B. The agency has its principal office; or [1977, c. 551, §3 (NEW).]

C. The activity or property which is the subject of the proceeding is located. [1977, c. 551, §3 (NEW).]

The court may grant a change of venue for good cause shown.

[1977, c. 551, §3 (NEW) .]

2. **Petition; contents.** The petition for review shall specify the persons seeking review, the manner in which they are aggrieved and the final agency action or agency inaction which they wish reviewed. It shall also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought and a demand for relief, which may be in the alternative.

[1977, c. 551, §3 (NEW) .]

3. **Petition filed.** The petition for review shall be filed within 30 days after receipt of notice if taken by a party to the proceeding of which review is sought. Any other person aggrieved shall have 40 days from the date the decision was rendered to petition for review. If the review sought is from an agency's failure or refusal to act, the petition for review shall be filed within 6 months of the expiration of the time within which the action should reasonably have occurred.

[1977, c. 551, §3 (NEW) .]

SECTION HISTORY
1977, c. 551, §3 (NEW).

§11003. SERVICE

1. **Petition served.** The petition for review shall be served by certified mail, return receipt requested, upon:

A. The agency; [1977, c. 551, §3 (NEW).]

B. All parties to the agency proceeding; and [1977, c. 551, §3 (NEW).]

C. The Attorney General. [1977, c. 551, §3 (NEW).]

[1977, c. 551, §3 (NEW) .]

2. **Certification.** Upon request, the agency shall certify to the petitioner the names and addresses, as disclosed by its records, of all parties to the proceeding in which the decision sought to be reviewed was made, and service upon parties so certified shall be sufficient.

[1977, c. 551, §3 (NEW) .]

SECTION HISTORY
1977, c. 551, §3 (NEW).

§11004. STAY

The filing of a petition for review shall not operate as a stay of the final agency action pending judicial review. Application for a stay of an agency decision shall ordinarily be made first to the agency, which may issue a stay upon a showing of irreparable injury to the petitioner, a strong likelihood of success on the merits, and no substantial harm to adverse parties or the general public. A motion for such relief may be made to the Superior Court, but the motion shall show that application to the agency for the relief sought is not practicable, or that application has been made to the agency and denied, with the reasons given by it for denial, or that the action of the agency did not afford the relief which the petitioner had requested. In addition, the motion shall show the reasons for the relief requested and the facts relied upon, which facts, if subject to dispute, shall be supported by affidavits. Reasonable notice of the motion shall be given to all parties to the agency proceeding. The court may condition relief under this rule upon the posting of a bond or other appropriate security, except that no bond or security shall be required of the State or any state agency or any official thereof. [1977, c. 551, §3 (NEW).]

SECTION HISTORY
1977, c. 551, §3 (NEW).

§11005. RESPONSIVE PLEADING; FILING OF THE RECORD

No responsive pleading need be filed unless required by order of the reviewing court. The agency shall file in the reviewing court within 30 days after the petition for review is filed, or within such shorter or longer time as the court may allow on motion, the original or a certified copy of the complete record of the proceedings under review. Within 20 days after the petition for review is filed, all parties to the agency proceeding who wish to participate in the review shall file a written appearance which shall state a position with respect to affirmance, vacation, reversal or modification of the decision under review. [1977, c. 551, §3 (NEW).]

SECTION HISTORY
1977, c. 551, §3 (NEW).

§11006. POWER OF COURT TO CORRECT OR MODIFY RECORD

1. **Review.** Judicial review shall be confined to the record upon which the agency decision was based, except as otherwise provided by this section.

A. In the case of the failure or refusal of an agency to act or of alleged irregularities in procedure before the agency which are not adequately revealed in the record, evidence thereon may be taken and determination made by the reviewing court. [1977, c. 551, §3 (NEW).]

B. The reviewing court may order the taking of additional evidence before the agency if it finds that additional evidence, including evidence concerning alleged unconstitutional takings of property, is necessary to deciding the petition for review; or if application is made to the reviewing court for leave to present additional evidence, and it is shown that the additional evidence is material to the issues presented in the review, and could not have been presented or was erroneously disallowed in proceedings before the agency. After taking the additional evidence, the agency may modify its findings and decisions, and shall file with the court, to become part of the record for review, the additional evidence and any new findings or decision. [1977, c. 551, §3 (NEW).]

C. If a required hearing was not held before the review proceedings were initiated, the reviewing court shall remand to the agency for a hearing in accordance with subchapter IV. [1977, c. 551, §3 (NEW).]

D. In cases where an adjudicatory proceeding prior to final agency action was not required, and where effective judicial review is precluded by the absence of a reviewable administrative record, the court may either remand for such proceedings as are needed to prepare such a record or conduct a hearing de novo. [1985, c. 680, §9 (RPR).]

[1985, c. 680, §9 (AMD) .]

2. **Corrections to record.** The reviewing court may require or permit subsequent corrections to the record.

[1977, c. 551, §3 (NEW) .]

SECTION HISTORY
1977, c. 551, §3 (NEW). 1985, c. 680, §9 (AMD).

§11007. MANNER AND SCOPE OF REVIEW

1. **Schedule.** The court, upon request or its own motion, shall set a schedule for the filing of briefs by the parties and for oral argument.

[1977, c. 551, §3 (NEW) .]

2. **Review by court.** Except where otherwise provided by statute or constitutional right, review shall be conducted by the court without a jury.

[1977, c. 551, §3 (NEW) .]

3. **Judgment.** The court shall not substitute its judgment for that of the agency on questions of fact.

[1977, c. 551, §3 (NEW) .]

4. **Decision.** The court may:

A. Affirm the decision of the agency; [1977, c. 551, §3 (NEW).]

B. Remand the case for further proceedings, findings of fact or conclusions of law or direct the agency to hold such proceedings or take such action as the court deems necessary; or [1977, c. 551, §3 (NEW).]

C. Reverse or modify the decision if the administrative findings, inferences, conclusions or decisions are:

(1) In violation of constitutional or statutory provisions;

(2) In excess of the statutory authority of the agency;

(3) Made upon unlawful procedure;

(4) Affected by bias or error of law;

(5) Unsupported by substantial evidence on the whole record; or

(6) Arbitrary or capricious or characterized by abuse of discretion. [1977, c. 551, §3 (NEW).]

[1977, c. 551, §3 (NEW) .]

SECTION HISTORY
1977, c. 551, §3 (NEW).

§11008. APPEAL TO LAW COURT

1. **Appeal.** Any party to the review proceeding in the Superior Court under this subchapter may obtain review by appeal to the Supreme Judicial Court sitting as the law court. The appeal shall be taken as in other civil cases.

[1977, c. 551, §3 (NEW) .]

2. **Supreme Judicial Court.** The Supreme Judicial Court shall have the power to make and amend rules of pleading, practice and procedure, for the purposes of securing a simple, speedy and effective judicial review under this subchapter.

[1977, c. 551, §3 (NEW) .]

SECTION HISTORY
1977, c. 551, §3 (NEW).

Chapter 377: STATE AGENCY RULES

§11101. STATEMENT OF INTENT

(REPEALED)

SECTION HISTORY
1977, c. 683, §4 (NEW). 1981, c. 524, §14 (RP).

§11102. DEFINITIONS

(REPEALED)

SECTION HISTORY
1977, c. 683, §4 (NEW). 1981, c. 524, §14 (RP).

§11103. ASSIGNMENT OF RULES TO STANDING COMMITTEES

(REPEALED)

SECTION HISTORY
1977, c. 683, §4 (NEW). 1981, c. 524, §14 (RP).

§11104. AUTOMATIC EXPIRATION OF RULES

(REPEALED)

SECTION HISTORY
1977, c. 683, §4 (NEW). 1981, c. 524, §14 (RP).

§11105. JOINT LEGISLATIVE COMMITTEE REVIEW OF RULES

(REPEALED)

SECTION HISTORY
1977, c. 683, §4 (NEW). 1981, c. 524, §14 (RP).

§11106. ADMINISTERING AND OTHER AGENCIES TO COOPERATE

(REPEALED)

SECTION HISTORY
1977, c. 683, §4 (NEW). 1981, c. 524, §14 (RP).

§11107. LEGISLATIVE ADMINISTRATIVE DIRECTOR TO COOPERATE

(REPEALED)

SECTION HISTORY
1977, c. 683, §4 (NEW). 1981, c. 524, §14 (RP).

§11108. SAVINGS CLAUSE

(REPEALED)

SECTION HISTORY
1977, c. 683, §4 (NEW). 1981, c. 524, §14 (RP).

Chapter 377-A: LEGISLATIVE REVIEW OF AGENCY RULES

§11111. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1981, c. 524, §15 (NEW).]

1. **Agency, person and rule.** "Agency," "person" and "rule" are defined in section 8002, except that "rule" also means a proposed rule.

[1981, c. 524, §15 (NEW) .]

2. **Committee.** "Committee" means a joint standing committee of the Legislature.

[1981, c. 524, §15 (NEW) .]

3. **Director.** "Director" means the Executive Director of the Legislative Council.

[1985, c. 737, Pt. B, §14 (AMD) .]

SECTION HISTORY
1981, c. 524, §15 (NEW). 1985, c. 737, §B14 (AMD).

§11112. APPLICATION FOR REVIEW

Any group of 100 or more registered voters, who have a substantial interest in a rule, or any person who may be directly, substantially and adversely affected by the application of a rule, may file an application for review with the executive director. With respect to any application or petition for review pursuant to this section, the petition or application shall be verified and certified in the same manner provided in Title 21-A, section 354, subsection 7, paragraphs A and C. The applicant shall state with specificity on a form prepared by the director, the following: [1989, c. 574, §9 (AMD).]

1. **Name of agency; citation of rule.** The name of the agency and the citation of the rule, including section and paragraph if applicable;

[1981, c. 524, §15 (NEW) .]

2. **Affect on applicant.** A statement of how the rule may directly, substantially and adversely affect the operations or interests of the applicant, or the nature and extent of the applicant's interest in the rule;

[1981, c. 524, §15 (NEW) .]

3. **Statement.** A statement of why the rule, in the opinion of the applicant, is inappropriate or unnecessary; and

[1981, c. 524, §15 (NEW) .]

4. **Recommendation.** A recommendation proposing changes in the rule or the statute which the rule implements.

[1981, c. 524, §15 (NEW) .]

SECTION HISTORY
1981, c. 524, §15 (NEW). 1985, c. 737, §B15 (AMD). 1989, c. 574, §9 (AMD).

§11113. COMMITTEE REVIEW

The executive director shall, upon receipt of an application for review, determine the appropriate joint standing committee of the Legislature responsible for review of the rule in question and send the application and a copy of the rule in question to each member of the committee. Each member of the committee shall individually review the application to determine whether the applicant is qualified and whether the public interest would be served by a review of the rule in question by the full committee. If a committee member decides that the review should be made, he shall notify the director within 15 days after notice was sent. If 1/3 or more of the full committee notify the director that a review of the rule should be made, the director shall advise the chairman of the committee, who shall schedule a meeting of the committee to review the rule. If the committee votes not to review the rule, a report to that effect shall be prepared by the director and sent to the applicant and the Legislative Council. [1985, c. 737, Pt. B, §16 (AMD).]

The applicant and the affected agency shall be notified of a decision to review the rule and shall be permitted to make expanded statements of their position to the full committee. The committee, in the course of its review, may hold a public hearing, request and obtain opinions of the Attorney General, obtain information from the agency and conduct further investigation approved by the Legislative Council. The committee shall make its determination and report within 90 days of the first notification to the committee chairmen that a review shall be made. [1981, c. 524, §15 (NEW).]

SECTION HISTORY
1981, c. 524, §15 (NEW). 1985, c. 737, §B16 (AMD).

§11114. CRITERIA FOR REVIEW

When reviewing a rule under this chapter, the committee shall consider, in addition to any matters proposed by the applicant, the following: [1981, c. 524, §15 (NEW).]

1. **Consistency with legislation.** Whether the rule is consistent with and necessary to the intent of the statute which the rule implements;

[1981, c. 524, §15 (NEW) .]

2. **Reasonableness of effects.** Whether the effects of the rule are reasonable, including its benefits and costs, and including costs of compliance and administration;

[1981, c. 524, §15 (NEW) .]

3. **Circumstances.** Whether circumstances have changed since the passage of the statute which the rule implements;

[1981, c. 524, §15 (NEW) .]

4. **Abuse of discretionary powers.** Whether the rule may tend to promote abuse of discretionary powers of the agency; and

[1981, c. 524, §15 (NEW) .]

5. **Fee.** Whether any fee established by rule is reasonable and whether the sums collected relate to the costs of administration.

[1981, c. 524, §15 (NEW) .]

SECTION HISTORY
1981, c. 524, §15 (NEW).

§11115. COMMITTEE RECOMMENDATION

If the committee determines that any of the criteria for review have not been met, it may discuss their findings with the agency. No agency may, on the basis of these discussions or any subsequent report of the committee, terminate a rule that is required by law. If the committee determines that the rule in question is inappropriate or unnecessary, it shall notify the applicant of its decision and may direct the Office of Policy and Legal Analysis to draft legislation to amend the law to provide that the authority of the agency to adopt the rule is clarified, modified or limited. Only by a majority vote of the committee shall legislation be introduced to amend or enact legislation pursuant to this section. No legislation may be introduced to implement a decision of a minority of the committee. [1985, c. 737, Pt. B, §17 (AMD).]

After approval of the draft legislation, it shall be submitted according to the legislative rules for final preparation and introduction to the Legislature, if the Legislature is in session, or if not, to the next regular session of the Legislature. [1981, c. 524, §15 (NEW).]

If the committee determines that no legislative action is required it shall prepare a brief report of its findings and transmit it to the applicant, agency and Legislative Council. [1981, c. 524, §15 (NEW).]

SECTION HISTORY
1981, c. 524, §15 (NEW). 1985, c. 737, §B17 (AMD).

§11116. LIMITATION

1. **Debt obligations.** A joint standing committee may not review an agency rule which is part of official action towards issuance or securing repayment of bonds, notes or other debt obligations of the State, its instrumentalities or political subdivisions.

[1981, c. 524, §15 (NEW) .]

2. **Review on committee's own motion.** This chapter shall not limit a committee from reviewing a rule on its own motion.

[1981, c. 524, §15 (NEW) .]

3. **Failure to review.** The failure of a committee to review a rule or to recommend modification or termination is not an implied legislative authorization of its substantive or procedural lawfulness and shall not be considered for any purpose in a judicial proceeding. No legislative review of a rule may supersede the judicial review granted in section 8058 or 11001.

[1981, c. 524, §15 (NEW) .]

SECTION HISTORY
1981, c. 524, §15 (NEW).

Chapter 379: BOARDS, COMMISSIONS, COMMITTEES AND SIMILAR ORGANIZATIONS

Subchapter 1: COMPENSATION

§12001. PURPOSE

It is the purpose of this chapter to provide the State with a complete inventory and central listing of all boards, commissions, committees, councils, authorities and other similar organizations established by the Legislature as a means of controlling the proliferation of these organizations and as a means of reducing duplication and making the most efficient use of these organizations. It is also the purpose of this chapter to classify these organizations according to similarity of powers, duties and responsibilities in order to provide standards for the compensation and operation of these organizations. [1983, c. 812, §39 (NEW).]

SECTION HISTORY
1983, c. 812, §39 (NEW). 1989, c. 6, (AMD).

§12002. DEFINITIONS

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [1983, c. 812, §39 (NEW).]

1. **Board.** "Board" means any authority, board, commission, committee, council and similar organization, including independent organizations, established or authorized by the Legislature to fulfill specific functions the members of which do not serve full time. "Board" does not include:

A. Any informal advisory organization established exclusively by a state agency to advise the commissioner or director of that agency on an informal basis; [1983, c. 812, §39 (NEW).]

B. Any authority, board, commission, committee, council and similar organization organized or appointed exclusively by a political subdivision of the State to include regional, county and local planning boards, economic development boards or district, or educational, cultural or recreational boards; [1983, c. 812, §39 (NEW).]

C. Any authority, board, commission, committee, council and similar organization organized exclusively pursuant to federal law and which does not require authorization by the State; [1983, c. 862, §39 (NEW).]

D. Any authority, board, commission, committee, council and similar organization organized or authorized exclusively by Executive Order; [1985, c. 295, §3 (AMD).]

E. Special study organizations as defined in subsection 4; [1993, c. 489, §1 (AMD).]

F. A joint standing committee of the Legislature or any joint select committee, composed exclusively of Representatives and Senators; and [1993, c. 489, §2 (AMD).]

G. The Maine Indian Tribal-State Commission, as established in Title 30, section 6212, subsection 1, as part of the Maine Indian Claims Settlement. [1993, c. 489, §3 (NEW).]

[1993, c. 489, §§1-3 (AMD) .]

2. **Expenses.** "Expenses" means travel, meals or lodging costs or other necessary costs incurred by a member of a board in the performance of his duties as a member of that board. Noonday meal expenses incurred while in attendance at a board meeting or hearing shall be deemed a reimbursable expense, but shall not exceed $5 per meal.

[1985, c. 295, §4 (AMD) .]

3. **Legislative per diem.** "Legislative per diem" means the per diem authorized by Title 3, section 2, that is paid to Legislators for every day's attendance at meetings held when the Legislature is not in daily session. For the purpose of this subsection, "legislative per diem" does not mean the compensation authorized by Title 3, section 2, that is paid to Legislators for every day's attendance at special sessions of the Legislature.

[1989, c. 600, Pt. B, §1 (AMD) .]

3-A. **Personal care expenses.** "Personal care expenses" means the cost of feeding, dressing, toileting, mobility and personal hygiene assistance provided to developmentally disabled or handicapped persons who are members or the children of members of boards established in this chapter.

[1985, c. 295, §5 (NEW) .]

4. **Special study organization.** "Special study organization" means any board established or authorized by the Legislature to undertake a study of a particular subject and which is required to complete its study during the biennium of the Legislature which created it.

[1983, c. 812, §39 (NEW) .]

SECTION HISTORY
1983, c. 812, §39 (NEW). 1983, c. 862, §16 (AMD). 1985, c. 295, §§3-5 (AMD). 1989, c. 600, §B1 (AMD). 1993, c. 489, §§1-3 (AMD).

§12002-A. PAYMENT OF EXPENSES

1. **Activities subject to reimbursement.** Members of boards may be paid for expenses at a rate not to exceed the rate normally paid to state employees for the following:

A. Actual attendance at meetings called by the chairman of the board or a majority of members of the board; [1985, c. 295, §6 (RPR).]

B. Actual attendance at public hearings held by the board necessary to fulfill the duties and responsibilities of the board; [1985, c. 295, §6 (RPR).]

C. Actual attendance at meetings of groups advisory to the board; [1985, c. 295, §6 (RPR).]

D. Actual attendance at a meeting held out-of-state which is necessary to the purpose of the board; or [1985, c. 295, §6 (RPR).]

E. Participation in official business of the board required by law or by rule of the board or a procedure which is necessary to fulfill the statutory responsibilities of the board, but shall not include any of the prohibited activities as defined in section 12002-B, subsection 2. Members of occupational and professional licensing boards, as defined in section 12004-A, may receive expenses for meetings relating to the occupations and professions regulated by each board and which meetings are held out of state. [1989, c. 503, Pt. B, §25 (AMD).]

[1989, c. 503, Pt. B, §25 (AMD) .]

2. **Child care and personal care expenses.** Child care expenses and personal care expenses may be reimbursed only as provided in this subsection.

A. For those board members who hold their positions because state statute, federal statute or federal regulation requires membership of low income people, those members may be reimbursed for reasonable child care expenses incurred while engaged in the official business of the board. [1985, c. 295, §6 (NEW).]

B. For those board members who are selected because they are developmentally disabled or handicapped or who are the parents or guardians of handicapped persons, those members may be reimbursed for reasonable child care expenses and personal care expenses incurred while engaged in the official business of the board. [1985, c. 295, §6 (NEW).]

[1985, c. 295, §6 (NEW) .]

SECTION HISTORY
1983, c. 812, §39 (NEW). 1985, c. 295, §6 (RPR). 1989, c. 503, §B25 (AMD).

§12002-B. COMPENSATION OF BOARD MEMBERS

Members of boards shall be paid a legislative per diem, another specified daily rate of compensation, a salary, expenses only or no compensation, as established for each board in sections 12004-A to 12004-L. Any board for which a legislative per diem, another specified daily rate of compensation or a salary is specified shall also be authorized to receive expenses as provided in section 12002-A. If the rate of compensation specifies expenses only, the member shall receive expenses as provided in section 12002-A. If the rate of compensation specifies "not authorized," the member shall receive no compensation or expenses. [1989, c. 503, Pt. B, §26 (AMD).]

1. **Payment of compensation.** The legislative per diem or any other specified daily rate of compensation or annual rate of compensation, as specified in sections 12004-A to 12004-K, may be paid only for a member's:

A. Actual attendance at meetings of the board within the State called by the chair or by a majority of the members of the board; [1989, c. 503, Pt. B, §27 (AMD).]

B. Actual attendance at public hearings held by the board within the State to fulfill the duties and responsibilities of the board; [1983, c. 812, §39 (NEW).]

C. Actual attendance at meetings within the State of groups advisory to the board; or [1983, c. 812, §39 (NEW).]

D. Participation in official business of the board required by law or by rule of the board or a procedure which is necessary to fulfill the statutory responsibilities of the board, but shall not include any of the prohibited activities as defined in subsection 2. [1985, c. 295, §7 (RPR).]

[1989, c. 503, Pt. B, §27 (AMD) .]

1-A. **Payments of compensation for written decisions.** A daily rate of compensation may be paid to the following persons for the preparation of a written decision of the board:

A. The chairman of any board who is required by law to prepare and issue a written decision of the board; and [1985, c. 295, §8 (NEW).]

B. A member of the board who has been assigned to serve as a hearing examiner in an adjudicatory proceeding. [1985, c. 295, §8 (NEW).]

The payment of compensation as provided in this subsection shall be provided only in the event that a statutorily required written decision cannot be prepared at a meeting or hearing of the board and shall not exceed the payment of 5 days of compensation for the preparation and issue of a written decision.

[1985, c. 295, §8 (NEW) .]

2. **Prohibition of payment of compensation.** No daily, hourly or annual rate of compensation may be paid to any board member for any of the following:

A. Preparation or review of materials for any meetings or hearings of any board, unless the member is preparing or reviewing materials in his capacity as the assigned hearing examiner in an adjudicatory proceeding; [1985, c. 295, §9 (NEW).]

B. Completion of work, except as provided in subsection 1-A, following meetings or hearings of the board; [1985, c. 295, §9 (NEW).]

C. Lobbying activities; [1985, c. 295, §9 (NEW).]

D. Attendance at meetings or conferences held out of state, unless attendance is mandatory for training purposes or for maintaining qualifications in order to remain on the board, exclusive of a member's professional or occupational requirements and the required training is not available within the State. Compensation may be paid to any board member for attendance at meetings out of state for the purpose of securing an approval by the Federal Government or another state government which the board is required to seek and a rate of compensation is not paid by the Federal Government or other state government to the board member for attendance at these meetings; and [1985, c. 295, §9 (NEW).]

E. Any activity for which approval has not been granted by the chairman, a person authorized by statute to give approval or by a majority of the board members. [1985, c. 295, §9 (NEW).]

[1985, c. 295, §9 (RPR) .]

SECTION HISTORY
1983, c. 812, §39 (NEW). 1985, c. 295, §§7-9 (AMD). 1989, c. 503, §§B26,B27 (AMD).

§12002-C. PER DIEM AND EXPENSE VOUCHERS

In order to receive per diem compensation or reimbursement for expenses as authorized by this chapter, a member of a board that is required to submit expense vouchers to the Department of Administrative and Financial Services for reimbursement must complete and sign an expense voucher form to the satisfaction of the Commissioner of Administrative and Financial Services. Every board member shall certify in writing on

the voucher form whether the per diem or expenses incurred for each item is an official meeting or hearing activity required by statute that has been called by the chair of the board or by a person authorized by statute to call the meeting or hearing. In the event that the requested per diem or expense reimbursement is not the result of an official meeting or hearing of the board, the board member shall explain on the voucher the reason for the claim. The Commissioner of Administrative and Financial Services may disapprove those expenses or portion of expenses that do not comply with this chapter. [1991, c. 780, Pt. Y, §101 (AMD).]

SECTION HISTORY
1985, c. 295, §10 (NEW). 1985, c. 785, §A80 (AMD). 1991, c. 780, §Y101 (AMD).

§12002-D. EXPENSES OF BOARDS EXCLUDED BY DEFINITION

Sections 12002-A, 12002-B and 12002-C governing the payment of compensation and reimbursement of expenses to boards subject to this chapter do not apply to boards that are excluded from this chapter, as defined in section 12002, subsection 1, paragraphs A to F. Reimbursement of expenses of boards excluded by the definition in section 12002, subsection 1, shall be governed by this section. [1985, c. 732, §1 (NEW).]

Any boards excluded from the definition of a board subject to this chapter may be reimbursed for expenses, including meals and refreshments provided during the meeting of the board to the extent that the department or agency of State Government with which the board is associated has sufficient money in the budget of the department or agency to reimburse the expenses. [1985, c. 732, §1 (NEW).]

SECTION HISTORY
1985, c. 732, §1 (NEW).

§12003. POLICY

(REPEALED)

SECTION HISTORY
1983, c. 812, §39 (NEW). 1985, c. 295, §11 (RP).

§12003-A. STANDARDS

Boards established by this chapter shall comply with the following standards. [1985, c. 295, §12 (NEW).]

1. **Compensation of substantive boards.** Compensation provided to members of boards that are not classified as advisory boards in sections 12004-A to 12004-L shall not exceed the legislative per diem rate defined in section 12002 for the purposes defined in section 12002-B.

A. The only exception to this policy applies to boards which require members with special expertise for which there is an extremely limited supply and which require members to undertake very difficult tasks and render decisions that have a significant impact upon the State. [1985, c. 295, §12 (NEW).]

[1989, c. 503, Pt. B, §28 (AMD) .]

2. **Compensation of advisory boards.** Compensation provided to members of boards, defined in section 12004-I as advisory boards or boards with minimal authority, shall not exceed $25 per day and payment of expenses.

A. Advisory and other boards, as defined in section 12004-I, which are not authorized by law to be reimbursed for expenses shall not be eligible for this reimbursement. [1989, c. 503, Pt. B, §28 (AMD).]

[1989, c. 503, Pt. B, §28 (AMD) .]

3. **Compensation as provided in section 12004-A to 12004-K.** Compensation to members of boards shall be in accordance with the rate established for each board in section 12004-A to 12004-K. The defined rate of compensation for each board in section 12004-A to 12004-K shall be in compliance with this section.

[1989, c. 503, Pt. B, §28 (AMD) .]

4. **Compensation of state employee members of boards.** State employee members of boards may receive their regular wages or salaries or the authorized per diem compensation, but not both, as defined by this subsection.

A. Any state employee, classified or unclassified, who is a member of a board by virtue of the position held by that state employee or who has been designated by the commissioner or director of a state agency to represent the commissioner, director or agency shall not be paid compensation as provided in section 12002-B, subsection 1, for attendance at board meetings, hearings or other board activities. Any expenses incurred by this board member shall be paid from the budget of the agency or organization that the member represents. [1985, c. 295, §12 (NEW).]

B. Any state employee, classified or unclassified, who is a member of a board, who has been appointed at the request of the state employee or because of the personal interest of the state employee in the board's activities and who is not an ex officio member or a representative of a commissioner, director or state agency, shall not be paid his regular wages or salary for attendance at meetings or hearings of the board or for work performed for the board during the normal working hours of the state employee. [1985, c. 295, §12 (NEW).]

[1985, c. 295, §12 (NEW) .]

5. **Records of boards.** Records and minutes of all boards shall be open and readily available in a place convenient and accessible to the public, unless the information is required by law to be kept confidential or is privileged information.

[1985, c. 295, §12 (NEW) .]

6. **Meetings of boards.** Meetings of boards shall be held in public places and whenever possible in a public building.

[1985, c. 295, §12 (NEW) .]

7. **Prohibition of retirement benefits.** No member of a board, as defined in this chapter, may be deemed eligible for state retirement and retirement benefits provided to classified and unclassified state employees pursuant to chapter 101. Any state employee member of a board shall be eligible for state retirement and retirement benefits by virtue of employment by the State and not as the result of membership of any board.

No person may accumulate time or credit for any state retirement or retirement benefits for time served on a board or commission.

[1985, c. 732, §2 (NEW) .]

8. **Accounting procedure.** Every board defined in sections 12004-A to 12004-L has separate accounting activities as required and in the form prescribed by the Commissioner of Administrative and Financial Services. These accounting procedures must show the income, expenses and expenditures of the board as separate from the income and expenditures of the department with which the board is associated or separate from the expenditures of the staff associated with or employed by the board. The expenses of the board to be shown in the activity accounts, at a minimum, must include any per diem or rate of compensation paid to the board members, travel expenses in state and out of state of board members and any other expenses determined necessary or reasonable by the commissioner.

[1991, c. 780, Pt. Y, §102 (AMD) .]

9. **Compensation limited to one board meeting a day.** No member of a board eligible for compensation for attendance at meetings, hearings or official business of the board may be compensated or reimbursed for expenses for more than one meeting, hearing or official board business per day. No person who is a member of more than one board may be compensated or reimbursed for expenses for attendance at more than one meeting, hearing or conduct of official business of one board per day. In the event that 2 boards meet, hold hearings or conduct official business on the same day, a person who is a member of both boards may only be compensated or reimbursed for expenses for the activity or business of one of the boards.

[1985, c. 732, §2 (NEW) .]

10. **Advisory boards.** Members of any board which serves exclusively as an advisory board, particularly those boards described in section 12004-I, shall be deemed not to be officers of the State within the meaning of the Constitution of Maine and shall not be required to be commissioned or certified by the Secretary of State as provided in section 84.

[1987, c. 786, §3 (NEW) .]

SECTION HISTORY
1985, c. 295, §12 (NEW). 1985, c. 732, §2 (AMD). 1987, c. 786, §3 (AMD). 1989, c. 503, §§B28,B29 (AMD). 1991, c. 780, §Y102 (AMD).

§12004. CLASSIFICATIONS AND DEFINITIONS OF BOARDS

Boards established or authorized by this chapter shall be classified according to the similarities of the powers and duties of the several boards. Members of boards shall be eligible for the rate of compensation specified for each board, except when compensation is not authorized. A reference to the statutory description of each board shall also be provided. For the purposes of sections 12004-G to 12004-J, the term "field" does not designate the state agency or department with which a board is associated or affiliated, but only refers to the generic subject matter before the board. [1989, c. 503, Pt. A, §1 (RPR).]

The definitions of responsibilities and authority of each classification of boards may not necessarily apply in total to each board within each classification. Each board may possess some but not all of the responsibilities and authority as defined for the classification in which the board is included. The primary function of each board complies with the primary responsibilities and authority of the classification in which the board is included. [1989, c. 503, Pt. A, §1 (RPR).]

1. **Occupational and professional licensing boards.**

[1987, c. 786, §4 (RP) .]

2. **Property assessment; valuation and appeals boards.**

[1987, c. 786, §4 (RP) .]

3. **Labor or management arbitration and commodity arbitration.**

[1987, c. 786, §4 (RP) .]

4. **Substantive regulatory boards; boards pursuant to federal law.**

[1987, c. 786, §4 (RP) .]

5. **Environmental regulation and control.**

[1987, c. 786, §4 (RP) .]

6. **Rate regulation.**

[1987, c. 786, §4 (RP) .]

7. **Financing and administrative organization.**

[1987, c. 786, §4 (RP) .]

8. **Policy-making boards for specific or limited purposes.**

[1987, c. 786, §4 (RP) .]

9. **Commodity or product protection and promotion boards.**

[1987, c. 786, §4 (RP) .]

10. **Advisory boards; boards with minimal authority.**

[1987, c. 786, §4 (RP) .]

11. **Independent advisory boards.**

[1987, c. 786, §4 (RP) .]

12. **Intergovernmental organizations.**

[1987, c. 786, §4 (RP) .]

13. **Interagency organizations.**

[1987, c. 786, §4 (RP) .]

SECTION HISTORY
1983, c. 812, §39 (NEW). 1983, c. 859, §K1 (AMD). 1983, c. 859, §§D1,4 (AMD). 1983, c. 862, §§17-26 (AMD). 1983, c. 863, §§B42,45 (AMD). 1985, c. 106, §1 (AMD). 1985, c. 160, §1 (AMD). 1985, c. 233, §1 (AMD). 1985, c. 274, §1 (AMD). 1985, c. 288, §1 (AMD). 1985, c. 295, §§13-21 (AMD). 1985, c. 309, §§3,4 (AMD). 1985, c. 318, §1 (AMD). 1985, c. 359, §4 (AMD). 1985, c. 372, §§A3,4 (AMD). 1985, c. 389, §1 (AMD). 1985, c. 441, §2 (AMD). 1985, c. 468, §1 (AMD). 1985, c. 481, §A18 (AMD). 1985, c. 482, §1 (AMD). 1985, c. 488, §1 (AMD). 1985, c. 496, §A1 (AMD). 1985, c. 497, §2 (AMD). 1985, c. 503, §1 (AMD). 1985, c. 555, §2 (AMD). 1985, c. 645, §1 (AMD). 1985, c. 695, §8 (AMD). 1985, c. 711, §1 (AMD). 1985, c. 721, §2 (AMD). 1985, c. 730, §§1,2,16 (AMD).

1985, c. 732, §§3,4 (AMD). 1985, c. 737, §§A19,20 (AMD). 1985, c. 748, §§5-12 (AMD). 1985, c. 753, §§1,2,15 (AMD). 1985, c. 763, §§A11,12 (AMD). 1985, c. 764, §2 (AMD). 1985, c. 774, §1 (AMD). 1985, c. 775, §5 (AMD). 1985, c. 779, §§23,24 (AMD). 1985, c. 785, §§A81-84 (AMD). 1985, c. 785, §§B39,40 (AMD). 1985, c. 792, §9 (AMD). 1985, c. 796, §1 (AMD). 1985, c. 797, §§2,3 (AMD). 1985, c. 801, §§4,7 (AMD). 1985, c. 819, §A7 (AMD). 1987, c. 45, §B1 (AMD). P&SL 1987, c. 129, (AMD). 1987, c. 141, §§B5,6 (AMD). 1987, c. 155, §1 (AMD). 1987, c. 251, §1 (AMD). 1987, c. 349, §H6 (AMD). 1987, c. 383, §1 (AMD). 1987, c. 395, §§A24-30 (AMD). 1987, c. 402, §§B11-13 (AMD). 1987, c. 435, §1 (AMD). 1987, c. 438, §2 (AMD). 1987, c. 460, §1 (AMD). 1987, c. 468, §§1,4 (AMD). 1987, c. 470, §1 (AMD). 1987, c. 480, §1 (AMD). 1987, c. 488, §1 (AMD). 1987, c. 506, §§2,4 (AMD). 1987, c. 517, §2 (AMD). 1987, c. 526, §§1,2 (AMD). 1987, c. 527, §1 (AMD). 1987, c. 530, §1 (AMD). 1987, c. 534, §§A14,15,19 (AMD). 1987, c. 536, §1 (AMD). 1987, c. 542, §§C1,E1,G1,H1 (AMD). 1987, c. 542, §§I2,K1 (AMD). 1987, c. 559, §§B3,4 (AMD). 1987, c. 710, §1 (AMD). 1987, c. 731, §9 (AMD). 1987, c. 737, §§10-12,106 (AMD). 1987, c. 742, §1 (AMD). 1987, c. 763, §1 (AMD). 1987, c. 766, §2 (AMD). 1987, c. 769, §§A15-18 (AMD). 1987, c. 773, §11 (AMD). 1987, c. 786, §19 (AMD). 1987, c. 786, §4 (RPR). 1987, c. 790, §1 (AMD). 1987, c. 799, §1 (AMD). 1987, c. 805, §1 (AMD). 1987, c. 807, §1 (AMD). 1987, c. 816, §§DD2,EE5 (AMD). 1987, c. 817, §1 (AMD). 1987, c. 840, §2 (AMD). 1987, c. 849, §1 (AMD). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1989, c. 410, §19 (AMD). 1989, c. 450, §1 (AMD). 1989, c. 503, §A1 (RPR).

§12004-A. OCCUPATIONAL AND PROFESSIONAL LICENSING BOARDS

The primary responsibilities of occupational and professional licensing boards include the examination of applicants, issuance of licenses or certificates, registration of licenses and rules of licensees with respect to the practice of a particular occupation or profession. The primary powers of these boards include the authority to hold hearings, adopt rules, establish standards and procedures, issue licenses and initiate action for the revocation or suspension of occupational or professional licenses. [1987, c. 786, §5 (NEW).]

For purposes of any occupational or professional licensing boards which have a public member or members, "public member" means a person who has no financial interest in the profession regulated by the board to which that member has been appointed and who has never been licensed, certified or given a permit in this or any other state for the occupation or profession that member is appointed to regulate. [1991, c. 286, (AMD).]

This classification includes the following. [1987, c. 786, §5 (NEW).]

NAME OF ORGANIZATION	RATE OF COMPENSATION	STATUTORY REFERENCE
1.		
Board of Accountancy	$35/Day	32 MRSA §3971

[1999, c. 687, Pt. B, §1 (AMD) .]

2. **Arborist Examining Board**

[1999, c. 84, §1 (RP) .]

3. **Acupuncture Licensing Board**

[1995, c. 671, §4 (RP) .]

4.

Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers	$35/Day	32 MRSA §211

[1993, c. 389, §2 (AMD) .]

5.

Board of Licensing of Auctioneers	$35/Day	32 MRSA §288

[1999, c. 687, Pt. B, §1 (AMD) .]

5-A.

Board of Bar Examiners	Set by Supreme Judicial Court	4 MRSA §801

[1993, c. 381, §1 (NEW) .]

6. **Board of Barbering and Cosmetology**

[2009, c. 369, Pt. A, §3 (RP) .]

7. **Board of Boilers and Pressure Vessels**

[2013, c. 70, Pt. A, §1 (RP) .]

8.

Board of Chiropractic Licensure	$35/Day	32 MRSA §501

[1999, c. 687, Pt. B, §1 (AMD) .]

8-A.

Board of Complementary Health Care Providers	$35/Day	32 MRSA §12502

[1999, c. 687, Pt. B, §1 (AMD) .]

9. **State Board of Cosmetology**

[1991, c. 397, §2 (RP) .]

9-A. **Board of Counseling Professionals Licensure**

[1989, c. 878, Pt. D, §3 (AMD); T.5, §12004-A, sub-§9-A (RP) .]

9-B.

Board of Real Estate Appraisers	$35/Day	32 MRSA §14011

[1999, c. 185, §1 (AMD) .]

9-C.

Board of Counseling Professionals Licensure	$35/Day	32 MRSA §13852

[1999, c. 790, Pt. D, §5 (NEW) .]

10.

Board of Dental Practice	Legislative per diem board and subcommittee members	32 MRSA §18321

[2015, c. 429, §1 (RPR) .]

11.

Board of Licensing of Dietetic Practice	$35/Day	32 MRSA §9903

[1989, c. 878, Pt. B, §4 (AMD) .]

12. **Board of Driver Education**

[1995, c. 505, §22 (AFF); 1995, c. 505, §3 (RP) .]

13.

Electricians' Examining Board	$35/Day	32 MRSA §1151

[1999, c. 687, Pt. B, §1 (AMD) .]

14. **Board of Elevator and Tramway Safety**

[2013, c. 70, Pt. A, §2 (RP) .]

15.

Emergency Medical Services' Board	$20/Day	32 MRSA §88

[1989, c. 503, Pt. A, §3 (AMD) .]

16.

State Board of Licensure for Professional Engineers	$35/Day	32 MRSA §1301

[2005, c. 315, §1 (AMD) .]

17.

Board of Licensure of Foresters	$35/Day	32 MRSA §5505

[2001, c. 261, §1 (AMD) .]

18.

State Board of Funeral Service	$35/Day	32 MRSA §1451

[1989, c. 450, §2 (AMD) .]

19.

State Board of Certification for Geologists and Soil Scientists	$35/Day	32 MRSA §4907

[1999, c. 687, Pt. B, §1 (AMD) .]

20. **Board of Hearing Aid Dealers and Fitters**

[2007, c. 369, Pt. A, §3 (RP); 2007, c. 369, Pt. C, §5 (AFF) .]

21.

Board of Licensure for Professional Land Surveyors	$35/Day	32 MRSA §18211

[2013, c. 180, §1 (AMD); 2013, c. 180, §6 (AFF) .]

22.

Manufactured Housing Board	$35/Day	10 MRSA §9003

[1987, c. 786, §5 (NEW) .]

23.

Nursing Home Administrators Licensing Board	$35/Day	32 MRSA §63-A

[1999, c. 687, Pt. B, §1 (AMD) .]

24.

Board of Licensure in Medicine	$1,250/Year-Member $1,500/Year-Chair $7,500/ Year-Secretary	32 MRSA §3263

[1999, c. 687, Pt. B, §1 (AMD) .]

25.

State Board of Nursing	Legislative Per Diem	32 MRSA §2151

[1987, c. 786, §5 (NEW) .]

26.

Board of Occupational Therapy Practice	$35/Day	32 MRSA §2273

[1989, c. 450, §2 (AMD) .]

27. **Oil and Solid Fuel Board**

[2009, c. 344, Pt. A, §1 (RP); 2009, c. 344, Pt. E, §2 (AFF) .]

28.

State Board of Optometry	$35/Day	32 MRSA §2415

[1999, c. 687, Pt. B, §1 (AMD) .]

29.

Board of Osteopathic Licensure	Legislative Per Diem	32 MRSA §2561

[1999, c. 687, Pt. B, §1 (AMD) .]

30. **Board of Commissioners of the Profession of Pharmacy**

[1997, c. 245, §1 (RP) .]

30-A.
Maine Board of Pharmacy $35/Day 32 MRSA §13711

[1997, c. 245, §2 (NEW) .]

31.
Board of Examiners in Physical Therapy $35/Day 32 MRSA §3112

[1999, c. 687, Pt. B, §1 (AMD) .]

32.
Plumbers' Examining Board $35/Day 32 MRSA §3401

[1987, c. 786, §5 (NEW) .]

33.
Board of Licensure of Podiatric Medicine $35/Day 32 MRSA §3601

[1999, c. 687, Pt. B, §1 (AMD) .]

33-A. **Propane and Natural Gas Board**

[2009, c. 344, Pt. A, §2 (RP); 2009, c. 344, Pt. E, §2 (AFF) .]

34.
State Board of Examiners of Psychologists $35/Day 32 MRSA §3821

[1987, c. 786, §5 (NEW) .]

35.
Board of Respiratory Care Practitioners $35/Day 32 MRSA §9703

[1987, c. 786, §5 (NEW) .]

36.
Radiologic Technology Board of Examiners $35/Day 32 MRSA §9853

[1999, c. 687, Pt. B, §1 (AMD) .]

37.
Real Estate Commission $35/Day 32 MRSA §13062

[1987, c. 786, §5 (NEW) .]

38.
State Board of Social Worker Licensure $35/Day 32 MRSA §7026

[1989, c. 450, §2 (AMD) .]

39. **Board of Examiners on Speech-language Pathology and Audiology**

[2007, c. 369, Pt. A, §4 (RP); 2007, c. 369, Pt. C, §5 (AFF) .]

40.

Maine Pilotage Commission	Not Authorized	38 MRSA §89

[1999, c. 355, §1 (AMD) .]

41.

State Board of Alcohol and Drug Counselors	$35/Day	32 MRSA §6201

[1999, c. 687, Pt. B, §1 (AMD) .]

42.

State Board of Veterinary Medicine	$35/Day	32 MRSA §4854

[1999, c. 687, Pt. B, §1 (AMD) .]

43.

Board of Underground Oil Storage Tank Installers	Expenses Only	32 MRSA §10001

[1987, c. 786, §5 (NEW) .]

44. **Maine Athletic Commission**

[2007, c. 621, §1 (RP) .]

45. **Board of Licensure of Railroad Personnel**

[1993, c. 428, §1 (RP) .]

46.

Board of Licensure of Water System Operators	Expenses Only	22 MRSA §2624-A

[2003, c. 33, §1 (AMD) .]

47.

Gambling Control Board	$55/Day	8 MRSA §1002

[2005, c. 663, §1 (NEW); 2005, c. 663, §17 (AFF) .]

48.

Board of Speech, Audiology and Hearing	$35/Day	32 MRSA §17201

[2011, c. 286, Pt. O, §2 (AMD) .]

49.

Maine Fuel Board	$35/Day	32 MRSA §18121

[2009, c. 344, Pt. A, §3 (NEW); 2009, c. 344, Pt. E, §2 (AFF) .]

SECTION HISTORY
1987, c. 786, §5 (NEW). 1989, c. 152, §1 (AMD). 1989, c. 346, §1 (AMD). 1989, c. 450, §§2,3 (AMD). 1989, c. 465, §1 (AMD). 1989, c. 503, §§A2-6 (AMD). 1989, c. 806, §1 (AMD). 1989, c. 878, §§A15,B4,D3 (AMD). 1991, c. 286, (AMD). 1991, c. 338, §1 (AMD). 1991, c. 397, §§1,2 (AMD). 1993, c. 381, §1 (AMD). 1993, c. 389, §2 (AMD). 1993, c. 428, §1 (AMD). 1995, c. 353, §1 (AMD). 1995, c. 389, §1 (AMD). 1995, c. 394, §1 (AMD). 1995, c. 402, §A47 (AMD). 1995, c. 442, §1 (AMD). 1995, c. 505, §3 (AMD). 1995, c. 505, §22 (AFF). 1995, c. 560, §§H1,2 (AMD). 1995, c. 560, §H17 (AFF). 1995, c. 625, §A14 (AMD). 1995, c. 671, §§4,5 (AMD). 1997, c. 245, §§1,2 (AMD). 1999, c. 84, §1 (AMD). 1999, c. 146, §1 (AMD). 1999, c. 185, §1 (AMD). 1999, c. 355, §1 (AMD). 1999, c. 386, §W1 (AMD). 1999, c. 687, §B1 (AMD). 1999, c. 790, §D5 (AMD). 2001, c. 166, §1 (AMD). 2001, c. 261, §1 (AMD). 2003, c. 33, §1 (AMD). 2005, c. 315, §1 (AMD). 2005, c. 663, §1 (AMD). 2005, c. 663, §17 (AFF). 2007, c. 369, Pt. A, §§3-5 (AMD). 2007, c. 369, Pt. C, §5 (AFF). 2007, c. 621, §1 (AMD). 2009, c. 344, Pt. A, §§1-3 (AMD). 2009, c. 344, Pt. E, §2 (AFF). 2009, c. 369, Pt. A, §3 (AMD). 2011, c. 286, Pt. O, §2 (AMD). 2013, c. 70, Pt. A, §§1, 2 (AMD). 2013, c. 180, §1 (AMD). 2013, c. 180, §6 (AFF). 2015, c. 429, §1 (AMD).

§12004-B. ARBITRATION, MEDIATION, VALUATION AND BOARD APPEALS

The primary responsibilities of the boards in this section include the assessment of property for purchase, valuation or tax purposes; the hearing of appeals with respect to property valuation or assessment; and the arbitration, conciliation or mediation of disputes or grievances. [1987, c. 786, §5 (NEW).]

The primary powers of these boards include the holding of hearings; the adoption of rules; the determination, modification or assessment of fees, taxes and penalties; arbitration, conciliation and mediation; the establishment of standards and procedures; and the adjudication of disputes. [1987, c. 786, §5 (NEW).]

This classification includes the following. [1987, c. 786, §5 (NEW).]

NAME OF ORGANIZATION	RATE OF COMPENSATION	STATUTORY REFERENCE
1.		
State Board of Arbitration and Conciliation	$75/Day	26 MRSA §931

[1987, c. 786, §5 (NEW) .]

2.		
Maine Labor Relations Board	$75/Day $100/Day Chair	26 MRSA §968

[1989, c. 503, Pt. A, §7 (AMD) .]

3.

Panel of Mediators	$100/Day	26 MRSA §892 26 MRSA §965, sub-§2, ¶C

[1987, c. 786, §5 (NEW) .]

4.

State Civil Service Appeals Board	$50/Day	5 MRSA §7081

[1987, c. 786, §5 (NEW) .]

5.

State Claims Commission	$150/Day	23 MRSA §152

[1995, c. 438, §1 (AMD) .]

6.

State Board of Property Tax Review	$75/Day	36 MRSA §271

[1997, c. 643, Pt. E, §4 (AMD) .]

7.

Maine Agricultural Bargaining Board	$75/Day	13 MRSA §1956

[1987, c. 786, §5 (NEW) .]

8.

Committee on Judicial Responsibility and Disability	Set by Supreme Judicial Court	4 MRSA §9-B

[1993, c. 381, §2 (NEW) .]

9. **Baxter Compensation Program Compensation Panel**

[2001, c. 667, Pt. C, §2 (RP) .]

10.

Maine Board of Tax Appeals	$100/Day	36 MRSA §151-D

[2011, c. 694, §1 (NEW) .]

SECTION HISTORY
1987, c. 786, §5 (NEW). 1989, c. 503, §A7 (AMD). 1993, c. 381, §2 (AMD). 1995, c. 438, §1 (AMD). 1997, c. 643, §E4 (AMD). 2001, c. 439, §T3 (AMD). 2001, c. 667, §C2 (AMD). 2011, c. 694, §1 (AMD).

§12004-C. EDUCATIONAL POLICY BOARDS

The primary responsibilities of the boards in this section include the formulation of educational policy; review and evaluation of educational policy; and the administration of educational institutions. [1987, c. 786, §5 (NEW).]

This classification includes the following. [1987, c. 786, §5 (NEW).]

NAME OF ORGANIZATION	RATE OF COMPENSATION	STATUTORY REFERENCE

1.

State Board of Education	Legislative Per Diem and Expenses	20-A MRSA §401

[2013, c. 368, Pt. HHH, §1 (AMD) .]

2.

Board of Trustees, University of Maine System	Expenses Only	P&SL 1865, c. 532

[1987, c. 786, §5 (NEW) .]

3.

Board of Trustees, Maine Community College System	Legislative Per Diem	20-A MRSA §12705

[1989, c. 443, §14 (AMD); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF) .]

4.

Board of Trustees, Maine Maritime Academy	Expenses Only	P&SL 1941, c. 37

[1987, c. 786, §5 (NEW) .]

5.

Board of Trustees, Maine Criminal Justice Academy	Expenses Only	25 MRSA §2802

[1987, c. 786, §5 (NEW) .]

6.

Board of Trustees, Maine School of Science and Mathematics	Expenses Only	20-A MRSA §8204

[1993, c. 706, Pt. A, §1 (NEW) .]

7.

School Board of the Governor Baxter School for the Deaf	Legislative Per Diem and Expenses	20-A MRSA §7406

[1995, c. 676, §1 (NEW); 1995, c. 676, §13 (AFF) .]

8.

Science, Technology, Engineering and Mathematics Council	Expenses Only	20-A MRSA §11

[2011, c. 346, §1 (NEW) .]

9.

Board of Trustees, Maine School for Marine Science, Technology, Transportation and Engineering	Expenses Only	20-A MRSA §8234

[2015, c. 363, §2 (NEW) .]

SECTION HISTORY
1987, c. 786, §5 (NEW). 1989, c. 443, §14 (AMD). 1993, c. 706, §A1 (AMD). 1995, c. 676, §1 (AMD). 1995, c. 676, §13 (AFF). 2003, c. 20, Pt. OO, §2 (AMD). 2007, c. 20, Pt. OO, §4 (AFF). 2011, c. 346, §1 (AMD). 2013, c. 368, Pt. HHH, §1 (AMD). 2015, c. 363, §2 (AMD).

§12004-D. ENVIRONMENTAL REGULATION AND CONTROL

The primary responsibility of environmental regulation and control boards is the protection of the State's natural resources and environment. [1987, c. 786, §5 (NEW).]

The primary powers of these boards include regulation of activities that affect the environment and natural resources of the State, issuance of licenses and permits, setting of standards and procedures, assessment of fees and penalties, holding of hearings and the adoption of rules. [1987, c. 786, §5 (NEW).]

This classification includes the following. [1987, c. 786, §5 (NEW).]

NAME OF ORGANIZATION	RATE OF COMPENSATION	STATUTORY REFERENCE

1. **Maine Land Use Regulation Commission**

[2011, c. 682, §1 (RP) .]

1-A.

Maine Land Use Planning Commission	Legislative Per Diem Plus Expenses. Notwithstanding any limitation on noonday meal expenses in section 12002, subsection 2, for each day in attendance at a commission meeting or hearing, each member is entitled to a meal allowance not to exceed the legislative meal allowance for each session day as provided for in Title 3, section 2.	12 MRSA §683-A

[2011, c. 682, §2 (NEW) .]

2.

Board of Environmental Protection	Legislative Per Diem Plus Expenses. Notwithstanding any limitation on noonday meal expenses in section 12002, subsection 2, for each day in attendance at a board meeting or hearing, each member is	38 MRSA §341-A

	entitled to a meal allowance not to exceed the legislative meal allowance for each session day as provided for in Title 3, section 2.	

[2007, c. 617, §2 (AMD) .]

3.

Board of Pesticides Control	Legislative Per Diem	22 MRSA §1471-B

[1987, c. 786, §5 (NEW) .]

4. **Facility Siting Board**

[2011, c. 655, Pt. GG, §70 (AFF); 2011, c. 655, Pt. GG, §2 (RP) .]

5.

Nutrient Management Review Board	Expenses Only	7 MRSA §4203

[1997, c. 642, §1 (NEW) .]

6.

Interagency Task Force on Invasive Aquatic Plants and Nuisance Species	Expenses Only	38 MRSA §1871

[2001, c. 434, Pt. B, §1 (NEW) .]

SECTION HISTORY
1987, c. 786, §5 (NEW). 1989, c. 503, §A8 (AMD). 1989, c. 585, §A5 (AMD). 1989, c. 890, §§A3,40 (AMD). 1997, c. 642, §1 (AMD). 2001, c. 434, §B1 (AMD). 2007, c. 617, §§1, 2 (AMD). 2011, c. 655, Pt. GG, §2 (AMD). 2011, c. 655, Pt. GG, §70 (AFF). 2011, c. 682, §§1, 2 (AMD).

§12004-E. BUDGET AND RATE REGULATION

The primary responsibilities of rate regulation boards include the setting of revenue or budget ceilings and the setting of prices or rates for commodities or services provided statewide. In addition to the power to hold hearings, adopt rules, establish policies and procedures, these boards may determine revenue limits, establish prices, conduct investigations and initiate action to revoke or suspend licenses and permits. [1987, c. 786, §5 (NEW).]

This classification includes the following. [1987, c. 786, §5 (NEW).]

NAME OF ORGANIZATION	RATE OF COMPENSATION	STATUTORY REFERENCE

1. **Maine Health Care Finance Commission**

[1995, c. 653, Pt. B, §8 (AFF); 1995, c. 653, Pt. B, §1 (RP) .]

2.

Maine Milk Commission	Legislative Per Diem	7 MRSA §2952

[1987, c. 786, §5 (NEW) .]

3. **State Liquor Commission**

[1997, c. 373, §3 (RP) .]

SECTION HISTORY
1987, c. 786, §5 (NEW). 1995, c. 653, §B1 (AMD). 1995, c. 653, §B8 (AFF). 1997, c. 373, §3 (AMD).

§12004-F. BONDING AND FINANCING ORGANIZATION

Bonding and financing organizations have the primary responsibilities to finance construction of projects, new businesses or business expansions; administer pension funds or the proceeds of bond sales; and administer organizations created to fulfill these responsibilities. [1987, c. 786, §5 (NEW).]

The primary powers of these boards include the authority to hold hearings and adopt rules; establish procedures and standards; lease or acquire property; enter into contracts; sell bonds; invest income; and borrow money. [1987, c. 786, §5 (NEW).]

This classification includes the following. [1987, c. 786, §5 (NEW).]

NAME OF ORGANIZATION	RATE OF COMPENSATION	STATUTORY REFERENCE
1. Finance Authority of Maine	Legislative Per Diem	10 MRSA §964

[1987, c. 786, §5 (NEW) .]

2. Maine Municipal Bond Bank, Board of Commissioners	Legislative Per Diem	30-A MRSA §5951

[1989, c. 503, Pt. A, §9 (AMD) .]

3. Maine State Housing Authority	Legislative Per Diem	30-A MRSA §4722

[1989, c. 503, Pt. A, §9 (AMD) .]

4. Maine Turnpike Authority, Board of Directors	Legislative Per Diem	23 MRSA §1964-A

[2011, c. 302, §1 (AMD) .]

5. Maine Public Utility Financing Bank, Board of Commissioners	Legislative Per Diem	35-A MRSA §2904

[1987, c. 786, §5 (NEW) .]

6. Maine Health and Higher Educational Facilities Authority	Legislative Per Diem	22 MRSA §2054

[1987, c. 786, §5 (NEW) .]

7. **Maine School Building Authority**

[1993, c. 494, §1 (RP) .]

8.

Maine Port Authority	$100/Meeting Plus Expenses	23 MRSA §4420

[2007, c. 134, §2 (AMD) .]

9.

Board of Trustees, Maine Public Employees Retirement System	Legislative Per Diem	5 MRSA §17102

[1987, c. 786, §5 (NEW); 2007, c. 58, §3 (REV) .]

10.

State Employee Health Commission	Expenses Only	5 MRSA §285-A

[1989, c. 503, Pt. A, §10 (RPR) .]

11.

Maine Governmental Facilities Authority	Expenses Only	4 MRSA §1602

[1999, c. 790, Pt. A, §2 (AMD) .]

12. **Board of Directors, Student Educational Enhancement Deposit Plan**

[1991, c. 622, Pt. S, §6 (RP) .]

13. **Maine Low-level Radioactive Waste Authority**

[1993, c. 664, §1 (RP) .]

14. **Board of Trustees, Sludge and Residuals Utilization Research Foundation**

[1999, c. 668, §20 (RP) .]

15. **Maine Educational Loan Authority**

[2015, c. 170, §30 (AFF); 2015, c. 170, §3 (RP) .]

16.

Northern New England Passenger Rail Authority	Legislative Per Diem	23 MRSA §8111

[1995, c. 374, §1 (NEW) .]

17.

Small Enterprise Growth Board	Expenses Only	10 MRSA §471

[1995, c. 699, §1 (NEW) .]

18.

Maine Rural Development Authority	Expenses Only	5 MRSA §13120-A

[2001, c. 703, §1 (NEW) .]

SECTION HISTORY
1987, c. 786, §5 (NEW). 1989, c. 503, §§A9-11 (AMD). 1991, c. 622, §S6 (AMD). 1993, c. 494, §1 (AMD). 1993, c. 664, §1 (AMD). 1995, c. 374, §1 (AMD). 1995, c. 699, §1 (AMD). 1999, c. 668, §20 (AMD). 1999, c. 790, §A2 (AMD). 2001, c. 703, §1 (AMD). 2007, c. 58, §3 (REV). 2007, c. 134, §2 (AMD). 2011, c. 302, §1 (AMD). 2015, c. 170, §3 (AMD). 2015, c. 170, §30 (AFF).

§12004-G. GENERAL GOVERNMENT

The primary responsibilities of the boards in this section vary and are limited to a specific purpose. These responsibilities may include the regulation of a particular activity, the licensing of a particular activity, the establishment of policy for a specific purpose or organization and the acquisition of property for a specific purpose. [1987, c. 786, §5 (NEW).]

In addition to the powers to hold hearings, adopt rules and establish policies and procedures, these boards may enter into contracts, establish just charges, conduct investigations, acquire property or enforce state laws. [1987, c. 786, §5 (NEW).]

This classification includes the following. [1987, c. 786, §5 (NEW).]

FIELD	NAME OF ORGANIZATION	RATE OF COMPENSATION	STATUTORY REFERENCE

1. **Administration**

[2005, c. 12, Pt. SS, §17 (RP) .]

2. **Administration**

[2007, c. 395, §12 (RP) .]

3. **Agriculture**

[1991, c. 779, §52 (AFF); 1991, c. 779, §1 (RP) .]

3-A.

Agriculture	Pull Events Commission	Expenses Only	7 MRSA §98

[2005, c. 563, §1 (AMD) .]

3-B. **Agriculture**

[1997, c. 528, §1 (RP) .]

3-C.

Agriculture	Integrated Pest Management Council	Expenses Only	7 MRSA §2404

[2001, c. 667, Pt. B, §2 (NEW); 2001, c. 667, Pt. B, §5 (AFF) .]

3-D.

Agriculture	Maine Agricultural Water Management Board	Expenses Only	7 MRSA §352

[2005, c. 559, §1 (NEW) .]

4. **Agriculture**

[2009, c. 369, Pt. A, §4 (RP) .]

4-A.

Agriculture	Board of Agriculture	Legislative Per Diem	7 MRSA §125

[1997, c. 711, §1 (NEW) .]

4-B.

Biomedical Research	Maine Biomedical Research Board	Expenses Only	5 MRSA §13104

[2001, c. 196, §1 (NEW) .]

4-C.

Agriculture Education	Maine Agriculture in the Classroom Council	Paid from council funds in accordance with council bylaws	7 MRSA §242

[2007, c. 456, §1 (NEW) .]

4-D.

Amusements and Sports	Combat Sports Authority of Maine	Legislative Per Diem and ExpensesOnly	8 MRSA c. 20

[2011, c. 305, §1 (AMD) .]

5. **Business**

[1991, c. 622, Pt. S, §7 (RP) .]

5-A.

Building Codes and Standards	Technical Building Codes and Standards Board	Expenses Only	10 MRSA c. 1103

[2007, c. 699, §1 (NEW) .]

6. **Civil Service**

[1999, c. 668, §21 (RP) .]

6-A. **Corrections**

[1999, c. 668, §22 (RP) .]

6-B.

Commerce and Trade	Maine Motor Vehicle Franchise Board	$100/day	10 MRSA §1187

[2003, c. 356, §1 (NEW) .]

6-C. **Corrections**

[2015, c. 335, §4 (RP) .]

7.

Corrections	State Parole Board	Legislative Per Diem	34-A MRSA §5201

[1987, c. 786, §5 (NEW) .]

7-A.

Culture/History	Maine State Cultural Affairs Council	Expenses Only	27 MRSA §552

[1989, c. 700, Pt. B, §2 (NEW) .]

7-B.

Culture/History	Maine Arts Commission	Expenses Only	27 MRSA §401

[1989, c. 700, Pt. B, §2 (NEW) .]

7-C.

Culture/History	Maine State Museum Commission	Expenses Only	27 MRSA §82

[1989, c. 700, Pt. B, §2 (NEW) .]

7-D.

Culture/History	Maine Historic Preservation Commission	Expenses Only	27 MRSA §501

[1989, c. 700, Pt. B, §2 (NEW) .]

7-E.

Culture/History	Maine Library Commission	Expenses Only	27 MRSA §111

[1989, c. 700, Pt. B, §2 (NEW) .]

7-F. **Economic Development**

[2007, c. 240, Pt. RRRR, §1 (RP); 2007, c. 395, §13 (RP) .]

8. **Education**

[1991, c. 622, Pt. G, §33 (AFF); 1991, c. 622, Pt. G, §1 (RP) .]

8-A. **Education**

[2005, c. 662, Pt. A, §2 (RP) .]

9. **Education**

[1989, c. 700, Pt. B, §3 (RP) .]

9-A. **Education**

[2003, c. 643, §2 (RP) .]

10. **Education**

[1989, c. 700, Pt. B, §3 (RP) .]

10-A.

Education	Kim Wallace Adaptive Equipment Loan Program Fund Board	Expenses Only	10 MRSA §373

[1999, c. 731, Pt. FF, §1 (AMD) .]

10-B. **Education**

[2007, c. 395, §14 (RP) .]

10-C.

Energy	Efficiency Maine Trust Board	Expenses Only	35-A MRSA §10103

[2009, c. 372, Pt. B, §1 (NEW) .]

10-D.

Education	Maine Charter School Commission	Legislative Per Diem and Expenses	20-A MRSA §2405, sub-§8

[2013, c. 368, Pt. JJJJ, §1 (AMD) .]

10-E.

Education	State Education and Employment Outcomes Task Force	Expenses Only	20-A MRSA §12901

[2013, c. 593, §1 (NEW) .]

11.

Environment/ Natural Resources	Baxter State Park Authority	Not Authorized	12 MRSA §901

[1987, c. 786, §5 (NEW) .]

11-A.

Environment/ Natural Resources	Clean-up and Response Fund Review Board	Expenses Only for Certain Members	38 MRSA §568-B

[2015, c. 319, §1 (AMD) .]

12. **Environment/Natural Resources**

[2007, c. 395, §15 (RP) .]

13.

Environment/ Natural Resources	Saco River Corridor Commission	Expenses Only	38 MRSA §954

[1987, c. 786, §5 (NEW) .]

13-A.

Environment/ Natural Resources	State Emergency Response Commission	Not Authorized	37-B MRSA §792

[1989, c. 878, Pt. A, §16 (RPR) .]

13-B.

Environment/ Health Engineering	Maine Water Well Commission	$50 Per Meeting Plus Expenses	32 MRSA §4700-G

[2001, c. 209, Pt. A, §1 (AMD) .]

13-C.

Executive/ Drug Prevention and Treatment	Substance Abuse Services Commission	Expenses Only	5 MRSA §20065

[1993, c. 410, Pt. LL, §2 (NEW) .]

13-D. **Environment/Natural Resources**

[2001, c. 460, §1 (RP) .]

13-E.

Environment/ Natural Resources	River Flow Advisory Commission	Expenses Only	37-B MRSA §1131

[2001, c. 662, §4 (NEW) .]

13-F. **Environment/Natural Resources and Public Utilities**

[2009, c. 372, Pt. A, §10 (AFF); 2009, c. 372, Pt. A, §4 (RP) .]

14.

Finance	State Liquor and Lottery Commission	Legislative Per Diem	5 MRSA §283-A

A. The chair may receive no more than $5,000 per year, including per diem and expenses. [1997, c. 373, §4 (AMD).]

B. The other board members may each receive no more than $3,500 per year, including per diem and expenses. [1997, c. 373, §4 (AMD).]

[1997, c. 373, §4 (AMD) .]

14-A. **Human Services**

[1995, c. 322, §2 (RP) .]

14-B.

Human Services	Maine Health Data Organization	Expenses Only	22 MRSA §8703

[1995, c. 653, Pt. A, §1 (NEW); 1995, c. 653, Pt. A, §7 (AFF) .]

14-C.

Human Services	Newborn Hearing Screening Advisory Board	Expenses Only	22 MRSA §8823

[1999, c. 647, §1 (NEW) .]

14-D.

Health Care	Board of Trustees of Dirigo Health	$100 per diem and expenses	24-A MRSA §6904

[2007, c. 447, §1 (AMD) .]

14-E. **Human Services**

[2009, c. 369, Pt. A, §5 (RP) .]

14-F. **Health Care**

[2011, c. 90, Pt. B, §10 (AFF); 2011, c. 90, Pt. B, §1 (RP) .]

14-G.

Health Care	Statewide Coordinating Council for Public Health	Not Authorized	22 MRSA §412

[2009, c. 355, §4 (NEW) .]

14-H.

Health Care	Board of Directors of the Maine Guaranteed Access Reinsurance Association	Expenses Only	24-A MRSA §3953

[2011, c. 1, §6 (COR) .]

15.

Human Services: Human Rights	Maine Human Rights Commission	$25/Day $1,000 Max/ Yr	5 MRSA §4561

[1989, c. 503, Pt. A, §15 (AMD) .]

15-A.

Substance Abuse	Driver Education and Evaluation Programs Appeals Board	$75/Day	5 MRSA §20078-A

[1993, c. 631, §1 (REEN) .]

15-B.

Human Services: Immunization	Maine Vaccine Board	Not Authorized	22 MRSA §1066

[2009, c. 595, §1 (NEW) .]

16. **Human Services: Child Protection**

[1991, c. 780, Pt. DDD, §1 (RP) .]

17. **Human Services/Drug Prescriptions**

[1991, c. 377, §5 (RP) .]

18. **Human Services/Health Facilities**

[1993, c. 600, Pt. B, §1 (RP) .]

19. **Human Services/Drug Therapy**

[1993, c. 381, §4 (RP) .]

20.

Inland Fisheries and Wildlife	Inland Fisheries and Wildlife Advisory Council	$50/Day	12 MRSA §10151

[2003, c. 414, Pt. B, §4 (AMD); 2003, c. 614, §9 (AFF) .]

20-A. **Department of Marine Resources**

[2009, c. 561, §2 (RP) .]

20-B.

Inland Fisheries and Wildlife	ATV Enforcement Grant Review Committee	Not Authorized	12 MRSA §10324

[2003, c. 695, Pt. B, §1 (NEW); 2003, c. 695, Pt. C, §1 (AFF) .]

21. **Insurance**

[1993, c. 410, Pt. R, §4 (AFF); 1993, c. 410, Pt. R, §2 (RP) .]

21-A.

Insurance	Maine Self-Insurance Guarantee Association Board of Directors	Not Authorized	39-A MRSA §404

[1993, c. 381, §5 (NEW) .]

21-B. **Insurance**

[2007, c. 395, §16 (RP) .]

22. **Insurance**

[1991, c. 622, Pt. L, §8 (RP); 1991, c. 622, Pt. S, §7 (RP) .]

22-A. **Agriculture**

[2001, c. 667, Pt. B, §5 (AFF); 2001, c. 667, Pt. B, §3 (RP) .]

23. **Judiciary: Law**

[2013, c. 533, §7 (RP) .]

23-A.

Judiciary	Judicial Compensation Commission	Expenses Only	4 MRSA §1701

[1995, c. 451, §2 (NEW) .]

24.

Labor	Board of Occupational Safety and Health	Expenses Only	26 MRSA §564

[1987, c. 786, §5 (NEW) .]

25. **Labor**

[2011, c. 491, §7 (RP) .]

25-A.

Legal Services	Maine Commission on Indigent Legal Services	Legislative Per Diem Plus Expenses	4 MRSA §1801

[2009, c. 419, §4 (NEW) .]

26. **Labor**

[2007, c. 395, §17 (RP) .]

26-A. **Labor**

[2005, c. 178, §1 (RP); 2005, c. 294, §3 (RP) .]

26-B. **Marine Resources**

[1995, c. 406, §3 (RP) .]

26-C. **Labor**

[1999, c. 668, §24 (RP) .]

26-D.

Legislature	State Compensation Commission	Legislative Per Diem and Expenses	3 MRSA §2-B

[1997, c. 506, §2 (NEW) .]

26-E. **Legislature**

[2009, c. 652, Pt. A, §2 (RP) .]

26-F. **Maine National Guard**

[2011, c. 344, §2 (RP) .]

27.

Marine Resources	Marine Resources Advisory Council	Expenses Only	12 MRSA §6024

[1995, c. 382, §1 (AMD) .]

27-A. **Marine Resources**

[1999, c. 668, §25 (RP) .]

28. **Mental Health, Mental Retardation and Substance Abuse Services**

[1999, c. 668, §26 (RP) .]

29.

Natural Resources	Land for Maine's Future Board	Legislative Per Diem and Expenses for Appointed Members	5 MRSA §6202

[1987, c. 786, §5 (NEW) .]

29-A. **Natural Resources**

[1993, c. 381, §6 (RP) .]

29-B.

Natural Resources	Maine Outdoor Heritage Fund Board	Legislative Per Diem and Travel Expenses for Appointed Members	12 MRSA §10308

[2003, c. 414, Pt. B, §5 (AMD); 2003, c. 614, §9 (AFF) .]

29-C. **Natural and Built Assets**

[2011, c. 655, Pt. EE, §30 (AFF); 2011, c. 655, Pt. EE, §4 (RP) .]

29-D.

Professional Investigators	Board of Licensure of Professional Investigators	Expenses Only	32 MRSA §8103-A

[2011, c. 366, §1 (NEW) .]

30. **Natural Resources**

[1995, c. 532, §1 (RP) .]

30-A.

Public Information	InforME Board	Legislative Per Diem and Expenses for Voting Members	1 MRSA §534

[1997, c. 713, §3 (NEW) .]

30-B.

Public Information	Maine Library of Geographic Information Board	Expenses Only	5 MRSA §2003

[2005, c. 12, Pt. SS, §18 (AMD) .]

30-C.

Public Utilities	Telecommunica- tions Relay Services Advisory Council	Not Authorized	35-A MRSA §8704

[2005, c. 605, §3 (NEW) .]

30-D.

Public Utilities	Interagency Review Panel	Expenses Only	35-A MRSA §122, sub-§1-B

[2009, c. 655, Pt. A, §1 (NEW) .]

30-E.

Public Safety	Maine Length of Service Award Program Board of Trustees	Expenses Only	5 MRSA §3372

[2015, c. 352, §2 (NEW) .]

31. **Public Utilities**

[1991, c. 622, Pt. S, §7 (RP) .]

31-A. **Science and Technology**

[2003, c. 20, Pt. RR, §18 (AFF); 2003, c. 20, Pt. RR, §1 (RP) .]

31-B.

Small Business	Maine Small Business and Entrepreneurship Commission	Not Authorized	5 MRSA §13032

[2005, c. 294, §4 (AMD) .]

31-C. **Secretary of State**

[2011, c. 344, §3 (RP) .]

32.

Sport and Entertainment	State Harness Racing Commission	Legislative Per Diem	8 MRSA §261-A

[1991, c. 579, §2 (AMD) .]

33.

State Government	Commission on Governmental Ethics and Election Practices	Legislative Per Diem	1 MRSA §1002

[1995, c. 1, §9 (AMD) .]

33-A. **Taxation**

[1993, c. 680, Pt. A, §15 (RP) .]

33-B.

Taxation	Board of Trustees, Mining Excise Tax Trust Fund	Not Authorized	5 MRSA §453-A

[1993, c. 680, Pt. A, §16 (REEN) .]

33-C.

Transportation	Motor Carrier Review Board	Expenses Only	29-A MRSA §562

[1995, c. 376, §1 (NEW) .]

33-D.

Technology	Maine Technology Institute	Expenses Only	5 MRSA §15302

[1999, c. 401, Pt. AAA, §1 (NEW) .]

33-E. **Technology**

[2009, c. 90, §1 (RP) .]

33-F.

Technology	ConnectME Authority	Not Authorized	35-A MRSA §9203

[2005, c. 665, §1 (NEW) .]

34.

Veterans' Affairs	Board of Trustees - of the Maine Veterans' Homes	Expenses Only	37-B MRSA §603

[1989, c. 503, Pt. A, §20 (AMD) .]

35. Workers' Compensation	Workers' Compensation Board	Lost wages up to $100; expenses	39-A MRSA §151

[1991, c. 885, Pt. A, §5 (NEW); 1991, c. 885, Pt. A, §§9-11 (AFF) .]

SECTION HISTORY
1987, c. 786, §5 (NEW). 1989, c. 104, §§C3,10 (AMD). 1989, c. 464, §1 (AMD). 1989, c. 483, §A24 (AMD). 1989, c. 503, §§A12-20 (AMD). 1989, c. 529, §1 (AMD). 1989, c. 571, §B3 (AMD). 1989, c. 700, §§B2,3 (AMD). 1989, c. 782, §1 (AMD). 1989, c. 875, §§L1,4 (AMD). 1989, c. 878, §A16 (AMD). 1989, c. 932, §1 (AMD). 1991, c. 93, §1 (AMD). 1991, c. 377, §5 (AMD). 1991, c. 455, §A1 (AMD). 1991, c. 579, §2 (AMD). 1991, c. 601, §1 (AMD). 1991, c. 622, §FF1 (AMD). 1991, c. 622, §G1 (AMD). 1991, c. 622, §G2 (AMD). 1991, c. 622, §§L8,S7 (AMD). 1991, c. 622, §§S7,8 (AMD). 1991, c. 622, §Y1 (AMD). 1991, c. 622, §G33 (AFF). 1991, c. 779, §1 (AMD). 1991, c. 779, §52 (AFF). 1991, c. 780, §DDD2 (AMD). 1991, c. 799, §6 (AMD). 1991, c. 843, §1 (AMD). 1991, c. 850, §1 (AMD). 1991, c. 883, §2 (REEN). 1991, c. 885, §A5 (AMD). 1991, c. 885, §§A9-11 (AFF). RR 1993, c. 1, §10 (COR). 1993, c. 349, §12 (AMD). 1993, c. 360, §A1 (AMD). 1993, c. 363, §1 (AMD). 1993, c. 363, §21 (AFF). 1993, c. 381, §§3-6 (AMD). 1993, c. 388, §1 (AMD). 1993, c. 392, §1 (AMD). 1993, c. 410, §§E2,R2,LL2 (AMD). 1993, c. 410, §R4 (AFF). 1993, c. 600, §B1 (AMD). 1993, c. 631, §1 (AMD). 1993, c. 680, §§A15,16 (AMD). IB 1995, c. 1, §9 (AMD). 1995, c. 322, §§1,2 (AMD). 1995, c. 376, §1 (AMD). 1995, c. 382, §1 (AMD). 1995, c. 406, §§2,3 (AMD). 1995, c. 430, §1 (AMD). 1995, c. 451, §2 (AMD). 1995, c. 494, §3 (AMD). 1995, c. 532, §1 (AMD). 1995, c. 541, §1 (AMD). 1995, c. 560, §K3 (AMD). 1995, c. 560, §K83 (AFF). 1995, c. 653, §A1 (AMD). 1995, c. 653, §A7 (AFF). 1995, c. 667, §A1 (AMD). 1995, c. 667, §A39 (AFF). 1997, c. 236, §1 (AMD). 1997, c. 373, §4 (AMD). 1997, c. 506, §2 (AMD). 1997, c. 528, §1 (AMD). 1997, c. 711, §1 (AMD). 1997, c. 713, §3 (AMD). 1999, c. 401, §§BB1,AAA1 (AMD). 1999, c. 647, §1 (AMD). 1999, c. 668, §§21-26 (AMD). 1999, c. 731, §§FF1,UUU1 (AMD). 2001, c. 196, §1 (AMD). 2001, c. 209, §A1 (AMD). 2001, c. 421, §B1 (AMD). 2001, c. 421, §C1 (AFF). 2001, c. 439, §T4 (AMD). 2001, c. 460, §1 (AMD). 2001, c. 471, §C1 (AMD). 2001, c. 471, §C10 (AFF). 2001, c. 497, §1 (AMD). 2001, c. 649, §2 (AMD). 2001, c. 658, §1 (AMD). 2001, c. 658, §5 (AFF). 2001, c. 662, §4 (AMD). 2001, c. 667, §B2 (AMD). 2001, c. 667, §B3 (AMD). 2001, c. 667, §B5 (AFF). 2001, c. 708, §2 (AMD). 2001, c. 714, §§LL3,4 (AFF). 2003, c. 20, §RR1 (AMD). 2003, c. 20, §RR18 (AFF). 2003, c. 356, §1 (AMD). 2003, c. 414, §§B4,5 (AMD). 2003, c. 414, §D7 (AFF). 2003, c. 469, §A3 (AMD). 2003, c. 614, §9 (AFF). 2003, c. 643, §2 (AMD). 2003, c. 695, §B1 (AMD). 2003, c. 695, §C1 (AFF). 2003, c. 704, §1 (AMD). 2005, c. 12, §§PP2,SS17, 18 (AMD). 2005, c. 19, §1 (AMD). 2005, c. 178, §1 (AMD). 2005, c. 294, §§3,4 (AMD). 2005, c. 559, §1 (AMD). 2005, c. 563, §1 (AMD). 2005, c. 605, §3 (AMD). 2005, c. 662, §A2 (AMD). 2005, c. 665, §1 (AMD). 2007, c. 240, Pt. QQ, §1 (AMD). 2007, c. 285, §3 (AMD). 2007, c. 317, §1 (AMD). 2007, c. 318, §1 (AMD). 2007, c. 395, §§12-17 (AMD). 2007, c. 447, §1 (AMD). 2007, c. 456, §1 (AMD). 2007, c. 629, Pt. A, §1 (AMD). 2007, c. 653, Pt. A, §3 (AMD). 2007, c. 699, §1 (AMD). 2009, c. 90, §1 (AMD). 2009, c. 352, §1 (AMD). 2009, c. 355, §4 (AMD). 2009, c. 369, Pt. A, §§4, 5 (AMD). 2009, c. 372, Pt. A, §4 (AMD). 2009, c. 372, Pt. A, §10 (AFF). 2009, c.

372, Pt. B, §1 (AMD). 2009, c. 419, §4 (AMD). 2009, c. 483, §2 (AMD). 2009, c. 561, §2 (AMD). 2009, c. 595, §1 (AMD). 2009, c. 652, Pt. A, §2 (AMD). 2009, c. 655, Pt. A, §1 (AMD). RR 2011, c. 1, §6 (COR). 2011, c. 90, Pt. B, §§1, 2 (AMD). 2011, c. 90, Pt. B, §10 (AFF). 2011, c. 305, §1 (AMD). 2011, c. 344, §§2, 3 (AMD). 2011, c. 366, §1 (AMD). 2011, c. 414, §1 (AMD). 2011, c. 491, §7 (AMD). 2011, c. 570, §1 (AMD). 2011, c. 655, Pt. EE, §4 (AMD). 2011, c. 655, Pt. EE, §30 (AFF). 2013, c. 368, Pt. JJJJ, §1 (AMD). 2013, c. 533, §7 (AMD). 2013, c. 593, §1 (AMD). 2015, c. 319, §1 (AMD). 2015, c. 335, §4 (AMD). 2015, c. 352, §2 (AMD).

§12004-H. COMMODITY OR PRODUCT PROTECTION AND PROMOTION BOARDS

The primary responsibility for commodity or product protection and promotion boards is to protect natural resources and agricultural products produced in the State and promote the sales of these goods in the State and outside the State. [1987, c. 786, §5 (NEW).]

The primary powers of these organizations may include the assessment and collection of industry taxes, quality control inspections, establishment of grades and classifications, advertising, the holding of hearings and the adoption of rules. [1987, c. 786, §5 (NEW).]

This classification includes the following. [1987, c. 786, §5 (NEW).]

NAME OF ORGANIZATION	RATE OF COMPENSATION	STATUTORY REFERENCE

1. **Agriculture Promotion Committee**

[1995, c. 233, Pt. A, §1 (RP) .]

2. **Commodity Marketing Committee**

[1999, c. 668, §27 (RP) .]

3. **Maine Dairy Promotion Board**

[1995, c. 693, §1 (RP) .]

4. **Maine Dairy and Nutrition Council**

[1995, c. 693, §1 (RP) .]

5.

Seed Potato Board	Expenses Only	7 MRSA §2151

[1987, c. 786, §5 (NEW) .]

6. **Maine Potato Quality Control Board**

[2005, c. 294, §5 (RP) .]

7. **Maine Potato Board**

[1995, c. 502, Pt. C, §2 (RP) .]

8. **Maine Sardine Council**

[1993, c. 585, §2 (RP) .]

9. **Maine Potato Marketing Committee**

[1999, c. 668, §28 (RP) .]

10. **Potato Marketing Improvement Committee**

[2005, c. 335, §1 (RP) .]

10-A.

Potato Marketing Improvement Fund Committee	Expenses Only	7 MRSA §972-B

[2013, c. 403, §1 (NEW) .]

11. **Maine Marketing Advisory Board**

[1999, c. 668, §29 (RP) .]

12.

University of Maine System Blueberry Advisory Committee	Expenses Only	36 MRSA §4312

[1987, c. 786, §5 (NEW) .]

13. **Maine Blueberry Commission**

[1997, c. 511, §1 (RP) .]

13-A.

Wild Blueberry Commission of Maine	Expenses Only	36 MRSA §4312-C

[1997, c. 511, §2 (NEW) .]

14.

Maine Lobster Marketing Collaborative	$55 Per Diem Plus Expenses	12 MRSA §6455

[2013, c. 309, §1 (AMD) .]

SECTION HISTORY
1987, c. 786, §5 (NEW). 1989, c. 503, §§A21,22 (AMD). 1991, c. 376, §26 (AMD). 1991, c. 446, §C1 (AMD). 1991, c. 523, §1 (AMD). 1993, c. 585, §2 (AMD). 1995, c. 233, §A1 (AMD). 1995, c. 502, §C2 (AMD). 1995, c. 693, §1 (AMD). 1997, c. 511, §§1,2 (AMD). 1999, c. 668, §§27-29 (AMD). 2005, c. 294, §5 (AMD). 2005, c. 335, §1 (AMD). 2013, c. 309, §1 (AMD). 2013, c. 403, §1 (AMD).

§12004-I. ADVISORY BOARDS; BOARDS WITH MINIMAL AUTHORITY

The primary responsibilities and powers of advisory boards and boards with minimal authority include the responsibility and authority to advise state agencies, review policies and procedures, conduct studies, evaluate programs and make recommendations to the state agencies, the Legislature or the Governor. [1987, c. 786, §5 (NEW).]

This classification includes the following. [1987, c. 786, §5 (NEW).]

FIELD	NAME OF ORGANIZATION	RATE OF COMPENSATION	STATUTORY REFERENCE
1. Administration			
[1991, c. 622, Pt. S, §9 (RP) .]			
1-A.			
Agriculture	Maine Arborist Advisory Council	Expenses Only	7 MRSA §2191
[2001, c. 299, §1 (NEW) .]			
1-B. Agriculture			
[2011, c. 344, §4 (RP) .]			
2. Agriculture			
[1993, c. 251, Pt. A, §1 (RP) .]			
2-A. Agriculture			
[1993, c. 251, Pt. B, §1 (RP) .]			
2-B. Agriculture			
[1995, c. 532, §2 (RP); 1995, c. 693, §2 (RP) .]			
2-C.			
Agriculture	Animal Welfare Advisory Council	Expenses Only	7 MRSA §3906-C
[2001, c. 399, §1 (AMD) .]			
2-D. Business			
[2005, c. 155, §2 (RP); 2005, c. 294, §6 (RP) .]			
2-E.			
Business	Advisory Committee on Fair Competition with Private Enterprise	Not Authorized	5 MRSA §55
[1999, c. 566, §2 (NEW) .]			

2-F. **Business**

[2005, c. 294, §7 (RP) .]

2-G.

Business	Regulatory Fairness Board	Expenses Only	5 MRSA §90-T

[2011, c. 304, Pt. D, §3 (AMD) .]

3. **Community Services**

[1991, c. 622, Pt. J, §25 (AFF); 1991, c. 622, Pt. J, §18 (RP) .]

3-A. **Conservation**

[2007, c. 395, §18 (RP) .]

3-B.

Conservation	Snowmobile Trail Fund Advisory Council	Expenses for Nonsalaried or Nonpaid Public Members Only	12 MRSA §1893-B

[2003, c. 260, §1 (NEW) .]

3-C. **Conservation**

[2015, c. 491, §3 (RP) .]

3-D.

Conservation	Allagash Wilderness Waterway Advisory Council	Expenses/Legislative per diem	12 MRSA §1890-A

[2007, c. 695, Pt. A, §8 (AMD) .]

4. **Corrections**

[1993, c. 225, §1 (RP) .]

4-A. **Corrections**

[2011, c. 344, §5 (RP) .]

4-B.

Corrections	Prison Industries Advisory Council	Not Authorized	34-A MRSA §3002-B

[2007, c. 503, §1 (NEW) .]

4-C.

Corrections	Sex Offender Management and Risk Assessment Advisory Commission	Not Authorized	34-A MRSA §11401

[2015, c. 86, §1 (NEW) .]

5.

Corrections	Board of Visitors (For each institution under the department)	Expenses Only	34-A MRSA §3001-A

[2005, c. 683, Pt. A, §9 (AMD) .]

5-A.

Culture	State Poet Laureate Advisory Selection Committee	Not Authorized	27 MRSA §421

[1999, c. 217, §1 (AMD) .]

5-B. **Defense, Veterans and Emergency Management**

[2015, c. 494, Pt. A, §3 (RP) .]

5-C.

Defense, Veterans and Emergency Management	Maine Veterans' Memorial Cemetery System Care Fund Advisory Board	Expenses Only	37-B MRSA §512-A

[2013, c. 569, §1 (NEW) .]

6. **Economic Development**

[1993, c. 359, Pt. A, §1 (RP) .]

6-A. **Economic Development**

[1993, c. 359, Pt. B, §1 (RP) .]

6-B. **Economic Development**

[2003, c. 643, §3 (RP) .]

6-C. **Economic Development**

[1999, c. 556, §5 (RP) .]

6-D. **Economic Development**

[1999, c. 668, §30 (RP) .]

6-E. **Economic Development**

[2001, c. 481, §1 (RP) .]

6-F. **Economic Development**

[2007, c. 395, §19 (RP) .]

6-G.

Economic Development	Maine Innovation Economy Advisory Board	Not Authorized	10 MRSA §949

[2007, c. 420, §2 (NEW) .]

6-H. **Economic Development**

[2011, c. 344, §6 (RP) .]

7.

Education	Advisory Committee on Medical Education	Not Authorized	20-A MRSA §12106

[1991, c. 832, §1 (AMD) .]

7-A. **Education**

[1993, c. 252, Pt. A, §1 (RP) .]

7-B. **Education**

[2001, c. 352, §2 (RP) .]

7-C.

Education	Advisory Committee on Dental Education	Not Authorized	20-A MRSA §12304

[1999, c. 401, Pt. NN, §1 (NEW); 1999, c. 496, §1 (NEW) .]

8.

Education	Archives Advisory Board	Expenses Only	5 MRSA §96

[1987, c. 786, §5 (NEW) .]

9. **Education**

[1993, c. 252, Pt. B, §1 (RP) .]

10. **Education**

[1989, c. 932, §2 (RP) .]

10-A. **Education**

[2011, c. 344, §7 (RP); 2011, c. 348, §1 (RP) .]

11. **Education**

[2001, c. 519, §4 (RP) .]

11-A. **Education: Office of Rehabilitation Services**

[1995, c. 560, Pt. F, §6 (RP) .]

12. **Education**

[1993, c. 252, Pt. C, §1 (RP) .]

12-A.

Education	Advisory Committee on School Psychologists		20-A MRSA §13022

[2011, c. 386, §1 (AMD) .]

12-B.

Education	Commission To End Student Hunger	Expenses Only	20-A MRSA §6663

[2015, c. 267, Pt. CCC, §1 (NEW) .]

13. **Education**

[1989, c. 700, Pt. B, §4 (RP) .]

13-A. **Education**

[2011, c. 344, §8 (RP) .]

14. **Education**

[1989, c. 700, Pt. B, §4 (RP) .]

15. **Education: Governor Baxter School**

[1995, c. 676, §13 (AFF); 1995, c. 676, §2 (RP) .]

15-A. **Education: Arthur R. Gould School**

[1997, c. 752, §4 (RP) .]

16. **Education: Student Assessment**

[1993, c. 252, Pt. D, §1 (RP) .]

17.

Education, Truants and Dropouts	Advisory Committee	Expenses Only	20-A MRSA §5152

[1987, c. 786, §5 (NEW) .]

18. **Education: Elementary**

[1993, c. 252, Pt. E, §1 (RP) .]

18-A. **Education: Financial Aid**

[2001, c. 417, §1 (RP) .]

18-B.

Education: Financial Aid	Advisory Committee on College Savings	Not Authorized	20-A MRSA §11484

[1997, c. 732, §1 (NEW) .]

18-C. **Education**

[2013, c. 533, §8 (RP) .]

18-D.

Education	Maine Historical Records Advisory Board	Not Authorized	5 MRSA §98

[2001, c. 704, §4 (NEW) .]

18-E. **Education: Financial Aid**

[2009, c. 369, Pt. A, §6 (RP) .]

19. **Energy**

[1999, c. 668, §31 (RP) .]

20. **Energy**

[1989, c. 501, Pt. DD, §15 (RP); 1989, c. 503, Pt. A, §24 (RP) .]

20-A. **Environment**

[1999, c. 668, §32 (RP) .]

20-B. **Environment: Natural Resources and Public Utilities**

[2009, c. 372, Pt. A, §10 (AFF); 2009, c. 372, Pt. A, §5 (RP) .]

21. **Environment: Natural Resources**

[1991, c. 528, Pt. G, §1 (RP); 1991, c. 528, Pt. RRR, (AFF); 1991, c. 591, Pt. G, §1 (RP) .]

22. **Environment: Natural Resources**

[1995, c. 465, Pt. A, §6 (RP); 1995, c. 465, Pt. C, §2 (AFF) .]

22-A. **Environment: Material Resources**

[1993, c. 226, Pt. A, §1 (NEW) .]

22-B.

Environment: Natural Resources	Pollution Prevention and Small Business Assistance Advisory Panel	Not Authorized	38 MRSA §343-D

[2011, c. 206, §1 (AMD) .]

22-C. **Environment**

[1995, c. 345, §4 (NEW); T. 5, §12004-I, sub-§22-C (RP) .]

23.

Environment: Natural Resources	Advisory Board for the Licensing of Guides	$50/Day	12 MRSA §10153

[2003, c. 414, Pt. B, §6 (AMD); 2003, c. 614, §9 (AFF) .]

23-A.

Environment: Natural Resources	Advisory Board for the Licensing of Taxidermists	$50/Day	12 MRSA §10155

[2003, c. 414, Pt. B, §7 (AMD); 2003, c. 614, §9 (AFF) .]

23-B.

Environment: Natural Resources	Advisory Board for the Licensing of Whitewater Guides	$50/Day	12 MRSA §10156

[2003, c. 414, Pt. B, §8 (AMD); 2003, c. 614, §9 (AFF) .]

24. **Environment: Natural Resources**

[2009, c. 652, Pt. A, §3 (RP) .]

24-A. **Environment: Natural Resources**

[2007, c. 466, Pt. A, §22 (RP) .]

24-B. **Environment: Natural Resources**

[2015, c. 319, §2 (RP) .]

24-C. **Environment**

[1993, c. 226, Pt. C, §4 (AFF); 1993, c. 226, Pt. C, §1 (RP) .]

24-D. **Environment**

[1993, c. 664, §2 (RP) .]

24-E. **Environment: Natural Resources**

[2011, c. 344, §9 (RP) .]

24-F. **Environment: Natural Resources**

[2011, c. 655, Pt. EE, §30 (AFF); 2011, c. 655, Pt. EE, §5 (RP) .]

25.

Finance	Advisory Council on Tax-deferred Arrangements	Expenses Only	5 MRSA §884

[1997, c. 204, §8 (AMD) .]

25-A.

Finance	Board of Emergency Municipal Finance	Expenses Only	30-A MRSA §6101

[1989, c. 503, Pt. A, §28 (NEW) .]

25-B.

Finance	Advisory Committee on Family Development Accounts	Expenses for members representing account holders; not authorized for all other members	10 MRSA §1079

[2003, c. 673, Pt. QQ, §1 (AMD) .]

26. **Finance**

[1993, c. 359, Pt. C, §1 (RP) .]

27. **Finance**

[1991, c. 622, Pt. S, §10 (RP) .]

28. **Finance**

[1995, c. 309, §29 (AFF); 1995, c. 309, §4 (RP) .]

29. **Finance**

[1995, c. 402, Pt. C, §3 (RP) .]

29-A. **Finance**

[1991, c. 830, §1 (RP) .]

29-B.

Finance	Consensus Economic Forecasting Commission	Not Authorized	5 MRSA §1710

[1995, c. 368, Pt. J, §2 (NEW) .]

29-C. **Finance**

[2007, c. 395, §20 (RP) .]

29-D. **Finance**

[2015, c. 491, §4 (RP) .]

30. **Health**

[1991, c. 622, Pt. S, §11 (RP) .]

30-A.

Health Care	Maine Quality Forum Advisory Council	Expenses Only	24-A MRSA §6952

[2003, c. 469, Pt. A, §4 (NEW) .]

31. **Housing**

[1993, c. 359, Pt. D, §1 (RP) .]

31-A. **Health Care**

[2011, c. 90, Pt. J, §1 (RP) .]

32.

Housing	Passamaquoddy Indian Housing Authority - Indian Township	Not Authorized	30-A MRSA §4995

[2009, c. 415, Pt. B, §3 (AMD) .]

33.

Housing	Passamaquoddy Indian Housing Authority - Pleasant Point	Not Authorized	30-A MRSA §4995

[2009, c. 415, Pt. B, §4 (AMD) .]

34.

Housing	Penobscot Tribal Reservation Housing Authority	Not Authorized	30-A MRSA §4995

[2009, c. 415, Pt. B, §5 (AMD) .]

35. **Human Services**

[1993, c. 360, Pt. B, §1 (RP) .]

35-A. **Human Services**

[1993, c. 410, Pt. FFF, §1 (RP) .]

35-B.

Human Services	Child Care Advisory Council	Not Authorized	22 MRSA §3739

[1993, c. 158, §1 (NEW) .]

36. **Human Services**

[1997, c. 530, Pt. A, §1 (RP) .]

36-A. **Human Services**

[1995, c. 233, Pt. B, §1 (RP) .]

36-B. **Human Services**

[2001, c. 574, §1 (RP) .]

36-C.

Human Services	Temporary Assistance for Needy Families Advisory Council	Not Authorized	22 MRSA §3789-D

[1997, c. 530, Pt. A, §2 (NEW) .]

36-D.

Human Services	Tobacco Prevention and Control Advisory Council	Expenses/ Legislative Per Diem for Nonsalaried Employee Members	22 MRSA §272

[1997, c. 560, Pt. D, §1 (NEW) .]

36-E.

Human Services	Organ Donation Advisory Council	Not Authorized	29-A MRSA §1402-B

[2011, c. 168, §1 (NEW) .]

37. **Human Services**

[1991, c. 622, Pt. S, §11 (RP) .]

37-A. **Human Services: Child and Family Services**

[2001, c. 352, §3 (RP) .]

37-B. **Human Services**

[1999, c. 668, §33 (RP) .]

38. **Human Services: Health Facilities**

[2003, c. 469, Pt. C, §1 (RP); 2003, c. 510, Pt. A, §3 (RP) .]

39. **Human Services**

[1993, c. 410, Pt. LL, §3 (RP) .]

40. **Education Rehabilitation Services**

[1995, c. 560, Pt. F, §7 (RP) .]

40-A. **Human Services: Bureau of Rehabilitation**

[1993, c. 708, Pt. E, §2 (RP) .]

41. **Human Services**

[1993, c. 360, Pt. D, §1 (RP) .]

42.

Human Services	Maine HIV Advisory Committee	Expenses Only	5 MRSA §19202

[1993, c. 384, §1 (AMD) .]

42-A. **Human Services**

[1991, c. 622, Pt. S, §12 (RP) .]

43. **Human Services: Public Health**

[1991, c. 622, Pt. S, §13 (RP) .]

44. **Human Services: Environmental Health**

[1991, c. 622, Pt. S, §13 (RP) .]

44-A. **Human Services: Hospitals**

[1995, c. 653, Pt. B, §8 (AFF); 1995, c. 653, Pt. B, §2 (RP) .]

45. **Human Services: Hospitals**

[1995, c. 653, Pt. B, §8 (AFF); 1995, c. 653, Pt. B, §3 (RP) .]

46. **Human Services: Health Finance**

[1995, c. 653, Pt. B, §8 (AFF); 1995, c. 653, Pt. B, §3 (RP) .]

47. **Human Services**

[1995, c. 653, Pt. B, §8 (AFF); 1995, c. 653, Pt. B, §3 (RP) .]

47-A. **Human Services**

[2007, c. 87, §1 (RP) .]

47-B. **Human Services: Nursing**

[1999, c. 668, §34 (RP) .]

47-C.

Human Services: Public Health	Maine Public Drinking Water Commission	Expenses Only	22 MRSA §2660-C

[1995, c. 462, Pt. A, §10 (NEW) .]

47-D. **Human Services**

[2003, c. 465, §1 (RP) .]

47-E. **Human Services**

[2007, c. 395, §21 (RP) .]

47-F. **Human Services**

[2009, c. 369, Pt. A, §8 (RP) .]

47-G.

Human Services	Acquired Brain Injury Advisory Council	Expenses Only	34-B MRSA §19001

[2007, c. 239, §1 (NEW) .]

47-H. **Human Services: Public Health**

[2013, c. 533, §9 (RP) .]

47-I.

Human Services	Palliative Care and Quality of Life Interdisciplinary Advisory Council	Expenses Only	22 MRSA §1726

[2015, c. 203, §1 (NEW) .]

48. **Human Services: Public Health**

[1999, c. 174, §1 (RP) .]

49. **Human Services: Public Health**

[1993, c. 360, Pt. E, §2 (RP) .]

49-A.

Human Services: Hospices	Maine Hospice Council	Expenses Only	22 MRSA §8611

[1989, c. 596, Pt. F, §1 (NEW) .]

49-B. **Human Services**

[2015, c. 30, §1 (RP) .]

49-C.

Inland Fisheries and Wildlife	Landowners and Sportsmen Relations Advisory Board	Not Authorized	12 MRSA §10157

[2013, c. 1, §12 (COR) .]

50. **Insurance**

[1991, c. 701, §1 (RP) .]

50-A. **Insurance Health Care**

[2005, c. 294, §8 (RP) .]

51. **Judiciary**

[1997, c. 134, §8 (RP) .]

52.

Judiciary: Criminal Law	Criminal Law Advisory Commission	Expenses Only	17-A MRSA §1351

[1987, c. 786, §5 (NEW) .]

52-A.

Judiciary: Family Law	Family Law Advisory Commission	None Authorized	19-A MRSA §351

[1995, c. 694, Pt. D, §5 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

52-B. **Judiciary: Family Law**

[2005, c. 294, §9 (RP) .]

53. **Labor**

[2001, c. 352, §4 (RP) .]

54.

Labor	Displaced Homemakers Advisory Council	Not Authorized	20-A MRSA §10924

[2013, c. 368, Pt. AAAA, §1 (AMD) .]

54-A. **Education: Office of Rehabilitation Services**

[1999, c. 58, §1 (RP) .]

54-B. **Labor: Rehabilitation Services**

[2009, c. 174, §2 (RP) .]

54-C. **Legislature**

[2015, c. 491, §5 (RP) .]

54-D.

Labor	Maine Apprenticeship Council	Expenses Only	26 MRSA §3209

[2011, c. 491, §8 (NEW) .]

55. **Local and County Government**

[1989, c. 304, §1 (RP) .]

55-A. **Local and County Government**

[1995, c. 148, §11 (RP) .]

56. **Local and County Government**

[1989, c. 878, Pt. A, §17 (RP) .]

57. **Local and County Government**

[1995, c. 233, Pt. C, §1 (RP) .]

57-A.

Marine Resources: Zones	Lobster Management Policy Councils	Expenses Only	12 MRSA §6447

[1995, c. 468, §1 (NEW) .]

57-B.

Marine Resources: Zones	Sea Urchin Zone Council	Expenses Only	12 MRSA §6749-X

[2001, c. 327, §1 (AMD) .]

57-C.

Marine Resources	Aquaculture Advisory Council	Not Authorized	12 MRSA §6080

[2011, c. 598, §1 (REEN) .]

57-D. **Marine Resources**

[2009, c. 369, Pt. A, §9 (RP) .]

57-E.

Marine Resources	Commercial Fishing Safety Council	Expenses only	12 MRSA §6034

[2007, c. 34, §1 (AMD) .]

57-F.

Marine Resources	Scallop Advisory Council	Expenses Only	12 MRSA §6729-B

[2003, c. 319, §1 (NEW) .]

57-G.

Marine Resources	Shellfish Advisory Council	Expenses Only	12 MRSA §6038

[2007, c. 606, Pt. A, §1 (NEW) .]

58.

Marine Resources: Industry	Lobster Advisory Council	Expenses Only	12 MRSA §6462-A

[2001, c. 93, §1 (AMD) .]

58-A. **Medicine**

[1999, c. 668, §35 (RP) .]

58-B. **Medicine**

[1999, c. 668, §35 (RP) .]

58-C. **Medicine**

[1999, c. 668, §35 (RP) .]

58-D. **Medicine**

[1999, c. 668, §36 (RP) .]

59. **Mental Health and Mental Retardation**

[1999, c. 668, §37 (RP) .]

59-A. **Mental Health and Mental Retardation**

[1993, c. 360, Pt. G, §1 (RP) .]

59-B. **Mental Health and Mental Retardation**

[1999, c. 668, §38 (RP); 1999, c. 731, Pt. L, §1 (RP) .]

59-C. **Mental Health and Mental Retardation**

[1999, c. 668, §38 (RP); 1999, c. 731, Pt. L, §1 (RP) .]

60. **Mental Health and Mental Retardation**

[1987, c. 887, §2 (RP) .]

60-A. **Mental Health and Mental Retardation**

[1995, c. 395, Pt. G, §20 (AFF); 1995, c. 395, Pt. G, §5 (RP) .]

60-B.

Mental Health System of Maine	Consumer Council	Expenses and Legislative Per Diem	34-B MRSA §3611

[2007, c. 592, §1 (NEW) .]

61. **Mental Health and Mental Retardation**

[2007, c. 356, §2 (RP); 2007, c. 695, Pt. D, §3 (AFF) .]

62. **Mental Health and Mental Retardation**

[1987, c. 887, §2 (RP) .]

63. **Mental Health and Mental Retardation**

[1999, c. 668, §39 (RP) .]

64. **Mental Health and Mental Retardation**

[1993, c. 48, §1 (RP) .]

65. **Children's Services**

[1999, c. 668, §40 (RP) .]

66.

Mental Health and Intellectual Disability	Maine Developmental Disabilities Council	Expenses Only	34-B MRSA §17001

[2011, c. 542, Pt. A, §4 (AMD) .]

67. **Mental Health and Mental Retardation**

[1993, c. 360, Pt. I, §1 (RP) .]

68. **Natural Resources: Forests**

[1991, c. 622, Pt. S, §13 (RP) .]

68-A.

Natural Resources	State Conservation District Advisory Council	Expenses Only	12 MRSA §51-A

[1995, c. 532, §3 (NEW) .]

68-B. **Natural Resources**

[2011, c. 655, Pt. EE, §30 (AFF); 2011, c. 655, Pt. EE, §6 (RP) .]

69. **Natural Resources: Recreation**

[1993, c. 438, §1 (RP) .]

70. **Natural Resources: Recreation**

[2007, c. 651, §1 (RP) .]

70-A.

Occupations: Insurance	Continuing Education Advisory Committee	Expenses Only	24-A MRSA §1481

[1997, c. 457, §1 (AMD); 1997, c. 457, §55 (AFF) .]

71. **Occupations: Insurance**

[1997, c. 457, §55 (AFF); 1997, c. 457, §2 (RP) .]

71-A. **Occupations: Fire Protection**

[1991, c. 622, Pt. S, §15 (RP) .]

72. **Occupations: Insurance**

[1999, c. 127, Pt. A, §9 (RP) .]

72-A. **Occupations: Insurance**

[1999, c. 127, Pt. A, §10 (RP) .]

72-B. **Occupations: Massage Practitioners**

[2005, c. 294, §10 (RP) .]

72-C. **Occupations: Advanced Practice Registered Nursing**

[1999, c. 668, §41 (RP) .]

73.

Occupations: Real Estate	Continuing Education Committee	Not Authorized	32 MRSA §4115-B

[1987, c. 786, §5 (NEW) .]

73-A. **Occupations: Nursing**

[1991, c. 662, Pt. S, §16 (RP) .]

73-B.

Probate and Trust Law	Probate and Trust Law Advisory Commission	Not Authorized	18-A MRSA §1-801

[2009, c. 262, §1 (NEW) .]

74. **Occupations: Medicine**

[1993, c. 360, Pt. J, §1 (RP) .]

74-A.

Public Safety	E-9-1-1 Council	Expenses Only	25 MRSA §2925

[1993, c. 566, §1 (AMD) .]

74-A-1. **Public Utilities**

[2005, c. 605, §4 (RP) .]

74-B. **State Government**

[1993, c. 361, Pt. A, §2 (RP) .]

74-C.

Public Safety	Maine Commission on Domestic and Sexual Abuse	Expenses Only	19-A MRSA §4013

[2001, c. 240, §1 (AMD) .]

74-D. **Public Safety**

[2013, c. 19, §1 (RP) .]

74-E. **Sentencing**

[2013, c. 533, §10 (RP) .]

74-F. **Public Safety**

[2013, c. 588, Pt. A, §6 (RP) .]

74-G. **Public Safety**

[2015, c. 86, §2 (RP) .]

74-H.

Public Safety	Polygraph Examiners Advisory Board	Not Authorized	32 MRSA §7371

[2013, c. 316, §1 (NEW); 2013, c. 316, §5 (AFF) .]

74-I.

Public Safety	State Trauma Prevention and Control Advisory Committee	Not Authorized	32 MRSA §87-A

[2015, c. 30, §2 (NEW) .]

75.

State Government	Capitol Planning Commission	Expenses Only	5 MRSA §298

[1987, c. 786, §5 (NEW) .]

75-A.

State Government	State House and Capitol Park Commission	Expenses Only	3 MRSA §901-A

[1989, c. 410, §20 (NEW) .]

75-B.

State Government	Blaine House Commission	Not Authorized	5 MRSA §322

[1993, c. 590, §2 (NEW) .]

75-C. **State Government**

[2009, c. 30, §1 (RP) .]

76. **State Government**

[1993, c. 361, Pt. B, §3 (RP) .]

77. **State Government**

[1991, c. 622, Pt. S, §17 (RP) .]

77-A. **State Government**

[1999, c. 668, §42 (RP) .]

78. **State Planning**

[1993, c. 92, §11 (RP) .]

78-A.

State Retirement System	Participating Local District Advisory Committee	Not Authorized	5 MRSA §18802

[1989, c. 811, §1 (NEW) .]

79. **Telecommunications**

[1993, c. 361, Pt. C, §4 (RP) .]

79-A.

Trade	Citizen Trade Policy Commission	Legislative Per Diem and Expenses for Legislators/ Expenses Only for Other Members	10 MRSA §11

[2003, c. 699, §1 (NEW) .]

80. **Telecommunications**

[1989, c. 503, Pt. A, §36 (RP) .]

80-A. **Transportation: Motor Carriers**

[1999, c. 470, §1 (RP) .]

81.

Transportation: Motor Vehicles	Maine Aeronautical Advisory Board	Not Authorized	6 MRSA §302

[1987, c. 786, §5 (NEW) .]

82.

Transportation: Ferry Service	Maine State Ferry Advisory Board	Expenses Only	23 MRSA §4301

[1997, c. 643, Pt. QQ, §1 (AMD) .]

82-A.

Transportation: Public Transit	Public Transit Advisory Council	Not Authorized	23 MRSA §4209-A

[2015, c. 182, §1 (NEW) .]

83. **Transportation: Highway**

[1999, c. 668, §43 (RP) .]

84.

Transportation: Motor Vehicles	Medical Advisory Board (Licensing of Drivers)	Expenses Only	29-A MRSA §1258

[1995, c. 65, Pt. A, §10 (AMD); 1995, c. 65, Pt. A, §153 (AFF); 1995, c. 65, Pt. C, §15 (AFF) .]

84-A. **Transportation: Motor Vehicles**

[2011, c. 344, §11 (RP) .]

85. **Transportation**

[1993, c. 420, §1 (RP) .]

85-A. **Technology**

[2015, c. 284, §1 (RP) .]

86. **Transportation: Signs and Billboards**

[2011, c. 344, §12 (RP) .]

87. **Tourism**

[2011, c. 563, §1 (RP) .]

88.

Video and Film	Maine State Film Commission	Expenses Only	5 MRSA §13090-H

[1995, c. 2, §10 (COR) .]

88-A.

Women	Permanent Commission on the Status of Women	Not Authorized	5 MRSA §7029

[2009, c. 191, §2 (NEW) .]

89. **Workers' Compensation**

[1991, c. 885, Pt. A, §§9-11 (AFF); 1991, c. 885, Pt. A, §6 (RP) .]

90. **Workers' Compensation**

[1991, c. 885, Pt. A, §§9-11 (AMD); 1991, c. 885, Pt. A, §6 (RP) .]

91.

Emergency Management	Homeland Security Advisory Council	Not Authorized	37-B MRSA §708

[2009, c. 1, §7 (COR) .]

92. **Public Advocate**

[2011, c. 79, §1 (RP) .]

SECTION HISTORY
1987, c. 786, §5 (NEW). 1987, c. 887, §2 (AMD). 1989, c. 31, §1 (AMD). 1989, c. 73, §1 (AMD). 1989, c. 168, §1 (AMD). 1989, c. 247, §§1,4 (AMD). 1989, c. 304, §§1-3 (AMD). 1989, c. 400, §§2,14 (AMD). 1989, c. 410, §20 (AMD). 1989, c. 486, §1 (AMD). 1989, c. 501, §DD15 (AMD). 1989, c. 503, §§A23-37 (AMD). 1989, c. 556, §A1 (AMD). 1989, c. 579, §1 (AMD). 1989, c. 585, §A6 (AMD). 1989, c. 588, §A2 (AMD). 1989, c. 596, §F1 (AMD). 1989, c. 598, §1 (AMD). 1989, c. 601, §§A1,B1 (AMD). 1989, c. 609, §1 (AMD). 1989, c. 631, §§1,6 (AMD). 1989, c. 688, §1 (AMD). 1989, c. 698, §2 (AMD). 1989, c. 700, §B4 (AMD). 1989, c. 808, §1 (AMD). 1989, c. 811, §1 (AMD). 1989, c. 851, §2 (AMD). 1989, c. 862, §1 (AMD). 1989, c. 875, §§M1,13 (AMD). 1989, c. 878, §§A17,142 (AMD). 1989, c. 892, §1 (AMD). 1989, c. 899, §1 (AMD). 1989, c. 913, §C2 (AMD). 1989, c. 914, §1 (AMD). 1989, c. 929, §1 (AMD). 1989, c. 931, §1 (AMD). 1989, c. 932, §2 (AMD). 1989, c. 934, §A1 (AMD). RR 1991, c. 2, §§11,13,15 (COR). 1991, c. 70, §1 (AMD). 1991, c. 84, §1 (AMD). 1991, c. 316, §1 (AMD). 1991, c. 319, §1 (AMD). 1991, c. 370, §1 (AMD). 1991, c. 372, §1 (AMD). 1991, c. 528, §G1 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 545, §1 (AMD). 1991, c. 591, §G1 (AMD). 1991, c. 609, §1 (AMD). 1991, c. 622, §J18 (AMD). 1991, c. 622, §§S9-17 (AMD). 1991, c. 622, §J25 (AFF). 1991, c. 698, §1 (AMD). 1991, c. 701, §1 (AMD). 1991, c. 764, §1 (AMD). 1991, c. 779, §2 (AMD). 1991, c. 780, §LL1 (AMD). 1991, c. 780, §§S2,3 (AFF). 1991, c. 804, §C1 (AMD). 1991, c. 830, §1 (AMD). 1991, c. 832, §1 (AMD). 1991, c. 836, §2 (AMD). 1991, c. 838, §1 (AMD). 1991, c. 879, §1 (AMD). 1991, c. 885, §A6 (AMD). 1991, c. 885, §§A9-11 (AFF). RR 1993, c. 1, §§12,13 (COR). RR 1993, c. 2, §5 (COR). 1993, c. 48, §1 (AMD). 1993, c. 92, §§10,11 (AMD). 1993, c. 158, §1 (AMD). 1993, c. 207, §2 (AMD). 1993, c. 225, §1 (AMD). 1993, c. 226, §§A1,B1,C1 (AMD). 1993, c. 226, §§B5,C4 (AFF). 1993, c. 251, §§A1,B1 (AMD). 1993, c. 252, §§A1,B1,C1, D1 (AMD). 1993, c. 252, §E1 (AMD). 1993, c. 311, §1 (AMD). 1993, c. 359, §§A1,B1,C1, D1 (AMD). 1993, c. 360, §J1 (AMD). 1993, c. 360, §§B1,C1,D1,E 2 (AMD). 1993, c. 360, §§G1,H1,I1 (AMD). 1993, c. 361, §§A2,B3,C4 (AMD). 1993, c. 381, §7 (AMD). 1993, c. 384, §1 (AMD). 1993, c. 410, §§FFF1,2 (AMD). 1993, c. 410, §§DD1,LL3 (AMD). 1993, c. 420, §1 (AMD). 1993, c. 438, §1 (AMD). 1993, c. 476, §4 (AMD). 1993, c. 566, §1 (AMD). 1993, c. 590,

§2 (AMD). 1993, c. 600, §A5 (AMD). 1993, c. 664, §2 (AMD). 1993, c. 708, §§E1,2,J6 (AMD). 1993, c. 721, §D1 (AMD). 1993, c. 721, §H1 (AFF). 1993, c. 738, §B1 (AMD). 1993, c. 738, §B9 (AFF). RR 1995, c. 2, §§9,10 (COR). 1995, c. 65, §A10 (AMD). 1995, c. 65, §§A153,C15 (AFF). 1995, c. 148, §11 (AMD). 1995, c. 233, §§B1,C1 (AMD). 1995, c. 264, §1 (AMD). 1995, c. 309, §4 (AMD). 1995, c. 309, §29 (AFF). 1995, c. 345, §4 (AMD). 1995, c. 368, §J2 (AMD). 1995, c. 379, §2 (AMD). 1995, c. 395, §§B2,G5 (AMD). 1995, c. 395, §G20 (AFF). 1995, c. 402, §C11 (AMD). 1995, c. 462, §§A9,10 (AMD). 1995, c. 465, §A6 (AMD). 1995, c. 465, §C2 (AFF). 1995, c. 468, §1 (AMD). 1995, c. 532, §§2,3 (AMD). 1995, c. 560, §§B1,F6-8 (AMD). 1995, c. 595, §1 (AMD). 1995, c. 605, §1 (AMD). 1995, c. 609, §1 (AMD). 1995, c. 653, §§B2,3 (AMD). 1995, c. 653, §B8 (AFF). 1995, c. 666, §1 (AMD). 1995, c. 667, §B1 (AMD). 1995, c. 676, §2 (AMD). 1995, c. 676, §13 (AFF). 1995, c. 693, §2 (AMD). 1995, c. 694, §§A1,D5,6 (AMD). 1995, c. 694, §E2 (AFF). 1997, c. 134, §8 (AMD). 1997, c. 184, §11 (AMD). 1997, c. 204, §8 (AMD). 1997, c. 208, §1 (AMD). 1997, c. 457, §§1,2 (AMD). 1997, c. 457, §55 (AFF). 1997, c. 518, §1 (AMD). 1997, c. 530, §§A1,2 (AMD). 1997, c. 560, §D1 (AMD). 1997, c. 643, §QQ1 (AMD). 1997, c. 665, §1 (AMD). 1997, c. 678, §1 (AMD). 1997, c. 689, §A1 (AMD). 1997, c. 689, §C2 (AFF). 1997, c. 732, §1 (AMD). 1997, c. 742, §1 (AMD). 1997, c. 752, §§3,4 (AMD). 1997, c. 761, §1 (AMD). 1997, c. 792, §1 (AMD). 1999, c. 58, §1 (AMD). 1999, c. 85, §1 (AMD). 1999, c. 127, §§A9,10 (AMD). 1999, c. 174, §1 (AMD). 1999, c. 217, §1 (AMD). 1999, c. 401, §NN1 (AMD). 1999, c. 401, §NN4 (AFF). 1999, c. 470, §1 (AMD). 1999, c. 474, §1 (AMD). 1999, c. 496, §1 (AMD). 1999, c. 556, §§4,5 (AMD). 1999, c. 566, §2 (AMD). 1999, c. 668, §§30-43 (AMD). 1999, c. 731, §L1 (AMD). 1999, c. 779, §1 (AMD). 1999, c. 786, §A1 (AMD). 2001, c. 93, §1 (AMD). 2001, c. 96, §2 (AMD). 2001, c. 240, §1 (AMD). 2001, c. 299, §1 (AMD). 2001, c. 327, §1 (AMD). 2001, c. 352, §§2-4 (AMD). 2001, c. 358, §II1 (AMD). 2001, c. 399, §1 (AMD). 2001, c. 417, §1 (AMD). 2001, c. 439, §PPPP2 (AMD). 2001, c. 439, §PPPP4 (AFF). 2001, c. 481, §1 (AMD). 2001, c. 519, §4 (AMD). 2001, c. 574, §1 (AMD). 2001, c. 648, §1 (AMD). 2001, c. 704, §4 (AMD). 2003, c. 20, §TT1 (AMD). 2003, c. 90, §1 (AMD). 2003, c. 247, §1 (AMD). 2003, c. 260, §1 (AMD). 2003, c. 280, §1 (AMD). 2003, c. 319, §1 (AMD). 2003, c. 414, §§B6-10 (AMD). 2003, c. 414, §D7 (AFF). 2003, c. 417, §1 (AMD). 2003, c. 417, §4 (AFF). 2003, c. 465, §§1,2 (AMD). 2003, c. 469, §§A4,B2,C1 (AMD). 2003, c. 510, §A3 (AMD). 2003, c. 614, §9 (AFF). 2003, c. 643, §3 (AMD). 2003, c. 673, §QQ1 (AMD). 2003, c. 678, §1 (AMD). 2003, c. 696, §1 (AMD). 2003, c. 699, §1 (AMD). 2003, c. 710, §1 (AMD). 2005, c. 155, §2 (AMD). 2005, c. 186, §1 (AMD). 2005, c. 222, §1 (AMD). 2005, c. 294, §§6-10 (AMD). 2005, c. 605, §4 (AMD). 2005, c. 614, §1 (AMD). 2005, c. 634, §8 (AMD). 2005, c. 665, §2 (AMD). 2005, c. 683, §A9 (AMD). 2007, c. 34, §1 (AMD). 2007, c. 87, §1 (AMD). 2007, c. 146, §1 (AMD). 2007, c. 192, §1 (AMD). 2007, c. 193, §5 (AMD). 2007, c. 229, §1 (AMD). 2007, c. 239, §1 (AMD). 2007, c. 317, §2 (AMD). 2007, c. 342, §1 (AMD). 2007, c. 356, §2 (AMD). 2007, c. 356, §31 (AFF). 2007, c. 377, §3 (AMD). 2007, c. 395, §§18-21 (AMD). 2007, c. 420, §2 (AMD). 2007, c. 466, Pt. A, §22 (AMD). 2007, c. 503, §1 (AMD). 2007, c. 592, §1 (AMD). 2007, c. 606, Pt. A, §1 (AMD). 2007, c. 641, §1 (AMD). 2007, c. 651, §1 (AMD). 2007, c. 657, §1 (AMD). 2007, c. 676, §2 (AMD). 2007, c. 695, Pt. A, §8 (AMD). 2007, c. 695, Pt. D, §3 (AFF). RR 2009, c. 1, §7 (COR). 2009, c. 30, §1 (AMD). 2009, c. 174, §2 (AMD). 2009, c. 191, §2 (AMD). 2009, c. 211, Pt. B, §1 (AMD). 2009, c. 262, §1

(AMD). 2009, c. 353, §1 (AMD). 2009, c. 369, Pt. A, §§6-9 (AMD). 2009, c. 372, Pt. A, §5 (AMD). 2009, c. 372, Pt. A, §10 (AFF). 2009, c. 415, Pt. B, §§3-5 (AMD). 2009, c. 481, §1 (AMD). 2009, c. 623, §3 (AMD). 2009, c. 652, Pt. A, §3 (AMD). 2011, c. 79, §1 (AMD). 2011, c. 90, Pt. J, §1 (AMD). 2011, c. 168, §1 (AMD). 2011, c. 206, §1 (AMD). 2011, c. 304, Pt. D, §3 (AMD). 2011, c. 344, §§4-12 (AMD). 2011, c. 348, §1 (AMD). 2011, c. 386, §1 (AMD). 2011, c. 412, §1 (AMD). 2011, c. 491, §8 (AMD). 2011, c. 542, Pt. A, §4 (AMD). 2011, c. 563, §1 (AMD). 2011, c. 598, §1 (AMD). 2011, c. 655, Pt. EE, §§5, 6 (AMD). 2011, c. 655, Pt. EE, §30 (AFF). 2011, c. 663, §1 (AMD). RR 2013, c. 1, §12 (COR). 2013, c. 19, §1 (AMD). 2013, c. 316, §1 (AMD). 2013, c. 316, §5 (AFF). 2013, c. 368, Pt. AAAA, §1 (AMD). 2013, c. 533, §§8-10 (AMD). 2013, c. 569, §1 (AMD). 2013, c. 588, Pt. A, §§5, 6 (AMD). 2015, c. 30, §§1, 2 (AMD). 2015, c. 86, §§1, 2 (AMD). 2015, c. 182, §1 (AMD). 2015, c. 203, §1 (AMD). 2015, c. 267, Pt. CCC, §1 (AMD). 2015, c. 284, §1 (AMD). 2015, c. 319, §2 (AMD). 2015, c. 491, §§3-5 (AMD). 2015, c. 494, Pt. A, §3 (AMD).

§12004-J. INDEPENDENT ADVISORY BOARDS

Independent advisory boards are boards which are established by law as independent organizations, which have a separate line item in the budget document, and to which money is allocated or appropriated by the Legislature. [1987, c. 786, §5 (NEW).]

The primary responsibilities of those boards are to evaluate the performance of departments or agencies of State Government, recommend policies and procedures to the Governor and Legislature for adoption, serve in an advocacy capacity for a specific group or sector of the population or hold hearings for the evaluation of policies and issues. [1987, c. 786, §5 (NEW).]

This classification includes the following. [1987, c. 786, §5 (NEW).]

FIELD	NAME OF ORGANIZATION	RATE OF COMPENSATION	STATUTORY REFERENCE

1. Employment: Disabled

[1997, c. 410, §1 (RP) .]

2. Environment

[1993, c. 664, §3 (RP) .]

2-A. Environment

[2007, c. 395, §22 (RP) .]

3. Human Development

[1991, c. 9, Pt. I, §5 (RP) .]

4. Human Services

[1991, c. 622, Pt. S, §18 (RP) .]

5. **Marine Resources**

[1993, c. 361, Pt. D, §2 (RP) .]

6. **Women**

[1991, c. 622, Pt. S, §18 (RP) .]

7. **Mental Health**

[1991, c. 622, Pt. S, §19 (RP) .]

8. **Veterans' Services**

[1993, c. 273, §1 (RP) .]

9. **Families, Health and Rehabilitation**

[1991, c. 139, §1 (RP) .]

10. **Criminal Justice**

[2009, c. 213, Pt. Q, §2 (RP); 2009, c. 369, Pt. A, §10 (RP) .]

11.

Criminal Justice	Victims' Compensation Board	Legislative Per Diem and Expenses	5 MRSA §3360-A

[1991, c. 806, §2 (NEW) .]

12.

Fire Protection Services	Maine Fire Protection Services Commission	Legislative Per Diem and Expenses	5 MRSA §3371

[1999, c. 731, Pt. AAAA, §2 (NEW) .]

13.

Criminal Justice	Sexual Assault Forensic Examiner Advisory Board	Expenses Only	5 MRSA §3360-N

[2001, c. 439, Pt. Z, §2 (NEW) .]

14.

Freedom of Access	Right To Know Advisory Committee	Legislative Per Diem and Expenses for Legislators and Expenses Only for Certain Members	1 MRSA §411

[2005, c. 631, §7 (NEW) .]

15.

Mental Health andIntellectual Disability	Maine Developmental Services Oversight and Advisory Board	Per diem for noncompensated members, as specified by board rule or policy, and expenses for all members of the board	34-B MRSA §1223

[2011, c. 542, Pt. A, §5 (AMD) .]

16.

Children	Maine Children's Growth Council	Legislative Per Diem and Expenses for Legislators and for Certain Members	5 MRSA §24001

[2007, c. 683, Pt. A, §1 (NEW) .]

17.

Labor: Rehabilitation Services	Commission for the Deaf, Hard of Hearing and Late Deafened	Expenses Only	26 MRSA §1413-C

[2009, c. 652, Pt. A, §4 (AMD) .]

SECTION HISTORY
1987, c. 786, §5 (NEW). 1987, c. 887, §3 (AMD). 1989, c. 49, §3 (AMD). 1989, c. 547, §1 (AMD). 1989, c. 576, §§2,5 (AMD). 1989, c. 878, §D16 (AMD). 1991, c. 9, §§I5,S1 (AMD). 1991, c. 9, §S1 (AMD). 1991, c. 139, §1 (AMD). 1991, c. 417, §2 (AMD). 1991, c. 622, §§S18,19 (AMD). 1991, c. 806, §2 (AMD). RR 1993, c. 1, §14 (COR). 1993, c. 273, §1 (AMD). 1993, c. 361, §D2 (AMD). 1993, c. 664, §§3,4 (AMD). 1997, c. 410, §1 (AMD). 1997, c. 700, §1 (AMD). 1999, c. 731, §AAAA2 (AMD). 2001, c. 439, §Z2 (AMD). 2005, c. 631, §7 (AMD). 2007, c. 356, §3 (AMD). 2007, c. 356, §31 (AFF). 2007, c. 395, §22 (AMD). 2007, c. 683, Pt. A, §1 (AMD). 2007, c. 695, Pt. D, §3 (AFF). 2009, c. 174, §3 (AMD). 2009, c. 213, Pt. Q, §2 (AMD). 2009, c. 369, Pt. A, §10 (AMD). 2009, c. 652, Pt. A, §4 (AMD). 2011, c. 542, Pt. A, §5 (AMD).

§12004-K. INTERGOVERNMENTAL ORGANIZATIONS

The primary responsibility of intergovernmental organizations is to establish cooperation between this State and other states or Canadian provinces. [1987, c. 786, §5 (NEW).]

This classification includes the following. [1987, c. 786, §5 (NEW).]

FIELD	NAME OF ORGANIZATION	RATE OF COMPENSATION	STATUTORY REFERENCE

1. **Education**

[2011, c. 344, §13 (RP) .]

2.

Education	New England Board of Higher Education	Not Authorized	20-A MRSA §11002

[1987, c. 786, §5 (NEW) .]

3.

Environment	New England Interstate Water Pollution Control Commission	Expenses Only	38 MRSA §532

[1987, c. 786, §5 (NEW) .]

4.

Environment	Northeastern Forest Fire Protection Commission	Expenses Only	P&SL 1949, c. 75

[1987, c. 786, §5 (NEW) .]

4-A. **Environment: Natural Resources**

[1997, c. 393, Pt. A, §12 (RP) .]

5.

Environment	St. Croix International Waterway Commission	Legislative Per Diem	38 MRSA §991

[1987, c. 786, §5 (NEW) .]

6.

Marine Resources	Atlantic States Marine Fisheries Commission	Expenses Only	12 MRSA §4603

[1987, c. 786, §5 (NEW) .]

7. **State Government**

[2001, c. 352, §5 (RP) .]

8.

State Government	Commission on Uniform State Laws	Expenses Only	3 MRSA §241

[1987, c. 786, §5 (NEW) .]

9. **State Government**

[2003, c. 643, §4 (RP) .]

10.

State Government	Maine-Canadian Legislative Advisory Commission	Not Authorized	3 MRSA §227

[1987, c. 786, §5 (NEW) .]

11.

State Government	New England and Eastern Canada Legislative Commission	Expenses Only	3 MRSA §231

[1987, c. 786, §5 (NEW) .]

11-A. **State Government**

[2005, c. 294, §11 (RP); 2005, c. 332, §2 (RP) .]

12.

Transportation	Maine-New Hampshire Interstate Bridge Authority	Expenses Only	P&SL 1937, c. 18

[1987, c. 786, §5 (NEW) .]

13. **Tribal-State Government**

[1993, c. 489, §4 (RP) .]

SECTION HISTORY
1987, c. 786, §5 (NEW). 1989, c. 503, §A38 (AMD). 1989, c. 631, §§2,6 (AMD). 1993, c. 381, §8 (AMD). 1993, c. 489, §4 (AMD). 1997, c. 393, §A12 (AMD). 1997, c. 411, §1 (AMD). 2001, c. 352, §5 (AMD). 2003, c. 643, §4 (AMD). 2005, c. 294, §11 (AMD). 2005, c. 332, §2 (AMD). 2011, c. 344, §13 (AMD).

§12004-L. INTERAGENCY ORGANIZATIONS

The primary responsibilities of interagency organizations include the development or implementation of programs; coordination of programs; review of information, data and systems; planning; making recommendations; proposing legislation; holding hearings, entering into agreements; and receiving and administering funds. Those organizations are usually composed of commissioners, or their designees, or directors from different state executive agencies. [1987, c. 786, §5 (NEW).]

This classification includes the following. [1987, c. 786, §5 (NEW).]

NAME OF ORGANIZATION	RATE OF COMPENSATION	STATUTORY REFERENCE

1. **Alcohol and Drug Abuse Planning Committee**

[1989, c. 934, Pt. A, §2 (RP) .]

2. **Employee Suggestion System Board**

[1995, c. 368, Pt. HH, §6 (RP) .]

3. **Maine Occupational Information Coordinating Committee**

[1997, c. 410, §2 (RP) .]

4. **Joint Committee of Licensure-Certification for School Psychological Services**

[1993, c. 207, §1 (RP) .]

5.

Commission on Municipal Deorganization	Legislative Per Diem County Commissioner Only	30-A MRSA §7206

[1989, c. 216, §1 (NEW); 1989, c. 601, Pt. B, §2 (NEW); 1989, c. 878, Pt. A, §18 (RPR) .]

6. **Interagency Task Force on Homelessness and Housing Opportunities**

[2005, c. 380, Pt. B, §1 (RP) .]

7. **Children's Residential Treatment Committee**

[1999, c. 668, §44 (RP) .]

8. **Human Resource Development Council**

[1997, c. 410, §3 (RP) .]

9. **Interdepartmental Council**

[1999, c. 668, §44 (RP) .]

10.

Maine Drug Enforcement Agency Advisory Board	Not Authorized	25 MRSA §2954

[1993, c. 381, §9 (NEW) .]

11. **Maine Governmental Information Network Board**

[2003, c. 643, §5 (RP) .]

12. **Council on Children and Families**

[2005, c. 294, §12 (RP) .]

13.

Statewide Homeless Council	Not Authorized	30-A MRSA §5046

[2005, c. 380, Pt. B, §2 (NEW) .]

SECTION HISTORY
1987, c. 786, §5 (NEW). 1989, c. 216, §1 (AMD). 1989, c. 601, §B2 (AMD). 1989, c. 878, §§A18,19 (AMD). 1989, c. 934, §A2 (AMD). 1993, c. 207, §1 (AMD). 1993, c. 381, §9 (AMD). 1993, c. 738, §B2 (AMD). 1993, c. 738, §B9 (AFF). 1995, c. 368, §HH6 (AMD). 1997, c. 410, §§2,3 (AMD). 1999, c. 428, §2 (AMD). 1999, c. 668, §44 (AMD). 1999, c. 785, §1 (AMD). 2003, c. 643, §5 (AMD). 2005, c. 294, §12 (AMD). 2005, c. 380, §§B1,2 (AMD).

§12005. REPORT TO SECRETARY OF STATE

(REPEALED)

SECTION HISTORY
1983, c. 812, §39 (NEW). 1985, c. 732, §5 (AMD). 1987, c. 786, §6 (RP).

§12005-A. REPORT TO SECRETARY OF STATE

Every board listed in this chapter is required to appoint a clerk of the board who is responsible for submitting reports to the Secretary of State as required by this chapter. This clerk shall submit an annual report to the Secretary of State in a manner provided by the Secretary of State. This report must be submitted no later than December 31st of each calendar year and must include information required by this section and any other information determined necessary by the Secretary of State to fulfill the purposes of this chapter. This information must include: [2007, c. 623, §1 (AMD).]

1. **Clerk of board.** The name, address, telephone number and e-mail address of the clerk of the board as well as an estimate of the number of hours spent annually working for the board;

[2007, c. 623, §1 (AMD) .]

2. **Names and addresses of members.** The name of each member of the board on file with the Secretary of State and the current address of each member at the time of filing under this section;

[2007, c. 623, §1 (AMD) .]

3. **Date of appointment and expiration.** The date of appointment of each member and the date of expiration of the term of each member on file with the Secretary of State;

[2007, c. 623, §1 (AMD) .]

4. **Dates and locations of all meetings.** The dates and locations of all meetings or other activities of the board as specified in section 12002-B, subsection 1 during the calendar year for which the report is prepared.

A. In the event that a board reports no meetings for the calendar year of the report, the clerk shall indicate the last meeting of the board; [1987, c. 786, §7 (NEW).]

[2007, c. 623, §1 (AMD) .]

5. **Attendance at and length of meetings.** The number of members attending each meeting or activity of the board and the length of each meeting or activity of the board;

[2007, c. 623, §1 (AMD) .]

6. **Compensation.**

[2007, c. 623, §1 (RP) .]

6-A. **Expenses related to the meetings or activities of the board.** The following expenses related to the meetings or activities of the board:

A. Total per diem compensation, if any, received by board members for each meeting or other activity of the board and the total received for the calendar year; [2007, c. 623, §1 (NEW).]

B. Total expenses for which board members were reimbursed, if any, for each meeting or other activity of the board and the total reimbursed for the calendar year; [2007, c. 623, §1 (NEW).]

C. Reimbursement other than per diem compensation or expenses such as a stipend; and [2007, c. 623, §1 (NEW).]

D. Total expenses related to the functioning of the board, if any, for each meeting or other activity of the board and the total received for the calendar year, including but not limited to:

(1) Expenses related to facility rental costs;

(2) Expenses related to refreshment costs for meetings or other activities;

(3) Expenses related to holding public hearings; and

(4) Other expenses not otherwise classified in this section. [2007, c. 623, §1 (NEW).]

[2007, c. 623, §1 (NEW) .]

7. **Expenses.**

[2007, c. 623, §1 (RP) .]

7-A. **Funding source for expenses.** The funding source or sources for all expenses paid for the functioning of the board, including reimbursement to members incurred by the board;

[2007, c. 623, §1 (NEW) .]

8. **Vacancies.** The number of vacancies on the board on December 31st and the term of each vacancy; and

[2007, c. 623, §1 (AMD) .]

9. **Activities of the board related to its mission.** A brief summary of the activities related to accomplishing the mission of the board.

[2007, c. 623, §1 (NEW) .]

The Secretary of State may not waive the requirements of this section. [1993, c. 1, §15 (NEW).]

SECTION HISTORY
1987, c. 786, §7 (NEW). 1991, c. 844, §1 (AMD). RR 1993, c. 1, §15 (COR). 1999, c. 668, §§45,46 (AMD). 2007, c. 623, §1 (AMD).

§12006. PENALTY FOR FAILURE TO REPORT

Members of any board that fails to report to the Secretary of State, as required by section 12005-A, are not eligible to receive any daily rate or annual rate of compensation or any money for expenses incurred in the work of the board until the report to the Secretary of State is complete to the satisfaction of the Secretary of State. The Commissioner of Administrative and Financial Services, the Secretary of State or the person authorized to pay compensation or expenses to members of the boards may not pay any rate of compensation or expenses to any member of a board that has failed to report to the Secretary of State. [1993, c. 349, §13 (RPR).]

1. **Notice of failure to report.** The Secretary of State shall send notice by certified mail on or before January 5th of each year to any board that has failed to report pursuant to section 12005-A.

A. [1993, c. 349, §13 (RP).]

B. [1993, c. 349, §13 (RP).]

[1999, c. 668, §47 (AMD) .]

2. **Legislative repeal of inactive boards.** The Secretary of State shall submit suggested legislation to the joint standing committee of the Legislature having jurisdiction over state government matters on or before January 30th in the second regular session of each biennium to repeal those boards that have not reported on their activities to the Secretary of State under this section or section 12005-A for both of the prior 2 calendar years or have been inactive during the preceding 24 months. The joint standing committee of the Legislature having jurisdiction over state government matters may submit legislation to the second regular session of each biennium to repeal those boards.

[2011, c. 344, §14 (AMD) .]

3. **Repeal requirement.** The Secretary of State may not include in the legislation required under subsection 2 and may not require an annual report as required under section 12005-A from any of the following boards and commissions that has been inactive during the preceding 24 months:

A. Mining Excise Tax Trust Fund Board of Trustees, as established in section 12004-G, subsection 33-B; [2003, c. 643, §6 (NEW).]

B. [2011, c. 655, Pt. GG, §70 (AFF); 2011, c. 655, Pt. GG, §3 (RP).]

C. State Poet Laureate Advisory Selection Committee, as established in section 12004-I, subsection 5-A; [2009, c. 369, Pt. A, §12 (AMD).]

D. Board of Emergency Municipal Finance, as established in Title 30-A, section 6101; [2009, c. 369, Pt. A, §13 (AMD).]

E. State Compensation Commission, as established in Title 3, section 2-B; [2009, c. 369, Pt. A, §14 (NEW).]

F. Maine-Canadian Legislative Advisory Commission, as established in Title 3, section 227; [2009, c. 369, Pt. A, §15 (NEW).]

G. New England and Eastern Canada Legislative Commission, as established in Title 3, section 231; [2009, c. 369, Pt. A, §16 (NEW).]

H. State House and Capitol Park Commission, as established in Title 3, section 901-A; [2013, c. 533, §11 (AMD).]

I. Maine Agricultural Bargaining Board, as established in Title 13, section 1956 ; and [2013, c. 533, §12 (AMD).]

J. Blaine House Commission. [2013, c. 533, §13 (NEW).]

[2013, c. 533, §§11-13 (AMD) .]

SECTION HISTORY
1983, c. 812, §39 (NEW). 1985, c. 295, §22 (AMD). 1985, c. 732, §6 (AMD). 1985, c. 785, §A85 (AMD). 1987, c. 402, §A62 (AMD). 1991, c. 780, §Y103 (AMD). 1991, c. 844, §2 (AMD). 1993, c. 349, §13 (RPR). 1999, c. 668, §47 (AMD). 2003, c. 643, §6 (AMD). 2007, c. 395, §23 (AMD). 2009, c. 369, Pt. A, §§11-18 (AMD). 2011, c. 344, §14 (AMD). 2011, c. 655, Pt. GG, §3 (AMD). 2011, c. 655, Pt. GG, §70 (AFF). 2013, c. 533, §§11-13 (AMD).

§12007. CLERK OF BOARD

1. **Appointment.** Each board shall appoint a clerk who is responsible for submitting reports to and responding to the Secretary of State and the Commissioner of Administrative and Financial Services. Each clerk shall provide the Secretary of State and Commissioner of Administrative and Financial Services with the mailing address of the board and the clerk as required in this chapter. Each clerk shall respond and report in a timely manner as provided in this chapter.

[1991, c. 780, Pt. Y, §104 (AMD) .]

2. **Penalty.** Any board which fails to appoint a clerk and report as required shall be subject to the penalties in section 12006.

[1987, c. 786, §8 (NEW) .]

SECTION HISTORY
1987, c. 786, §8 (NEW). 1991, c. 780, §Y104 (AMD).

§12008. AD HOC ADVISORY BOARDS

The commissioner or chief executive officer of any state agency, as defined in section 8002, and the board of trustees of any state authority or organization may form informal, ad hoc advisory boards to advise the commissioner, director or board of trustees on any issue. In forming an ad hoc advisory board pursuant to this section, the commissioner, director or board of trustees shall make a reasonable effort to include a representative of all the interests that may be involved in or may be affected by the issue. [1987, c. 786, §8 (NEW).]

Any ad hoc advisory board shall be deemed an informal board and shall not be required to be listed in this chapter. A member of any ad hoc advisory board shall be deemed not to be an officer of the State within the meaning of the Constitution of Maine. [1987, c. 786, §8 (NEW).]

SECTION HISTORY
1987, c. 786, §8 (NEW).

§12009. DUTY OF SECRETARY OF STATE

The Secretary of State shall compile and maintain the information provided pursuant to section 12005-A. [1987, c. 786, §8 (NEW).]

1. **Report to Commissioner of Administrative and Financial Services.** The Secretary of State, by January 15th of each year, shall submit to the Commissioner of Administrative and Financial Services a list of the boards, with the name and address of each clerk who failed to report as required in section 12005-A.

[1999, c. 668, §48 (AMD) .]

2. **Report of board activities.** The Secretary of State, by January 30th of each year, shall submit a report to the Governor and the joint standing committee of the Legislature having jurisdiction over state and local government. This report, at a minimum, must include the following information with respect to boards in the previous calendar year:

A. The average meeting length of each board; [1987, c. 786, §8 (NEW).]

B. The number of meetings of each board; [1987, c. 786, §8 (NEW).]

C. The total compensation paid to each board; [1987, c. 786, §8 (NEW).]

D. The total amount of expenses reimbursed to each board; and [1987, c. 786, §8 (NEW).]

E. The average rate of attendance for each board. [1987, c. 786, §8 (NEW).]

This report must also include a list of all boards that have failed to report as required in section 12005-A and from whom the Secretary of State is seeking a report. This report must also include a list of boards that have sought an exemption from the reporting or other requirement of this chapter.

[1991, c. 844, §3 (AMD) .]

3. **Report on appointments.** By December 30th of each year, the Secretary of State shall submit a report to the Governor, the Speaker of the House and the President of the Senate. This report shall include the following information and any additional information deemed important by the Secretary of State:

A. A list of appointments, by board, which will expire in the ensuing calendar year and for which reappointments or new appointments are required. This list shall include the date of expiration of the term of each appointment due to expire and the length of any existing vacancy; [1987, c. 786, §8 (NEW).]

B. The appointing authority responsible for making the appointments or reappointments as described in paragraph A; [1987, c. 786, §8 (NEW).]

C. A list of appointments due to expire in the following year which, by law, require a new appointment rather than reappointment of the person in that position; and [1987, c. 786, §8 (NEW).]

D. A list of appointments due to expire in the following year for which confirmation by the Senate is required. [1987, c. 786, §8 (NEW).]

[1987, c. 786, §8 (NEW) .]

SECTION HISTORY
1987, c. 786, §8 (NEW). 1991, c. 780, §Y105 (AMD). 1991, c. 844, §3 (AMD). 1999, c. 668, §48 (AMD).

Subchapter 2: ORGANIZATION AND OPERATION

§12011. DUTY OF SECRETARY OF STATE

The Secretary of State shall compile and maintain a current list of all boards in State Government, including the name of the board, the names of its members, positions in State Government held by any member, any vacancies, the date of the board's last reported meeting, its most recent reported expenditures on members' compensation and expenses and what other information the Secretary of State determines necessary. The list compiled under this section must at a minimum include all of the boards listed in this chapter. [1991, c. 844, §4 (AMD).]

SECTION HISTORY
1983, c. 814, (NEW). 1991, c. 844, §4 (AMD).

§12012. MEMBERS FROM OTHER BRANCHES OF GOVERNMENT

Persons who serve in any branch of State Government may serve on a board that is solely advisory in authority. A person who serves in a branch of State Government may serve on a board of another branch of State Government as a nonvoting member in an advisory capacity only if that board is not solely advisory in authority. A person who serves in a branch of State Government may serve on any board that is solely advisory in authority, unless specifically prohibited by another provision of law. [1985, c. 295, §23 (AMD).]

A board is solely advisory in authority if its only authority is to review policies and procedures, conduct studies or advise or make recommendations to a branch of government. It may not have the authority to control expenditures, issue rules, approve decisions of other agencies or officials or enforce its decisions or recommendations. [1983, c. 814, (NEW).]

SECTION HISTORY
1983, c. 814, (NEW). 1985, c. 295, §23 (AMD).

§12013. FINANCES

All boards shall maintain such financial records as may be required by the State Comptroller and State Auditor. [1983, c. 814, (NEW).]

SECTION HISTORY
1983, c. 814, (NEW).

§12014. POWERS AND DUTIES

1. **Duties.** Each board shall have the following duties:

A. Keep minutes of all meetings and record all actions; [1983, c. 814, (NEW).]

B. Limit all activities of the board to the confines of its authorization; and [1983, c. 814, (NEW).]

C. Observe that a majority of the members of the board shall constitute a quorum unless otherwise specified. [1983, c. 814, (NEW).]

[1983, c. 814, (NEW) .]

SECTION HISTORY
1983, c. 814, (NEW).

§12015. NEW BOARDS

Any boards established on or after July 25, 1984 shall conform to the following provisions. [1997, c. 2, §16 (COR).]

1. **Membership; terms; vacancies.** Each board may have no fewer than 3 members. Boards established after September 1, 2000 to regulate professions or occupations may have no more than 9 members, including at least 2 public members. Law establishing the board must provide for appointments, terms of office, qualifications and removal of its members. In the event of the death, resignation or removal of any member, the vacancy for that member's unexpired term must be filled in the same manner as that member's original appointment.

[1999, c. 687, Pt. B, §2 (AMD) .]

2. **Sunset.**

[1999, c. 668, §49 (RP) .]

3. **Sunrise review required.** Any joint standing committee of the Legislature that considers proposed legislation to establish a board to license or otherwise regulate an occupation or profession not previously regulated or to substantially expand regulation of an occupation or profession currently regulated shall evaluate whether the occupation or profession should be regulated or further regulated. For the purposes of this section, "substantially expand regulation" means to add a new regulatory category or to expand the scope

of practice for current practitioners. In order to evaluate this legislation, the joint standing committee shall, without a public hearing, briefly and informally review legislation referred to the committee that proposes a new occupational or professional board or substantial expansion of regulation and an applicant's answers pertaining to evaluation criteria as required by Title 32, section 60-J. Following this informal review, the committee shall:

A. Immediately hold a public hearing to accept information addressing the evaluation criteria listed in Title 32, section 60-J from any professional or occupational group or organization, any individual or any other interested party who is a proponent or opponent of the legislation; [1995, c. 686, §1 (RPR).]

B. Request that the Commissioner of Professional and Financial Regulation conduct an independent assessment of the applicant's answers to the evaluation criteria listed in Title 32, section 60-J and report the commissioner's findings back to the committee by a specific date; or [1995, c. 686, §1 (RPR).]

C. Request that the Commissioner of Professional and Financial Regulation establish a technical committee to assess the applicant's answers to the evaluation criteria listed in Title 32, section 60-J following the procedures of Title 32, chapter 1-A, subchapter II and report its findings to the commissioner within 6 months of establishment of the committee. [1995, c. 686, §1 (RPR).]

D. [1995, c. 686, §1 (RP).]

E. [1995, c. 686, §1 (RP).]

F. [1995, c. 686, §1 (RP).]

G. [1995, c. 686, §1 (RP).]

Any recommendation by a joint standing committee to the full Legislature for the establishment or expansion of jurisdiction of an occupational or professional regulatory board must include a written statement describing the manner in which the assessment of answers to the evaluation criteria was conducted and a concise summary of the evaluation.

[1995, c. 686, §1 (RPR) .]

SECTION HISTORY
1983, c. 814, (NEW). 1985, c. 748, §13 (AMD). 1995, c. 686, §1 (AMD). RR 1997, c. 2, §16 (COR). 1999, c. 668, §49 (AMD). 1999, c. 687, §B2 (AMD).

Subchapter 3: QUASI-INDEPENDENT STATE ENTITIES

§12021. DEFINITIONS

As used in this subchapter, unless the context indicates otherwise, the following terms have the following meanings. [2011, c. 616, Pt. A, §1 (NEW).]

1. Competitive procurement. "Competitive procurement" means the transmission of a written request for proposal, written request for qualifications or other invitation to compete on price or qualifications to at least 3 responsible suppliers that is to be replied to at a stated time.

[2011, c. 616, Pt. A, §1 (NEW) .]

2. Contributions. "Contributions" means payments for membership dues and fees, gifts, donations and sponsorships, including those that result in public advertisement of the entity.

[2011, c. 616, Pt. A, §1 (NEW) .]

3. **Governing body.** "Governing body" means a person or group of persons with the responsibility or authority to manage an entity.

[2011, c. 616, Pt. A, §1 (NEW) .]

4. **Managing director.** "Managing director" means the person with overall day-to-day responsibility for directing the operations of a quasi-independent state entity.

[2011, c. 616, Pt. A, §1 (NEW) .]

5. **Quasi-independent state entity.** "Quasi-independent state entity" means an organization that has been established by the Legislature as an independent board, commission or agency to fulfill governmental purposes and that receives revenues that are derived, in whole or part, from federal or state taxes or fees.

[2011, c. 616, Pt. A, §1 (NEW) .]

6. **Reporting entity.** "Reporting entity" or "entity" means:

A. The Child Development Services System under Title 20-A, section 7209; [2011, c. 616, Pt. A, §1 (NEW).]

B. The ConnectME Authority under Title 35-A, section 9203; [2011, c. 616, Pt. A, §1 (NEW).]

C. The Efficiency Maine Trust under Title 35-A, section 10103; [2011, c. 616, Pt. A, §1 (NEW).]

D. The Finance Authority of Maine under Title 10, section 964; [2011, c. 616, Pt. A, §1 (NEW).]

E. The Loring Development Authority of Maine under Title 5, section 13080; [2011, c. 616, Pt. A, §1 (NEW).]

F. The Maine Community College System under Title 20-A, chapter 431; [2011, c. 616, Pt. A, §1 (NEW).]

G. [2015, c. 170, §30 (AFF); 2015, c. 170, §4 (RP).]

H. The Maine Governmental Facilities Authority under Title 4, section 1602; [2011, c. 616, Pt. A, §1 (NEW).]

I. The Maine Health and Higher Educational Facilities Authority under Title 22, section 2054; [2011, c. 616, Pt. A, §1 (NEW).]

J. The Maine Human Rights Commission under Title 5, section 4561; [2011, c. 616, Pt. A, §1 (NEW).]

K. The Maine Maritime Academy under Private and Special Law 1941, chapter 37; [2011, c. 616, Pt. A, §1 (NEW).]

L. The Maine Municipal and Rural Electrification Cooperative Agency under Title 35-A, section 4131; [2011, c. 616, Pt. A, §1 (NEW).]

M. The Maine Municipal Bond Bank under Title 30-A, section 5951; [2011, c. 616, Pt. A, §1 (NEW).]

N. The Maine Port Authority under Title 23, section 4420; [2011, c. 616, Pt. A, §1 (NEW).]

O. The Maine Public Employees Retirement System under Title 5, section 17101; [2011, c. 616, Pt. A, §1 (NEW).]

P. The Maine State Housing Authority under Title 30-A, section 4722; [2011, c. 616, Pt. A, §1 (NEW).]

Q. The Maine Technology Institute under Title 5, section 15302; [2011, c. 616, Pt. A, §1 (NEW).]

R. The Maine Turnpike Authority under Title 23, section 1963; [2011, c. 616, Pt. A, §1 (NEW).]

S. The Midcoast Regional Redevelopment Authority under Title 5, section 13083-G; [2011, c. 616, Pt. A, §1 (NEW).]

T. The Northern New England Passenger Rail Authority under Title 23, chapter 621, subchapter 2; [2011, c. 616, Pt. A, §1 (NEW).]

U. The Small Enterprise Growth Board under Title 10, section 384; [2011, c. 616, Pt. A, §1 (NEW).]

V. The University of Maine System under Private and Special Law 1865, chapter 532; [2011, c. 616, Pt. A, §1 (NEW).]

W. The Washington County Development Authority under Title 5, section 13083-A; and [2011, c. 616, Pt. A, §1 (NEW).]

X. The Workers' Compensation Board under Title 39-A, section 151. [2011, c. 616, Pt. A, §1 (NEW).]

[2015, c. 170, §4 (AMD); 2015, c. 170, §30 (AFF) .]

SECTION HISTORY
2011, c. 616, Pt. A, §1 (NEW). 2015, c. 170, §4 (AMD). 2015, c. 170, §30 (AFF).

§12022. FINANCIAL POLICIES AND PROCEDURES

A governing body of an entity: [2011, c. 616, Pt. A, §1 (NEW).]

1. **Consistency with authorizing law.** Shall ensure that all activities and expenditures of the entity are limited to those necessary to accomplish the entity's mission and to carry out the entity's duties consistent with the entity's authorizing law;

[2011, c. 616, Pt. A, §1 (NEW) .]

2. **Compliance with financial policies and procedures.** Shall ensure that the governing body, management and staff of the entity comply with financial policies and procedures established by the governing body;

[2011, c. 616, Pt. A, §1 (NEW) .]

3. **Selection of vendors.** Shall adopt by December 31, 2012 and implement by July 1, 2013 written policies and procedures governing the selection of vendors designed to ensure that the entity secures the best value in its procurements. To the extent possible, consistent with the entity's authorizing law, the policies and procedures must:

A. Establish competitive procurement as the standard procurement method; [2011, c. 616, Pt. A, §1 (NEW).]

B. Specify the conditions under which competitive procurement may be waived; and [2011, c. 616, Pt. A, §1 (NEW).]

C. For procurements exceeding $10,000 that were not competitively procured, require that written justification for and evidence of approvals are maintained on file for 5 years; [2011, c. 616, Pt. A, §1 (NEW).]

[2011, c. 616, Pt. A, §1 (NEW) .]

4. **Contributions.** Shall adopt by December 31, 2012 and implement by July 1, 2013 written policies and procedures governing the use of the entity's resources for contributions. To the extent possible, consistent with the entity's authorizing law, the policies and procedures must:

A. Establish criteria to ensure that contributions are directly related to the entity's mission and activities; [2011, c. 616, Pt. A, §1 (NEW).]

B. Require that for identification and reporting purposes contributions are budgeted and accounted for separately from other expenditures in the entity's records; [2011, c. 616, Pt. A, §1 (NEW).]

C. Establish requirements for maintaining documentation to support each contribution; and [2011, c. 616, Pt. A, §1 (NEW).]

D. Require that the governing body must approve the annual budget for contributions and be provided periodic reports on contributions made by the entity; [2011, c. 616, Pt. A, §1 (NEW).]

[2011, c. 616, Pt. A, §1 (NEW) .]

5. **Travel, meals and entertainment.** Shall adopt by December 31, 2012 and implement by July 1, 2013 written policies and procedures governing the use of the entity's resources to pay costs of travel, meals and entertainment. To the extent possible, consistent with the entity's authorizing law, the policies and procedures must:

A. Limit travel, meal and entertainment costs to those reasonable and necessary for accomplishing the entity's mission and activities; [2011, c. 616, Pt. A, §1 (NEW).]

B. Describe the persons for whom the entity will pay travel, meal and entertainment costs and specify the conditions under which those costs will be paid and whether directly or through reimbursement; [2011, c. 616, Pt. A, §1 (NEW).]

C. Establish the requirements for supporting documentation and approval of travel, meal and entertainment costs paid directly or through reimbursement; [2011, c. 616, Pt. A, §1 (NEW).]

D. Require for identification and reporting purposes that travel, meal and entertainment costs are budgeted and accounted for separately from other expenditures in the entity's records; and [2011, c. 616, Pt. A, §1 (NEW).]

E. Require that the governing body must approve the annual budget for travel, meal and entertainment costs and be provided periodic reports on actual costs paid directly or reimbursed; and [2011, c. 616, Pt. A, §1 (NEW).]

[2011, c. 616, Pt. A, §1 (NEW) .]

6. **Lobbyists.** May not retain any person, other than entity staff, that is required to register as a lobbyist as defined in Title 3, section 312-A, subsection 10.

[2011, c. 616, Pt. A, §1 (NEW) .]

SECTION HISTORY
2011, c. 616, Pt. A, §1 (NEW).

§12023. REPORTS TO THE LEGISLATURE

1. **Adoption and implementation.** By February 1, 2013, a governing body shall submit a report to the Legislature on the adoption and implementation status of written policies and procedures required by section 12022 and describing the measures the governing body intends to use to monitor compliance with those policies and procedures. The report must be submitted to the Executive Director of the Legislative Council in a manner established by the executive director, who shall forward it to the appropriate joint standing committee or committees of the Legislature for review.

[2015, c. 102, §10 (AMD) .]

2. **Ongoing reports.** By February 1, 2014, and annually thereafter, a governing body shall submit a report to the Legislature containing the following information:

A. A list of all procurements exceeding $10,000 in the preceding year for which competitive procurement was waived under the policies adopted pursuant to section 12022, subsection 3, including procurements exceeding $10,000 that were made under contracts previously entered into for which competitive procurement was not required. The list must include the names of the vendors and costs associated with those procurements; [2011, c. 616, Pt. A, §1 (NEW).]

B. A list of all persons to which the entity made contributions greater than $1,000 in the preceding year and the total amount contributed to each; and [2011, c. 616, Pt. A, §1 (NEW).]

C. A description of changes made in the preceding year to the written policies and procedures required by section 12022 or to the procedures used by the governing body to monitor compliance with those policies and procedures. [2011, c. 616, Pt. A, §1 (NEW).]

For the purpose of this subsection, "the preceding year" means either the most recent January 1st to December 31st budget cycle or the most recent July 1st to June 30th budget cycle, depending on the fiscal year that the entity uses.

Reports to the Legislature required by this subsection must be submitted to the Clerk of the House, the Secretary of the Senate and the Executive Director of the Legislative Council in a manner determined by the Executive Director of the Legislative Council. The Executive Director of the Legislative Council shall forward each report to the appropriate joint standing committee or committees of the Legislature.

[2015, c. 102, §10 (AMD) .]

3. **Committee review and report.** By March 1st of every second regular session, beginning in 2016, a joint standing committee of the Legislature receiving reports pursuant to subsection 2 shall review the reports received within the past 2 calendar years, and gather additional information as necessary from the submitting entities, to assess whether policies and procedures adopted by a governing body in accordance with section 12022, subsections 3 to 5 are consistent with expectations established in those subsections and whether all reported waivers of competitive procurement and reported contributions made are in compliance with the adopted policies and procedures, including proper justification and documentation. The joint standing committee shall report the results of its review, including any areas that should be reviewed in more depth, to the joint legislative committee established to oversee program evaluation and government accountability matters.

[2015, c. 253, §1 (NEW) .]

SECTION HISTORY
2011, c. 616, Pt. A, §1 (NEW). 2015, c. 102, §10 (AMD). 2015, c. 253, §1 (AMD).

§12024. PROPOSED QUASI-INDEPENDENT STATE ENTITIES

A joint standing committee of the Legislature that considers proposed legislation establishing a quasi-independent state entity after January 1, 2013 shall: [2011, c. 616, Pt. A, §1 (NEW).]

1. **Additions to reporting entities.** Evaluate whether the proposed quasi-independent state entity should be added to the list of reporting entities in section 12021, subsection 6. The joint standing committee shall consider:

A. Whether the governmental purpose for which the proposed quasi-independent state entity is being established is funded with revenues that are derived, in whole or part, from federal or state taxes or fees; [2011, c. 616, Pt. A, §1 (NEW).]

B. Whether the powers and duties of the proposed quasi-independent state entity are more than advisory as described in section 12004-I; [2011, c. 616, Pt. A, §1 (NEW).]

C. Whether the proposed quasi-independent state entity's organizational and accountability structure allows the quasi-independent state entity to make significant policy and financial decisions independent of the Legislature and executive branch; [2011, c. 616, Pt. A, §1 (NEW).]

D. Whether the proposed quasi-independent state entity is considered a component unit of State Government for financial reporting purposes under the standards and pronouncements issued by a governmental accounting standards board or for any purposes under Part 4; and [2011, c. 616, Pt. A, §1 (NEW).]

E. Whether the proposed quasi-independent state entity will be subject to review under the State Government Evaluation Act. [2011, c. 616, Pt. A, §1 (NEW).]

If the committee determines that the proposed quasi-independent state entity should be added to the list of reporting entities under section 12021, subsection 6, the committee shall include that determination in any report on the legislation; and

[2011, c. 616, Pt. A, §1 (NEW) .]

2. **Legislative standards.** Ensure that proposed legislation that establishes a new quasi-independent state entity:

A. Provides, if applicable, for staggered terms of office for members of the governing body, with terms not to exceed 5 years; [2011, c. 616, Pt. A, §1 (NEW).]

B. Requires that the governing body must be responsible for:

(1) Appointment, performance review and termination of the managing director;

(2) Establishing and ensuring compliance with organizational policies and procedures, including those required by section 12022; and

(3) Ensuring adherence to all requirements of this chapter; [2011, c. 616, Pt. A, §1 (NEW).]

C. Specifies qualifications required or desired of the managing director; [2011, c. 616, Pt. A, §1 (NEW).]

D. Provides conditions under which members of the governing body and the managing director may be removed from office and establishes the process for removal; [2011, c. 616, Pt. A, §1 (NEW).]

E. Identifies the joint standing committee of the Legislature with oversight over the entity and any matters that must be reviewed by that committee; and [2011, c. 616, Pt. A, §1 (NEW).]

F. Contains audit and reporting requirements. [2011, c. 616, Pt. A, §1 (NEW).]

[2011, c. 616, Pt. A, §1 (NEW) .]

SECTION HISTORY
2011, c. 616, Pt. A, §1 (NEW).

Part 18-A: ECONOMIC AND COMMUNITY DEVELOPMENT

Chapter 380: LONG-TERM ECONOMIC GROWTH PLANNING AND COORDINATION OF ECONOMIC DEVELOPMENT AND BUSINESS ASSISTANCE SERVICES

§13001. ECONOMIC DEVELOPMENT AND BUSINESS ASSISTANCE COORDINATING COUNCIL ESTABLISHED

(REPEALED)

SECTION HISTORY
1991, c. 854, §D1 (NEW). 1993, c. 410, §§E3,PPP2 (AMD). 1995, c. 648, §8 (AMD). 1995, c. 688, §§4,5 (AMD). 1997, c. 48, §1 (RP).

§13002. POWERS AND DUTIES

(REPEALED)

SECTION HISTORY
1991, c. 854, §D1 (NEW). 1993, c. 410, §§PPP3,4 (AMD). 1997, c. 48, §1 (RP).

§13003. REGIONAL ECONOMIC DEVELOPMENT PLANS AND STRATEGIES

(REPEALED)

SECTION HISTORY
1991, c. 854, §D1 (NEW). 1997, c. 48, §1 (RP).

§13004. LONG-TERM PLAN

(REPEALED)

SECTION HISTORY
1991, c. 854, §D1 (NEW). 1993, c. 410, §E4 (AMD). 1995, c. 648, §8 (AMD). 1997, c. 48, §1 (RP).

Chapter 381: MAINE SMALL BUSINESS COMMISSION

§13031. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1989, c. 875, Pt. L, §§2, 4 (NEW).]

1. **Administrative unit.** "Administrative unit" means the organization certified by the federal Small Business Administration to administer the Small Business Development Center Program in this State.

[1989, c. 875, Pt. L, §§2, 4 (NEW) .]

2. **Commission.** "Commission" means the Maine Small Business and Entrepreneurship Commission.

[2003, c. 681, §3 (AMD) .]

3. **Commissioner.** "Commissioner" means the Commissioner of Economic and Community Development or the commissioner's designee.

[1995, c. 688, §6 (AMD) .]

4. **Department.** "Department" means the Department of Economic and Community Development.

[1989, c. 875, Pt. L, §§2, 4 (NEW) .]

5. **Small Business Development Center Program.** "Small Business Development Center Program" means the program established by Public Law 96-302, Title II, 15 United States Code, Sections 636 and 648, the Small Business Development Center Act of 1980.

[1989, c. 875, Pt. L, §§2, 4 (NEW) .]

SECTION HISTORY
1989, c. 875, §§L2,4 (NEW). 1995, c. 688, §6 (AMD). 2003, c. 681, §3 (AMD).

§13032. MAINE SMALL BUSINESS AND ENTREPRENEURSHIP COMMISSION ESTABLISHED

The Maine Small Business and Entrepreneurship Commission is established as an independent commission within the department to evaluate and coordinate small business and entrepreneurial programs, contract with the administrative unit and exercise other powers and responsibilities as provided in this chapter. [2003, c. 681, §4 (AMD).]

SECTION HISTORY
1989, c. 875, §§L2,4 (NEW). 2001, c. 142, §1 (AMD). 2003, c. 681, §4 (AMD).

§13033. MEMBERSHIP

The commission consists of 9 members: the Chief Executive Officer of the Finance Authority of Maine or the chief executive officer's designee; the Commissioner of Economic and Community Development or the commissioner's designee; the House and Senate chairs of the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters, who are ex officio, nonvoting members; the chair of the Small Business Development Centers Advisory Council; and a designee from the administrative unit and 3 public members with expertise and knowledge in small business and entrepreneurship, appointed by the commissioner. [2007, c. 585, §1 (AMD).]

SECTION HISTORY
1989, c. 875, §§L2,4 (NEW). 2001, c. 142, §2 (AMD). 2003, c. 681, §5 (AMD). 2005, c. 425, §3 (AMD). 2007, c. 585, §1 (AMD).

§13033-A. TERMS OF MEMBERSHIP

Beginning January 1, 2009, the 3 public members appointed to the commission pursuant to section 13033 are appointed for staggered terms of 3 years. The commissioner shall appoint public members to vacancies on the commission as they occur or upon expiration of terms. Any vacancy must be filled for the unexpired portion of the term in which the vacancy occurs. [2007, c. 585, §2 (NEW).]

SECTION HISTORY
2007, c. 585, §2 (NEW).

§13034. POWERS OF COMMISSION

The commission has the power to: [1989, c. 875, Pt. L, §§2, 4 (NEW).]

1. **Negotiate and approve contract.** Negotiate, approve and enforce the contract with the administrative unit by which state funds are provided by the administrative unit to the small business development centers throughout the State. Approval of the contract requires the approval of at least 4 members of the commission;

[2001, c. 142, §3 (AMD) .]

2. **Evaluate small business programs.** Evaluate and make recommendations to coordinate small business and entrepreneurial programs statewide, including those administered or overseen by the department;

[2001, c. 142, §3 (AMD) .]

3. **Issue reports and recommendations.** Issue reports and recommendations to the commissioner, the Governor and the Legislature in regard to programs that support or promote small business assistance and entrepreneurship. Beginning January 15, 2009, the commission shall provide an annual report, by January 15th of each year, to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters that includes the commission's proposed quarterly meeting schedule for the year, as well as a summary of the Small Business Development Center Program's activities in the State that focuses on its collaborative efforts with other economic development programs in the State; and

[2007, c. 585, §3 (AMD) .]

4. **Hire professional staff.** Hire professional staff who are not subject to the Civil Service Law and who serve at the pleasure of the commission.

A. Funding of professional staff must be provided by the department from resources made available to the Office of Business Development for personal services. [1989, c. 875, Pt. L, §§2, 4 (NEW).]

B. The department shall provide clerical support as required by the commission. [1989, c. 875, Pt. L, §§2, 4 (NEW).]

[1989, c. 875, Pt. L, §§2, 4 (NEW) .]

SECTION HISTORY
1989, c. 875, §§L2,4 (NEW). 2001, c. 142, §3 (AMD). 2007, c. 585, §3 (AMD).

§13035. DUTIES OF COMMISSION

The commission is responsible for overseeing the Small Business Development Center Program, enforcing the contract between the department and the administrative unit, providing funds to the program, and advising the commissioner on strengthening the support infrastructure for entrepreneurship in the State. The commission has the following duties. [2001, c. 142, §4 (AMD).]

1. **Contract with the administrative unit.** The commission shall contract with the administrative unit for the purpose of providing direct business counseling, technical assistance, training and other services to small businesses. The contract must be completed and approved by the commission prior to July 1st of each year.

A. For fiscal year 1990-91 only, the contract may be approved no later than July 15, 1990. [1989, c. 875, Pt. L, §§2, 4 (NEW).]

B. If the administrative unit fails to sign a reasonable contract that meets the approval of a majority of the commission members, funding to the administrative unit continues at 85% of the funding level of the previous year on a month-by-month basis until a contract is signed. [1989, c. 875, Pt. L, §§2, 4 (NEW).]

[1989, c. 875, Pt. L, §§2, 4 (NEW) .]

2. **Review, evaluate and make recommendations to coordinate programs.** The commission shall review, evaluate and make recommendations to coordinate small business assistance and entrepreneurial programs statewide. The commission shall issue a report that meets the standards defined in section 13058, subsection 5. The commission shall advise the commissioner to help develop and implement statewide strategies and policies as they relate to encouraging economic development by developing and growing entrepreneurial businesses around the State.

[2001, c. 142, §5 (AMD) .]

3. **Advise and make recommendations.** The commission shall advise the commissioner, the Governor and the Legislature with respect to the results of its evaluation of small business and entrepreneurial programs and its oversight and enforcement of the contract with the administrative unit.

[2001, c. 142, §5 (AMD) .]

SECTION HISTORY
1989, c. 875, §§L2,4 (NEW). 2001, c. 142, §§4,5 (AMD).

§13036. CONTRACT WITH ADMINISTRATIVE UNIT

The commission shall contract with the administrative unit to provide services as described in this chapter. [1989, c. 875, Pt. L, §§2, 4 (NEW).]

1. **Contract provisions.** The contract must contain the policies and procedures for the implementation and oversight of the Small Business Development Center Program. The contract must include, but is not limited to:

A. The percentage of state funds to be allocated to the small business development center subcenters; [1989, c. 875, Pt. L, §§2, 4 (NEW).]

B. The percentage of state funds to be allocated for administrative purposes; [1989, c. 875, Pt. L, §§2, 4 (NEW).]

C. The percentage of state funds to be allocated for statewide services; [1989, c. 875, Pt. L, §§2, 4 (NEW).]

D. The percentage of state funds to be allocated for small business research; [1989, c. 875, Pt. L, §§2, 4 (NEW).]

E. Evaluation and reporting requirements for the subcenters and the administrative unit; and [1989, c. 875, Pt. L, §§2, 4 (NEW).]

F. Any other provisions necessary for the implementation of this chapter. [1989, c. 875, Pt. L, §§2, 4 (NEW).]

[1989, c. 875, Pt. L, §§2, 4 (NEW) .]

2. **Annual plan.** The commission shall require the administrative unit to develop an annual plan. This plan must include, but is not limited to:

A. The types of services to be provided by the Small Business Development Center Program; [1989, c. 875, Pt. L, §§2, 4 (NEW).]

B. The means by which services will be delivered; [1989, c. 875, Pt. L, §§2, 4 (NEW).]

C. Special services to be provided and the reasons these services are needed; [1989, c. 875, Pt. L, §§2, 4 (NEW).]

D. The location and identity of the organizations providing the regional services; and [1989, c. 875, Pt. L, §§2, 4 (NEW).]

E. Any other information considered by the commission to be necessary and pertinent to the mission of the program. [1989, c. 875, Pt. L, §§2, 4 (NEW).]

[1989, c. 875, Pt. L, §§2, 4 (NEW) .]

3. **Evaluation and reporting requirements.** The commission shall establish evaluation and reporting requirements for the subcenter and the administrative unit. These requirements, at a minimum, must include:

A. The types, numbers and profiles of businesses served statewide and by each subcenter; [1989, c. 875, Pt. L, §§2, 4 (NEW).]

B. The types and numbers of training programs offered through statewide services and by each subcenter; [1989, c. 875, Pt. L, §§2, 4 (NEW).]

C. An evaluation of the programs and services including the criteria by which the evaluations are made; and [1989, c. 875, Pt. L, §§2, 4 (NEW).]

D. Any other requirements the commission considers necessary to effectively evaluate the Small Business Development Center Program. [1989, c. 875, Pt. L, §§2, 4 (NEW).]

[1989, c. 875, Pt. L, §§2, 4 (NEW) .]

SECTION HISTORY
1989, c. 875, §§L2,4 (NEW).

§13037. FUNDING

The commission shall provide the funds to the administrative unit in an expeditious manner. The administrative unit is responsible for providing the funds to eligible business development centers for the purpose of providing direct business counseling, technical assistance, training and other services to small businesses in accordance with the contract pursuant to this chapter. [1989, c. 875, Pt. L, §§2, 4 (NEW).]

SECTION HISTORY
1989, c. 875, §§L2,4 (NEW).

§13038. CONTRACTS WITH SUBCENTERS

The administrative unit shall contract with each small business development center designated by the administrative unit within 90 days following the completion of the administrative unit contract with the commission. In completing and approving the annual contract for each small business development center, the administrative unit must involve all center directors. [1989, c. 875, Pt. L, §§2, 4 (NEW).]

SECTION HISTORY
1989, c. 875, §§L2,4 (NEW).

§13039. COMMITTEE REVIEW

The joint standing committee of the Legislature having jurisdiction over economic development matters shall review the administration and operation of this chapter and report its findings and recommendations to the Legislature no later than January 2, 1992. [1989, c. 875, Pt. L, §§2, 4 (NEW).]

SECTION HISTORY
1989, c. 875, §§L2,4 (NEW).

Chapter 383: ECONOMIC AND COMMUNITY DEVELOPMENT

Subchapter 1: GENERAL DEPARTMENT STRUCTURE AND AUTHORITY

Article 1: DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT: GENERAL ORGANIZATION MISSION AND RESPONSIBILITIES

§13051. LEGISLATIVE FINDINGS

The Legislature finds that the State's economy is linked to the national and international economies. Economic changes and disruptions around the world and in the nation have a significant impact upon the State's economy. The rise of 3rd-world and 4th-world countries as manufacturers of commodities for mass markets and the gradual evolution of the national economy to a technological, informational, specialty product-based economy have significantly affected the State and its communities. [2013, c. 2, §5 (COR).]

In order for the State's economy to grow and gain a solid footing, it is necessary to determine the State's assets and the economic opportunities that are or will be available to the State's enterprise, municipalities and labor force. When these opportunities are determined or become apparent, state economic development policies and programs must be focused on facilitating the realization of these opportunities and removing barriers that impede the exploitation of these opportunities. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

The Legislature finds that an economic development strategy designed to focus the State's economic development activities and resources on economic opportunities can significantly help the State and its municipalities realize greater growth and prosperity without adversely affecting the quality of life in the State. An economic development strategy must recognize and reflect the different needs, conditions and opportunities of the several different economic regions of the State. This strategy must be flexible and periodically evaluated to make it consistent with changes in conditions and opportunities that arise during these times of dynamic change. It is necessary to involve municipalities, regional economic development organizations and the private sector in the formulation of this strategy in order to establish a well developed and comprehensive plan that has the support of the State's citizens and officials. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW). 1987, c. 816, §P4 (AMD). 1991, c. 622, §F5 (AMD). RR 2013, c. 2, §5 (COR).

§13052. PURPOSE

The Legislature finds that the decentralization of economic growth and development programs among several state agencies without any coordination of programs and agencies and without coordination with the State's municipal and regional economic efforts is not in the best interest of the State. The Legislature further finds that the State's economic development programs and policies and the economies of municipalities and regions mutually affect each other. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

For state economic growth and development policies and programs to realize the greatest possible degree of effectiveness, it is necessary to coordinate these policies and programs on the state level, as well as with local and regional levels. It is necessary to formulate and implement economic development policies and programs that are consistent with an economic development strategy for the State. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW). 1987, c. 816, §P5 (AMD). 1991, c. 622, §F6 (AMD).

§13053. ESTABLISHMENT

The Department of Economic and Community Development is established to encourage economic and community planning and development policies and programs of the State and to coordinate these programs and policies within the context of a state economic development strategy. The department is also established to work with municipalities and regional planning and economic development organizations to build strong local and regional economics and to implement programs and services through these local and regional organizations. [1987, c. 816, Pt. P, §6 (AMD).]

The department shall encourage the creation and retention of quality jobs through increased private sector investment and to enhance the quality of life for all by assisting local governments to plan and implement comprehensive community planning and development strategies. [1987, c. 816, Pt. P, §6 (AMD).]

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW). 1987, c. 816, §P6 (AMD).

§13054. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

1. **Commissioner.** "Commissioner" means the Commissioner of Economic and Community Development.

[2003, c. 451, Pt. L, §1 (AMD) .]

2. **Department.** "Department" means the Department of Economic and Community Development.

[2003, c. 451, Pt. L, §1 (AMD) .]

2-A. **Permit.** "Permit" means a license, certificate, registration or other authorization required by a governmental agency for a business undertaking. "Permit" includes, but is not limited to, a permit by rule issued by the Department of Environmental Protection in accordance with Title 38, section 344, subsection 7.

[1991, c. 826, §1 (NEW) .]

3. **State Development Office.** "State Development Office" means the Department of Economic and Community Development.

[1987, c. 534, Pt. A, §§17, 19 (NEW) .]

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW). 1991, c. 826, §1 (AMD). 2003, c. 20, §Q1 (AMD). 2003, c. 451, §L1 (AMD).

§13055. ORGANIZATION OF DEPARTMENT

The department shall consist of the organizations as established in this section to fulfill the purposes and mission as stated in this chapter and in a manner consistent with the State's economic development strategy. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

1. **Organizations.** The department contains the following organizations:

A. The Office of Business Development; [2003, c. 198, §1 (AMD).]

B. The Office of Tourism; [2003, c. 673, Pt. M, §2 (AMD).]

C. [1989, c. 875, Pt. M, §§3, 13 (RP).]

D. [1989, c. 875, Pt. M, §§3, 13 (RP).]

E. [1991, c. 622, Pt. F, §7 (RP).]

F. The Office of Community Development; and [2003, c. 673, Pt. M, §2 (AMD).]

G. The Office of Innovation. [2003, c. 673, Pt. M, §2 (NEW).]

[2003, c. 673, Pt. M, §2 (AMD) .]

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW). 1987, c. 816, §§P7,P7A (AMD). 1989, c. 502, §B73 (AMD). 1989, c. 875, §§M2,3,13 (AMD). 1991, c. 622, §F7 (AMD). 1995, c. 560, §B2 (AMD). 2003, c. 198, §1 (AMD). 2003, c. 673, §M2 (AMD).

§13056. DUTIES AND RESPONSIBILITIES OF DEPARTMENT

The department shall have the duties and responsibilities to: [1987, c. 534, Pt. A, §§17, 19 (NEW).]

1. **Implement policies and programs.** Implement economic development policies and programs in compliance with the state economic development strategy;

[1987, c. 534, Pt. A, §§17, 19 (NEW) .]

2. **Work with other organizations.** Work with other state agencies, municipalities and regional planning, community and economic development organizations for the purpose of assisting and encouraging the orderly and coordinated development of the State;

[1987, c. 534, Pt. A, §§17, 19 (NEW) .]

3. **Conduct planning and research.** Conduct planning, research and analysis for department needs, but not macroeconomic forecasting, which is the responsibility of the Governor's Office of Policy and Management. The department shall gather, maintain and have access to all economic and other information necessary to the performance of its duties;

[2011, c. 655, Pt. DD, §6 (AMD); 2011, c. 655, Pt. DD, §24 (AFF) .]

4. **Communication with private sector.** Communicate, on a regular basis, with the private sector to inform the private sector of departmental programs and services and to determine the needs, problems and opportunities of the private sector;

[1987, c. 534, Pt. A, §§17, 19 (NEW) .]

5. **Prepare and distribute publications.** Prepare and distribute publications that:

A. Describe various business development programs within the State that are available to Maine businesses; [1987, c. 534, Pt. A, §§17, 19 (NEW).]

B. Describe the various community and economic development programs of the State; and [1987, c. 534, Pt. A, §§17, 19 (NEW).]

C. Market the State of Maine and its communities as suitable areas for business development; [2003, c. 159, §1 (AMD).]

[2003, c. 159, §1 (AMD) .]

6. **Implement programs.** Implement economic and community development programs which are assigned to the department by the Governor or Legislature, including those formerly administered by the following other state agencies:

A. The programs of the State Development Office; and [1987, c. 534, Pt. A, §§17, 19 (NEW).]

B. Other community planning and development assistance programs of the State Planning Office; [2003, c. 159, §2 (AMD).]

[2003, c. 159, §2 (AMD) .]

7. **Contract for services.** When contracting for services, to the maximum extent feasible, seek to use the State's private sector resources in conducting studies, providing services and preparing publications; and

[2003, c. 159, §3 (AMD) .]

8. **Lead agency for business assistance in response to certain events.** Be the lead agency for the State to provide information and business assistance to employers and businesses as part of the State's response to an event that causes the Department of Labor to carry out rapid-response activities as described in 29 United States Code, Sections 2801 to 2872 (2002).

[2003, c. 159, §4 (NEW) .]

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW). 2003, c. 159, §§1-4 (AMD). 2011, c. 655, Pt. DD, §6 (AMD). 2011, c. 655, Pt. DD, §24 (AFF).

§13056-A. COMPREHENSIVE EVALUATION OF STATE INVESTMENTS IN ECONOMIC DEVELOPMENT

By February 1, 2013, the commissioner shall develop and submit to the Governor and the Legislature a plan for the comprehensive evaluation of state investments in economic development. Beginning February 1, 2014, the commissioner shall submit a biennial comprehensive evaluation of state investments in economic development, not to include programs evaluated pursuant to section 13107 or those independent evaluations required by federal programs, to the Governor and the Legislature. The evaluation must: [2011, c. 563, §2 (AMD).]

1. **Outcome measures.** Establish and report on outcome measures considered appropriate by public and private practitioners inside and outside of this State in the field of economic development, including measures that assess the overall economic performance of the programs to be evaluated under subsection 1-A, as demonstrated by the number of jobs created and wages paid that are attributable to the program, and any state revenues that are attributable to the activities of the program;

[2011, c. 563, §2 (AMD) .]

1-A. **Programs identified for evaluation.** Include, but is not limited to, the review of the following programs: the Maine Employment Tax Increment Financing Program, pursuant to Title 36, chapter 917; the Governor's Training Initiative Program, pursuant to Title 26, section 2031; the Loring Development Authority of Maine, pursuant to Title 5, section 13080; the visual media production certification program, pursuant to Title 5, section 13090-L; the promotion and marketing of state products through the department, pursuant to Title 5, section 13062; the Maine International Trade Center, pursuant to Title 10, section 945; municipal tax increment financing, pursuant to Title 30-A, section 5227; and the pine tree development zone program, pursuant to Title 30-A, section 5250-J;

[2011, c. 563, §2 (NEW) .]

2. **Reviewers.** Use independent, nonpartisan reviewers to assess the effect of economic development activities on the competitiveness of industry sectors in this State; and

[2011, c. 563, §2 (AMD) .]

3. **Recommendations.** Include recommendations to the Legislature on existing and proposed state-supported economic development programs and activities to affect economic development in this State.

[2007, c. 434, §1 (NEW) .]

SECTION HISTORY
2007, c. 434, §1 (NEW). 2011, c. 563, §2 (AMD).

§13056-B. REPORTING REQUIREMENTS OF RECIPIENTS OF ECONOMIC DEVELOPMENT FUNDING

To assist the department in preparing the comprehensive economic development evaluation pursuant to section 13056-A, a recipient of state economic development funding, including General Fund appropriations, dedicated revenue, tax expenditures as defined in section 1666 and general obligation bond proceeds for economic development, shall, in addition to any other reporting requirements required by law, collect, maintain and provide data as requested by the department. [2009, c. 337, §1 (AMD).]

SECTION HISTORY
2007, c. 434, §2 (NEW). 2009, c. 337, §1 (AMD).

§13056-C. MAINE ECONOMIC DEVELOPMENT EVALUATION FUND

1. **Fund established.** The Maine Economic Development Evaluation Fund, referred to in this section as "the fund," is established as a nonlapsing Other Special Revenue Funds account administered by the department for the purposes of funding the comprehensive economic development evaluation required pursuant to section 13056-A.

[2007, c. 434, §3 (NEW) .]

2. **Fund sources.** The fund receives money deposited by the Treasurer of State pursuant to this section and any other gift, grant or other source of revenue deposited for funding the comprehensive economic development evaluation required pursuant to section 13056-A.

[2007, c. 434, §3 (NEW) .]

3. **Payments to fund.** Notwithstanding section 1585 or any other provision of law, the department shall assess agencies or private entities that receive General Fund appropriations or general obligation bonds for economic development an amount for contribution to the fund that is not to exceed 0.8% of

General Fund appropriations received by or general obligation bonds issued to an agency or entity for economic development efforts. Private entities that receive funds from general obligation bonds for economic development efforts shall pay to the Treasurer of State in the fiscal year in which the general obligation bond was issued an assessment amount determined by the department that is not to exceed 0.8% of the proceeds from the bond issue in any fiscal year, which payment must be made from available resources other than bond proceeds. Only those programs that receive $250,000 or more in economic development appropriations in any fiscal year or those entities that receive funds from a general obligation bond issue of $250,000 or more for economic development efforts in any fiscal year, as identified and certified by the department and the Office of Fiscal and Program Review, may be assessed pursuant to this subsection. The department shall provide to each agency or private entity an annual budget for the fund and a detailed account of each institution's required assessment. Total payments made pursuant to this section may not exceed $200,000 in any fiscal year.

[2011, c. 563, §3 (AMD) .]

SECTION HISTORY
2007, c. 434, §3 (NEW). 2009, c. 337, §2 (AMD). 2011, c. 563, §3 (AMD).

§13056-D. COMMUNITIES FOR MAINE'S FUTURE PROGRAM

1. **Program established; administration.** The Communities for Maine's Future Program, referred to in this section as "the program," is established within the department to assist and encourage communities to revitalize and to promote community development and enhance projects. The department shall administer the program to provide funding for the rehabilitation, revitalization and enhancement of downtowns and village centers and main streets in the State. All funds received for this program must be deposited into the Communities for Maine's Future Fund established in subsection 7.

[2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

2. **Review panel.** The Community for Maine's Future Review Panel, referred to in this section as "the panel," is established to evaluate proposals and determine funding under the program. The panel consists of:

A. The commissioner; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

B. The Director of the Maine Historic Preservation Commission; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

C. The Commissioner of Agriculture, Conservation and Forestry or the commissioner's designee; and [2011, c. 655, Pt. EE, §7 (AMD); 2011, c. 655, Pt. EE, §30 (AFF); 2011, c. 657, Pt. W, §6 (REV).]

D. Four members of the public, one with experience in economic and community development, one with experience in historic preservation, one with experience in downtown revitalization and one with experience in tourism development and promotion. The first 2 of these members are appointed by the President of the Senate and the remaining 2 by the Speaker of the House. [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

[2011, c. 655, Pt. EE, §7 (AMD); 2011, c. 655, Pt. EE, §30 (AFF); 2011, c. 657, Pt. W, §6 (REV) .]

3. **Review process.** The panel shall review proposals for funding under the program in accordance with this subsection.

A. The panel shall establish the deadline by which proposals must be postmarked and received. [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

B. Department staff shall undertake the initial review and preliminary scoring of proposals. [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

C. A subcommittee appointed by the panel to score proposals shall review and determine the final score for the proposals. [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

D. A subcommittee appointed by the panel to nominate finalists shall review all of the proposals, identify issues for full review and discussion by the panel and recommended project finalists to the full panel for detailed review and consideration. [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

E. The panel shall review all the proposals submitted, select the finalists and allocate funding. [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

In reviewing proposals, the panel shall use the scoring system established in subsection 5.

[2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

4. **Applicant requirements.** An applicant for funding under this section must:

A. Be a city or town; and [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

B. Demonstrate the capacity to undertake the project with a reasonable prospect of bringing it to a successful conclusion. In assessing an applicant's ability to meet the requirements of this paragraph, the panel may consider all relevant factors, including but not limited to the applicant's level of debt; fund-raising ability; past economic and community development activities; grants from federal, state or local sources; previous historic preservation, rehabilitation or enhancement activity; organizational history; scope of economic or revitalization vision; and evidence of success in previous efforts. [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

[2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

5. **Scoring system.** The department and the panel shall develop a scoring system for use by the panel in evaluating proposals under this section. The scoring system must be designed to identify those projects that are most aligned with the State's economic and community development and historic preservation and enhancement priorities. The scoring system must assign points according to the relative value of:

A. The economic significance of the proposed project to the immediate vicinity and to the State as a whole; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

B. The level of compatibility with the historic community character; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

C. The value of the proposed project with respect to historic preservation and rehabilitation; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

D. The value of the proposed project with respect to downtown revitalization; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

E. The value of the proposed project to encourage or accomplish sustainable, mixed-use, pedestrian-oriented or transit-oriented development; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

F. The extent to which the proposed project meets or exceeds minimum energy efficiency standards, uses green building practices or materials, or both; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

G. The value of the proposed project with respect to tourism promotion and development; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

H. The degree of community support for the proposed investment; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

I. The extent to which the proposed project involves other preservation partnerships and meets multiple criteria within this section; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

J. The match provided by the applicant; and [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

K. Related public funding sources supporting the project. [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

[2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

6. **Additional criteria.** In addition to evaluating the proposals using the scoring system established in subsection 5, the panel shall also consider criteria in reviewing a proposal:

A. The level to which a proposal supports the open space or recreation objectives, or both, of a local comprehensive plan; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

B. The extent to which a project is consistent with an adopted comprehensive plan that meets the standards of the laws governing growth management pursuant to Title 30-A, chapter 187; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

C. The extent to which a project is consistent with an existing strategic plan for downtown or village center revitalization; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

D. The current and anticipated demand for use and diversity of uses of this site; [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

E. The extent to which the project is consistent with any relevant regional economic development plan or other relevant regional plan; and [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

F. Any additional benefits that contribute to the character of the town or region in which the project is situated, including the rehabilitation or renovation of mills and other buildings in the community. [2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

[2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

7. **Communities for Maine's Future Fund created.** The Communities for Maine's Future Fund, known as "the fund," is established to provide funding for the rehabilitation, revitalization and enhancement of downtowns and village centers and main streets in the State. The fund is dedicated, nonlapsing fund, and all revenues deposited in the fund remain in the fund and must be disbursed in accordance with this section.

[2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

8. **Rules.** The department may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2009, c. 414, Pt. G, §1 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

SECTION HISTORY
2009, c. 414, Pt. G, §1 (NEW). 2009, c. 414, Pt. G, §5 (AFF). 2011, c. 655, Pt. EE, §7 (AMD). 2011, c. 655, Pt. EE, §30 (AFF). 2011, c. 657, Pt. W, §6 (REV).

§13056-E. ASSISTANCE FROM COMMUNITIES FOR MAINE'S FUTURE FUND

1. **Application for downtown improvement or asset grants.** In addition to the other forms of financial assistance available, an eligible municipality or group of municipalities may apply for a downtown and community development grant from the Communities for Maine's Future Fund established in section 13056-D, subsection 7 and referred to in this section "the fund," the proceeds of which must be used to acquire, design, plan, construct, enlarge, repair, protect or enhance downtown improvements or assets. The department may prescribe an application form or procedure for an eligible municipality or group of municipalities to apply for a grant under this section. The application must include all information necessary for the purpose of implementing this section.

[2009, c. 414, Pt. G, §2 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

2. **Eligibility certification.** In addition to criteria established in section 13056-D:

A. The applicant must certify that it has secured all permits, licenses and approvals necessary to construct the improvements to be financed by the grant; [2009, c. 414, Pt. G, §2 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

B. The department must affirm that the applicant has met the conditions of this paragraph.

(1) A municipality is eligible to receive a grant if that municipality has adopted a growth management program certified under Title 30-A, section 4347-A that includes a capital improvement program composed of:

(a) An assessment of all public facilities and services, including, but not limited to, roads and other transportation facilities, sewers, schools, parks and open space, fire departments and police departments;

(b) An annually reviewed 5-year plan for the replacement and expansion of existing public facilities or the construction of such new facilities as are required to meet expected growth and economic development. The plan must include projections of when and where those facilities will be required; and

(c) An assessment of the anticipated costs for replacement, expansion or construction of public facilities, an identification of revenue sources available to meet these costs and recommendations for meeting costs required to implement the plan.

Subject to the limitations of this subsection, 2 or more municipalities that each meet the requirements of divisions (a), (b) or (c) may jointly apply for assistance under this section; and [2009, c. 414, Pt. G, §2 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

C. The department must affirm that the applicant has met the conditions of this paragraph. A municipality is eligible to receive a downtown improvement grant if that municipality has:

(1) Shown broad-based support for downtown revitalization;

(2) Established a comprehensive downtown revitalization work plan, including a definition and a map of the affected area;

(3) Developed measurable goals and objectives;

(4) Demonstrated a historic preservation ethic;

(5) Developed the capacity to report on the progress of the downtown program; and

(6) Established the ability and willingness to support integrated marketing efforts for retailers, services, activities and events. [2009, c. 414, Pt. G, §2 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

[2009, c. 414, Pt. G, §2 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

3. **Criteria; conditions for downtown village center grants.** The department shall develop criteria and conditions for the award of downtown and village center grants to eligible municipalities subject to the requirements of this section, including:

A. Basic criteria for redevelopment or revitalization of a downtown growth area as defined under Title 30-A, section 4301, subsection 6-C or village; [2009, c. 414, Pt. G, §2 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

B. A preference for capital investment projects that provide substantial regional benefits; [2009, c. 414, Pt. G, §2 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

C. The adoption of other criteria as the department determines necessary to ensure that grants made under this section maximize the ability of municipalities to accommodate planned growth and economic development; [2009, c. 414, Pt. G, §2 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

D. Consistency with the municipality's comprehensive plan or local growth management program; [2009, c. 414, Pt. G, §2 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

E. Leveraging of other private, federal or local dollars; and [2009, c. 414, Pt. G, §2 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

F. Economic gain to the community, including tax income and jobs created. [2009, c. 414, Pt. G, §2 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

[2009, c. 414, Pt. G, §2 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

4. **Coordination.** The department shall coordinate the grants made under this section with community assistance loans and grants administered by the department and with other state assistance programs designed to accomplish similar objectives, including those administered by the Department of Education, the Department of Transportation, the Finance Authority of Maine, the Maine State Housing Authority, the Maine Historic Preservation Commission, the Department of Administrative and Financial Services, the Department of Agriculture, Conservation and Forestry and the Department of Environmental Protection.

[2011, c. 655, Pt. JJ, §2 (AMD); 2011, c. 655, Pt. JJ, §41 (AFF); 2011, c. 657, Pt. W, §5 (REV) .]

5. **Report to the Legislature.** The department shall report to the joint standing committee of the Legislature having jurisdiction over economic development matters no later than January 1st of each odd-numbered year on the grants program. The department may make any recommendations it finds necessary to more effectively achieve the purposes of this section, including the appropriation of any necessary additional funds.

[2009, c. 414, Pt. G, §2 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

SECTION HISTORY
2009, c. 414, Pt. G, §2 (NEW). 2009, c. 414, Pt. G, §5 (AFF). 2011, c. 655, Pt. JJ, §2 (AMD). 2011, c. 655, Pt. JJ, §41 (AFF). 2011, c. 657, Pt. W, §5 (REV).

§13056-F. HISTORIC PRESERVATION REVOLVING FUND

1. **Fund established; administration.** The Historic Preservation Revolving Fund, referred to in this section as "the revolving fund," is established within the Maine Historic Preservation Commission, referred to in this section as "the commission," in order to provide funds to qualified nonprofit historic preservation organizations in the State for the purpose of acquisition of endangered historic properties of local, state or national significance, as determined by the commission, for resale to new owners who agree to preserve,

rehabilitate or restore the properties as necessary, subject to preservation easements or covenants held by the qualified organization. The commission may provide funds to the qualified organization for purposes outlined in subsection 4.

All funds received must be deposited into the revolving fund.

[2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

2. **Review process.** The commission shall review proposals for acquisition of historic properties by qualified organizations with funds from the revolving fund in accordance with this subsection.

[2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

3. **Applicant requirements.** An applicant for funding under this section must be a qualified nonprofit historic preservation organization. For purposes of this section, "qualified nonprofit historic preservation organization" or "qualified organization" means a nonprofit preservation or historical organization whose purposes include preservation of historic property or a governmental body. A qualified organization must also demonstrate previous historic preservation, rehabilitation or acquisition activity; availability of staff with demonstrated professional training and experience in administration of historic preservation programs; and familiarity with preservation standards and with acquisition and resale of historic property.

The qualified organization must also demonstrate the capacity to undertake the project with a reasonable prospect of bringing it to a successful conclusion. In assessing an applicant's ability to meet the requirements of this subsection, the commission may consider all relevant factors, including but not limited to the applicant's organizational purpose; organizational history; previous historic preservation, rehabilitation or acquisition activity; scope of economic or revitalization vision; and evidence of success in previous efforts.

[2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

4. **Revolving fund expenditures.** Payment from the revolving fund is made by the commission to qualified nonprofit historic preservation organizations for the purpose of preservation of significant endangered historic properties through acquisition and resale. Payments may include all costs associated with such an acquisition and carrying costs, as well as stabilization, rehabilitation and completion of a conditions study by the qualified organization for approval by the commission and may also include a fee for establishing a preservation easement or covenant to be held by the qualified organization. When possible, the qualified organization shall seek to secure the qualified property by option to be executed at closing to minimize carrying costs. The qualified organization shall seek to resell the property at fair market value to a new private, nonprofit or public owner who agrees to preserve, rehabilitate or restore the property as provided in the easement or covenant. Net proceeds from the resale of properties must be returned to the revolving fund within the commission. Funds returned to the revolving fund are to be used exclusively for the acquisition of additional historic properties, except that no more than 5% of the fund balance may be used by the commission to fund administration of the program by cooperating organizations.

[2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

5. **Evaluation criteria.** The commission shall evaluate proposals under this section. The commission shall seek to fund those proposals that best meet its historic preservation priorities for the State and region and that support its economic and community development and enhancement priorities and shall evaluate properties in such proposals relative to:

A. The level of historic or architectural significance; [2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

B. The value with respect to historic preservation and rehabilitation; [2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

C. The degree to which the property is endangered; [2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

D. The economic significance to the immediate vicinity and to the State; [2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

E. The value with respect to downtown revitalization, open space conservation or other public purposes; [2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

F. The availability at fair market value; [2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

G. The degree to which the property is available below fair market value; [2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

H. The potential marketability; [2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

I. The feasibility of rehabilitation or restoration and reuse; [2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

J. The value of the proposed property with respect to tourism promotion and development; [2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

K. The degree of community support; and [2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

L. The extent to which the proposed project involves partnerships or meets multiple criteria. [2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF).]

[2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

6. **Rules.** The commission may adopt rules to implement this section. Rules adopted to implement this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2009, c. 414, Pt. G, §3 (NEW); 2009, c. 414, Pt. G, §5 (AFF) .]

SECTION HISTORY
2009, c. 414, Pt. G, §3 (NEW). 2009, c. 414, Pt. G, §5 (AFF).

§13056-G. MAINE COWORKING DEVELOPMENT FUND

The Maine Coworking Development Fund is established within the department to strengthen opportunities for entrepreneurship, stimulate innovation in the State by increasing the availability of collaborative workspace environments and address a regional market demand for affordable work environments that support communication, information sharing and networking opportunities. The fund is established to match public and private funds to further the purposes of this section. [2015, c. 362, §1 (NEW).]

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

A. "Collaborative workspace" means coworking, shared working environments that promote collaboration, interaction, socialization and coordination among tenants through the clustering of multiple businesses or individuals within the shared work environment. [2015, c. 362, §1 (NEW).]

B. "Collaborative workspace business" means a corporation, partnership, limited liability corporation, professional corporation or other legal business entity recognized under the laws of the State engaging or proposing to engage in economic activity within the State. [2015, c. 362, §1 (NEW).]

C. "Fund" means the Maine Coworking Development Fund established in this section. [2015, c. 362, §1 (NEW).]

D. "Participant" means a sole proprietorship, business partnership or corporation operating a business for profit through which the owner accesses business development services in a collaborative workspace. [2015, c. 362, §1 (NEW).]

E. "Tenant" means a sole proprietorship, business partnership or corporation operating a business for profit and leasing or otherwise occupying collaborative workspace from a collaborative workspace business. [2015, c. 362, §1 (NEW).]

F. "Transformative development" means redevelopment on a scale and of a character capable of catalyzing significant follow-on private investment, leading over time to transformation of an entire downtown or urban neighborhood and consistent with local plans. Transformative development may involve major investment in new construction, rehabilitation and adaptive reuse or multiple smaller investments on a sustained basis. [2015, c. 362, §1 (NEW).]

[2015, c. 362, §1 (NEW) .]

2. **Organization.** The department has all the powers and authority not explicitly prohibited by law necessary or convenient to carry out and effectuate the functions, duties and responsibilities of the fund, including, but not limited to:

A. Promoting transformative development by taking actions in partnership with private enterprise and the Federal Government to:

(1) Make equity investments and provide technical assistance to revitalize and support residential, commercial, industrial and institutional development, or any mix of such uses, in order to promote collaborative workspaces;

(2) Promote the creation of collaborative workspaces by providing financial assistance for capital investments in underutilized buildings;

(3) Foster collaboration and connections among innovative and creative enterprises by providing central locations for such businesses or individuals to work in an environment designed to promote sharing of resources, experience and expertise;

(4) Support partnerships between municipalities, property owners and collaborative workspace businesses to establish such collaborative workspaces; and

(5) Require such collaborative workspaces to provide shared space that promotes the interaction, socialization and coordination among tenants and participants through the clustering of multiple tenants and participants within the collaborative workspace; [2015, c. 362, §1 (NEW).]

B. Soliciting, borrowing, accepting and receiving money from a public or private source to augment state contributions to the fund; [2015, c. 362, §1 (NEW).]

C. Approving an annual budget for the fund and investing and expending money from the fund; [2015, c. 362, §1 (NEW).]

D. Contracting with public entities as necessary to further the purposes of this section; [2015, c. 362, §1 (NEW).]

E. Carrying forward any unexpended state appropriations and allocations into succeeding fiscal years; [2015, c. 362, §1 (NEW).]

F. Receiving and accepting allocations, appropriations, grants or contributions of money to be held, used or applied to carry out this subchapter, subject to the conditions upon which the grants and contributions may be made, including, but not limited to, appropriations, allocations, grants or gifts from any federal agency or governmental subdivision or the State and its agencies. The amounts of the revenues generated by the investment of money contained in the fund may be used to pay the department's operating expenses associated with the operation of the fund; [2015, c. 362, §1 (NEW).]

G. Engaging in matching grants activities, including, but not limited to, federal, private and foundation awards that require state funding matches and are considered consistent with the purposes of the fund; and [2015, c. 362, §1 (NEW).]

H. Awarding collaborative workspace grants in an amount not to exceed $25,000 per collaborative workspace. All awards must be tied to specific and demonstrated financial need to achieve the goals set forth under this section. [2015, c. 362, §1 (NEW).]

[2015, c. 362, §1 (NEW) .]

3. **Guidelines.** The department shall establish guidelines for the fund in accordance with this section.

A. Loans or grants made from the fund may be made to collaborative workspace businesses for building improvements used by the collaborative workspace tenants and participants as long as the use of the fund results in corresponding private investment that matches or exceeds the loans or grants from the fund. In the case of a grant, any participating collaborative workspace business shall at least match the investment of the fund. In the case of a loan, the department shall reasonably anticipate that its loan will leverage additional private investment in the property. [2015, c. 362, §1 (NEW).]

B. The department shall solicit applications for grants or loans from the fund through a request for proposals, which must include, at a minimum, the following criteria for the submission of applications:

(1) A description of the parties involved in the project, including the professional expertise and qualifications of the principals;

(2) A description of the scope of work that will be undertaken by each party involved in the project;

(3) The proposed budget, including verification of funding from other sources;

(4) A statement of the project objective, including specific information on how the project will promote the use of the space as a collaborative workspace;

(5) A statement that sets forth the implementation plan, the facilities and resources available or needed for the project and the proposed commencement and termination dates of the project;

(6) A description of the expected significance of the project, including a description of the market demand for the type of collaborative workspace proposed in the region in which the space will be located and the number of tenants and participants that will be served as a result of the project;

(7) Guidelines for the review and approval of applications that include preferences for applications that propose to redevelop existing properties located in the downtown area of a municipality, dedicate at least 25% of accessible space to collaborative use and support a cluster of at least 5 separate tenants;

(8) A description of the ability of the collaborative workspace business to carry out the provisions of this section;

(9) A summary of the proposed economic impact of the collaborative workspace on the community;

(10) A description of plans for conformance with regional and local economic development plans, if such plans exist; and

(11) A statement of the proximity of the collaborative workspace to an accredited Maine community college, college or university, as defined in Title 20-A, section 12541, subsection 1. [2015, c. 362, §1 (NEW).]

C. The department shall enter into an agreement with each collaborative workspace business that receives a grant or loan under this section. The agreement must include performance measures and indicators to evaluate the performance of the collaborative workspace business in carrying out the activities described in its application and any other indicators determined to be necessary to evaluate the

performance of the business. A collaborative workspace business shall submit an annual report for the department's review for the duration of the collaborative workspace project. [2015, c. 362, §1 (NEW).]

[2015, c. 362, §1 (NEW) .]

4. **Duties of the collaborative workspace business.** A collaborative workspace business that receives assistance under this section shall:

A. Secure title on a facility for the collaborative workspace or a lease of a facility for the collaborative workspace; [2015, c. 362, §1 (NEW).]

B. Manage the physical development of the collaborative workspace, including the provision of common conference or meeting space; [2015, c. 362, §1 (NEW).]

C. Provide furnishings and equipment to the collaborative workspace to provide services to the tenants and participants; [2015, c. 362, §1 (NEW).]

D. Market the collaborative workspace and secure tenants and participants; [2015, c. 362, §1 (NEW).]

E. Provide financial consulting, marketing and management assistance services or arrange for the provision of these services for tenants and participants, including assistance in accessing private financial markets; [2015, c. 362, §1 (NEW).]

F. Set rental and service fees that would be revenue for the collaborative workspace business upon approval from the department; [2015, c. 362, §1 (NEW).]

G. Encourage the sharing of ideas between tenants and participants and otherwise aid the tenants and participants using innovative technology and facilities; [2015, c. 362, §1 (NEW).]

H. Establish policies and criteria for the acceptance of tenants and participants and for the termination of occupancy of tenants so as to maximize the opportunity to succeed for the greatest number of tenants and participants; and [2015, c. 362, §1 (NEW).]

I. Submit annual reports to the department that include a financial statement for the collaborative workspace business, a summary of the economic impact of the collaborative workspace on the local community and a list of tenants and participants in the collaborative workspace. [2015, c. 362, §1 (NEW).]

[2015, c. 362, §1 (NEW) .]

5. **Report.** Beginning February 1, 2016, the department shall annually provide a report to the Governor, the President of the Senate and the Speaker of the House of Representatives that must include, but is not limited to:

A. The number of applications for collaborative workspace submitted to the department; [2015, c. 362, §1 (NEW).]

B. The number of applications for collaborative workspace approved by the department; [2015, c. 362, §1 (NEW).]

C. The number of collaborative workspaces created through the fund; [2015, c. 362, §1 (NEW).]

D. The numbers of tenants and participants engaged in each collaborative workspace; [2015, c. 362, §1 (NEW).]

E. The number of jobs provided by each collaborative workspace; [2015, c. 362, §1 (NEW).]

F. The occupancy rate of each collaborative workspace; and [2015, c. 362, §1 (NEW).]

G. The number of tenants that have left collaborative workspace and that are operating in the State and the number of jobs they have provided. [2015, c. 362, §1 (NEW).]

[2015, c. 362, §1 (NEW) .]

SECTION HISTORY
2015, c. 362, §1 (NEW).

§13057. COMMISSIONER; APPOINTMENT

The commissioner shall be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over economic development matters and legislation and to confirmation by the Legislature. The commissioner shall serve at the pleasure of the Governor. [1987, c. 534, Pt. A, §§ 17, 19 (NEW).]

1. **Qualifications.** The commissioner shall be a person with background, experience and interest in the areas of community and economic development.

[1987, c. 534, Pt. A, §§ 17, 19 (NEW) .]

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW).

§13058. DUTIES AND RESPONSIBILITIES OF COMMISSIONER

The department shall be administered by the commissioner. The commissioner shall have the following powers and duties. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

1. **Employ and remove staff.** The commissioner shall employ and remove staff of the department. Persons employed in major policy-influencing positions, as defined in section 934-A, and professional staff whose positions were formerly located in the State Development Office serve at the pleasure of the commissioner. The office directors serve at the pleasure of the commissioner.

A. All professional positions that are unclassified positions and members of bargaining units and are transferred to the department from units of State Government other than the State Development Office retain their current status, including their rights as members of bargaining units. The position responsible for the administration of the tax incentive programs and classified, clerical and other nonprofessional staff must be hired pursuant to the Civil Service Law for classified state employees. [2005, c. 425, §4 (AMD).]

B. The commissioner may employ or engage such outside technical or professional consultants as may be necessary or appropriate to assist the office in carrying out its functions and may enter into contracts with other boards, commissions, departments and divisions of the State, with the University of Maine System or with private entities to assist the commissioner in carrying out the commissioner's duties under this chapter. [2005, c. 425, §4 (AMD).]

[2005, c. 425, §4 (AMD) .]

2. **Accept federal funds.** The commissioner may accept for the State any federal funds appropriated under any federal law relating to the authorized programs of the department, including community and economic development in those nonentitlement areas and for those projects duly authorized under the United States Housing and Community Development Act of 1974, Title 1, and its subsequent amendments. The commissioner may undertake the necessary duties and tasks to implement federal law with respect to the authorized programs of the department.

A. The commissioner may accept for the department any funds from any other agency of government, individual, group, foundation or corporation to carry out this chapter, including fees designated by the commissioner for books, brochures, pamphlets, films, photos, maps and similar materials. A revolving fund is established within the department for the use of the department to cover the printing and distribution costs of these materials. Income from the sale of publications shall be credited to the revolving fund to be used as a continuing carrying account to carry out the purposes of the revolving funds. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

[1987, c. 534, Pt. A, §§17, 19 (NEW) .]

2-A. **Accept grants.** The commissioner may accept grant funds from other public or private sources to be used to carry out the duties of the department.

[1989, c. 875, Pt. E, §7 (NEW) .]

3. **Hold hearings and adopt rules.** The commissioner may hold hearings and adopt rules, in accordance with the Maine Administrative Procedure Act, with respect to the implementation of authorized programs of the department.

A. The commissioner may adopt rules to distribute funds or assistance under the United States Housing and Community Development Act of 1974, Title 1, and its subsequent amendments. The rules must be consistent with the annual final statement for the State Community Development Program submitted to the Federal Government. The department shall give notice in writing of any such rules to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs at least 20 days before the hearing, as stipulated in the Maine Administrative Procedure Act, or before the deadline for comments if no hearing is scheduled. [2015, c. 1, §3 (COR).]

[2015, c. 1, §3 (COR) .]

4. **Coordinate programs and services.** The commissioner shall coordinate the programs and services of the department. The commissioner shall coordinate the department's programs and services with those programs and services of other state agencies and regional planning and economic development organizations.

[1987, c. 534, Pt. A, §§17, 19 (NEW) .]

5. **Review of program; report to Governor and Legislature.** The commissioner shall review and evaluate the programs and functions of the department and the operation of the economic delivery system using the information available from the economic development evaluation pursuant to section 13056-A. The commissioner shall report the commissioner's findings and recommendations with respect to the issues described in this subsection to the Governor and to the Legislature no later than February 1st of each first regular session of the Legislature. The commissioner shall conduct the review and evaluation with respect to the following:

A. The purpose of these programs and the degree to which the purpose is being met; [1993, c. 349, §14 (RPR).]

B. The degree of significance of the purpose of the programs and functions of the department; [1993, c. 349, §14 (RPR).]

C. The extent of the coordination of programs and services as required in subsection 4; [1993, c. 349, §14 (RPR).]

D. The needs, problems and opportunities that are not being met by the programs and services of the department; [1993, c. 349, §14 (RPR).]

E. The types of programs and services necessary to meet the needs, problems and opportunities as set out in paragraph D; [1993, c. 349, §14 (RPR).]

F. The problems and successes in the economic delivery system; [1993, c. 349, §14 (RPR).]

G. The state of small business in this State, including economic data, the effectiveness of state programs to aid small business, problems of small business that may be affected by state policies and such other information on small business as desired by the commissioner; [1993, c. 349, §14 (RPR).]

H. Within available resources, the extent of business growth and change, including business expansions, new businesses and business closings; [1999, c. 776, §4 (AMD).]

I. Within available resources, the status of investments in business in the State; and [1999, c. 776, §4 (AMD).]

J. The extent to which the purposes of the Maine Downtown Center are being met. [1999, c. 776, §5 (NEW).]

[2009, c. 337, §3 (AMD) .]

6. **Responsible for oversight.** The commissioner shall be responsible for the oversight and implementation of the following:

A. A program of assistance to encourage business development pursuant to subchapter II; [1987, c. 534, Pt. A, §§17, 19 (NEW).]

B. Community development programs; [1987, c. 534, Pt. A, §§17, 19 (NEW).]

C. A program of tourism promotion and development; [1987, c. 534, Pt. A, §§17, 19 (NEW).]

D. The promotion of Maine products and Maine as an investment opportunity; [1987, c. 534, Pt. A, §§17, 19 (NEW).]

E. A foreign trade zone program; and [2001, c. 703, §2 (AMD).]

F. The Business Assistance Referral and Facilitation Program, pursuant to section 13063. [2001, c. 703, §2 (AMD).]

G. [2001, c. 703, §3 (RP).]

[2001, c. 703, §§2, 3 (AMD) .]

7. **Commissioner to coordinate programs.**

[2003, c. 673, Pt. M, §3 (RP) .]

8. **Dependent care services.**

[2003, c. 673, Pt. M, §4 (RP) .]

9. **Designate and certify local and regional organizations.** The commissioner may designate and certify competent local and regional economic development organizations to implement state programs and services in whole or in part.

A. The commissioner may assist in forming regional planning commissions and councils of governments and may assist with financing the cost of operation of the regional planning commissions established under Title 30, chapter 204-A, subchapter III, and councils of governments empowered under Title 30, chapter 204-A, subchapter II. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

B. The commissioner shall adopt rules with respect to standards and criteria for local and regional agencies to be certified and evaluate local and regional organizations in regard to the implementation of these programs and services. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

[1987, c. 534, Pt. A, §§17, 19 (NEW) .]

10. **Assistance to municipalities to generate economic growth.** The commissioner shall administer a program of assistance to municipalities to generate jobs and business development. Potential uses of this money include infrastructure development, planning and technical assistance, marketing and other types of capacity building.

A. This program may consist of a fund consisting of money derived from any general obligation bonds issued for the purposes of generating economic development and jobs. This fund with money not exceeding $1,000,000 shall be administered by the Department of Economic and Community Development to provide assistance as defined in this subsection. Money available for the purpose of this subsection shall not be used to provide financial assistance to business. [1987, c. 769, Pt. A, §19 (NEW).]

B. [1995, c. 462, Pt. A, §11 (RP).]

[1995, c. 462, Pt. A, §11 (AMD) .]

10-A. **Maine Downtown Center.**

[1999, c. 790, Pt. R, §1 (RP) .]

11. **Federally mandated programs.**

[1989, c. 875, Pt. M, §§4, 13 (RP) .]

12. **Energy conservation standards.**

[1989, c. 875, Pt. M, §§4, 13 (RP) .]

13. **Approval or denial of certificates.**

[1989, c. 875, Pt. M, §§4, 13 (RP) .]

14. **Preparation of manual.**

[1989, c. 875, Pt. M, §§4, 13 (RP) .]

15. **Review and inspection.**

[1989, c. 875, Pt. M, §§4, 13 (RP) .]

16. **Administration of state standards.**

[1989, c. 875, Pt. M, §§4, 13 (RP) .]

17. **Rule-making authority.**

[1989, c. 875, Pt. M, §§4, 13 (RP) .]

18. **Commissioner's designee.** When the commissioner is explicitly empowered by statute to appoint a designee to replace the commissioner on any board, commission or similar body, none of which have a termination date, and the commissioner appoints a designee, the commissioner shall appoint that designee from within the commissioner's department. The commissioner shall make this designee known to the appointing authority and to the chair of the body to which the appointment is made, if that body exists at the time of appointment. The designee is the only person who may fill that appointee position until a successor is designated through the same appointment procedure.

[1995, c. 688, §7 (NEW) .]

19. **Coordinate assessment of transportation needs related to economic development projects.** The commissioner shall coordinate the activities of the department, the Department of Agriculture, Conservation and Forestry, the Department of Transportation and regional planning and economic development organizations to ensure that the location of rail lines, potential use of passenger and freight rail and costs of transportation improvements related to development are considered during initial planning and locating of projects reviewed by the commissioner in administering economic development programs under this chapter.

[2011, c. 655, Pt. JJ, §3 (AMD); 2011, c. 655, Pt. JJ, §41 (AFF); 2011, c. 657, Pt. W, §5 (REV) .]

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW). 1987, c. 769, §A19 (AMD). 1989, c. 501, §DD16 (AMD). 1989, c. 857, §44 (AMD). 1989, c. 875, §§E7,L3,4,M4 ,13 (AMD). 1993, c. 349, §14 (AMD). 1995, c. 462, §A11 (AMD). 1995, c. 688, §7 (AMD). 1997, c. 530, §A34 (AMD). 1999, c. 776, §§4-6 (AMD). 1999, c. 790, §R1 (AMD). 2001, c. 703, §§2,3 (AMD). 2003, c. 498, §1 (AMD). 2003, c. 673, §§M3,4 (AMD). 2005, c. 425, §4 (AMD). 2009, c. 337, §3 (AMD). 2011, c. 655, Pt. JJ, §3 (AMD). 2011, c. 655, Pt. JJ, §41 (AFF). 2011, c. 657, Pt. W, §5 (REV). RR 2015, c. 1, §3 (COR).

§13059. STATE AGENCIES TO COOPERATE

All state agencies and any other organizations designated by the department to implement community and economic development programs and policies shall cooperate with and expeditiously respond to requests of the department. [1987, c. 534, Pt. A, §§ 17, 19 (NEW).]

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW).

§13060. STATE STANDARDS FOR APPLIANCE ENERGY EFFICIENCY

(REPEALED)

SECTION HISTORY
1989, c. 501, §DD17 (NEW). 1989, c. 875, §§M5,13 (RP).

Subchapter 1-A: SCIENCE AND TECHNOLOGY

Article 1: PLANNING AND EVALUATION

§13060-A. SCIENCE AND TECHNOLOGY PLAN

(REPEALED)

SECTION HISTORY
2003, c. 20, §RR2 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 673, §M5 (RP).

§13060-B. COMPREHENSIVE RESEARCH AND DEVELOPMENT EVALUATION

(REPEALED)

SECTION HISTORY
2003, c. 20, §RR2 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 673, §M5 (RP).

§13060-C. REPORTING REQUIREMENTS OF RECIPIENTS OF RESEARCH AND DEVELOPMENT FUNDING

(REPEALED)

SECTION HISTORY
2003, c. 20, §RR2 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 464, §1 (AMD). 2003, c. 673, §M5 (RP).

Article 2: SCIENCE AND TECHNOLOGY PROGRAMS

§13060-D. MAINE RESEARCH AND DEVELOPMENT EVALUATION FUND

(REPEALED)

SECTION HISTORY
2003, c. 20, §RR2 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 464, §2 (AMD). 2003, c. 673, §M5 (RP).

§13060-E. EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH

(REPEALED)

SECTION HISTORY
2003, c. 20, §RR2 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 673, §M5 (RP).

§13060-F. MAINE EPSCOR CAPACITY FUND

(REPEALED)

SECTION HISTORY
2003, c. 20, §RR2 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 673, §M5 (RP).

Subchapter 1-B: MARKETING AND PROMOTION

§13060-G. COMPREHENSIVE MARKETING STRATEGY

(REPEALED)

SECTION HISTORY
2003, c. 704, §2 (NEW). 2005, c. 425, §5 (RP).

Subchapter 2: BUSINESS DEVELOPMENT

Article 1: GENERAL PROVISIONS

§13061. OFFICE ESTABLISHED

The commissioner shall establish the Office of Business Development. This office shall encourage the initiation, expansion and location of businesses in Maine which would expand quality employment opportunities for Maine citizens. [1987, c. 534, Pt. A, §§ 17, 19 (NEW).]

The Office of Business Development shall encourage business by removing barriers to growth, facilitating exploration of opportunities and providing assistance necessary to enhance business consistent with the State's economic development strategy. [1987, c. 534, Pt. A, §§ 17, 19 (NEW).]

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW).

§13062. OFFICE OF BUSINESS DEVELOPMENT

The Director of the Office of Business Development shall administer the office in accordance with the policies of the commissioner and the provisions of this chapter, emphasizing a program of targeted business development designed to attract particular types of businesses that have potential for Maine and businesses that are considered to be compatible with Maine's environment and interests. The office shall actively seek and encourage firms to expand or locate in Maine. The office is responsible for the implementation of programs designed to promote Maine products in national and international markets and to develop markets for industry located in Maine. [2003, c. 673, Pt. M, §6 (AMD).]

The Office of Business Development shall be responsible for the implementation of a program consisting of 3 primary elements. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

1. **Business investment.** Business investment shall be encouraged consistent with this subsection.

A. The office shall conduct an analysis of the various industrial sectors of the economy. The types of businesses to be targeted for attraction are those that have potential for development in Maine and that will contribute to a healthy climate for Maine's businesses, families and environment. [1999, c. 272, §1 (AMD).]

B. The office shall report its findings and recommendations to the commissioner. The commissioner, with the advice of the director shall determine the type and extent of the business investment program to be implemented. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

C. The director, with the approval of the commissioner, may make grants for market development from appropriations for that purpose to any municipality or group of municipalities which have received a grant of authority from the Federal Government to establish a foreign trade zone. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

D. Application for foreign trade zones shall be according to this paragraph.

(1) The director, with the approval of the commissioner, on behalf of the State, may make applications to the Foreign Trade Zone Board and establish foreign trade zones that are to be located on state-owned, leased or otherwise controlled property. A municipality, group of municipalities or a public or private corporation may, with the approval of the department, make applications to the Foreign Trade Zone Board and establish foreign trade zones at other locations. Foreign trade zones shall be established in or adjacent to any ports of entry in the State, where personal property in transit shall be exempt from the stock-in-trade tax and such other taxes and customs as are normally levied in a port of entry.

(2) Any development or activity with a foreign trade zone established in the State is subject to the laws which the Department of Environmental Protection, Department of Agriculture, Conservation and Forestry, Department of Marine Resources and Department of Inland Fisheries and Wildlife are responsible for administering, as well as any other law which protects the environment.

(3) For the purpose of this subsection, "personal property in transit" through the areas established under this paragraph means goods, wares and merchandise either moving in interstate or international commerce through these zones or consigned to a warehouse, public or private, within these zones, whether specified when transportation begins or afterward. This property shall not be deprived of exemption because, while in the warehouse, the property is assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged. The exemption granted shall be liberally construed to effect the purposes of this subsection. The warehouse in

which these goods, wares or merchandise are stored shall not be owned, in whole or in part, by either the consignee or consignor. This paragraph does not apply to agricultural products. [1989, c. 781, (AMD); 2011, c. 657, Pt. W, §5 (REV).]

[1999, c. 272, §1 (AMD); 2011, c. 657, Pt. W, §5 (REV) .]

2. **Business assistance.** Business assistance services shall be provided consistent with this subsection.

A. The office shall provide business assistance services that are convenient to businesses throughout the State. The office shall use certified local and regional economic development organizations, educational institutions or certified private sector firms to implement this subsection.

(1) Business assistance services shall include managerial and technical assistance and assistance with applications for loans and the completion of applications for licenses and permits from regulatory agencies.

(2) The office, in conjunction with local and regional organizations and other institutions and firms in the private sector with marketing expertise, may conduct seminars on marketing and marketing-related topics for Maine businesses. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

B. In accordance with section 13063, the office shall implement a business ombudsman program. [2011, c. 304, Pt. C, §1 (AMD).]

[2011, c. 304, Pt. C, §1 (AMD) .]

3. **Industry-wide assistance and market development.** The director shall be responsible for a program of industry-wide assistance and market development.

A. The director shall work with other state agencies which implement marketing programs and strive to coordinate the marketing activities of the department with those of other agencies whenever possible. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

B. The director shall be responsible, to the maximum extent possible, for providing assistance to industry sectors and business to identify market opportunities, develop market strategies and to promote industry-wide development. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

[1987, c. 534, Pt. A, §§17, 19 (NEW) .]

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW). 1989, c. 781, (AMD). 1999, c. 272, §1 (AMD). 2003, c. 673, §M6 (AMD). 2011, c. 304, Pt. C, §1 (AMD). 2011, c. 657, Pt. W, §5 (REV).

§13062-A. ECONOMIC CONVERSION DIVISION

(REPEALED)

SECTION HISTORY
1993, c. 410, §NNN1 (NEW). 1993, c. 725, §1 (AMD). 1995, c. 395, §D5 (AMD). 1995, c. 395, §D18 (AFF). 1995, c. 560, §B3 (AMD). MRSA T. 5, §13062-A, sub-§5 (RP).

Article 2: BUSINESS ASSISTANCE REFERRAL AND FACILITATION PROGRAM: PROGRAM RESPONSIBILITIES AND DELIVERY

§13063. BUSINESS OMBUDSMAN PROGRAM

The director shall establish and implement pursuant to this section the Business Ombudsman Program, referred to in this section as "the program," and the director shall serve as the ombudsman for the program. The program is established to: resolve problems encountered by businesses dealing with other state agencies; facilitate responsiveness of State Government to small business needs; report to the commissioner and the Legislature on breakdowns in the economic delivery system, including problems encountered by businesses dealing with state agencies; assist businesses by referring businesses and persons to resources that provide the business services or assistance requested; provide comprehensive permit information and assistance; and serve as a central clearinghouse of information with respect to business assistance programs and services available in the State. [2011, c. 304, Pt. C, §2 (AMD).]

1. **Referral and central clearinghouse service.** The ombudsman shall maintain and update annually a list of the business assistance programs and services and the names, locations, websites and telephone numbers of the organizations providing these programs and services that are available within the State. The ombudsman may publish a guide consisting of the business assistance programs and services available from public or private sector organizations throughout the State. This program must be designed to:

A. Respond to written and oral requests for information about business services and assistance programs available throughout the State; [1987, c. 534, Pt. A, §§17, 19 (NEW).]

B. Obtain and compile the most current and available information pertaining to business assistance programs and services within the State; [1987, c. 534, Pt. A, §§17, 19 (NEW).]

C. Delineate the business assistance programs and services by type of program or service and by agency; and [1987, c. 534, Pt. A, §§17, 19 (NEW).]

D. Maintain a list, to be updated annually, of marketing programs of state agencies with a description of each program. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

[2011, c. 304, Pt. C, §2 (AMD) .]

2. **Business fairness and responsiveness.** The ombudsman shall implement a business fairness and responsiveness service designed to:

A. Resolve problems encountered by businesses with other state agencies and with certified regional and local economic development organizations; [2011, c. 304, Pt. C, §2 (AMD).]

B. Coordinate programs and services for business among agencies and all levels of government; [1987, c. 534, Pt. A, §§17, 19 (NEW).]

C. Facilitate responsiveness of State Government to business needs; and [2011, c. 304, Pt. C, §2 (AMD).]

D. Report to the commissioner and the Legislature any breakdowns in the economic delivery system, including problems encountered by businesses dealing with state agencies. [2011, c. 304, Pt. C, §2 (AMD).]

[2011, c. 304, Pt. C, §2 (AMD) .]

3. **Comprehensive permit information.** The ombudsman shall develop and maintain a program to provide comprehensive information on permits required for business undertakings, projects and activities and to make that information available to any person. This program must function as follows.

A. By December 15, 2011, each state agency required to review, approve or grant permits for business undertakings, projects and activities shall report to the office in a form prescribed by the office on each type of review, approval and permit administered by that state agency. Application forms, applicable agency rules and the estimated time period necessary for permit application consideration based on experience and statutory or regulatory requirements must accompany each state agency report. [2011, c. 304, Pt. C, §2 (AMD).]

B. Each state agency required to review, approve or grant permits for business undertakings, projects and activities, subsequent to its report pursuant to paragraph A, shall provide to the office, for information purposes only, a report of any new permit or modification of any existing permit together with applicable forms, rules and information required under subsections 1 and 2 regarding the new or modified permit. To ensure that the department's information is current, each agency shall report immediately to the office when a new permit is adopted or any existing permit is modified. "Permit," as used in this paragraph, refers to the categorical authorization required for an activity. "Permit" does not mean a permit issued to a particular individual or business. [1991, c. 826, §2 (NEW).]

C. The office shall prepare an information file on each state agency's permit requirements upon receipt of that state agency's reports and shall develop methods for that file's maintenance, revision, updating and ready access. [1991, c. 826, §2 (NEW).]

D. The office shall provide comprehensive permit information on the basis of the information received under this subsection. The office may prepare and distribute publications, guides and other materials explaining permit requirements affecting business and including requirements involving multiple permits or multiple state agencies that are based on the state agency reports and the information file for the convenience of permit applicants. [1991, c. 826, §2 (NEW).]

[2011, c. 304, Pt. C, §2 (AMD) .]

4. **Permit assistance.** By December 15, 2011, the ombudsman shall set up procedures to assist permit applicants who have encountered difficulties in obtaining timely and efficient permit review. These procedures must include the following.

A. Any applicant for permits required for a business undertaking, project or activity must be allowed to confer with the office to obtain assistance in the prompt and efficient processing and review of applications. [1991, c. 826, §2 (NEW).]

B. The office shall, as far as possible, give assistance, and the ombudsman may designate an officer or employee of the office to act as an expediter with the purpose of:

(1) Facilitating contacts for the applicant with state agencies responsible for processing and reviewing permit applications;

(2) Arranging conferences to clarify the interest and requirements of any state agency with respect to permit applications;

(3) Considering with state agencies the feasibility of consolidating hearings and data required of the applicant;

(4) Assisting the applicant in the resolution of outstanding issues identified by state agencies, including delays experienced in permit review; and

(5) Coordinating federal, state and local permit review actions to the extent practicable. [2011, c. 304, Pt. C, §2 (AMD).]

[2011, c. 304, Pt. C, §2 (AMD) .]

5. **Retail business permitting program.** By February 1, 2012, the ombudsman shall establish and administer a central permitting program for all permits required by retail businesses selling directly to the final consumer, including, but not limited to, permits required for the operation of hotels and motels, convenience stores and eating and lodging places, and permits required for the sale of liquor or beer, tobacco, food, beverages, lottery tickets and gasoline. Permits issued by the Department of Environmental Protection, the Department of Marine Resources and the Maine Land Use Planning Commission are not included in this program. The ombudsman shall:

A. Create a consolidated permit procedure that allows each business to check on a cover sheet all state permits for which it is applying and to receive all permit applications from a centralized office; [1993, c. 430, §1 (NEW).]

B. Total all permit fees due from a business, collect those fees on a semiannual basis, with 1/2 of the total fees due by January 1st and 1/2 of the total fees due by July 1st, and distribute the fees to the appropriate funds or permitting entities; [1993, c. 430, §1 (NEW).]

C. Forward a copy of the appropriate permit application to any commission, department, municipality or other agency that has responsibility for permitting that retail business; [1993, c. 430, §1 (NEW).]

D. Develop a tracking system to track permits issued by state agencies. This system must at a minimum include information on the applicant, agency involvement, time elapsed or expended on the permit and action taken; [1993, c. 430, §1 (NEW).]

E. Coordinate and supervise the permitting process to ensure that all involved state agencies process the applications and complete any necessary inspections in a timely fashion; and [1993, c. 430, §1 (NEW).]

F. Respond to inquiries from the business community and requests for information from the individual permitting entities, including reports on the status of an application. [1993, c. 430, §1 (NEW).]

A retail business is not required to participate in the retail business permitting program. An enforcement action taken against a retail business for a permit obtained through the retail business permitting program does not affect other permits issued to that same retail business through that program.

[2011, c. 304, Pt. C, §2 (AMD); 2011, c. 682, §38 (REV) .]

6. **Municipal permitting agents.** By February 1, 2012, the ombudsman shall establish a municipal centralized permitting program.

A. Upon application by the municipal officers of a municipality and upon evidence that the municipality meets all qualifications as determined by departmental rulemaking, the ombudsman shall appoint the municipality as a centralized permitting agent to provide all permits for retail businesses. Upon evidence that a municipality qualified to provide permits meets the qualifications for conducting the inspection associated with any of those permits as determined by departmental rulemaking, the ombudsman shall appoint that municipality as an agent to provide that inspection for retail businesses with less than 10,000 square feet of retail space. The ombudsman shall ensure that municipalities appointed as agents for purposes of inspection are qualified and capable of conducting those inspections in a manner that ensures compliance with all applicable public health and safety requirements. Retail businesses shall pay the municipality an additional fee of $4 for each permit included in the consolidated application up to a limit of $40. Municipalities may retain 1/2 of all fees collected for permits requiring inspection. The remaining 1/2 of those permit fees and all fees for permits not requiring inspection must be remitted to the department, which shall remit the fees to the issuing agency. A municipality with a population of less than 4,000 may contract with an appointed municipality for centralized permitting and inspection services. A retail business is not required to participate in the municipal central permitting program. [2011, c. 304, Pt. C, §2 (AMD).]

B. The ombudsman shall make permitting and inspection training programs available to a municipality seeking appointment or appointed as a central permitting agent. The municipality shall pay a fee of $25 for each person receiving permitting training and $100 for each person receiving inspection training. [2011, c. 304, Pt. C, §2 (AMD).]

C. A business that seeks to determine why it has not received its permits must be directed to the municipal office where the application was filed. That office shall bring the matter to the attention of the department, which shall contact the appropriate issuing agency. [1993, c. 430, §1 (NEW).]

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

During a review under Title 3, chapter 35 of a permit issuing agency, the joint standing committee having responsibility for the review shall recommend whether any of the permits issued by that agency should be included in the municipal centralized permitting program. [1995, c. 488, §3 (AMD).]

The ombudsman may extend by rulemaking, but may not curtail, the department's centralized permitting program or the municipal centralized permitting program, except that the programs may not be extended to include additional issuing agencies.

[2011, c. 304, Pt. C, §2 (AMD) .]

7. **Goal and evaluation.** It is the goal of the programs established in subsections 5 and 6 for retail businesses to obtain permits more quickly at no additional cost to the taxpayers of the State. The ombudsman shall devise and implement a program of data collection and analysis that allows a determination as to whether these goals have been met. This program must include the collection of benchmark data before the initiation of the programs and an enumeration of the number of municipalities participating in the program. By January 15, 2012 and every 2 years after that date, the ombudsman shall prepare and submit a report to the joint standing committee of the Legislature having jurisdiction over economic development matters regarding the effectiveness of the program and any recommendations as to why the retail business program and the municipal centralized permitting program should not be expanded to other sizes or types of businesses, to other issuing agencies and to smaller municipalities. The first report must contain an assessment of the levels of willingness of municipalities to participate in the programs established by this section.

[2011, c. 304, Pt. C, §2 (AMD) .]

8. **Report.** By January 15, 2012 and at least annually thereafter, the ombudsman shall report to the Governor and the joint standing committee of the Legislature having jurisdiction over economic development matters about the program with any recommendations for changes in the statutes to improve the program and its delivery of services to businesses. The joint standing committee of the Legislature having jurisdiction over economic development matters may report out a bill relating to the program.

[2011, c. 304, Pt. C, §2 (NEW) .]

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW). 1991, c. 826, §2 (AMD). 1993, c. 430, §1 (AMD). 1995, c. 488, §3 (AMD). RR 1997, c. 2, §§17,18 (COR). 2011, c. 304, Pt. C, §2 (AMD). 2011, c. 682, §38 (REV).

§13063-A. MAINE EDUCATION AND TRAINING EXPORT PARTNERSHIP

(REPEALED)

SECTION HISTORY
1993, c. 410, §RRR1 (NEW). 1993, c. 558, §1 (AMD). 1993, c. 558, §2 (AFF). 1995, c. 519, §1 (AMD). 1995, c. 648, §9 (AFF). 1995, c. 648, §1 (RP).

§13063-B. ENERGY CONSERVATION PROGRAMS

(REPEALED)

SECTION HISTORY
1995, c. 560, §B4 (NEW). 2003, c. 2, §L1 (AMD). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR3 (RP). 2003, c. 644, §1 (AMD).

§13063-C. JOB RETENTION PROGRAM

1. **Establishment.** The Job Retention Program is established within the Department of Economic and Community Development to encourage the retention of existing quality jobs in this State. Funds available in this program do not lapse but must be carried forward, except as provided in subsection 4, in order to carry out the purposes of this section.

[1995, c. 706, §2 (NEW) .]

2. **Definitions.** As used in this section the following terms have the following meanings.

A. "Certified retained business" means any for-profit business in this State other than a public utility as defined by Title 35-A, section 102 that retains 100 or more qualified employees in this State and that meets all of the following criteria to the satisfaction of the commissioner:

(1) The business is not engaged in retail operations; or, if it is engaged in retail operations, less than 50% of its total annual revenues from state-based operations are derived from sales taxable in this State or the business can demonstrate to the commissioner by a preponderance of the evidence that any increased sales will not include sales tax revenues derived from a transferring or shifting of retail sales from other businesses in this State; and

(2) The commissioner determines that the business is a successor to a business that would have ceased operations in this State but for the acquisition of that business after September 1, 1996 by the applicant by any means and the applicant demonstrates to the commissioner its intention to continue to operate and employ qualified employees in the State.

For purposes of this paragraph, "retail operations" means sales of consumer goods for household use to consumers who personally visit the business location to purchase the goods. [1997, c. 393, Pt. A, §13 (RPR).]

B. "Qualified employees" means full-time employees who are employed by a certified retained business, for whom a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 101 to 1461, as amended, and group health insurance are provided, and whose income, calculated on a calendar year basis, is greater than the average annual per capita income in the labor market area in which the qualified employee is employed. Qualified employees must be residents of this State. [1997, c. 393, Pt. A, §13 (RPR).]

[1997, c. 393, Pt. A, §13 (RPR) .]

3. **Expenditures from the program.** The commissioner shall authorize payment from the program in an amount not to exceed $150,000 annually. In determining the amount of payment to any certified retained business, the commissioner may use the calculation methodology established in Title 36, section 6754, subsection 1. A certified retained business may receive payments for a period not to exceed 10 years, only if the business continues to meet the criteria established in subsection 2. Payments must be made no later than July 31st of each fiscal year beginning in fiscal year 1997-98 and ending in fiscal year 2006-07. Payments received by a certified retained business pursuant to this section must be used for capital investments, including, but not limited to, the acquisition, refurbishments, upgrading, modification and leasing of buildings, machinery and equipment.

[1995, c. 706, §2 (NEW) .]

4. **Transfer from program.** Funds must be transferred from the program as follows:

A. Upon the revocation of a certificate of approval, any balance remaining in the program and allocated to the business whose certificate has been revoked must be transferred to the department's "Administration - Economic and Community Development" program as nonlapsing funds to be used in accordance with section 13063-D; and [2001, c. 680, §1 (NEW).]

B. Notwithstanding section 1585, any balance remaining in the program after July 31, 2007 must be transferred to the Maine Budget Stabilization Fund as established in section 1532. [2005, c. 2, Pt. A, §9 (AMD); 2005, c. 2, Pt. A, §14 (AFF).]

The commissioner may consider the layoff or termination of all, or substantially all, of the employees of a certified retained business as demonstration that it has ceased operations.

[2005, c. 2, Pt. A, §9 (AMD); 2005, c. 2, Pt. A, §14 (AFF) .]

5. **Investment of funds.** The money in the program may be invested as provided by law with the earnings credited to the program.

[1995, c. 706, §2 (NEW) .]

6. **Criteria for approval.** Prior to issuing a certificate of approval to a business, the commissioner must find that the applicant qualifies as a certified retained business. Notwithstanding the provisions of this section, the commissioner may not accept or certify an application for a certified retained business that is submitted by the applicant after February 28, 1997.

[1995, c. 706, §2 (NEW) .]

SECTION HISTORY
1995, c. 706, §2 (NEW). 1997, c. 393, §A13 (AMD). 2001, c. 680, §1 (AMD). 2003, c. 451, §X10 (AMD). 2005, c. 2, §A9 (AMD). 2005, c. 2, §A14 (AFF).

§13063-D. GRANTS TO MUNICIPALITIES TO RETAIN MATURE OR DOMINANT EMPLOYERS

The commissioner shall authorize grants to municipalities for the purpose of assisting those municipalities to retain mature or dominant employers, as defined in rules adopted by the commissioner, especially manufacturing firms presently located in the State. In awarding grants under this section, the commissioner shall consider the economic health of the region in which the municipality is located, the economic and social impacts that would be or have been created by the loss of the mature or dominant employer and the likelihood of returning that employer to a financially viable condition. In awarding any grant under this section, the commissioner shall take appropriate measures to ensure accountability and a positive return on the public's investment. To the extent that grant funds have been transferred from the Job Retention Program in accordance with section 13063-C, subsection 4, the commissioner shall give priority to projects that are reasonably expected to return a former certified retained business, as defined in section 13063-C, to financial viability or its facilities to appropriate productive use. Rules adopted pursuant to this section are routine technical rules as defined in chapter 375, subchapter II-A. [2001, c. 680, §2 (RPR).]

SECTION HISTORY
1999, c. 731, §§MMM1,VVV1 (NEW). RR 2001, c. 1, §12 (COR). 2001, c. 680, §2 (RPR).

Article 2-A: MAINE MICROENTERPRISE INITIATIVE

§13063-E. MAINE MICROENTERPRISE INITIATIVE FUND

(REPEALED)

SECTION HISTORY
1999, c. 731, §VVV1 (NEW). 2001, c. 471, §A6 (RP).

§13063-F. APPLICATION PROCESS

(REPEALED)

SECTION HISTORY
1999, c. 731, §VVV1 (NEW). 2001, c. 471, §A6 (RP).

§13063-G. RULES

(REPEALED)

SECTION HISTORY
1999, c. 731, §VVV1 (NEW). 2001, c. 471, §A6 (RP).

§13063-H. REPORT

(REPEALED)

SECTION HISTORY
1999, c. 731, §VVV1 (NEW). 2001, c. 471, §A6 (RP).

Article 2-B: MAINE MICROENTERPRISE INITIATIVE

§13063-J. DEFINITIONS

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [2001, c. 471, Pt. A, §7 (NEW).]

1. **Community-based organization.** "Community-based organization" means a nonprofit organization that has:

A. A viable plan for providing training and technical assistance to microenterprises; [2001, c. 471, Pt. A, §7 (NEW).]

B. Broad-based community support; [2001, c. 471, Pt. A, §7 (NEW).]

C. An adequate source of operating capital; and [2001, c. 471, Pt. A, §7 (NEW).]

D. A demonstrated need for funding to provide training and technical assistance to microenterprises. [2001, c. 471, Pt. A, §7 (NEW).]

[2001, c. 471, Pt. A, §7 (NEW) .]

2. **Fund.** "Fund" means the Maine Microenterprise Initiative Fund established in section 13063-K.

[2001, c. 471, Pt. A, §7 (NEW) .]

3. **Microenterprise.** "Microenterprise" means a business located in the State that produces goods or provides services and has fewer than 10 full-time equivalent employees.

[2001, c. 471, Pt. A, §7 (NEW) .]

SECTION HISTORY
2001, c. 471, §A7 (NEW).

§13063-K. MAINE MICROENTERPRISE INITIATIVE FUND

1. **Fund established.** The Maine Microenterprise Initiative Fund is established as a nonlapsing fund administered by the department. The fund consists of money appropriated to it by the Legislature from the General Fund and eligible investment earnings from fund assets. The fund must be held separate from all other money, funds and accounts, and all eligible investment earnings from fund assets must be credited to the fund.

[2001, c. 471, Pt. A, §7 (NEW) .]

2. **Fund purposes.** The department shall administer the fund to provide grants to community-based organizations to aid them in providing technical assistance and training to microenterprises.

[2001, c. 471, Pt. A, §7 (NEW) .]

SECTION HISTORY
2001, c. 471, §A7 (NEW).

§13063-L. APPLICATION PROCESS

1. **Process established.** The department shall adopt rules establishing an application process for fund grants for the purposes set forth in section 13063-K, subsection 2. In establishing the application process, the department shall consult with business experts involved with microenterprises in the State.

[2001, c. 471, Pt. A, §7 (NEW) .]

2. **Process requirements.** The application process must be competitive. An applicant shall specify whether a grant is sought for microenterprise technical assistance or training or a combination thereof. In making grants, the department shall give priority to applications that:

A. Are joint applications by 2 or more community-based organizations or otherwise provide for cooperation among community-based organizations; [2001, c. 471, Pt. A, §7 (NEW).]

B. Target aid to low-income individuals; or [2001, c. 471, Pt. A, §7 (NEW).]

C. Target aid to areas of high unemployment or to underserved areas of the State. [2001, c. 471, Pt. A, §7 (NEW).]

The department may establish additional criteria for assessing applications for fund grants.

[2001, c. 471, Pt. A, §7 (NEW) .]

SECTION HISTORY
2001, c. 471, §A7 (NEW).

§13063-M. RULES

The department shall adopt rules necessary to carry out this article. Rules adopted pursuant to this article are routine technical rules as defined in chapter 375, subchapter II-A. [2001, c. 471, Pt. A, §7 (NEW).]

SECTION HISTORY
2001, c. 471, §A7 (NEW).

§13063-N. REPORT

The department shall submit to the joint standing committee of the Legislature having jurisdiction over business and economic development matters an update on the fund by January 1, 2001 and every year thereafter. [2001, c. 471, Pt. A, §7 (NEW).]

SECTION HISTORY
2001, c. 471, §A7 (NEW).

§13063-O. MICROENTERPRISE INITIATIVE FUND PROGRAM REVIEW

1. **Accounting and reporting requirements.** The department shall:

A. Maintain an accurate accounting of the use of all program funds as required by state procedures and program guidelines, including a detailed accounting of all program funding sources and expenditures; and [2009, c. 337, §4 (AMD).]

B. [2009, c. 337, §4 (RP).]

C. Each year, submit a report to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters. The report must include:

(1) An accounting of the use of all program funds received and expended since the program's inception;

(2) A summary of the status of any approved projects;

(3) A summary of the results of any completed projects;

(4) Evaluation data and assessment consistent with section 13056-A; and

(5) Other information required to be submitted and evaluated by the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters. [2009, c. 337, §4 (AMD).]

[2009, c. 337, §4 (AMD) .]

2. **Report.** The department shall report no later than January 15th of each year.

[2003, c. 451, Pt. MMM, §1 (NEW) .]

3. **Rulemaking.** The department shall adopt major substantive rules pursuant to chapter 375, subchapter 2-A to implement this section.

[2003, c. 451, Pt. MMM, §1 (NEW) .]

SECTION HISTORY
2003, c. 451, §MMM1 (NEW). 2009, c. 337, §4 (AMD).

Article 2-C: MAINE WORKFORCE OPPORTUNITIES PROGRAM

§13063-R. MAINE WORKFORCE OPPORTUNITIES PROGRAM

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL 3/31/21)
(WHOLE SECTION TEXT REPEALED 3/31/21)

1. **Definitions.** As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

A. "Departments" means the Department of Economic and Community Development and the Department of Labor. [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

B. "Fund" means the Maine Workforce Opportunities Marketing Fund established in subsection 5. [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

C. "Program" means the Maine Workforce Opportunities Program established in subsection 2. [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

D. "Qualified employee" means an employee qualified to participate in the program and listed in the qualified employee registry created pursuant to subsection 3. [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

E. "Qualified employee registry" means the electronic registry that contains a list of qualified employees created pursuant to subsection 3. [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

F. "Qualified employer" means an employer who has registered with the program in accordance with rules adopted under subsection 4. [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

G. "Qualified employer registry" means the electronic registry that contains a list of qualified employers created pursuant to subsection 4. [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

[2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF) .]

2. **Program established.** The Maine Workforce Opportunities Program is established as a pilot project that seeks to match qualified employees with positions at companies in the State representing industries with significant unmet demand for skilled labor by promoting incentives, including a tax credit for an employee's education costs, when applicable, through the Job Creation Through Educational Opportunity Program established in Title 20-A, section 12542 and through other programs or initiatives operated by the State that seek to attract new employees to businesses in this State. The program is designed to achieve the following goals:

A. Promote economic opportunity and growth by providing an incentive to those individuals with certain skills and experience in occupations when there exists a demonstrable gap between the number of available jobs requiring those skills and experience and a smaller number of individuals willing and able to accept and succeed in those jobs; [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

B. Assist businesses by providing them with a registry of skilled and available individuals; [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

C. Offer incentives to individuals to pursue educational, training and retraining opportunities; [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

D. Keep individuals in the State through education tax credits and the opportunity to secure jobs in industries with significant demand; and [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

E. Provide immediate support for economic development in the State during a period during which comprehensive long-term workforce development solutions are implemented. [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

[2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF) .]

3. **Creation of qualified employee registry.** Working with the Maine Community College System, the University of Maine System, career centers, private postsecondary educational institutions, relevant trade associations and other entities as appropriate, the Department of Labor, in accordance with rules adopted by the departments, shall create an electronic registry of qualified employees.

The Department of Economic and Community Development shall manage the qualified employee registry and shall coordinate with the Department of Labor when supplying information from the qualified employee registry to qualified employers.

[2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF) .]

4. **Creation of qualified employer registry.** Working with employers, the Department of Labor, the Maine Community College System, the University of Maine System, private postsecondary educational institutions, relevant trade associations and other entities as appropriate, the Department of Economic and Community Development, in accordance with rules adopted by the departments, shall create an electronic registry of qualified employers.

The Department of Economic and Community Development shall manage the qualified employer registry and shall coordinate with the Department of Labor when supplying information from the qualified employer registry to qualified employees.

[2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF) .]

5. **Fund established.** The Maine Workforce Opportunities Marketing Fund is established to receive contributions from public and private entities.

A. Payments from the fund must be used solely for the purpose of financing the marketing and promotion of the program to prospective employees, employers and tourists visiting this State and to a national and international audience. [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

B. The Commissioner of Economic and Community Development shall administer the fund. The commissioner may adopt routine technical rules, as defined in chapter 375, subchapter 2-A, to implement this subsection. [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

[2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF) .]

6. **Eligibility limited.** A qualified employee becomes ineligible for the program if:

A. The qualified employee leaves the employment of the qualified employer first employing the qualified employee; [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

B. The qualified employee is employed in a different position with a qualified employer; or [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

C. The qualified employee's qualified employer opts out of the program. [2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF).]

[2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF) .]

7. **Monitoring, evaluation and annual report.** For any year in which the program is funded, the departments shall use an independent nonpartisan reviewer to complete a comprehensive evaluation of the program, using both quantitative and qualitative data and including an analysis of the return on investment of the program. The evaluation must consider, at a minimum, the effectiveness of education tax credits as a catalyst for employment, the effect on employee productivity and performance and the impact on the demand for skilled workers in industries in the State. The evaluation must measure the results of the program over time, including a longitudinal analysis that captures productivity and other outcomes related to the program

and a determination of the impact on the addition of net new jobs to the State. The departments shall jointly submit a report to the joint standing committee of the Legislature having jurisdiction over labor matters by February 1st of each year on the status of the program and on the evaluation data collected and analyzed.

[2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF) .]

8. **Rules.** The departments shall adopt rules to implement this article. Rules adopted pursuant to this subsection are routine technical rules as defined in chapter 375, subchapter 2-A.

[2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF) .]

9. **Insufficient funding.** Notwithstanding any other provision of this section, if the State does not receive sufficient funds to fund this program or if funds are deappropriated so as to result in insufficient funding, the State is not obligated to make payments under this program.

[2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF) .]

10. **Repeal.** This section is repealed March 31, 2021.

[2013, c. 443, §1 (NEW); 2013, c. 443, §4 (AFF) .]

SECTION HISTORY
2013, c. 443, §1 (NEW). 2013, c. 443, §4 (AFF).

Article 3: TOURISM

§13064. FINDINGS

(REPEALED)

SECTION HISTORY
1989, c. 875, §§M6,13 (NEW). 1989, c. 914, §2 (NEW). RR 1991, c. 1, §11 (COR). 1995, c. 560, §B5 (RP).

§13065. OFFICE OF TOURISM

(REPEALED)

SECTION HISTORY
1989, c. 875, §§M6,13 (NEW). 1989, c. 914, §2 (NEW). RR 1991, c. 1, §11 (COR). RR 1993, c. 1, §16 (COR). 1995, c. 560, §B5 (RP).

§13066. HISTORICAL MARKER PROGRAM

(REPEALED)

SECTION HISTORY
1989, c. 875, §§M6,13 (NEW). 1989, c. 914, §2 (NEW). RR 1991, c. 1, §11 (COR). 1995, c. 560, §B5 (RP).

§13066-A. IMPULSE TRAVELER PROGRAM

(REPEALED)

SECTION HISTORY
RR 1991, c. 1, §13 (RNU). 1991, c. 591, §III21 (NEW). 1993, c. 471, §1 (RP).

§13066-B. TOURISM MARKETING AND DEVELOPMENT STRATEGY

(REPEALED)

SECTION HISTORY
1993, c. 471, §2 (NEW). 1995, c. 368, §K1 (AMD). 1995, c. 560, §B5 (RP).

§13067. MAINE TOURISM COMMISSION

(REPEALED)

SECTION HISTORY
1989, c. 875, §§M6,13 (NEW). 1989, c. 914, §2 (NEW). RR 1991, c. 1, §11 (COR). 1995, c. 560, §B5 (RP).

§13068. TRAVEL PROMOTION MATCHING FUND PROGRAM

(REPEALED)

SECTION HISTORY
1989, c. 875, §§M6,13 (NEW). RR 1991, c. 1, §13 (COR). 1991, c. 528, §III21 (NEW). 1991, c. 528, §RRR (AFF). 1991, c. 591, §III21 (NEW). 1995, c. 560, §B5 (RP).

§13069. MAINE STATE FILM COMMISSION

(REPEALED)

SECTION HISTORY
1989, c. 875, §§M6,13 (NEW). 1995, c. 560, §B5 (RP). 1995, c. 688, §8 (AMD). 2007, c. 466, Pt. A, §23 (RP).

§13069-A. POWERS AND DUTIES

(REPEALED)

SECTION HISTORY
1989, c. 875, §§M6,13 (NEW). 1995, c. 560, §B5 (RP).

§13070. DIRECTOR OF THE MAINE STATE FILM OFFICE

(REPEALED)

SECTION HISTORY
1989, c. 875, §§M6,13 (NEW). 1995, c. 560, §B5 (RP).

Article 4: INTERNATIONAL COMMERCE DIVISION

§13070-A. INTERNATIONAL COMMERCE DIVISION; ESTABLISHED

(REPEALED)

SECTION HISTORY
1989, c. 875, §§M6,13 (NEW). 1995, c. 648, §2 (RP).

§13070-B. INTERNATIONAL COMMERCE DIVISION; DUTIES

(REPEALED)

SECTION HISTORY
1989, c. 875, §§M6,13 (NEW). 1995, c. 648, §2 (RP).

§13070-C. INTERNATIONAL TRADE DIRECTOR

1. **Appointment.** The Governor shall appoint a full-time International Trade Director, subject to review by the joint standing committee of the Legislature having jurisdiction over business and economic development matters and confirmation by the Legislature, who shall serve at the pleasure of the Governor. The director shall report to the commissioner in the execution of the director's responsibilities.

[1995, c. 648, §3 (NEW) .]

2. **Duties.** The International Trade Director shall implement the State's policies with respect to development of international trade opportunities for the State's businesses and citizens. The director shall serve as the State's diplomat and shall advocate within the State and abroad on behalf of the State and the State's international community.

The director shall serve as the president of the Maine International Trade Center upon confirmation by the center's Board of Directors of the Maine International Trade Center. The director shall oversee activities of the center and has the duties and responsibilities as provided in Title 10, chapter 107-B.

[1995, c. 648, §3 (NEW) .]

SECTION HISTORY
1995, c. 648, §3 (NEW).

Article 5: COMMISSION ON INVESTMENT CAPITAL

§13070-F. COMMISSION ON INVESTMENT CAPITAL

(REPEALED)

SECTION HISTORY
1989, c. 914, §2 (NEW). RR 1991, c. 1, §11 (RNU). MRSA T. 5, §13070-I (RP).

§13070-G. DUTIES AND RESPONSIBILITIES OF THE COMMISSION

(REPEALED)

SECTION HISTORY
1989, c. 914, §2 (NEW). RR 1991, c. 1, §11 (RNU). 1993, c. 182, §1 (AMD). MRSA T. 5, §13070-I (RP).

§13070-H. AGENCY COOPERATION

(REPEALED)

SECTION HISTORY
1989, c. 914, §2 (NEW). RR 1991, c. 1, §11 (RNU). MRSA T. 5, §13070-I (RP).

§13070-I. SUNSET

(REPEALED)

SECTION HISTORY
1989, c. 914, §2 (NEW). RR 1991, c. 1, §11 (RNU). 1993, c. 182, §2 (AMD). 1993, c. 725, §2 (AMD). 1993, c. 725, §4 (AFF). MRSA T. 5, §13070-I (RP).

Article 6: RETURN ON PUBLIC INVESTMENT FROM ECONOMIC DEVELOPMENT INCENTIVES

§13070-J. BUSINESS DISCLOSURE ASSOCIATED WITH ELIGIBILITY FOR PUBLIC SUBSIDIES AND INCENTIVES

1. **Definitions.** As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

A. [2001, c. 481, §2 (RP).]

B. "Commissioner" means the Commissioner of Economic and Community Development. [1997, c. 761, §2 (NEW).]

C. "Department" means the Department of Economic and Community Development. [1997, c. 761, §2 (NEW).]

D. "Economic development incentive" means federal and state statutorily defined programs that receive state funds, dedicated revenue funds and tax expenditures as defined by section 1666 whose purposes are to create, attract or retain business entities related to business development in the State, including but not limited to:

(1) Assistance from Maine Quality Centers under Title 20-A, chapter 431-A;

(2) The Governor's Jobs Initiative Program under Title 26, chapter 25, subchapter 4;

(3) Municipal tax increment financing under Title 30-A, chapter 206;

(4) The jobs and investment tax credit under Title 36, section 5215;

(5) The research expense tax credit under Title 36, section 5219-K;

(6) Reimbursement for taxes paid on certain business property under Title 36, chapter 915;

(7) Employment tax increment financing under Title 36, chapter 917;

(8) The shipbuilding facility credit under Title 36, chapter 919;

(9) The credit for seed capital investment under Title 36, section 5216-B; and

(11) The credit for Maine fishery infrastructure investment under Title 36, section 5216-D. [2013, c. 588, Pt. A, §7 (AMD).]

E. "Economic development proposal" means proposed legislation that establishes a new program or that expands an existing program that:

(1) Is intended to encourage significant business expansion or retention in the State; and

(2) Contains a tax expenditure, as defined in section 1666, or a budget expenditure with a cost that is estimated to exceed $100,000 per year. [2015, c. 494, Pt. B, §1 (AMD).]

[2015, c. 494, Pt. B, §1 (AMD) .]

2. **Disclosure.** Each applicant for an economic development incentive described in subsection 1, paragraph D, subparagraphs (1) to (4) and (7) shall at a minimum identify in writing:

A. The public purpose that will be served by the business through use of the economic development incentive and the specific uses to which the benefits will be put; and [2001, c. 481, §2 (AMD).]

B. The goals of the business for the number, type and wage levels of jobs to be created or retained as a result of the economic development incentive received. [2001, c. 481, §2 (AMD).]

Applications filed under this subsection are public records for purposes of Title 1, chapter 13.

[2001, c. 481, §2 (AMD) .]

3. **Report.**

[2009, c. 337, §5 (RP) .]

4. **Agency reports.** The following agencies shall submit the following reports.

A. The State Tax Assessor shall submit a report by October 1st annually to the Legislature identifying the amount of public funds spent and the amount of revenues foregone as the result of economic development incentives. The report must identify the amount of the economic development incentives under the jurisdiction of the Bureau of Revenue Services received by each business to the extent permitted under Title 36, section 191 and other provisions of law concerning the confidentiality of information. [2001, c. 481, §2 (AMD).]

B. The Commissioner of Labor shall report by October 1st annually to the Legislature on the amount of public funds spent on workforce development and training programs directly benefiting businesses in the State. The report must identify the amount of economic development incentives under the jurisdiction of the Department of Labor received by each business and the public benefit resulting from those economic development incentives. [2001, c. 481, §2 (AMD).]

C. The Maine Community College System shall report by October 1st annually to the Legislature on the amount of public funds spent on job training programs directly benefiting businesses in the State. The report must identify the amount of economic development incentives under the jurisdiction of the system received by each business and the public benefit resulting from those economic development incentives. [2001, c. 481, §2 (AMD); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF).]

D. [2009, c. 337, §5 (RP).]

E. [2009, c. 337, §5 (RP).]

F. [2009, c. 337, §5 (RP).]

[2009, c. 337, §5 (AMD) .]

5. (REALLOCATED FROM T. 5, §13070-J, sub-§6) **Rules.** Rules adopted by the commissioner under this section are routine technical rules as defined in chapter 375, subchapter 2-A.

[2009, c. 337, §5 (AMD) .]

6. (REALLOCATED TO T. 5, §13070-J, sub-§5) **Rules.**

[1997, c. 761, §2 (NEW); 1999, c. 790, Pt. A, §3 (RAL) .]

SECTION HISTORY
1997, c. 761, §2 (NEW). 1999, c. 768, §§1,2 (AMD). 1999, c. 790, §A3 (AMD). RR 2001, c. 2, §A11 (COR). 2001, c. 481, §2 (AMD). 2001, c. 642, §§1-3 (AMD). 2001, c. 642, §12 (AFF). 2001, c. 652, §2 (AMD). 2001, c. 710, §§2,3 (AMD). 2001, c. 710, §4 (AFF). 2003, c. 20, §OO2

(AMD). 2003, c. 20, §OO4 (AFF). 2005, c. 519, §TTT1 (AMD). 2009, c. 337, §5 (AMD). 2011, c. 380, Pt. HHHH, §1 (AMD). 2011, c. 573, §1 (AMD). 2013, c. 588, Pt. A, §7 (AMD). 2015, c. 494, Pt. B, §1 (AMD).

§13070-K. ECONOMIC DEVELOPMENT INCENTIVE CONTRACT

If the commissioner enters into a contractual relationship with a business regarding the provision of an economic development incentive in return for the business's agreement to locate, expand or retain its facilities in the State, that contract must contain a statement of the State's expected public benefit from its investment of public funds. [2001, c. 481, §3 (AMD).]

SECTION HISTORY
1997, c. 761, §2 (NEW). 2001, c. 481, §3 (AMD).

§13070-L. ECONOMIC DEVELOPMENT INCENTIVE COMMISSION

(REPEALED)

SECTION HISTORY
1997, c. 761, §2 (NEW). 1999, c. 768, §3 (AMD). 2001, c. 481, §4 (RP).

§13070-M. REPEAL

(REPEALED)

SECTION HISTORY
1997, c. 761, §2 (NEW). 1999, c. 768, §4 (AMD). 2001, c. 481, §5 (RP).

§13070-N. MAINE TECHNOLOGY INSTITUTE DIRECTOR

(REALLOCATED TO TITLE 5, SECTION 15310)

SECTION HISTORY
1999, c. 401, §AAA2 (NEW). 1999, c. 708, §3 (RAL).

§13070-O. EVALUATION OF ECONOMIC DEVELOPMENT PROPOSALS

1. **Criteria.** An economic development proposal must:

A. Have a program name that accurately describes the nature of the program; [1999, c. 768, §5 (NEW).]

B. Have specific stated objectives, such as the number of jobs to be created or retained, the wage levels and benefits associated with those jobs or a project with significant value to the State or a community within the State; [1999, c. 768, §5 (NEW).]

C. Specify a method to measure whether the objectives of the program have been met; [1999, c. 768, §5 (NEW).]

D. Require that a business that receives benefits under the program report on the use of the benefits received; [1999, c. 768, §5 (NEW).]

E. Require that the appropriate joint standing committee of the Legislature review the program at specific and regular intervals; [1999, c. 768, §5 (NEW).]

F. Provide incentives for a business to meet objectives of the program and, when incentives are provided in anticipation of contractual performance, penalties for a business that does not meet the objectives of the program; [2007, c. 434, §4 (AMD).]

G. Provide a cost analysis of the program based on at least a 10-year period; [2007, c. 434, §5 (AMD).]

H. Have a clearly defined public purpose; [2007, c. 434, §6 (NEW).]

I. In addition to standard data, report performance data specific to its goals and objectives annually to the entity that is assigned to coordinate the State's portfolio of economic development programs; and [2007, c. 434, §7 (NEW).]

J. Require that a business that receives benefits under the program have a business statement that includes the requirements of section 13070-J, subsection 2. [2007, c. 434, §8 (NEW).]

[2007, c. 434, §§4-8 (AMD) .]

2. **Review of criteria.** The department shall review each economic development proposal and any information relevant to the proposal and shall report to the joint standing committee of the Legislature having jurisdiction over the proposal on the extent to which the proposal meets the criteria specified in subsection 1.

[1999, c. 768, §5 (NEW) .]

SECTION HISTORY
1999, c. 768, §5 (NEW). 2007, c. 434, §§4-8 (AMD).

Subchapter 3: TOURISM AND COMMUNITY DEVELOPMENT

Article 1: COMMUNITY DEVELOPMENT

§13071. FINDINGS

The Legislature finds that the strength of the State's economy is based on the strength of the local economies of municipalities and their ability to adjust to the dramatic changes in the national and international economies. The Legislature also recognizes the need for the coordination of state, regional and local efforts and resources to produce solid economic growth and development for the State. [1987, c. 534, Pt. A, §§ 17, 19 (NEW).]

Economic growth and development is not limited exclusively to the generation of new businesses and business expansions. It requires sufficient housing and infrastructure facilities, planning and availability of an educated and well-trained labor force which are necessary to the prosperity of municipalities. [1987, c. 534, Pt. A, §§ 17, 19 (NEW).]

It is necessary to coordinate the development and delivery of community programs. By coordinating and focusing various community development programs, the impact of these programs can be far more effective. The existence of a central community development agency can improve and facilitate communication and assistance between the State and its municipalities. [1987, c. 534, Pt. A, §§ 17, 19 (NEW).]

By working together, coordinating resources and developing policies which are mutually consistent and consistent with an overall state strategy, the State and its municipalities can realize their potential and prosperity in the future. [1987, c. 534, Pt. A, §§ 17, 19 (NEW).]

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW).

§13071-A. MAINE PROMOTION COUNCIL COOPERATIVE *(REPEALED)*

SECTION HISTORY
1993, c. 181, §1 (NEW). 2003, c. 673, §M7 (RP).

§13072. COMMUNITY DEVELOPMENT

The Office of Community Development shall assist municipalities in planning for and achieving economic growth and development while, at the same time, preserving and protecting their resources and assets. To achieve this purpose, the department, through the office, shall strive to remove barriers to balanced economic growth and provide planning, technical and financial resources to the municipalities to enhance economic development. [2003, c. 198, §2 (AMD).]

The Director of the Office of Community Development shall administer the office in accordance with the policies of the commissioner and the provisions of this chapter. The director has the following powers and duties. [2003, c. 198, §3 (AMD).]

1. **Establish communication network.** The director shall establish a communication network by which information, resources and assistance are transferred between State Government and the municipalities.

A. The director shall work with municipalities and regional community and economic development organizations. The director shall work closely with persons or organizations representing municipalities and with regional community and economic development organizations to address the development needs, problems and opportunities of municipalities and regions. [1987, c. 534, Pt. A, §§17, 19 (NEW).]

[1987, c. 534, Pt. A, §§17, 19 (NEW) .]

2. **Designate local and regional community and economic development organizations.** The director shall monitor the activities of designated public and private, local and regional community and economic development organizations. In order to receive financial assistance and resources from the department, an agency must demonstrate the effective administration of programs and services and the effectiveness of these programs.

[1987, c. 534, Pt. A, §§17, 19 (NEW) .]

3. **Development grants.** The director, with the approval of the commissioner, may provide grants to municipalities and regional development organizations for the purpose of creating economic and community development strategies and policies.

[1987, c. 534, Pt. A, §§17, 19 (NEW) .]

4. **Provide information.** The director shall provide municipalities with information about the department's programs and services and shall refer municipalities to the offices and programs within the State that can best assist them.

[1995, c. 395, Pt. D, §6 (AMD) .]

5. **Work with state agencies.** The director shall work with other state agencies that administer community and economic development programs and services used by municipalities. The director shall strive to coordinate department programs and services with the programs and services of these agencies.

[1987, c. 816, Pt. P, §9 (AMD) .]

6. **Administer Community Industrial Buildings Program.**

[2001, c. 703, §4 (RP) .]

7. **Oversee community development resources and programs.** The director shall oversee the implementation of community development programs to include at a minimum:

A. The Community Development Block Grant Program; and [2011, c. 655, Pt. FF, §1 (AMD); 2011, c. 655, Pt. FF, §16 (AFF).]

B. [1987, c. 816, Pt. P, §10 (RP).]

C. [1987, c. 816, Pt. P, §10 (RP).]

D. [1995, c. 395, Pt. D, §7 (RP).]

E. [1993, c. 92, §13 (RP).]

F. [1995, c. 395, Pt. D, §7 (RP).]

G. Training and certification for municipal code enforcement officers under Title 30-A, chapter 187, subchapter 5. [2011, c. 655, Pt. FF, §1 (NEW); 2011, c. 655, Pt. FF, §16 (AFF).]

[2011, c. 655, Pt. FF, §1 (AMD); 2011, c. 655, Pt. FF, §16 (AFF) .]

8. **Provide technical assistance.** The director shall oversee delivery of technical assistance and resources to municipalities and regional community and economic development organizations for the purpose of encouraging economic growth while maintaining the quality of life.

[1995, c. 395, Pt. D, §8 (AMD) .]

9. **Provide technical assistance and resources for local parks and recreation development.**

[1987, c. 816, Pt. P, §12 (RP) .]

10. **Enforcement assistance program.**

[1995, c. 395, Pt. D, §9 (RP) .]

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW). 1987, c. 816, §§P8-P12 (AMD). 1991, c. 622, §§F8-12 (AMD). 1993, c. 92, §§12,13 (AMD). 1995, c. 395, §§D6-9 (AMD). 1995, c. 560, §§B8-10 (AMD). 2001, c. 703, §4 (AMD). 2003, c. 198, §§2,3 (AMD). 2011, c. 655, Pt. FF, §1 (AMD). 2011, c. 655, Pt. FF, §16 (AFF).

§13073. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

The director shall implement the Community Development Block Grant Program pursuant to the United States Housing and Community Development Act of 1974, Title 1, and its subsequent amendments. For purposes of this section, "program" means the Community Development Block Grant Program and "fund" means the Community Development Revolving Loan Fund. [1987, c. 534, Pt. A, §§ 17, 19 (NEW).]

1. **Revolving loan fund.** The Community Development Block Grant Program shall include the Community Development Revolving Loan Fund which shall be a nonlapsing revolving fund.

[1987, c. 534, Pt. A, §§ 17, 19 (NEW) .]

2. **Repayments to fund.** To this fund shall be credited all repayments of grants made to municipalities that elect not to retain those funds under the fund part of the program, including interest, penalties and other fees and charges related to fund grants.

[1987, c. 534, Pt. A, §§ 17, 19 (NEW) .]

3. **Investment of fund money.** Money in the fund not needed to meet the current obligations of the program shall be deposited with the Treasurer of State to the credit of the fund and may be invested in such manner as is provided by law. Interest received on that investment shall be credited to the fund.

[1987, c. 534, Pt. A, §§ 17, 19 (NEW) .]

4. **Legislative allocation of fund required.** The Department of Economic and Community Development shall submit to the Legislature, through the budget process as required by chapter 149, its recommendations for disbursement from the fund.

[1987, c. 534, Pt. A, §§ 17, 19 (NEW) .]

5. **Expenditures from fund.** Upon approval of the allocation by the Legislature and approval of the allotment by the Governor, the State Controller shall authorize expenditures from the fund as approved by the department for the following purposes:

A. Administrative expenses related to the fund; [1987, c. 534, Pt. A, §§ 17, 19 (NEW).]

B. Grants to cities and towns under the fund; and [1987, c. 534, Pt. A, §§ 17, 19 (NEW).]

C. Grants related to the fund and to other public and private organizations. [1987, c. 534, Pt. A, §§ 17, 19 (NEW).]

[1987, c. 534, Pt. A, §§ 17, 19 (NEW) .]

6. **Encumbered balances at year-end.** At the end of each fiscal year, all encumbered balances in the Community Development Block Grant may be carried twice.

[1989, c. 7, Pt. O, §3 (NEW) .]

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW). 1989, c. 7, §O3 (AMD).

§13073-A. REGIONAL ECONOMIC DEVELOPMENT ASSISTANCE FUND

The Director of the Office of Community Development shall administer the Regional Economic Development Assistance Fund, referred to in this section as the "fund." [2003, c. 198, §4 (AMD).]

1. **Fund established.** The fund is established as a nonlapsing fund within the Office of Community Development.

[2003, c. 198, §5 (AMD) .]

2. **Fund purpose.** The purpose of the fund is to provide funding to develop effective local and regional economic development programs. The department shall administer the fund to award start-up grants to nonprofit local or regional community organizations that are providing local or regional economic development programs.

[1999, c. 731, Pt. VVV, §2 (NEW) .]

3. **Application process.** The department shall adopt rules establishing an application process for fund grants for the purposes set forth in this section.

[1999, c. 731, Pt. VVV, §2 (NEW) .]

4. **Competitive procedure.** Funds must be dispersed in accordance with a competitive, quality-based selection procedure as established and administered by the department.

[1999, c. 731, Pt. VVV, §2 (NEW) .]

5. **Preference in awards.** In awarding grants, the department shall give preference to those projects or programs that will benefit economically distressed communities and regions. In determining preference, the department shall consider such factors as unemployment rates, per capita income, educational attainment, business failures and dependence upon mature or dominant industries.

[1999, c. 731, Pt. VVV, §2 (NEW) .]

6. **Local match requirements.** All funds awarded must be matched by local funds on a minimum one-to-one basis.

[1999, c. 731, Pt. VVV, §2 (NEW) .]

7. **Rules.** The department shall adopt rules necessary to carry out this section. Rules adopted pursuant to this section are routine technical rules as defined in chapter 375, subchapter II-A.

[1999, c. 731, Pt. VVV, §2 (NEW) .]

SECTION HISTORY
1999, c. 731, §VVV2 (NEW). 2003, c. 198, §§4,5 (AMD).

§13073-B. MAINE DOWNTOWN CENTER

1. **Establishment.** The Maine Downtown Center, referred to in this section as "the center," is established to encourage downtown revitalization in the State.

[2011, c. 655, Pt. JJ, §4 (NEW); 2011, c. 655, Pt. JJ, §41 (AFF) .]

2. **Purpose.** The center serves the following functions:

A. To advocate for downtown revitalization; [2011, c. 655, Pt. JJ, §4 (NEW); 2011, c. 655, Pt. JJ, §41 (AFF).]

B. To promote awareness about the importance of vital downtowns; [2011, c. 655, Pt. JJ, §4 (NEW); 2011, c. 655, Pt. JJ, §41 (AFF).]

C. To serve as a clearinghouse for information relating to downtown development; and [2011, c. 655, Pt. JJ, §4 (NEW); 2011, c. 655, Pt. JJ, §41 (AFF).]

D. To provide training and technical assistance to communities that demonstrate a willingness and ability to revitalize their downtowns. [2011, c. 655, Pt. JJ, §4 (NEW); 2011, c. 655, Pt. JJ, §41 (AFF).]

[2011, c. 655, Pt. JJ, §4 (NEW); 2011, c. 655, Pt. JJ, §41 (AFF) .]

3. **Collaboration.** The Department of Agriculture, Conservation and Forestry shall work collaboratively with the Commissioner of Economic and Community Development, the Maine Development Foundation and other state agencies to coordinate the programs of the center.

[2011, c. 655, Pt. JJ, §4 (NEW); 2011, c. 655, Pt. JJ, §41 (AFF); 2011, c. 657, Pt. W, §5 (REV) .]

4. **Funding.** The center shall develop a plan for the ongoing funding of the center.

[2011, c. 655, Pt. JJ, §4 (NEW); 2011, c. 655, Pt. JJ, §41 (AFF) .]

5. **Definition.** For the purposes of this section, "downtown" has the same meaning as in Title 30-A, section 4301, subsection 5-A.

[2011, c. 655, Pt. JJ, §4 (NEW); 2011, c. 655, Pt. JJ, §41 (AFF) .]

SECTION HISTORY
2011, c. 655, Pt. JJ, §4 (NEW). 2011, c. 655, Pt. JJ, §41 (AFF). 2011, c. 657, Pt. W, §5 (REV).

§13074. LOCAL GRANTS PROGRAM

(REPEALED)

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW). 1987, c. 816, §P13 (RP).

§13074-A. MAINE NATURAL HERITAGE PROGRAM

(REPEALED)

SECTION HISTORY
1991, c. 622, §F13 (NEW). 1993, c. 92, §14 (RP).

§13075. ECONOMIC CORRIDOR ACTION GRANT PROGRAM

(REPEALED)

SECTION HISTORY
1987, c. 855, §1 (NEW). 1989, c. 105, (AMD). 1989, c. 502, §D3 (AMD). 1989, c. 700, §A20 (AMD). 1989, c. 702, §E4 (RP). 2007, c. 466, Pt. A, §24 (RP).

Article 1-A: NATURAL AREAS

§13076. NATURAL RESOURCES INFORMATION AND MAPPING CENTER

(REPEALED)

SECTION HISTORY
1993, c. 92, §15 (NEW). 1995, c. 395, §§D10,11 (AMD). 1995, c. 502, §E32 (AMD). 1999, c. 556, §6 (RP). 1999, c. 592, §1 (AMD). 2001, c. 471, §B1 (AMD).

§13077. NATURAL AREAS ADVISORY BOARD

(REPEALED)

SECTION HISTORY
1993, c. 92, §15 (NEW). 1995, c. 502, §E32 (AMD). 1999, c. 556, §6 (RP).

§13078. RESPONSIBILITIES OF COMMISSIONER

(REPEALED)

SECTION HISTORY
1993, c. 92, §15 (NEW). 1995, c. 502, §E32 (AMD). 1999, c. 556, §6 (RP).

§13079. NATURAL AREAS CONSERVATION FUND

(REPEALED)

SECTION HISTORY
1993, c. 92, §15 (NEW). 1999, c. 556, §6 (RP).

Article 1-B: LORING DEVELOPMENT AUTHORITY OF MAINE

§13080. LORING DEVELOPMENT AUTHORITY OF MAINE ESTABLISHED

The Loring Development Authority of Maine is established as a body corporate and politic and a public instrumentality of the State to carry out the provisions of this article and shall take title, acquire and manage the properties within the geographical boundaries of Loring Air Force Base in the name of the State. [1993, c. 729, §2 (RPR).]

SECTION HISTORY
1993, c. 474, §1 (NEW). 1993, c. 729, §1 (RPR).

§13080-A. DEFINITIONS

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [1993, c. 474, §1 (NEW).]

1. **Authority.** "Authority" means the Loring Development Authority of Maine.

[1993, c. 474, §1 (NEW) .]

2. **Base area.** "Base area" means the area within the geographic boundaries of Loring Air Force Base.

[1993, c. 474, §1 (NEW) .]

3. **Bond.** "Bond" means a bond or note or other evidence of indebtedness authorized under this article, whether issued under or pursuant to a bond resolution, trust indenture, loan or other security agreement.

[1993, c. 474, §1 (NEW) .]

4. **Department.** "Department" means the Department of Economic and Community Development or its successor.

[1993, c. 474, §1 (NEW) .]

5. **Governing body.** "Governing body" means, for a municipality, the municipal legislative body as defined by Title 30-A, section 2001 or, for a county, the board of county commissioners.

[1993, c. 474, §1 (NEW) .]

6. **Loring Air Force Base.** "Loring Air Force Base" or "base" means those properties and facilities within the geographic boundaries of the United States Department of Defense air force base at Limestone existing on July 13, 1993. "Base" also includes the Madawaska dam site, the Loring Water System, the Loring

#3 communications site in Limestone, the pipeline from Searsport to Limestone and other geographically separate property that the authority determines should be considered part of the base, if the municipality in which the property is located has chosen not to accept the property and utilize it for other purposes.

[2003, c. 598, §1 (AMD) .]

7. **Operating revenues.** "Operating revenues" means funds available to the authority from fees, fares, rental or sale of property and miscellaneous revenue and interest generated by the airport and collected in accordance with the provisions of the Surplus Property Act, 49 United States Code App. Section 2210 and Federal Aviation Administration Order 5190.6A.

[1993, c. 729, §2 (AMD) .]

8. **Primary impact community.** "Primary impact community" means the municipalities of Caribou, Caswell, Fort Fairfield, Limestone, Presque Isle and Van Buren and Aroostook County.

[1993, c. 474, §1 (NEW) .]

9. **Readjustment or reuse.** "Readjustment" or "reuse" means an alternative use of the base facility from its use as a military installation.

[1993, c. 474, §1 (NEW) .]

10. **Real or personal property.** "Real or personal property" means those properties and assets transferred by the United States Government or the United States Air Force pursuant to the closure of Loring Air Force Base.

[1993, c. 474, §1 (NEW) .]

11. **Reconstruct or reconstruction.** "Reconstruct" or "reconstruction" means any activities undertaken to maintain the properties of Loring Air Force Base, or any part of those properties, as a modern, safe and efficient facility and includes, but is not limited to, any rebuilding, redesign, improvement or enlargement of the real properties or environmental mitigation activities on base properties.

[1993, c. 474, §1 (NEW) .]

SECTION HISTORY
1993, c. 474, §1 (NEW). 1993, c. 729, §2 (AMD). 1995, c. 495, §1 (AMD). RR 1997, c. 2, §19 (COR). 2003, c. 598, §1 (AMD).

§13080-B. LORING DEVELOPMENT AUTHORITY OF MAINE; POWERS; MEMBERSHIP; OBLIGATIONS

1. **Powers.** The authority is a public municipal corporation and may:

A. Sue and be sued; [1993, c. 474, §1 (NEW).]

B. Adopt bylaws or regulations consistent with this article for the governance of its affairs; [1993, c. 474, §1 (NEW).]

C. Exercise all of the general powers of corporations under Title 13-C, section 302; [2001, c. 2, Pt. B, §58 (AFF); 2001, c. 2, Pt. B, §3 (COR).]

D. Exercise the power of eminent domain; [1993, c. 474, §1 (NEW).]

E. Provide for the public safety by imposing appropriate regulations, regulating appropriate use of the base facilities and enforcing laws and regulations as they apply to the use of the base facilities; [1993, c. 474, §1 (NEW).]

F. Charge and collect fees, charges and rents for the use of the properties and other services and use the proceeds of those fees, charges and rents for the purposes provided in this article, both subject to and in accordance with any agreement with bondholders that may be made as provided in this article. Fees, charges and rents collected from properties contained in the public benefit transfer or otherwise generated by the airport must be used to support the development, maintenance and operation of aeronautical facilities and in accordance with Federal Aviation Administration Order 5190.6A; [1993, c. 729, §3 (AMD).]

G. Contract with the Federal Government or its instrumentalities or agencies, this State or its agencies, instrumentalities or municipalities, public bodies, private corporations, partnerships, associations, individuals and other persons to carry out the purposes of this article; [2003, c. 598, §2 (AMD).]

H. Accept the cooperation of the Federal Government or its agencies in the construction, maintenance, reconstruction, operation and financing of the readjustment of the base and take necessary actions to utilize that aid and cooperation; [1993, c. 474, §1 (NEW).]

I. Borrow money and apply for and accept advances, loans, grants, contributions and other forms of financial assistance from the Federal Government, the State, a municipality or other public body or from other sources, public or private, for the purposes of this article, give any security that is required and enter into and carry out contracts in connection with that financial assistance; [1993, c. 474, §1 (NEW).]

J. Borrow money, make, issue and sell at public or private sale negotiable notes, bonds and other evidences of indebtedness or obligation of the authority for the purposes under this article and secure the payment of that obligation or any part of that obligation by pledge of all or any part of the operating revenues or other revenues or property of the authority; [2003, c. 598, §2 (AMD).]

K. Enter into loan or security agreements with borrowers or one or more lending institutions, including, but not limited to, banks, insurance companies and pension funds, or trustees for those institutions for the purposes for which bonds may be issued and exercise with respect to those loan or security agreements all of the powers delineated in this article for the issuance of bonds; [2003, c. 598, §2 (AMD).]

L. Provide from operating revenues for the maintenance, construction or reconstruction of facilities to ensure the public safety for which the authority has not otherwise provided and in keeping with limitations set forth in paragraph F; [1993, c. 729, §3 (AMD).]

M. Use operating revenues to provide payment of obligations, if any, due to the United States to implement the readjustment or reuse of the facility. Use of operating revenues for this purpose must be in accordance with the provisions of the Surplus Property Act, 50 United States Code App. Section 1622 et seq. and Federal Aviation Administration Order 5190.6A; [1993, c. 729, §3 (AMD).]

N. Adopt rules pursuant to the Maine Administrative Procedure Act; and [1993, c. 474, §1 (NEW).]

O. Take all other lawful action necessary and incidental to these powers. [1993, c. 474, §1 (NEW).]

[2003, c. 598, §2 (AMD) .]

2. **Membership; appointment.** The authority is governed by a board of trustees composed of 13 voting members appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over economic development matters and to confirmation by the Senate.

A. Trustees are appointed for 4-year terms except that, for initial appointments, 3 trustees are appointed to one-year terms, 3 trustees to 2-year terms, 2 trustees to 3-year terms, 4 trustees to 4-year terms and the commissioner designated pursuant to paragraph D serves at the pleasure of the Governor. [1995, c. 166, §1 (AMD).]

B. A trustee continues to hold office until a successor is appointed and qualified, but the term of the successor is not altered from the original expiration date of the holdover trustee's term. [1993, c. 474, §1 (NEW).]

C. The Governor shall make 12 appointments, of which no less than 7 must be from candidates who are residents of Aroostook County and are nominated by the primary impact communities. The Governor shall appoint members who reflect the diversity of interests represented by these communities. At least 4 of the remaining appointments must be from candidates who are not residents of Aroostook County. [1995, c. 166, §1 (AMD).]

D. The Governor shall designate a commissioner of a department of State Government to be a voting, ex officio member of the board of trustees. [1993, c. 474, §1 (NEW).]

[1995, c. 166, §1 (AMD) .]

3. **Quorum.** Seven members constitute a quorum. Seven affirmative votes are required for the board to take action.

[1995, c. 166, §1 (AMD) .]

4. **Liability.** The liability of the authority is governed by the Maine Tort Claims Act, Title 14, chapter 741. A member of the authority, a member of a board of the authority and an employee of the authority may not be subject to any personal liability for having acted in the service of their duty as board members of the authority within the course and scope of membership or employment to carry out a power or duty under this chapter. The authority shall indemnify a member of the authority, a member of a board of the authority and an employee of the authority against expenses actually and necessarily incurred in connection with the defense of an action or proceeding in which the member or employee is made a party by reason of past or present association with the authority.

[1997, c. 71, §1 (AMD) .]

5. **Expenses.** A trustee is not entitled to receive compensation for services to the authority but is entitled to receive reimbursement for necessary expenditures, including travel expenses, incurred in carrying out those services.

[1993, c. 474, §1 (NEW) .]

6. **Officers; employees.** The trustees shall elect a chair and vice-chair from among their members. The authority may employ an executive director, technical experts and other agents and employees, permanent and temporary, that it requires and may determine their qualifications, duties and compensation. Permanent employees of the authority are eligible to elect to participate in the Maine Public Employees Retirement System, any state-deferred compensation plan or any other plan or program adopted by the trustees to the extent the trustees may determine. For required legal services, the authority may employ or retain its own counsel and legal staff.

[1995, c. 495, §2 (AMD); 2007, c. 58, §3 (REV) .]

7. **Term limits.** A person may not serve more than 2 consecutive 4-year terms as a trustee.

[1995, c. 644, §1 (NEW); 1995, c. 644, §3 (AFF) .]

SECTION HISTORY
1993, c. 474, §1 (NEW). 1993, c. 729, §§3,4 (AMD). 1995, c. 166, §1 (AMD). 1995, c. 495, §2 (AMD). 1995, c. 644, §1 (AMD). 1995, c. 644, §3 (AFF). 1997, c. 71, §1 (AMD). RR 2001, c. 2, §B58 (AFF). RR 2001, c. 2, §B3 (COR). 2003, c. 598, §2 (AMD). 2007, c. 58, §3 (REV).

§13080-C. USE OF OPERATING REVENUES

1. **Use of revenue.** Operating revenue generated from property transferred in the Federal Aviation Administration public benefit transfer or otherwise generated by the airport must be used to support the development, maintenance and operation of aeronautical facilities, operating costs of the airport and costs substantially related to the actual air transportation of passengers or property. Revenues generated from other properties granted to the authority in subsequent or different transfers must be used as the authority determines appropriate within the powers established by this article.

[1993, c. 729, §5 (RPR) .]

2. **Permitted liability limited.** All expenses incurred in carrying out this article must be paid solely from funds provided under the authority of this article, and liability or obligation may not be incurred under this article beyond the extent to which money has been provided under the authority of this article.

[1993, c. 474, §1 (NEW) .]

3. **Equal opportunity employers.** Contractors and subcontractors on authority construction and reconstruction projects must be equal opportunity employers and, for contracts in excess of $250,000, shall pursue in good faith affirmative action programs as defined in section 782. The authority may by rule provide for the enforcement of this requirement.

[1993, c. 474, §1 (NEW) .]

SECTION HISTORY
1993, c. 474, §1 (NEW). 1993, c. 729, §5 (AMD).

§13080-D. PROPERTY OF AUTHORITY

The authority shall hold and acquire property as follows. [1993, c. 474, §1 (NEW).]

1. **Lease or sale.** Properties may be leased or sold to accomplish the readjustment or reuse of the facilities as determined appropriate by the authority. Resources acquired as a result of the lease or sale of these properties become operating revenues or assets of the authority.

[1993, c. 474, §1 (NEW) .]

2. **Entry upon lands.** The authority and its authorized agents and employees may enter upon lands, waters and premises in the State for the purpose of making surveys, soundings, drillings and examinations it determines necessary or convenient for the purposes of this article. The entry is not a trespass, but the authority is liable for damages its entry creates.

[1993, c. 474, §1 (NEW) .]

3. **Authority for transfers of interest in land to the authority.** Notwithstanding any contrary provisions of law, upon the authority's request, on reasonable and fair terms and conditions and without the necessity for advertisement, order of court or action or formality other than the regular and formal action of the authorities concerned, counties, municipalities, public agencies or instrumentalities of the State, public service corporations and special districts may lease, lend, grant or convey to the authority real or personal property or rights in that property that may be necessary or convenient for the effectuation of the authorized purposes of the authority, including real and personal property or rights in that property already devoted to public use. As used in this subsection, the term "public service corporation" includes a public utility as defined in Title 35-A, section 102, subsection 13 and a corporation referred to in Title 13-C.

[2001, c. 2, Pt. B, §58 (AFF); 2001, c. 2, Pt. B, §4 (COR) .]

4. **Enforcement on ways under jurisdiction of the authority.** A law enforcement officer may enforce the traffic laws under Title 29-A on a way under the jurisdiction of the authority.

[2013, c. 48, §1 (NEW) .]

SECTION HISTORY
1993, c. 474, §1 (NEW). RR 2001, c. 2, §B58 (AFF). RR 2001, c. 2, §B4 (COR). 2013, c. 48, §1 (AMD).

§13080-E. SPECIAL UTILITY DISTRICTS

The authority may form special utility districts and provide municipal utility services within its jurisdiction. The board of trustees of the authority has the authority of a municipal legislative body for these purposes. [1993, c. 474, §1 (NEW).]

1. **Sewer services.** The authority may provide sewer services as a sanitary district under Title 38, chapter 11, subchapters III and IV. The authority may establish a board of trustees for the district and appoint the members of the board or may act as the trustees of the district.

[1993, c. 474, §1 (NEW) .]

2. **Solid waste disposal.** The authority may provide solid waste disposal services as a refuse disposal district under Title 38, chapter 17. The authority may establish a board of trustees for the district and appoint the members of the board or may act as the trustees of the district.

[1993, c. 474, §1 (NEW) .]

3. **Water.** The authority may provide water as a water district under Title 35-A, Part 6. The authority may establish a board of trustees for the district and appoint the members of the board or may act as the trustees of the district.

[1993, c. 474, §1 (NEW) .]

4. **Revenue-producing services.** The authority has all the powers of a municipality to provide services under Title 30-A, chapter 213.

[1993, c. 474, §1 (NEW) .]

SECTION HISTORY
1993, c. 474, §1 (NEW).

§13080-F. OTHER MUNICIPAL POWERS

1. **Traffic ordinances.** The authority has the power to enact traffic ordinances and regulate the operation of motor vehicles under Title 30-A, section 3009, to the extent that power is not inconsistent with other validly enacted municipal ordinances.

[1993, c. 474, §1 (NEW) .]

2. **Operating expenses.** The authority has all the powers of a municipality to raise and appropriate money under Title 30-A, sections 5722 and 5723.

[1993, c. 474, §1 (NEW) .]

3. **Zoning.** The authority may adopt and enforce zoning and other land use ordinances for all Loring Air Force Base property. The authority shall comply with the mandatory shoreland zoning provisions of Title 38, sections 435 to 449. The ordinances preempt any municipal or local ordinances affecting the property. The authority shall secure rights-of-way, easements and zoning rules needed to adequately clear and protect the aerial approaches to the airport by removing, lowering, relocating, marking, lighting or otherwise mitigating existing airport hazards. The authority shall endeavor, to the extent reasonable, to ensure compatible use of land adjacent to or in the immediate vicinity area of the airport as provided in the Maine Aeronautics Act, Title 6, section 122.

[1995, c. 495, §3 (AMD) .]

3-A. **Loring Development Authority Planning Board.** The Loring Development Authority Planning Board is established as follows.

A. The Loring Development Authority Planning Board consists of 6 members. One member must be a nonvoting member appointed by the authority's board of trustees. The municipal officers of Caswell and Caribou shall each appoint one member and the municipal officers of Limestone shall appoint 3 members. [1995, c. 495, §4 (NEW).]

B. The Loring Development Authority Planning Board shall:

(1) Develop and recommend land use and zoning ordinances for Loring Air Force Base for approval by the authority;

(2) Hold public hearings as necessary and appropriate in the member communities during the development of and changes to the ordinances; and

(3) Upon adoption by the authority of any land use and zoning ordinances, review proposed projects at Loring Air Force Base under the ordinances and submit its decisions with respect to the projects to the authority for its approval. [1995, c. 495, §4 (NEW).]

[1995, c. 495, §4 (NEW) .]

4. **Highway maintenance.** The authority may maintain, repair, plow and control public ways as a municipality under Title 23, Part 3. The authority shall consult and coordinate with the appropriate primary impact community in appointing a road commissioner.

[1993, c. 474, §1 (NEW) .]

SECTION HISTORY
1993, c. 474, §1 (NEW). 1993, c. 729, §6 (AMD). 1995, c. 495, §§3,4 (AMD).

§13080-G. BONDS

1. **Hearing required.** The authority may issue bonds to finance its activities only after giving notice of the proposed issuance at least twice in a newspaper of general circulation in the county and holding a duly advertised public hearing on the issuance.

[2003, c. 598, §3 (AMD) .]

1-A. **Credit of State pledged.** The authority may ask the State to issue bonds to finance the undertaking of any authorized activity under this article, those bonds to have the full faith and credit of the State. Before any such bonds are issued they must be authorized by the Legislature and ratified by the electors in accordance with the Constitution of Maine, Article IX, Section 14. Subsections 1 and 2 and subsection 7, the 2nd 2 sentences, do not apply to bonds issued under this subsection.

[1995, c. 495, §5 (NEW) .]

2. **Authority.** In addition to the authority provided in subsection 1-A, the authority may issue bonds from time to time in its discretion to finance the undertaking of an authorized activity under this article, including but not limited to the payment of costs of acquisition, construction, reconstruction, renovation, equipping, start-up, testing, capitalized interest, reserves, reuse or improvement within the base undertaken by a person and the payment of principal and interest upon advances for surveys and plans, and may issue refunding bonds for the payment or retirement of bonds previously issued.

A. The principal, interest and all other amounts that may at any time become due and payable under the bonds must be made payable solely from the income, proceeds, revenues and funds of the authority derived from or held for activities under this article. Payment of the principal and interest of bonds may be further secured by a pledge of a loan, grant or contribution from the Federal Government or other source in aid of activities of the authority under this article or solely from income, proceeds, revenues, loan repayments, funds and other property, real or personal, pledged, assigned or mortgaged by or to the authority in connection with the provision of financial assistance by the authority to any person or any combination of the foregoing and by a mortgage of an urban activity or a project or part of a project, title to which is in the authority. [2003, c. 598, §4 (AMD).]

B. Bonds issued under this section and paragraph do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and are not subject to other laws or charters relating to the authorization, issuance or sale of bonds. Notwithstanding this paragraph, the authority may issue bonds in an original principal amount not to exceed $100,000,000 to which the authority may designate section 13080-N to apply. Bonds issued under this article are declared to be issued for an essential public and governmental purpose and, together with interest on and income from the bonds, are exempt from all taxes. [1995, c. 495, §7 (AMD).]

C. Bonds may not be issued by the authority until the authority has received a certificate of approval from the Finance Authority of Maine authorizing issuance of bonds. Before issuing a certificate of approval under this section, the Finance Authority of Maine shall determine that there is a reasonable likelihood that the income, proceeds, revenues and funds of the authority derived from or held for activities under this article or otherwise pledged to payment of the bonds will be sufficient to pay principal, interest and all other amounts that may at any time become due and payable under the bonds. In making this determination, the Finance Authority of Maine must consider the authority's analysis of the proposed bond issue and the revenues to make payments on the bond and may require such information, projections, studies and independent analyses as it considers necessary or desirable and may charge the authority reasonable fees and expenses. The issuance by the Finance Authority of Maine of a certificate of approval under this section does not constitute an endorsement of the bonds or the projects or purposes for which those bonds are issued and neither the authority nor any other person or entity, including, without limitation, any holders of bonds of the authority, have any cause of action against the

Finance Authority of Maine with respect to any such certificate of approval. The Finance Authority of Maine may require that it be indemnified, defended and held harmless by the authority for any liability or cause of action arising out of or with respect to the bonds. [2003, c. 598, §4 (AMD).]

D. Bonds may be issued by the authority only to finance projects that are substantially located within Aroostook County. [2003, c. 598, §4 (NEW).]

[2003, c. 598, §4 (AMD) .]

3. **General characteristics.** Bonds authorized under this section may be issued in one or more series. The resolution, trust indenture or mortgage under which the bonds are issued may include the following:

A. The date or dates borne by the bonds; [1993, c. 474, §1 (NEW).]

B. Whether the bonds are payable upon demand or mature at a certain time or times; [1993, c. 474, §1 (NEW).]

C. The interest rate or rates of the bonds; [1993, c. 474, §1 (NEW).]

D. The denomination or denominations of the bonds; [1993, c. 474, §1 (NEW).]

E. The form of the bonds, whether coupon or registered; [1993, c. 474, §1 (NEW).]

F. The conversion or registration privileges carried by the bonds; [1993, c. 474, §1 (NEW).]

G. The rank or priority of the bonds; [1993, c. 474, §1 (NEW).]

H. The manner of execution of the bonds; [1993, c. 474, §1 (NEW).]

I. The medium and place or places of payment; [1993, c. 474, §1 (NEW).]

J. The terms of redemption of the bonds, with or without premium; [1993, c. 474, §1 (NEW).]

K. The manner secured; and [1993, c. 474, §1 (NEW).]

L. Any other characteristics of the bonds. [1993, c. 474, §1 (NEW).]

[1993, c. 474, §1 (NEW) .]

4. **Price sold.** The bonds may be:

A. Sold to any person on such terms as the authority may negotiate; [2003, c. 598, §5 (AMD).]

B. Exchanged for other bonds on the basis of par; or [1993, c. 474, §1 (NEW).]

C. Sold to the Federal Government at private sale at not less than par. If less than all of the authorized principal amount of the bonds is sold to the Federal Government, the balance may be sold at private sale at not less than par at an interest cost to the municipality that does not exceed the interest cost to the municipality of the portion of the bonds sold to the Federal Government. [1993, c. 474, §1 (NEW).]

[2003, c. 598, §5 (AMD) .]

5. **Signatures of outgoing officers; negotiability.** If an official of the authority whose signature appears on a bond or coupon issued under this article ceases to be an official before the bond is delivered, the signature is nevertheless valid for all purposes, as if the official had remained in office until the delivery. Notwithstanding contrary provisions of law, bonds issued under this article are fully negotiable.

[1993, c. 474, §1 (NEW) .]

6. **Bond recitation; conclusive presumptions.** In actions or proceedings involving the validity or enforceability of a bond issued under this article or the security for that bond, a bond reciting in substance that it has been issued by the authority in connection with an activity is conclusively deemed to have been issued for that purpose and the activity is conclusively deemed to have been planned, located and carried out in accordance with this article.

[1993, c. 474, §1 (NEW) .]

7. **No personal liability; not debt of State or municipality.** Neither the trustees of the authority nor the person executing the bonds is liable personally on the bonds by reason of the issuance of the bonds. The bonds and other obligations of the authority must have stated on their face that they are not a debt of the State and that the State is not liable on the bonds. The bonds or obligations may not be payable out of funds or properties other than those of the authority acquired for the purposes of this article or otherwise pledged therefor.

[2003, c. 598, §6 (AMD) .]

8. **Bonds as legal investments.** Public officers, municipal corporations, political subdivisions and public bodies; banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business; insurance companies, insurance associations and other persons carrying on an insurance business; and executors, administrators, curators, trustees and other fiduciaries may legally invest sinking funds, money or other funds belonging to them or within their control in bonds or other obligations issued by the authority under this article. These bonds or other obligations are authorized security for all public deposits. It is the purpose of this section to authorize persons, political subdivisions and officers, public or private, to use funds owned or controlled by them for the purchase of these bonds or other obligations. This section does not relieve a person of any duty or of exercising reasonable care in selecting securities.

[1993, c. 474, §1 (NEW) .]

9. **Investment of funds; redemption of bonds.** The authority may:

A. Invest, in property or securities in which savings banks may legally invest funds subject to their control, funds held in reserves, sinking funds or funds not required for immediate disbursement; [2003, c. 598, §6 (AMD).]

B. Cancel its bonds by redeeming them at the redemption price established in the bonds or by purchasing them at less than redemption price; and [2003, c. 598, §6 (AMD).]

C. Invest funds in accordance with Title 30-A, chapter 223, subchapter 3-A. [2003, c. 598, §6 (NEW).]

[2003, c. 598, §6 (AMD) .]

10. **Issue of bonds.** With respect to all or any portion of any issue of any bonds or any series of bonds that the authority may issue in accordance with this article, the authority may convenant and consent that the interest on the bonds is includable, under the United States Internal Revenue Code of 1986 or any subsequent corresponding internal revenue law of the United States, in the gross income of the holders of the bonds to the same extent and in the same manner that the interest on the bills, bonds, notes or other obligations of the United States is includable in the gross income of the holders under the United States Internal Revenue Code of 1986 or any subsequent law.

[2003, c. 598, §7 (NEW) .]

11. **Pledge of security interests.** Any pledge or assignment of revenue or collateral or other security interests under this article is valid and binding and perfected from the time when the pledge is made. All the revenues or collateral pledged by the authority is subject immediately to the lien of the pledge or assignment without any physical delivery or further action under the Uniform Commercial Code or otherwise. The lien of any pledge or assignment and perfection is valid and binding against all parties having claims of any kind in tort, contract or otherwise against the authority, whether the parties have notice of the pledge or assignment.

[2003, c. 598, §7 (NEW) .]

SECTION HISTORY
1993, c. 474, §1 (NEW). 1993, c. 729, §§7,8 (AMD). 1995, c. 495, §§5-7 (AMD). 2003, c. 598, §§3-7 (AMD).

§13080-H. INTEREST OF PUBLIC OFFICIALS, TRUSTEES OR EMPLOYEES

1. **Acquisition of interest.** An official, trustee or employee of the authority may not acquire or hold a direct or an indirect financial or personal interest in:

A. An authority activity; [1993, c. 474, §1 (NEW).]

B. Property included or planned to be included in the base area; or [1993, c. 474, §1 (NEW).]

C. A contract or proposed contract in connection with an authority activity. [1993, c. 474, §1 (NEW).]

When an acquisition is involuntary, the interest acquired must be disclosed immediately in writing to the authority trustees and the disclosure must be entered in the board's minutes.

[1993, c. 474, §1 (NEW) .]

2. **Present or past interest in property.** If an official, trustee or employee presently owns or controls, or owned or controlled within the preceding 2 years, a direct or an indirect interest in property known to be included or planned to be included in an authority activity, that official, trustee or employee must disclose this fact immediately in writing to the authority and the disclosure must be entered in the authority's minutes.

[1993, c. 474, §1 (NEW) .]

3. **Recusal.** The official, trustee or employee with an interest may not participate in an action by the authority affecting that property.

[1993, c. 474, §1 (NEW) .]

4. **Incompatible offices.** A trustee or other officer of the authority may not hold elected office in a municipality in Aroostook County or in Aroostook County government.

[1993, c. 474, §1 (NEW) .]

5. **Violation.** A violation of this section is a Class E crime.

[1993, c. 474, §1 (NEW) .]

SECTION HISTORY
1993, c. 474, §1 (NEW).

§13080-I. EXEMPTION FROM EXECUTION

1. **Property exempt from execution.** The property, including funds, of the authority is exempt from levy and sale by virtue of an execution. An execution or other judicial process may not be issued against the authority's property and a judgment against the authority may not be a charge or lien upon its property.

[1993, c. 474, §1 (NEW) .]

2. **Construction; limitation of application.** This section does not:

A. Prohibit the authority from making payments in lieu of taxes to the municipality; or [1993, c. 474, §1 (NEW).]

B. Apply to or limit the right of an obligee to foreclose or otherwise enforce a mortgage of the authority or to pursue remedies for the enforcement of a pledge or lien given by the authority on its rents, fees, grants or revenues or any other sources pledged by the authority to the payment of its bonds. [2003, c. 598, §8 (AMD).]

[2003, c. 598, §8 (AMD) .]

SECTION HISTORY
1993, c. 474, §1 (NEW). 2003, c. 598, §8 (AMD).

§13080-J. DESIGNATION AS PORT OF ENTRY, INTERNATIONAL AIRPORT, FOREIGN TRADE ZONE AND FREE PORT AREA

1. **Port of entry.** The authority may apply to the Secretary of the Treasury of the United States for the purpose of having Loring Air Force Base or a portion of the base designated, established or constituted as a port of entry or an international airport pursuant to the Customs Reorganization Act, 19 United States Code, Section 1, as amended, and Section 58b, as amended, and regulations of the United States Customs Service, including 19 Code of Federal Regulations, Sections 101.0 and 122.1, as amended.

[1993, c. 474, §1 (NEW) .]

2. **Foreign trade zone.** The authority may apply to the Secretary of Commerce of the United States for the purpose of establishing, operating and maintaining foreign trade zones at Loring Air Force Base pursuant to the federal Free Trade Zone Act, 19 United States Code, Section 81, as amended, providing for the establishment, operation and maintenance of foreign trade zones in or adjacent to ports of entry of the United States for expediting and encouraging foreign commerce and for other purposes.

A. The authority may select and describe the location of the zone, make regulations and take other actions concerning the operation, maintenance and policing of the zone as necessary to comply with the Free Trade Zone Act and the regulations promulgated under that Act. [1993, c. 474, §1 (NEW).]

B. The authority may lease or may erect, maintain and operate structures, buildings or enclosures necessary for the establishment and operation of foreign trade zones. [1993, c. 474, §1 (NEW).]

[1993, c. 474, §1 (NEW) .]

3. **Other tax-free provisions.** The authority may establish an area at Loring Air Force Base in which personal property in transit is exempt from the provisions of the stock-in-trade tax and other taxes and customs normally levied in a port of entry. For the purposes of this section, personal property in transit through the area established by the port authority includes goods, wares and merchandise that:

A. Are moving in interstate or international commerce through or over the areas established; [1993, c. 474, §1 (NEW).]

B. Are consigned from outside the State to a public or private warehouse within the State, whether that consignment is specified before or after transportation; or [1993, c. 474, §1 (NEW).]

C. Do not lose their exempt status because, while in a warehouse, they are assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged. The warehouse in which the goods, wares and merchandise are stored may not be owned in whole or in part by either the consignee or the consignor. The exemption granted may be liberally construed to effect the purposes of this article. [1993, c. 474, §1 (NEW).]

[1993, c. 474, §1 (NEW) .]

SECTION HISTORY
1993, c. 474, §1 (NEW).

§13080-K. TERMINATION OF THE AUTHORITY

The authority is not dissolved until: [1993, c. 474, §1 (NEW).]

1. **Legislature provides for termination.** It is terminated by the Legislature; and

[1993, c. 474, §1 (NEW) .]

2. **Payment of bonds, premiums and interest.** The bonds, premium, if any, and interest have been paid or a sufficient amount for the payment of the bonds and interest to maturity or a prior redemption date have been irrevocably set aside in trust for the benefit of the bondholders in accordance with agreements with the bondholders.

[2003, c. 598, §9 (AMD) .]

SECTION HISTORY
1993, c. 474, §1 (NEW). 2003, c. 598, §9 (AMD).

§13080-L. ANNUAL REPORT

1. **Annual financial report.** The authority shall submit to the Governor, the Executive Director of the Legislative Council and the joint standing committee of the Legislature having jurisdiction over housing and economic development matters, not later than 120 days after the close of the authority's fiscal year, a complete report on the activities of the authority. The report may also be provided to any other member of the Legislature and to any other person. The report must include all of the following for the previous year:

A. A description of the authority's operations; [1993, c. 474, §1 (NEW).]

B. An accounting of the authority's receipts and expenditures, assets and liabilities at the end of its fiscal year; [1993, c. 474, §1 (NEW).]

C. A listing of all property transactions pursuant to section 13080-D; [1993, c. 474, §1 (NEW).]

D. An accounting of all activities of any special utility district formed under section 13080-E; [1993, c. 474, §1 (NEW).]

E. A listing of any property acquired by eminent domain under section 13080-G; [1993, c. 474, §1 (NEW).]

F. A listing of any bonds issued during the fiscal year; [1993, c. 474, §1 (NEW).]

G. A statement of the authority's proposed and projected activities for the ensuing year; and [1993, c. 474, §1 (NEW).]

H. Recommendations regarding further actions that may be suitable for achieving the purposes of this article. [1993, c. 474, §1 (NEW).]

[1993, c. 474, §1 (NEW) .]

SECTION HISTORY
1993, c. 474, §1 (NEW).

§13080-M. RELATIONSHIP TO OTHER LAWS

The activities of the authority must be conducted in accordance with the terms and conditions of the Federal Surplus Property Act, 50 Appendix United States Code, Section 1622 et seq.; the federal Airport and Airway Improvement Act of 1982, 49 United States Code App. Section 2201 et seq.; and Federal Aviation Administration Order 5190.6A. If a conflict exists between this article and those federal laws and rules, the federal requirements control. [1995, c. 462, Pt. A, §12 (AMD).]

SECTION HISTORY
1993, c. 729, §9 (NEW). 1995, c. 462, §A12 (AMD).

§13080-N. CAPITAL RESERVE FUNDS; OBLIGATION OF STATE

1. **Capital reserve fund.** The authority may create and establish one or more capital reserve funds and may pay into any such capital reserve fund money appropriated and made available by the State for the purposes of any such fund, any proceeds of sale by the authority of bonds to the extent determined by the authority and any other money available to the authority. For purposes of this section, the amount of any letter of credit, insurance contract, surety bond or similar financial undertaking available to be drawn on and applied to obligations to which money in any such fund may be applied is considered and counted as money in the capital reserve fund.

[1993, c. 729, §10 (NEW) .]

2. **Application.** Money held in any capital reserve fund, except as provided in this section, must be used solely with respect to bonds, repayment of which is secured by any such fund and solely for the payment of principal of the securities, the purchase or redemption of the securities, including any fees or premiums, or the payment of interest on the securities. In addition, if the authority obtains a letter of credit, insurance contract, surety bond or similar financial undertaking to establish and fund a capital reserve fund under subsection 1, money in the fund may be used to pay, when due, whether by acceleration or otherwise, all reimbursement obligations of the authority established in connection with that letter of credit, insurance contract, surety bond or similar financial undertaking, including, but not limited to, all fees, expenses, indemnities and commissions. Money in excess of the reserve requirement established as provided in subsection 3 may be transferred to other funds and accounts of the authority.

[1993, c. 729, §10 (NEW) .]

3. **Reserve requirement.** The authority may provide that money in a capital reserve fund under subsection 2 may not be withdrawn at any time in an amount that would reduce the amount of that fund below an amount, referred to in this section as the "capital reserve requirement," established by the authority, except for the purpose of paying the amount due and payable with respect to bonds, repayment of which is secured by that fund, or reimbursement obligations of the authority with respect to any letter of credit, insurance contract, surety bond or similar financial undertaking pertaining to that fund.

[1993, c. 729, §10 (NEW) .]

4. **Issuance limit.** The authority may provide that it will not issue bonds if the capital reserve requirement established by the authority with respect to securities outstanding and then to be issued and secured by a capital reserve fund will exceed the amount of that fund, including the amount available under any letter of credit, insurance contract, surety bond or other similar financial undertaking given to secure the capital reserve requirement, at the time of issuance, unless the authority, at the time of issuance of the securities, deposits in that fund from proceeds of the securities to be issued, or from other sources, an amount that, together with the amounts then in that fund and amounts available under any letter of credit, insurance contract, surety bond or other similar financial undertaking will not be less than the capital reserve requirement.

[1993, c. 729, §10 (NEW) .]

5. **Appropriation.** On or before December 1st, annually, the authority shall certify to the Governor the amount, if any, necessary to restore the amount in any capital reserve fund. In trust agreements or other pertinent documents, it must be clearly stated that this subsection applies to the capital reserve requirement. The Governor shall pay from the Contingent Account to that fund as much of the amount as is available in the Contingent Account and shall transmit to the Legislature a certification and a statement of the amount, if any, remaining to be paid and the amount certified must be appropriated and paid to the authority during the then current state fiscal year.

[2003, c. 598, §10 (AMD) .]

6. **Securities outstanding.** The authority may not have at any one time outstanding bonds, which, in the trust agreement or other document, subsection 5 is stated to apply to, in principal amount exceeding an amount equal to $100,000,000. The amount of bonds issued to refund securities previously issued may not be taken into account in determining the principal amount of securities outstanding, provided that proceeds of the refunding securities are applied as promptly as possible to the refunding of the previously issued securities. In computing the total amount of bonds of the authority that may at any time be outstanding for any purpose, the amounts of outstanding bonds that have been issued as capital appreciation bonds or as similar instruments are valued as of any date of calculation at their then current accreted value rather than their face value.

[1995, c. 495, §8 (AMD) .]

7. **Other capital reserve funds.** This section, including subsection 5, may not be construed to require that each capital reserve fund established under this section have the benefit described in subsection 5.

[2003, c. 598, §11 (NEW) .]

SECTION HISTORY
1993, c. 729, §10 (NEW). 1995, c. 495, §8 (AMD). 2003, c. 598, §§10,11 (AMD).

Article 1-C: LORING JOB INCREMENT FINANCING FUND

§13080-O. LORING JOB INCREMENT FINANCING FUND

1. **Short title.** This article may be known and cited as the Loring Job Increment Financing Program Act.

[1995, c. 644, §2 (NEW) .]

2. **Establishment of fund.** The Loring Job Increment Financing Fund is established in accordance with this article.

§13080-O. Tourism

(As enacted by PL 1995, c. 560, Pt. B, §11 is REALLOCATED TO TITLE 5, SECTION 13090-C)

[1995, c. 644, §2 (NEW) .]

SECTION HISTORY
RR 1995, c. 2, §11 (RAL). 1995, c. 560, §B11 (NEW). 1995, c. 644, §2 (NEW).

§13080-P. DEFINITIONS

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [1995, c. 644, §2 (NEW).]

1. **Affiliated business.** "Affiliated business" means 2 businesses exhibiting either of the following relationships:

A. One business owns 50% or more of the stock of the other business or owns a controlling interest in the other; or [1995, c. 644, §2 (NEW).]

B. Fifty percent of the stock of each business or a controlling interest in each business is directly or indirectly owned by a common owner or owners. [1995, c. 644, §2 (NEW).]

[1995, c. 644, §2 (NEW) .]

2. **Affiliated group.** "Affiliated group" means a qualified business and its corresponding affiliated businesses.

[1995, c. 644, §2 (NEW) .]

3. **Assessor.** "Assessor" means the State Tax Assessor.

[1995, c. 644, §2 (NEW) .]

4. **Authority.** "Authority" means the Loring Development Authority of Maine.

[1995, c. 644, §2 (NEW) .]

5. **Base area.** "Base area" means the area within the geographic boundaries of Loring Air Force Base, as defined in section 13080-A.

[1995, c. 644, §2 (NEW) .]

6. **Base level of employment.** "Base level of employment" means the total employment in the base area as of July 1, 1996.

[1995, c. 644, §2 (NEW) .]

7. **Employment tax increment.** "Employment tax increment" means that level of state income withholding taxes attributed to employees employed within the base area, adjusted pursuant to section 13080-R.

[1995, c. 644, §2 (NEW) .]

8. **Fund.** "Fund" means the Loring Job Increment Financing Fund.

[1995, c. 644, §2 (NEW) .]

9. **Gross employment tax increment.** "Gross employment tax increment" means that level of state income withholding taxes attributed to employees employed within the base area that is greater than the base level of employment.

[1995, c. 644, §2 (NEW) .]

10. **Successor business.** "Successor business" means a business that has acquired the organization, trade or business, or 50% or more of the assets of the organization, trade or business, of another taxpayer.

§13080-P. Historical marker program

(As enacted by PL 1995, c. 560, Pt. B, §11 is REALLOCATED TO TITLE 5, SECTION 13090-D)

[1995, c. 644, §2 (NEW) .]

SECTION HISTORY
RR 1995, c. 2, §11 (RAL). 1995, c. 560, §B11 (NEW). 1995, c. 644, §2 (NEW).

§13080-Q. PAYMENTS ALLOWED

1. **Fund to receive income tax revenues from job creation.** Subject to the provisions of subsection 2, the fund must receive annually from the State the amount of the employment tax increment determined in accordance with section 13080-S.

[2015, c. 486, §1 (AMD); 2015, c. 486, §5 (AFF) .]

2. **Limitations.** Payments to the fund pursuant to this section are subject to the following limitations.

A. Revenues received under this section must be used solely to fund the costs of municipal services, including, but not limited to, water, sewer, fire protection, police protection, sanitation services and the maintenance of grounds and roads. [1995, c. 644, §2 (NEW).]

B. To the extent that revenues received by the fund are not expended for current costs of municipal services, the fund must retain the revenues to defray future costs of providing the municipal services. [1995, c. 644, §2 (NEW).]

C. State income withholding taxes derived from employment at a business within the base area are not eligible for use in the calculation of a payment to the fund if the business is eligible during the current year to receive a payment under any other program authorized by Title 36, Part 9 that is based on the amount of employer withholding taxes and the business has made or makes an election to receive that payment. [1997, c. 504, §1 (AMD).]

D. Payments made to the fund may not be made for tax years beginning on or after July 1, 2026. [2013, c. 413, §1 (AMD).]

[2013, c. 413, §1 (AMD) .]

SECTION HISTORY
RR 1995, c. 2, §11 (RAL). 1995, c. 560, §B11 (NEW). 1995, c. 644, §2 (NEW). 1997, c. 504, §1 (AMD). 2013, c. 413, §1 (AMD). 2015, c. 486, §1 (AMD). 2015, c. 486, §5 (AFF).

§13080-R. CALCULATION OF EMPLOYMENT TAX INCREMENT

The assessor shall calculate the employment tax increment as follows. [1995, c. 644, §2 (NEW).]

1. **Adjustment for shifted revenues.** The assessor shall subtract from the gross employment tax increment any revenues attributed to employment shifted from affiliated businesses to a business located within the base area. This adjustment is calculated by comparing the current year's income withholding tax revenues for businesses that are members of an affiliated group with revenues for the group as a whole. If the growth in income withholding tax revenue for any group exceeds the growth of income withholding tax revenue generated by the group's member business within the base area, the portion of the gross employment tax increment attributable to that business does not have to be adjusted to remove employment shifted from affiliated businesses. If the growth in income withholding tax revenue for any group is less than the growth in income withholding tax revenue for that group's member business within the base area, the difference is presumed to have been shifted from affiliated businesses to the base area and the portion of the gross employment tax increment attributable to that business is reduced by the difference.

[1995, c. 644, §2 (NEW) .]

2. **Adjustment based on percentage change in withholding taxes for all business in State.** The assessor shall adjust the calculation of the employment tax increment by subtracting from the gross employment tax increment a figure obtained by multiplying the previous year's total amount of income taxes withheld within the base area by the percentage change in withholding taxes for all business within the State as a whole.

[1995, c. 644, §2 (NEW) .]

§13080-R. Maine Tourism Commission

3. **Adjustment for successor business.** The assessor shall further adjust the calculation of the employment tax increment, for any business that is a successor business, by subtracting from the gross employment tax increment any income tax withholding revenues attributable to a business acquired by the successor business after July 1, 1994.

(As enacted by PL 1995, c. 560, Pt. B, §11 is REALLOCATED TO TITLE 5, SECTION 13090-F)

[1995, c. 644, §2 (NEW) .]

SECTION HISTORY
RR 1995, c. 2, §§12,13 (COR). RR 1995, c. 2, §11 (RAL). 1995, c. 560, §B11 (NEW). 1995, c. 644, §2 (NEW).

§13080-S. INFORMATION TO BE PROVIDED TO THE ASSESSOR; APPROVAL OF PAYMENT

1. **Certification by authority.** The authority shall certify annually to the assessor by October 31st of each year, beginning in 2016, the following information:

A. Employment, payroll and state withholding data necessary to calculate the base level of employment; [1995, c. 644, §2 (NEW); 1995, c. 644, §5 (AFF).]

B. The total number of employees added during the previous year within the base area above the base level of employment, including additional associated payroll and withholding data necessary to calculate the gross employment tax increment and establish the appropriate payment to the fund; [1995, c. 644, §2 (NEW); 1995, c. 644, §5 (AFF).]

C. A listing of all employers within the base area that pay withholding taxes, the locations of those employers and the number of employees at each location; and [1995, c. 644, §2 (NEW); 1995, c. 644, §5 (AFF).]

D. A listing of all affiliated businesses and affiliated groups, data regarding current employment, payroll and state income withholding taxes for each affiliated business within the base area. [1995, c. 644, §2 (NEW); 1995, c. 644, §5 (AFF).]

[2015, c. 486, §2 (AMD); 2015, c. 486, §5 (AFF) .]

2. **Approval of payment.** Upon receipt of the information required by this section, the assessor shall review the information by December 1st immediately following receipt of the information and shall determine the amount of the employment tax increment. If the assessor determines that the requirements of this article are satisfied, the assessor shall approve payment to the fund.

[2015, c. 486, §2 (AMD); 2015, c. 486, §5 (AFF) .]

3. **Deposit and payment of revenue.** On or before July 15th of each year, the assessor shall deposit an amount equal to 50% of the employment tax increment for the preceding year into a contingent account established, maintained and administered by the State Controller. On or before July 31st of each year, the assessor shall pay that amount to the fund.

[2015, c. 486, §3 (AMD); 2015, c. 486, §5 (AFF) .]

4. **Additional deposit and payment of revenue in December 2016.** On or before December 15, 2016, the assessor shall deposit an amount equal to 50% of the employment tax increment for the preceding year into a contingent account established, maintained and administered by the State Controller. On or before December 31, 2016, the assessor shall pay that amount to the fund.

[2015, c. 486, §4 (NEW); 2015, c. 486, §5 (AFF) .]

SECTION HISTORY
RR 1995, c. 2, §11 (RAL). 1995, c. 560, §B11 (NEW). 1995, c. 644, §2 (NEW). 2009, c. 571, Pt. LL, §1 (AMD). 2015, c. 486, §§2-4 (AMD). 2015, c. 486, §5 (AFF).

§13080-T. PROGRAM ADMINISTRATION

The assessor shall administer the Loring Job Increment Financing Program. The assessor may adopt rules pursuant to the Maine Administrative Procedure Act for implementation of the program. The assessor may also by rule establish reasonable fees, including fees payable to the assessor for obligations under this article. Any fees collected pursuant to this article must be deposited into a special revenue account administered by the assessor and these fees may be used only to defray the actual costs of administering the Loring Job Increment Financing Program. [1995, c. 644, §2 (NEW).]

§13080-T. Maine State Film Commission

(As enacted by PL 1995, c. 560, Pt. B, §11 is REALLOCATED TO TITLE 5, SECTION 13090-H)

SECTION HISTORY
RR 1995, c. 2, §14 (COR). RR 1995, c. 2, §11 (RAL). 1995, c. 560, §B11 (NEW). 1995, c. 644, §2 (NEW).

§13080-U. MAINE STATE FILM OFFICE

(REALLOCATED TO TITLE 5, SECTION 13090-I)

SECTION HISTORY
RR 1995, c. 2, §11 (RAL). 1995, c. 560, §B11 (NEW).

Article 2: COMMUNITY INDUSTRIAL BUILDING AUTHORITY

§13081. DEFINITIONS

(REPEALED)

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW). 1989, c. 914, §3 (AMD). 1999, c. 612, §1 (AMD). 2001, c. 703, §5 (RP).

§13082. COMMUNITY INDUSTRIAL BUILDINGS FUND

(REPEALED)

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW). 1999, c. 127, §A11 (AMD). 1999, c. 612, §2 (AMD). 2001, c. 703, §5 (RP).

§13083. ASSISTANCE TO DEVELOPMENT CORPORATIONS

(REPEALED)

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW). 1989, c. 182, §§1,2 (AMD). 1999, c. 612, §§3,4 (AMD). 2001, c. 703, §5 (RP).

Article 2-A: WASHINGTON COUNTY DEVELOPMENT AUTHORITY

§13083-A. WASHINGTON COUNTY DEVELOPMENT AUTHORITY ESTABLISHED

The Washington County Development Authority is established as a body corporate and politic and a public instrumentality of the State to carry out the provisions of this article. The authority is authorized to take title, acquire and manage in the name of the State and by agreement with the Federal Government the property located within the geographical boundaries of any decommissioned federal military facility located within Washington County. The authority is also authorized to purchase, develop, redevelop, sell and lease commercial, residential and public property for the purpose of developing the economy of Washington County. This authorization allows the authority to provide financial and technical assistance to any governmental entity and nonprofit located within Washington County in support of community and economic development projects. [2005, c. 367, §1 (AMD).]

SECTION HISTORY
2001, c. 568, §1 (NEW). 2005, c. 367, §1 (AMD).

§13083-B. DEFINITIONS

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [2001, c. 568, §1 (NEW).]

1. **Authority.** "Authority" means the Washington County Development Authority.

[2001, c. 568, §1 (NEW) .]

2. **Base area.** "Base area" means the area within the geographical boundaries of any decommissioned federal military facility located within Washington County to which the authority has taken title.

[2001, c. 568, §1 (NEW) .]

2-A. **Operating revenues.** "Operating revenues" means funds available to the authority from fees, fares, rental or sale of property and miscellaneous revenue and interest not otherwise pledged or dedicated.

[2011, c. 136, §1 (NEW) .]

3. **Primary impact community.** "Primary impact community" means all municipalities in Washington County, including the unorganized territories.

[2005, c. 367, §2 (AMD) .]

4. **Readjustment or reuse.** "Readjustment" or "reuse" means an alternative use of the base area from its use as a military installation.

[2001, c. 568, §1 (NEW) .]

5. **Real or personal property.** "Real or personal property" means any property or assets transferred by the Federal Government or the United States Department of Defense pursuant to the closure of a federal military installation located in Washington County. "Real or personal property" also means any property or assets purchased, sold, developed, redeveloped or leased by the authority pursuant to its authority under this article.

[2005, c. 367, §2 (AMD) .]

SECTION HISTORY
2001, c. 568, §1 (NEW). 2005, c. 367, §2 (AMD). 2011, c. 136, §1 (AMD).

§13083-C. WASHINGTON COUNTY DEVELOPMENT AUTHORITY; POWERS; MEMBERSHIP; OBLIGATIONS

1. **Powers.** The authority is a public municipal corporation and may:

A. Sue and be sued; [2001, c. 568, §1 (NEW).]

B. Adopt bylaws or regulations consistent with this article for the governance of its affairs; [2001, c. 568, §1 (NEW).]

C. Exercise all of the general powers of corporations under Title 13-C, section 302; [2003, c. 688, Pt. A, §2 (AMD).]

D. Accept from the Federal Government and dispose of by lease, sale or transfer the real or personal property located within the geographical boundaries of a decommissioned federal military facility located within Washington County; [2001, c. 568, §1 (NEW).]

E. Apply for and accept grants from private and public entities to provide necessary funding for the activities of the authority and to carry out the purposes of this article; [2001, c. 568, §1 (NEW).]

F. Contract with the Federal Government or its instrumentalities or agencies; this State or its agencies, instrumentalities or municipalities; public bodies; and private corporations, partnerships, associations and individuals to carry out the purposes of this article; [2001, c. 568, §1 (NEW).]

F-1. Borrow money and apply for and accept advances, loans, grants, contributions and other forms of financial assistance from the Federal Government, the State, a municipality or other public body or from other sources, public or private, for the purposes provided in this article, give any security that is required and enter into and carry out contracts in connection with that financial assistance; [2005, c. 367, §3 (NEW).]

F-2. Charge and collect fees, charges and rents for the use of the properties and other services and use the proceeds of those fees, charges and rents for the purposes provided in this article; [2005, c. 367, §3 (NEW).]

F-3. Employ an executive director and other staff as considered necessary by the board of trustees; [2005, c. 367, §3 (NEW).]

F-4. Borrow money, make, issue and sell at public or private sale negotiable notes, bonds and other evidences of indebtedness or obligation of the authority for the purposes under this article and secure the payment of that obligation or any part of that obligation by pledge of all or any part of the operating revenues of the authority; [2011, c. 136, §2 (NEW).]

(Paragraph F-4 as enacted by PL 2011, c. 148, §1 is REALLOCATED TO TITLE 5, SECTION 13083-C, SUBSECTION 1, PARAGRAPH F-6)

F-5. Enter into loan or security agreements with one or more lending institutions, including, but not limited to, banks, insurance companies and institutions that administer pension funds, or trustees for those institutions for the issuance of bonds and exercise with respect to those loan or security agreements all of the powers delineated in this article for the issuance of bonds; [2011, c. 136, §3 (NEW).]

F-6. (REALLOCATED FROM T. 36, §13083-C, sub-§1, ¶F-4) Enter into a memorandum of understanding with a municipality to perform the function of a local development corporation under section 13120-B, subsection 9; [2011, c. 1, §7 (RAL).]

G. Adopt rules pursuant to the Maine Administrative Procedure Act. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A; and [2001, c. 568, §1 (NEW).]

H. Take all other lawful action necessary and incidental to the powers under this subsection. [2001, c. 568, §1 (NEW).]

[2011, c. 1, §7 (COR); 2011, c. 136, §§2, 3 (AMD) .]

2. **Membership; appointment.** The authority is governed by a board of trustees composed of 13 voting members appointed or designated by the Governor.

A. The Governor shall make 12 appointments to the board of trustees, 9 of whom must be selected from candidates who are residents of Washington County and are nominated by private, nonprofit, countywide, federally recognized Washington County-based economic development organizations other than the authority. Primary impact communities also may make nominations. The Governor shall appoint members who reflect the diversity of interests represented by these communities. The Governor shall ensure that all regions of the county, as defined by the 3 county commissioner districts, are equally represented on the board of trustees. A municipality may not have more than 2 trustees sitting on the board of trustees. [2005, c. 367, §4 (AMD).]

B. The Governor shall designate a commissioner of a department of State Government to be a voting, ex officio member of the board of trustees. The ex officio member designated pursuant to this paragraph may name a designee. [2005, c. 367, §4 (AMD).]

The members appointed pursuant to paragraph A are subject to review by the joint standing committee of the Legislature having jurisdiction over business and economic development matters and to confirmation by the Senate.

[2005, c. 367, §4 (AMD) .]

3. **Terms.** Trustees are appointed for 4-year terms. The commissioner designated pursuant to subsection 2, paragraph B, or that commissioner's designee, serves at the pleasure of the Governor. Trustees may be removed by the Governor. The board of trustees by majority vote may recommend trustee removal due to

poor attendance at board meetings. A trustee continues to hold office until a successor is appointed and qualified, but the term of the successor is not altered from the original expiration date of that term. A person may not serve more than 2 consecutive 4-year terms as a trustee.

[2005, c. 367, §5 (AMD) .]

4. **Quorum.** A majority of appointed and sworn trustees constitutes a quorum. A majority vote of those present and voting is required for the board of trustees to take action.

[2005, c. 367, §5 (AMD) .]

5. **Liability.** The liability of the authority is governed by the Maine Tort Claims Act, Title 14, chapter 741. Trustees are not subject to any personal liability for having acted in the service of their duty as board members of the authority.

[2001, c. 568, §1 (NEW) .]

6. **Expenses.** A trustee is not entitled to receive compensation for services to the authority but is entitled to receive reimbursement for necessary expenditures, including travel expenses, incurred in carrying out those services if the authority has available funds to reimburse such expenses.

[2001, c. 568, §1 (NEW) .]

7. **Officers; temporary agents.** The trustees shall elect a chair and vice-chair from among the trustees. The authority may employ an executive director, technical experts and other agents and employees, permanent and temporary, that it requires and may determine their qualifications, duties and compensation. For required legal services, the authority may retain its own legal counsel.

[2005, c. 367, §5 (AMD) .]

SECTION HISTORY
2001, c. 568, §1 (NEW). 2003, c. 688, §A2 (AMD). 2005, c. 367, §§3-5 (AMD). RR 2011, c. 1, §7 (COR). 2011, c. 136, §§2, 3 (AMD). 2011, c. 148, §1 (AMD).

§13083-D. PROPERTY OF AUTHORITY

The authority may lease, sell or transfer property or interests in property owned by the authority. A person may not hold any pecuniary interest in property owned by the authority while that person is a member of the board of trustees. [2005, c. 367, §6 (AMD).]

SECTION HISTORY
2001, c. 568, §1 (NEW). 2005, c. 367, §6 (AMD).

§13083-D-1. BONDS

1. **Hearing required.** The authority may issue bonds to finance its activities only after giving notice of the proposed issuance and its terms at least twice in a newspaper of general circulation in Washington County and holding a duly advertised public hearing on the issuance.

[2011, c. 136, §4 (NEW) .]

2. **Authority.** The authority may issue bonds from time to time in its discretion to finance the undertaking of an authorized activity under this article, including but not limited to the payment of principal and interest upon advances for surveys and plans, and may issue refunding bonds for the payment or retirement of bonds previously issued.

A. The principal and interest of bonds must be made payable solely from the income, proceeds, revenues and funds of the authority derived from or held for activities under this article. Payment of the principal and interest of bonds may be further secured by a pledge of a loan, grant or contribution from the Federal Government or other source in aid of activities of the authority under this article and by a mortgage of an urban activity or a project or part of a project, title to which is in the authority. [2011, c. 136, §4 (NEW).]

B. Bonds issued under this section do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and are not subject to other laws or charters relating to the authorization, issuance or sale of bonds. Bonds issued under this article are declared to be issued for an essential public and governmental purpose and, together with interest on and income from the bonds, are exempt from all taxes. [2011, c. 136, §4 (NEW).]

C. Bonds may not be issued by the authority until the authority has received a certificate of approval from the Finance Authority of Maine authorizing issuance of the bonds. Before issuing a certificate of approval under this section, the Finance Authority of Maine must determine that there is a reasonable likelihood that the income, proceeds, revenues and funds of the authority derived from or held for activities under this article or otherwise pledged to payment of the bonds will be sufficient to pay the principal, the interest and all other amounts that may at any time become due and payable under the bonds. In making this determination, the Finance Authority of Maine shall consider the authority's analysis of the proposed bond issue and the revenues to make payments on the bonds and may require such information, projections, studies and independent analyses as it considers necessary or desirable and may charge the authority reasonable fees and expenses. The issuance by the Finance Authority of Maine of a certificate of approval under this section does not constitute an endorsement of the bonds or the projects or purposes for which those bonds are issued and neither the authority nor any other person or entity, including, without limitation, any holders of bonds of the authority, have any cause of action against the Finance Authority of Maine with respect to any such certificate of approval. The Finance Authority of Maine may require that it be indemnified, defended and held harmless by the authority for any liability or cause of action arising out of or with respect to the bonds. [2011, c. 136, §4 (NEW).]

[2011, c. 136, §4 (NEW) .]

3. **General characteristics.** Bonds authorized under this section may be issued in one or more series. The resolution, trust indenture or mortgage under which the bonds are issued may include the following:

A. The date or dates borne by the bonds; [2011, c. 136, §4 (NEW).]

B. Whether the bonds are payable upon demand or mature at a certain time or times; [2011, c. 136, §4 (NEW).]

C. The interest rate or rates of the bonds; [2011, c. 136, §4 (NEW).]

D. The denomination or denominations of the bonds; [2011, c. 136, §4 (NEW).]

E. The form of the bonds, whether coupon or registered; [2011, c. 136, §4 (NEW).]

F. The conversion or registration privileges carried by the bonds; [2011, c. 136, §4 (NEW).]

G. The rank or priority of the bonds; [2011, c. 136, §4 (NEW).]

H. The manner of execution of the bonds; [2011, c. 136, §4 (NEW).]

I. The medium and place or places of payment; [2011, c. 136, §4 (NEW).]

J. The terms of redemption of the bonds, with or without premium; [2011, c. 136, §4 (NEW).]

K. The manner secured; and [2011, c. 136, §4 (NEW).]

L. Any other characteristics of the bonds. [2011, c. 136, §4 (NEW).]

[2011, c. 136, §4 (NEW) .]

4. **Price sold.** The bonds may be:

A. Sold to a person on such terms as the authority may negotiate; [2011, c. 136, §4 (NEW).]

B. Exchanged for other bonds on the basis of par; or [2011, c. 136, §4 (NEW).]

C. Sold to the Federal Government at private sale at not less than par. If less than all of the authorized principal amount of the bonds is sold to the Federal Government, the balance may be sold at private sale at not less than par at an interest cost to the municipality that does not exceed the interest cost to the municipality of the portion of the bonds sold to the Federal Government. [2011, c. 136, §4 (NEW).]

[2011, c. 136, §4 (NEW) .]

5. **Signatures of outgoing officers; negotiability.** If an official of the authority whose signature appears on a bond or coupon issued under this article ceases to be an official before the bond is delivered, the signature is nevertheless valid for all purposes as if the official had remained in office until the delivery. Notwithstanding contrary provisions of law, bonds issued under this article are fully negotiable.

[2011, c. 136, §4 (NEW) .]

6. **Bond recitation; conclusive presumptions.** In actions or proceedings involving the validity or enforceability of a bond issued under this article or the security for that bond, a bond reciting in substance that it has been issued by the authority in connection with an activity is conclusively deemed to have been issued for that purpose and the activity is conclusively deemed to have been planned, located and carried out in accordance with this article.

[2011, c. 136, §4 (NEW) .]

7. **No personal liability; not debt of State or municipality.** Neither the trustees of the authority nor the person executing the bonds is liable personally on the bonds by reason of the issuance of the bonds. The bonds and other obligations of the authority must have stated on their face that they are not a debt of the State and that the State is not liable on the bonds. The bonds or obligations may not be payable out of funds or properties other than those of the authority acquired for the purposes of this article.

[2011, c. 136, §4 (NEW) .]

8. **Bonds as legal investments.** Public officers, municipal corporations, political subdivisions and public bodies; banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business; insurance companies, insurance associations and other persons carrying on an insurance business; and executors, administrators, curators, trustees and other fiduciaries may legally invest sinking funds, money or other funds belonging to them or within their control in bonds or other obligations issued by the authority under this article. These bonds or other obligations are authorized security for all public deposits. It is the purpose of this section to authorize persons, political subdivisions and officers, public or private, to use funds owned or controlled by them for the purchase of these bonds or other obligations. This section does not relieve a person of any duty or of exercising reasonable care in selecting securities.

[2011, c. 136, §4 (NEW) .]

9. **Investment of funds; redemption of bonds.** The authority may:

A. Invest, in property or securities in which savings banks may legally invest funds subject to their control, funds held in reserves, sinking funds or funds not required for immediate disbursement; and [2011, c. 136, §4 (NEW).]

B. Cancel its bonds by redeeming them at the redemption price established in the bonds or by purchasing them at less than redemption price. [2011, c. 136, §4 (NEW).]

[2011, c. 136, §4 (NEW) .]

SECTION HISTORY
2011, c. 136, §4 (NEW).

§13083-E. TERMINATION OF AUTHORITY

The authority is not dissolved until it is terminated by the Legislature. [2001, c. 568, §1 (NEW).]

SECTION HISTORY
2001, c. 568, §1 (NEW).

§13083-F. ANNUAL REPORT

1. **Annual report.** The authority shall submit to the Governor, the Executive Director of the Legislative Council and the joint standing committee of the Legislature having jurisdiction over business and economic development matters, not later than 120 days after the close of the authority's fiscal year, a complete report on the activities of the authority. The report may also be provided to any other member of the Legislature and to any other person. The report must include for the previous year:

A. A description of the authority's operations and activities; [2001, c. 568, §1 (NEW).]

B. An accounting of the authority's receipts and expenditures and assets and liabilities at the end of its fiscal year; [2001, c. 568, §1 (NEW).]

C. A listing of all property transactions pursuant to section 13083-D; [2001, c. 568, §1 (NEW).]

D. A statement of the authority's proposed and projected activities for the ensuing year; and [2001, c. 568, §1 (NEW).]

E. Recommendations regarding further actions that may be suitable for achieving the purposes of this article. [2001, c. 568, §1 (NEW).]

[2001, c. 568, §1 (NEW) .]

SECTION HISTORY
2001, c. 568, §1 (NEW).

Article 2-B: MIDCOAST REGIONAL REDEVELOPMENT AUTHORITY

§13083-G. MIDCOAST REGIONAL REDEVELOPMENT AUTHORITY ESTABLISHED; GOALS

The Midcoast Regional Redevelopment Authority is established as a body corporate and politic and a public instrumentality of the State to carry out the purposes of this article. The authority is entrusted with acquiring and managing the properties within the geographic boundaries of Brunswick Naval Air Station. [2009, c. 641, §1 (AMD).]

The authority is established to facilitate the rapid development of the properties within the geographic boundaries of Brunswick Naval Air Station. In order to achieve this objective, the authority shall make every effort to: [2009, c. 641, §1 (NEW).]

1. **Short-term goal.** Recover civilian job losses in the primary impact community resulting from the base closure;

[2009, c. 641, §1 (NEW) .]

2. **Intermediate goal.** Recover economic losses and total job losses in the primary impact community resulting from the base closure; and

[2009, c. 641, §1 (NEW) .]

3. **Long-term goal.** Facilitate the maximum redevelopment of base properties.

[2009, c. 641, §1 (NEW) .]

SECTION HISTORY
2005, c. 599, §1 (NEW). 2009, c. 641, §1 (AMD).

§13083-H. DEFINITIONS

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [2005, c. 599, §1 (NEW).]

1. **Authority.** "Authority" means the Midcoast Regional Redevelopment Authority established in section 13083-G.

[2005, c. 599, §1 (NEW) .]

2. **Base area.** "Base area" means the area within the geographic boundaries of Brunswick Naval Air Station.

[2005, c. 599, §1 (NEW) .]

3. **Bond.** "Bond" means a bond or note or other evidence of indebtedness authorized under this article, whether issued under or pursuant to a bond resolution, trust indenture, loan or other security agreement.

[2005, c. 599, §1 (NEW) .]

4. **Brunswick Naval Air Station.** "Brunswick Naval Air Station" or "base" means those properties and facilities within the geographic boundaries of the United States Department of Defense naval air station at Brunswick existing on the effective date of this section. "Base" also includes other geographically separate property that the authority determines should be part of the base if the municipality in which the property is located has chosen not to accept the property and use it for other purposes.

[2005, c. 599, §1 (NEW) .]

5. **Operating revenues.** "Operating revenues" means funds available to the authority from fees, fares, rental or sale of property and miscellaneous revenue and interest not otherwise pledged or dedicated.

[2005, c. 599, §1 (NEW) .]

6. **Primary impact community.** "Primary impact community" means the municipalities of Bath, Bowdoin, Bowdoinham, Brunswick, Freeport, Harpswell, Lisbon Falls and Topsham and Androscoggin County, Cumberland County and Sagadahoc County.

[2005, c. 599, §1 (NEW) .]

7. **Readjustment or reuse.** "Readjustment" or "reuse" means an alternative use of the base facility from its use as a military installation.

[2005, c. 599, §1 (NEW) .]

8. **Real or personal property.** "Real or personal property" means those properties and assets transferred by the United States Government or the United States Navy after the closure of Brunswick Naval Air Station.

[2005, c. 599, §1 (NEW) .]

9. **Reconstruct or reconstruction.** "Reconstruct" or "reconstruction" means any activities undertaken to maintain the properties of Brunswick Naval Air Station, or any part of those properties, as a modern, safe and efficient facility and includes, but is not limited to, any rebuilding, redesign, improvement or enlargement of the real properties or environmental mitigation activities on base properties.

[2005, c. 599, §1 (NEW) .]

SECTION HISTORY
2005, c. 599, §1 (NEW).

§13083-I. MIDCOAST REGIONAL REDEVELOPMENT AUTHORITY; POWERS; MEMBERSHIP; OBLIGATIONS

1. **Powers.** The authority is a public municipal corporation and may:

A. Sue and be sued; [2005, c. 599, §1 (NEW).]

B. Adopt bylaws or rules consistent with this article for the governance of its affairs; [2005, c. 599, §1 (NEW).]

C. Exercise all of the general powers of corporations under Title 13-C, section 302; [2005, c. 599, §1 (NEW).]

D. Exercise the power of eminent domain; [2005, c. 599, §1 (NEW).]

E. Provide for the public safety by imposing appropriate rules, regulating appropriate use of the base facilities and enforcing laws and rules as they apply to the use of the base facilities; [2005, c. 599, §1 (NEW).]

F. Charge and collect fees, charges and rents for the use of the properties and other services and use the proceeds of those fees, charges and rents for the purposes provided in this article, both subject to and in accordance with any agreement with bondholders that may be made as provided in this article; [2005, c. 599, §1 (NEW).]

G. Contract with the Federal Government or its instrumentalities or agencies, this State or its agencies, instrumentalities or municipalities, public bodies, private corporations, partnerships, associations and individuals to carry out the purposes of this article; [2005, c. 599, §1 (NEW).]

H. Accept the cooperation of the Federal Government or its agencies in the construction, maintenance, reconstruction, operation and financing of the readjustment of the base and take necessary actions to utilize that aid and cooperation; [2005, c. 599, §1 (NEW).]

I. Borrow money and apply for and accept advances, loans, grants, contributions and other forms of financial assistance from the Federal Government, the State, a municipality or other public body or from other sources, public or private, for the purposes of this article, give any security that is required and enter into and carry out contracts in connection with that financial assistance; [2005, c. 599, §1 (NEW).]

J. Borrow money, make, issue and sell at public or private sale negotiable notes, bonds and other evidences of indebtedness or obligation of the authority for the purposes under this article and secure the payment of that obligation or any part of that obligation by pledge of all or any part of the operating revenues of the authority; [2005, c. 599, §1 (NEW).]

K. Enter into loan or security agreements with one or more lending institutions, including, but not limited to, banks, insurance companies and institutions that administer pension funds, or trustees for those institutions for the issuance of bonds and exercise with respect to those loan or security agreements all of the powers delineated in this article for the issuance of bonds; [2005, c. 599, §1 (NEW).]

L. Provide from operating revenues for the maintenance, construction or reconstruction of facilities to ensure the public safety for which the authority has not otherwise provided; [2005, c. 599, §1 (NEW).]

M. Use operating revenues to provide payment of obligations, if any, due to the United States to implement the readjustment or reuse of the base facility; [2005, c. 599, §1 (NEW).]

N. Adopt rules pursuant to the Maine Administrative Procedure Act; and [2005, c. 599, §1 (NEW).]

O. Take all other lawful action necessary and incidental to these powers. [2005, c. 599, §1 (NEW).]

[2005, c. 599, §1 (NEW) .]

2. **Membership; appointment.** The authority is governed by a board of trustees composed of 11 voting members appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over economic development matters and to confirmation by the Senate.

A. Trustees are appointed for 4-year terms, except that, for initial appointments, 3 trustees are appointed to one-year terms, 3 trustees are appointed to 2-year terms, 2 trustees are appointed to 3-year terms, 2 trustees are appointed to 4-year terms and the commissioner designated pursuant to paragraph D serves at the pleasure of the Governor. A vacancy must be filled in the same manner as the original appointment for the balance of the unexpired term. [2005, c. 599, §1 (NEW).]

B. A trustee continues to hold office until a successor is appointed and qualified, but the term of the successor is not altered from the original expiration date of the holdover trustee's term. [2005, c. 599, §1 (NEW).]

C. The Governor shall make 10 appointments, of which no fewer than 7 must be from candidates who are residents of Androscoggin County, Cumberland County and Sagadahoc County and are nominated by the primary impact communities. The Governor shall appoint members who reflect the diversity of interests represented by these communities. [2005, c. 599, §1 (NEW).]

D. The Governor shall designate a commissioner of a department of State Government to be a voting, ex officio member of the board of trustees. [2005, c. 599, §1 (NEW).]

E. A member appointed to the board of trustees may not hold an elected office in municipal, county or state government. [2005, c. 599, §1 (NEW).]

[2005, c. 599, §1 (NEW) .]

3. **Quorum.** Six members constitute a quorum. Six affirmative votes are required for the board of trustees to take action.

[2005, c. 599, §1 (NEW) .]

4. **Liability.** The liability of the authority is governed by the Maine Tort Claims Act. A member of the board of trustees or an employee of the authority is not subject to any personal liability for having acted in the service of the member's or employee's duty as a member of the board or an employee of the authority within the course and scope of membership or employment to carry out a power or duty under this article. The authority shall indemnify a member of the board or an employee of the authority against expenses actually and necessarily incurred in connection with the defense of an action or proceeding in which a member of the board or an employee is made a party by reason of past or present association with the authority.

[2009, c. 641, §2 (AMD) .]

5. **Expenses.** A trustee is not entitled to receive compensation for services to the authority but is entitled to receive reimbursement for necessary expenditures, including travel expenses, incurred in carrying out those services.

[2005, c. 599, §1 (NEW) .]

6. **Officers; employees.** The board of trustees shall elect a chair and vice-chair from among its members. The authority may employ an executive director, technical experts and other agents and employees, permanent and temporary, that it requires and may determine their qualifications, duties and compensation. For required legal services, the authority may employ or retain its own counsel and legal staff.

[2005, c. 599, §1 (NEW) .]

SECTION HISTORY
2005, c. 599, §1 (NEW). 2009, c. 641, §2 (AMD).

§13083-J. USE OF OPERATING REVENUES

1. **Principal use of revenue.** Operating revenue must be used principally to reinvest in the properties held by the authority.

[2005, c. 599, §1 (NEW) .]

2. **Permitted liability limited.** All expenses incurred in carrying out this article must be paid solely from funds provided under the authority of this article, and liability or obligation may not be incurred under this article beyond the extent to which money has been provided under the authority of this article.

[2005, c. 599, §1 (NEW) .]

3. **Equal opportunity employers.** Contractors and subcontractors on authority construction and reconstruction projects must be equal opportunity employers and, for contracts in excess of $250,000, shall pursue in good faith affirmative action programs as defined in section 782. The authority may by rule provide for the enforcement of this requirement.

[2005, c. 599, §1 (NEW) .]

SECTION HISTORY
2005, c. 599, §1 (NEW).

§13083-K. PROPERTY OF AUTHORITY

The authority shall hold and acquire property as follows. [2005, c. 599, §1 (NEW).]

1. **Lease or sale.** Properties may be leased or sold to accomplish the readjustment or reuse of the base facilities as determined appropriate by the authority. Resources acquired as a result of the lease or sale of these properties become operating revenues or assets of the authority.

[2005, c. 599, §1 (NEW) .]

2. **Entry upon lands.** The authority and its authorized agents and employees may enter upon lands, waters and premises in the State for the purpose of making surveys, soundings, drillings and examinations the authority determines necessary or convenient for the purposes of this article. The entry is not a trespass, but the authority is liable for damages its entry creates.

[2005, c. 599, §1 (NEW) .]

3. **Authority for transfers of interest in land to the authority.** Notwithstanding any contrary provisions of law, upon the authority's request, on reasonable and fair terms and conditions and without the necessity for advertisement, order of court or action or formality other than the regular and formal action of the authorities concerned, counties, municipalities, public agencies or instrumentalities of the State, public service corporations and special districts may lease, lend, grant or convey to the authority real or personal property or rights in that property that may be necessary or convenient for the effectuation of the authorized purposes of the authority, including real and personal property or rights in that property already devoted to public use. As used in this subsection, the term "public service corporation" includes a public utility as defined in Title 35-A, section 102, subsection 13 and a corporation referred to in Title 13-C.

[2005, c. 599, §1 (NEW) .]

4. **Enforcement on ways under jurisdiction of the authority.** A law enforcement officer may enforce the traffic laws under Title 29-A on a way under the jurisdiction of the authority.

[2013, c. 48, §2 (NEW) .]

SECTION HISTORY
2005, c. 599, §1 (NEW). 2013, c. 48, §2 (AMD).

§13083-L. SPECIAL UTILITY DISTRICTS

The authority may form special utility districts and provide municipal utility services within its jurisdiction. The board of trustees of the authority has the authority of a municipal legislative body for these purposes. [2005, c. 599, §1 (NEW).]

1. **Sewer services.** The authority may provide sewer services as a sanitary district under Title 38, chapter 11, subchapters 3 and 4. The authority may establish a board of trustees for the sanitary district and appoint the members of the board of trustees or may act as the board of trustees of the district.

[2005, c. 599, §1 (NEW) .]

2. **Solid waste disposal.** The authority may provide solid waste disposal services as a refuse disposal district under Title 38, chapter 17. The authority may establish a board of trustees for the refuse disposal district and appoint the members of the board of trustees or may act as the board of trustees of the district.

[2005, c. 599, §1 (NEW) .]

3. **Water.** The authority may provide water as a water district under Title 35-A, Part 6. The authority may establish a board of trustees for the water district and appoint the members of the board of trustees or may act as the board of trustees of the district.

[2005, c. 599, §1 (NEW) .]

4. **Revenue-producing services.** The authority has all the powers of a municipality to provide services under Title 30-A, chapter 213.

[2005, c. 599, §1 (NEW) .]

5. **Airport; Brunswick Naval Air Station Fund established.** The authority has all the powers of a municipality to operate as an airport authority under Title 30-A, chapter 213 for use in connection with a public airport, heliport or other location for the landing or taking off of aircraft. To support this operation, there is established a nonlapsing fund to be known as the Brunswick Naval Air Station Airport Fund, referred to in this section as "the fund," for the purpose of receiving funds from the State and gifts, grants, devises, bequests, trusts or security documents. The State shall credit to the fund any appropriation made to the authority in each fiscal year.

A. The fund must be used to:

(1) Purchase, lease, acquire, own, improve, use, sell, convey, transfer or otherwise deal in and with airport property, an airport project or any interest in the airport property or airport project, whether tangible or intangible, as otherwise authorized under this article;

(2) Pay the costs of operating, maintaining, improving and repairing all airport property and airport projects of the authority;

(3) Pay the costs of administering and operating the authority, including, but not limited to, all wages, salaries, benefits and other expenses authorized by the board of trustees or the executive director;

(4) Pay the principal and premium, if any, and the interest on the outstanding bonds of the authority related to airport property or airport projects as the same become due and payable;

(5) Create and maintain reserves required or provided for in any resolution authorizing or any security document securing such bonds of the authority related to airport property or airport projects;

(6) Create and maintain a capital improvement fund for airport property and airport projects to be established by the board;

(7) Pay all taxes owed by the authority related to airport property or airport projects; and

(8) Pay all expenses incident to the management and operation of the authority operating as an airport authority as are consistent with its statutory purpose and as the board may from time to time determine. [2009, c. 641, §3 (NEW).]

B. The fund constitutes a continuing appropriation for the benefit of the authority. Any amount remaining in the fund at the close of any fiscal year is carried over and credited to the fund for the succeeding year. [2009, c. 641, §3 (NEW).]

C. Money in the fund must be paid to the authority on manifests approved by the Governor and Legislature in the same manner as other state claims are paid. [2009, c. 641, §3 (NEW).]

D. The revenues received and due to the authority from all other sources, except by way of state appropriation, from whatever source derived, must be retained by the authority and must be used in such a manner as the board of trustees may determine consistent with the provisions of this section or as is otherwise provided by law or by the terms and conditions incident to any gift, grant, devise, bequest, trust or security document. [2009, c. 641, §3 (NEW).]

[2009, c. 641, §3 (NEW) .]

SECTION HISTORY
2005, c. 599, §1 (NEW). 2009, c. 641, §3 (AMD).

§13083-M. OTHER MUNICIPAL POWERS

1. **Traffic ordinances.** The authority has the power to enact traffic ordinances and regulate the operation of motor vehicles under Title 30-A, section 3009 to the extent that power is not inconsistent with other validly enacted municipal ordinances.

[2005, c. 599, §1 (NEW) .]

2. **Operating expenses.** The authority has all the powers of a municipality to raise and appropriate money under Title 30-A, sections 5722 and 5723.

[2005, c. 599, §1 (NEW) .]

3. **Zoning.** The authority may not adopt zoning or land-use ordinances but may coordinate zoning and land-use regulation with interested primary impact communities.

[2005, c. 599, §1 (NEW) .]

4. **Highway maintenance.** The authority may maintain, repair, plow and control public ways as a municipality under Title 23, Part 3. The authority shall consult and coordinate with the appropriate primary impact community in appointing a road commissioner.

[2005, c. 599, §1 (NEW) .]

SECTION HISTORY
2005, c. 599, §1 (NEW).

§13083-N. BONDS

1. **Hearing required.** The authority may issue bonds to finance its activities only after giving notice of the proposed issuance and its terms at least twice in a newspaper of general circulation in the appropriate counties and holding a duly advertised public hearing on the issuance.

[2005, c. 599, §1 (NEW) .]

2. **Authority.** The authority may issue bonds from time to time in its discretion to finance the undertaking of an authorized activity under this article, including but not limited to the payment of principal and interest upon advances for surveys and plans, and may issue refunding bonds for the payment or retirement of bonds previously issued.

A. The principal and interest of bonds must be made payable solely from the income, proceeds, revenues and funds of the authority derived from or held for activities under this article. Payment of the principal and interest of bonds may be further secured by a pledge of a loan, grant or contribution from the Federal

Government or other source in aid of activities of the authority under this article and by a mortgage of an urban activity or a project or part of a project, title to which is in the authority. [2005, c. 599, §1 (NEW).]

B. Bonds issued under this section do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and are not subject to other laws or charters relating to the authorization, issuance or sale of bonds. Bonds issued under this article are declared to be issued for an essential public and governmental purpose and, together with interest on and income from the bonds, are exempt from all taxes. [2005, c. 599, §1 (NEW).]

C. Bonds may not be issued by the authority until the authority has received a certificate of approval from the Finance Authority of Maine authorizing issuance of the bonds. Before issuing a certificate of approval under this section, the Finance Authority of Maine must determine that there is a reasonable likelihood that the income, proceeds, revenues and funds of the authority derived from or held for activities under this article or otherwise pledged to payment of the bonds will be sufficient to pay the principal, the interest and all other amounts that may at any time become due and payable under the bonds. In making this determination, the Finance Authority of Maine shall consider the authority's analysis of the proposed bond issue and the revenues to make payments on the bonds and may require such information, projections, studies and independent analyses as it considers necessary or desirable and may charge the authority reasonable fees and expenses. The issuance by the Finance Authority of Maine of a certificate of approval under this section does not constitute an endorsement of the bonds or the projects or purposes for which those bonds are issued and neither the authority nor any other person or entity, including, without limitation, any holders of bonds of the authority, have any cause of action against the Finance Authority of Maine with respect to any such certificate of approval. The Finance Authority of Maine may require that it be indemnified, defended and held harmless by the authority for any liability or cause of action arising out of or with respect to the bonds. [2005, c. 599, §1 (NEW).]

[2005, c. 599, §1 (NEW) .]

3. **General characteristics.** Bonds authorized under this section may be issued in one or more series. The resolution, trust indenture or mortgage under which the bonds are issued may include the following:

A. The date or dates borne by the bonds; [2005, c. 599, §1 (NEW).]

B. Whether the bonds are payable upon demand or mature at a certain time or times; [2005, c. 599, §1 (NEW).]

C. The interest rate or rates of the bonds; [2005, c. 599, §1 (NEW).]

D. The denomination or denominations of the bonds; [2005, c. 599, §1 (NEW).]

E. The form of the bonds, whether coupon or registered; [2005, c. 599, §1 (NEW).]

F. The conversion or registration privileges carried by the bonds; [2005, c. 599, §1 (NEW).]

G. The rank or priority of the bonds; [2005, c. 599, §1 (NEW).]

H. The manner of execution of the bonds; [2005, c. 599, §1 (NEW).]

I. The medium and place or places of payment; [2005, c. 599, §1 (NEW).]

J. The terms of redemption of the bonds, with or without premium; [2005, c. 599, §1 (NEW).]

K. The manner secured; and [2005, c. 599, §1 (NEW).]

L. Any other characteristics of the bonds. [2005, c. 599, §1 (NEW).]

[2005, c. 599, §1 (NEW) .]

4. **Price sold.** The bonds may be:

A. [2009, c. 641, §4 (RP).]

B. Exchanged for other bonds on the basis of par; [2009, c. 641, §4 (AMD).]

C. Sold to the Federal Government at private sale at not less than par. If less than all of the authorized principal amount of the bonds is sold to the Federal Government, the balance may be sold at private sale at not less than par at an interest cost to the municipality that does not exceed the interest cost to the municipality of the portion of the bonds sold to the Federal Government; or [2009, c. 641, §4 (AMD).]

D. Sold to a person on such terms as the authority may negotiate. [2009, c. 641, §4 (NEW).]

[2009, c. 641, §4 (AMD) .]

5. **Signatures of outgoing officers; negotiability.** If an official of the authority whose signature appears on a bond or coupon issued under this article ceases to be an official before the bond is delivered, the signature is nevertheless valid for all purposes as if the official had remained in office until the delivery. Notwithstanding contrary provisions of law, bonds issued under this article are fully negotiable.

[2005, c. 599, §1 (NEW) .]

6. **Bond recitation; conclusive presumptions.** In actions or proceedings involving the validity or enforceability of a bond issued under this article or the security for that bond, a bond reciting in substance that it has been issued by the authority in connection with an activity is conclusively deemed to have been issued for that purpose and the activity is conclusively deemed to have been planned, located and carried out in accordance with this article.

[2005, c. 599, §1 (NEW) .]

7. **No personal liability; not debt of State or municipality.** Neither the trustees of the authority nor the person executing the bonds is liable personally on the bonds by reason of the issuance of the bonds. The bonds and other obligations of the authority must have stated on their face that they are not a debt of the State and that the State is not liable on the bonds. The bonds or obligations may not be payable out of funds or properties other than those of the authority acquired for the purposes of this article.

[2005, c. 599, §1 (NEW) .]

8. **Bonds as legal investments.** Public officers, municipal corporations, political subdivisions and public bodies; banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business; insurance companies, insurance associations and other persons carrying on an insurance business; and executors, administrators, curators, trustees and other fiduciaries may legally invest sinking funds, money or other funds belonging to them or within their control in bonds or other obligations issued by the authority under this article. These bonds or other obligations are authorized security for all public deposits. It is the purpose of this section to authorize persons, political subdivisions and officers, public or private, to use funds owned or controlled by them for the purchase of these bonds or other obligations. This section does not relieve a person of any duty or of exercising reasonable care in selecting securities.

[2005, c. 599, §1 (NEW) .]

9. **Investment of funds; redemption of bonds.** The authority may:

A. Invest, in property or securities in which savings banks may legally invest funds subject to their control, funds held in reserves, sinking funds or funds not required for immediate disbursement; and [2005, c. 599, §1 (NEW).]

B. Cancel its bonds by redeeming them at the redemption price established in the bonds or by purchasing them at less than redemption price. [2005, c. 599, §1 (NEW).]

[2005, c. 599, §1 (NEW) .]

SECTION HISTORY
2005, c. 599, §1 (NEW). 2009, c. 641, §4 (AMD).

§13083-O. INTEREST OF PUBLIC OFFICIALS, TRUSTEES OR EMPLOYEES

1. **Acquisition of interest.** A public official, trustee or employee of the authority may not acquire or hold a direct or an indirect financial or personal interest in:

A. An authority activity; [2005, c. 599, §1 (NEW).]

B. Property included or planned to be included in the base area; or [2005, c. 599, §1 (NEW).]

C. A contract or proposed contract in connection with an authority activity. [2005, c. 599, §1 (NEW).]

When an acquisition is involuntary, the interest acquired must be disclosed immediately in writing to the board of trustees of the authority, and the disclosure must be entered in the board's minutes.

[2005, c. 599, §1 (NEW) .]

2. **Present or past interest in property.** If a public official, trustee or employee of the authority presently owns or controls, or owned or controlled within the preceding 2 years, a direct or an indirect interest in property known to be included or planned to be included in an authority activity, that public official, trustee or employee must disclose this fact immediately in writing to the authority and the disclosure must be entered in the authority's minutes.

[2005, c. 599, §1 (NEW) .]

3. **Recusal.** The public official, trustee or employee of the authority with an interest may not participate in an action by the authority affecting that property.

[2005, c. 599, §1 (NEW) .]

4. **Violation.** A violation of this section is a Class E crime.

[2005, c. 599, §1 (NEW) .]

SECTION HISTORY
2005, c. 599, §1 (NEW).

§13083-P. EXEMPTION FROM EXECUTION

1. **Property exempt from execution.** The property, including funds, of the authority is exempt from levy and sale by virtue of an execution. An execution or other judicial process may not be issued against the authority's property, and a judgment against the authority may not be a charge or lien upon its property.

[2005, c. 599, §1 (NEW) .]

2. **Construction; limitation of application.** This section does not:

A. Prohibit the authority from making payments in lieu of taxes to the municipality; or [2005, c. 599, §1 (NEW).]

B. Apply to or limit the right of an obligee to foreclose or otherwise enforce a mortgage of the authority or to pursue remedies for the enforcement of a pledge or lien given by the authority on its rents, fees, grants, revenues or other sources pledged by the authority to the payment of its bonds. [2009, c. 641, §5 (AMD).]

[2009, c. 641, §5 (AMD) .]

SECTION HISTORY
2005, c. 599, §1 (NEW). 2009, c. 641, §5 (AMD).

§13083-Q. DESIGNATION AS PORT OF ENTRY, INTERNATIONAL AIRPORT, FOREIGN TRADE ZONE AND FREE PORT AREA

1. **Port of entry.** The authority may apply to the Secretary of the Treasury of the United States for the purpose of having Brunswick Naval Air Station or a portion of the base designated, established or constituted as a port of entry or an international airport pursuant to the federal Customs Reorganization Act, 19 United States Code, Section 1, as amended, and Section 58b, as amended, and regulations of the United States Customs Service, including 19 Code of Federal Regulations, Sections 101.0 and 122.1, as amended.

[2005, c. 599, §1 (NEW) .]

2. **Foreign trade zone.** The authority may apply to the Secretary of Commerce of the United States for the purpose of establishing, operating and maintaining foreign trade zones at Brunswick Naval Air Station pursuant to the federal Foreign Trade Zones Act, 19 United States Code, Section 81a-81u, as amended, providing for the establishment, operation and maintenance of foreign trade zones in or adjacent to ports of entry of the United States for expediting and encouraging foreign commerce and for other purposes.

A. The authority may select and describe the location of the foreign trade zone, make rules and take other actions concerning the operation, maintenance and policing of the zone as necessary to comply with the federal Foreign Trade Zones Act and the regulations promulgated under that Act. [2005, c. 599, §1 (NEW).]

B. The authority may lease or may erect, maintain and operate structures, buildings or enclosures necessary for the establishment and operation of foreign trade zones. [2005, c. 599, §1 (NEW).]

[2005, c. 599, §1 (NEW) .]

3. **Other tax-free provisions.** The authority may establish a free port area at Brunswick Naval Air Station in which personal property in transit is exempt from the provisions of the stock-in-trade tax and other taxes and customs normally levied in a port of entry. For the purposes of this section, personal property in transit through the free port area established by the authority includes goods, wares and merchandise that:

A. Are moving in interstate or international commerce through or over the free port areas established; [2005, c. 599, §1 (NEW).]

B. Are consigned from outside the State to a public or private warehouse within the State, whether that consignment is specified before or after transportation; or [2005, c. 599, §1 (NEW).]

C. Do not lose their tax-exempt status because, while in a warehouse, they are assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged. The warehouse in which the goods, wares and merchandise are stored may not be owned in whole or in part by either the consignee or the consignor. The tax-exemption granted may be liberally construed to effect the purposes of this article. [2005, c. 599, §1 (NEW).]

[2005, c. 599, §1 (NEW) .]

SECTION HISTORY
2005, c. 599, §1 (NEW).

§13083-R. TERMINATION OF THE AUTHORITY

The authority is not dissolved until: [2005, c. 599, §1 (NEW).]

1. **Legislature provides for termination.** It is terminated by the Legislature; and

[2005, c. 599, §1 (NEW) .]

2. **Payment of bonds, premiums and interest.** The bonds, premium, if any, and interest have been paid or a sufficient amount for the payment of the bonds and interest to maturity or a prior redemption date have been irrevocably set aside in trust for the benefit of the bondholders.

[2005, c. 599, §1 (NEW) .]

SECTION HISTORY
2005, c. 599, §1 (NEW).

§13083-S. ANNUAL REPORT

1. **Annual financial report.** The authority shall submit annually to the Governor, the Executive Director of the Legislative Council and the joint standing committee of the Legislature having jurisdiction over housing and economic development matters, not later than 120 days after the close of the authority's fiscal year, a complete report on the activities of the authority. The report may also be provided to any other member of the Legislature and to any other person. The report must include all of the following for the previous year:

A. A description of the authority's operations; [2005, c. 599, §1 (NEW).]

B. An accounting of the authority's receipts and expenditures, assets and liabilities at the end of its fiscal year; [2005, c. 599, §1 (NEW).]

C. A listing of all property transactions pursuant to section 13083-K; [2005, c. 599, §1 (NEW).]

D. An accounting of all activities of any special utility district formed under section 13083-L; [2005, c. 599, §1 (NEW).]

E. A listing of any property acquired by eminent domain under section 13083-I; [2005, c. 599, §1 (NEW).]

F. A listing of any bonds issued during the fiscal year under section 13083-I; [2005, c. 599, §1 (NEW).]

G. A statement of the authority's proposed and projected activities for the ensuing year; [2009, c. 641, §6 (AMD).]

H. Recommendations regarding further actions that may be suitable for achieving the purposes of this article; and [2009, c. 641, §7 (AMD).]

I. A description of the authority's progress toward achieving the goals set forth in section 13083-G. [2009, c. 641, §8 (NEW).]

[2009, c. 641, §§6-8 (AMD) .]

SECTION HISTORY
2005, c. 599, §1 (NEW). 2009, c. 641, §§6-8 (AMD).

§13083-S-1. BRUNSWICK NAVAL AIR STATION JOB INCREMENT FINANCING FUND

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

A. "Affiliated business" means one of 2 businesses exhibiting either of the following relationships:

(1) One business owns 50% or more of the stock of the other business or owns a controlling interest in the other; or

(2) Fifty percent of the stock of each business or a controlling interest in each business is directly or indirectly owned by a common owner or owners. [2009, c. 641, §9 (NEW).]

B. "Assessor" means the State Tax Assessor. [2009, c. 641, §9 (NEW).]

C. "Base level of employment" means either the total employment of an employer as of the March 31st, June 30th, September 30th and December 31st of the calendar year immediately preceding the date the employer begins operations at the base area divided by 4 or its average employment during the base period, whichever is greater. [2009, c. 641, §9 (NEW).]

D. "Base period" means the 3 calendar years prior to the year in which an employer begins operations at the base area. [2009, c. 641, §9 (NEW).]

E. "College" means Southern Maine Community College in the Maine Community College System. [2009, c. 641, §9 (NEW).]

F. "Commissioner" means the Commissioner of Economic and Community Development. [2009, c. 641, §9 (NEW).]

G. "Fund" means the Brunswick Naval Air Station Job Increment Financing Fund established pursuant to subsection 2. [2009, c. 641, §9 (NEW).]

H. "Job tax increment" means that level of state income tax withholding attributed to any employees employed within the base area above the base level of employment for an employer in the base area or its average employment during the base period. "Job tax increment" does not include withholding from employees or positions shifted by an employer as calculated generally pursuant to Title 36, chapter 917. The shifting restriction must apply to all employers in the base area. [2009, c. 641, §9 (NEW).]

[2009, c. 641, §9 (NEW) .]

2. **Fund established.** The Brunswick Naval Air Station Job Increment Financing Fund is established to receive job tax increment transfers from job creation in the base area. The fund must receive annually from the State the amount calculated under subsection 5.

[2009, c. 641, §9 (NEW) .]

3. **Limitations.** The fund is subject to the following limitations.

A. Subject to the provisions of paragraph E, payments from the fund allocated to the authority must be used solely to fund the costs of municipal services, including, but not limited to, water, sewer, electricity, telecommunications, fire protection, police protection, sanitation services and the maintenance of buildings, facilities, grounds and roads in the base area. [2009, c. 641, §9 (NEW).]

B. Subject to the provisions of paragraph E, payments allocated to the college must be used solely to fund the costs of higher education services, including, but not limited to, faculty and staff salaries and instruction, operations, equipment, maintenance and financing costs, including, but not limited to, closing costs, issuance costs and interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity. [2009, c. 641, §9 (NEW).]

C. To the extent that revenues received by the fund are not expended for current costs under paragraphs A and B, the fund must retain the revenues to defray future costs under those paragraphs. [2009, c. 641, §9 (NEW).]

D. State income tax withholding eligible for reimbursement to a qualified business pursuant to Title 36, chapter 917 or to a qualified pine tree development zone business under Title 30-A, chapter 206 is not eligible for use in the calculation of a payment to the fund under subsections 4 and 5. State income tax withholding under Title 36, chapter 919, or any other tax credit or reimbursement program based on state income tax withholding, is not eligible for use in calculation of a payment to the fund under subsections 4 and 5. [2009, c. 641, §9 (NEW).]

E. Payments made to the fund must be allocated as follows:

(1) For payments transferred to the fund in 2011 and 2012, 100% must be allocated to the college;

(2) For payments made to the fund in 2013, 75% must be allocated to the college and 25% must be allocated to the authority; and

(3) For payments made to the fund in 2014 and after, 50% must be allocated to the college and 50% must be allocated to the authority. [2009, c. 641, §9 (NEW).]

F. Payments to the fund are not allowed for calendar years beginning on or after January 1, 2031. If at least 5,000 net new jobs are created in the base area prior to 2031, the services funded under paragraphs A and B must be reviewed by the joint standing committee of the Legislature having jurisdiction over economic development matters in order to determine whether continuance of the fund is necessary. [2009, c. 641, §9 (NEW).]

[2009, c. 641, §9 (NEW) .]

4. **Certification by authority.** By February 15th of each year, beginning in 2011, the authority shall provide a report identifying each employer located at the base area to the commissioner. The commissioner shall certify annually to the assessor on or before June 30th of each year, beginning in 2011, the following information:

A. Employment, payroll and state withholding data necessary to calculate the base level of employment; [2009, c. 641, §9 (NEW).]

B. The total number of employees added during the previous year within the base area above the base level of employment, including additional associated payroll and withholding data necessary to calculate the job tax increment and establish the appropriate payment to the fund; [2009, c. 641, §9 (NEW).]

C. A listing of all employers within the base area that pay withholding taxes, the locations of those employers and the number of employees at each location; [2009, c. 641, §9 (NEW).]

D. A listing of all affiliated businesses, data regarding current employment, payroll and Maine income tax withholding for each affiliated business within the base area; and [2009, c. 641, §9 (NEW).]

E. Any information required by the assessor to determine the employment tax increment revenues pursuant to Title 36, chapter 917. [2009, c. 641, §9 (NEW).]

[2009, c. 641, §9 (NEW) .]

5. **Procedure for payment of revenue to the fund.** On or before July 15th of each year, the assessor shall review the information required by subsection 4 and calculate the job tax increment for the preceding calendar year. The assessor shall also calculate the employment tax increment in the base area for reimbursement to qualified businesses and qualified Pine Tree Development Zone businesses pursuant to Title 36, chapter 917. On or before July 15th of each year, the assessor shall certify to the State Controller the total remaining job tax increment after reimbursements have been made to qualified businesses and qualified Pine Tree Development Zone businesses pursuant to Title 36, chapter 917. On or before July 31st of each year, the State Controller shall transfer 50% of the remaining job tax increment to the state job tax increment contingent account established, maintained and administered by the State Controller from General Fund undedicated revenue within the withholding tax category. On or before July 31st of each year, the State Controller shall deposit this revenue into the fund and distribute the payments pursuant to subsection 3.

[2009, c. 641, §9 (NEW) .]

6. **Administration.** The Commissioner of Administrative and Financial Services shall administer the fund and may adopt rules pursuant to the Maine Administrative Procedure Act for implementation of the fund. Rules adopted pursuant to this subsection are routine technical rules pursuant to chapter 375, subchapter 2-A.

[2009, c. 641, §9 (NEW) .]

SECTION HISTORY
2009, c. 641, §9 (NEW).

Article 2-C: RIVERFRONT COMMUNITY DEVELOPMENT PROGRAM

§13083-T. RIVERFRONT COMMUNITY DEVELOPMENT PROGRAM

1. **Program established; administration.** The Riverfront Community Development Program, referred to in this section as "the program," is established within the department to assist and encourage communities along the State's rivers to revitalize their riverfronts in an environmentally sustainable manner and to promote river-oriented community development and enhancement projects. The department shall administer the program in conjunction with the Municipal Investment Trust Fund established under the Maine Municipal Bond Bank to provide funding for the rehabilitation, revitalization and enhancement of riverfront communities and river ecosystems in the State.

[2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF) .]

2. **Review panel.** The Riverfront Community Development Review Panel, referred to in this section as "the panel," is established to evaluate proposals and determine funding under the program. The panel consists of:

A. The Commissioner of Economic and Community Development; [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

B. The Commissioner of Agriculture, Conservation and Forestry; and [2011, c. 655, Pt. EE, §8 (AMD); 2011, c. 655, Pt. EE, §30 (AFF); 2011, c. 657, Pt. W, §6 (REV).]

C. [2011, c. 655, Pt. EE, §30 (AFF); 2011, c. 655, Pt. EE, §9 (RP).]

D. Four members of the public, one with expertise in economic and community development, one with expertise in environmental conservation, one with expertise in tourism and ecotourism development and promotion and one with expertise in park and trail design and development. Two of these members are appointed by the President of the Senate and 2 by the Speaker of the House. [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

[2011, c. 655, Pt. EE, §§8, 9 (AMD); 2011, c. 655, Pt. EE, §30 (AFF); 2011, c. 657, Pt. W, §6 (REV) .]

3. **Review process.** The panel shall review proposals for funding under the program in accordance with this subsection.

A. The panel shall establish the deadline by which proposals must be postmarked and received. [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

B. Department staff shall undertake the initial review and preliminary scoring of proposals. [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

C. A subcommittee appointed by the panel to score proposals shall review and determine the final score for the proposals. [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

D. A subcommittee appointed by the panel to nominate finalists shall review all of the proposals, identify issues for full review and discussion by the panel and recommend project finalists to the full panel for detailed review and consideration. [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

E. The panel shall review all the proposals submitted, select the finalists and allocate funding. [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

In reviewing proposals, the panel shall use the scoring system established in subsection 5.

[2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF) .]

4. **Applicant requirements.** An applicant for funding under this section must:

A. Have the sponsorship of a state agency. An applicant must contact the appropriate sponsoring state agency well in advance of submitting an application; and [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

B. Demonstrate the capacity to undertake the project with a reasonable prospect of bringing it to a successful conclusion. In assessing an applicant's ability to meet the requirements of this paragraph, the panel may consider all relevant factors, including but not limited to the applicant's level of debt; fund-raising ability; past economic and community development activities; grants from federal, state or local sources; previous environmental conservation, restoration or enhancement activity; organizational history; scope of economic or environmental vision; and evidence of success in previous efforts. [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

[2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF) .]

5. **Scoring system.** The department and the panel shall develop a scoring system for use by the panel in evaluating proposals under this section. The scoring system must be designed to identify those projects that are most aligned with the State's riverfront community development and river restoration and enhancement priorities. The scoring system must assign points according to the relative value or the following criteria associated with the proposal:

A. The economic significance of the proposed project to the immediate vicinity and to the State as a whole; [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

B. The level of compatibility with clean and healthy river ecosystems; [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

C. The value of the proposed project with respect to downtown revitalization; [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

D. The value of the proposed project with respect to environmental protection and ecological restoration; [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

E. The value of the proposed project with respect to recreational uses; [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

F. The degree of community support for the proposed investment; and [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

G. The extent to which the proposed project involves partnerships and meets multiple criteria for benefits. [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

[2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF) .]

6. **Additional criteria.** In addition to evaluating the proposals using the scoring system established in subsection 5, the panel shall consider the following criteria in reviewing a proposal:

A. The level to which a proposal supports the open space or recreation objectives, or both, of a local comprehensive plan; [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

B. The extent to which a project is consistent with an adopted comprehensive plan that meets the standards of the laws governing growth management pursuant to Title 30-A, chapter 187; [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

C. The current and anticipated demand for use and diversity of uses of the site; [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

D. The local and regional community planning and support for river protection, enhancement and restoration; and [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

E. Any additional benefits that contribute to scenic landscape values, including the character of the town or region in which the project is situated, the rehabilitation or renovation of riverfront mill and other buildings and the ability to secure public access for conservation, recreation, wildlife and education uses. [2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF).]

[2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF) .]

7. **Rules.** The department may adopt rules to implement this section. Rules adopted to implement this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2007, c. 39, Pt. F, §1 (NEW); 2007, c. 39, Pt. F, §2 (AFF) .]

SECTION HISTORY
2007, c. 39, Pt. F, §1 (NEW). 2007, c. 39, Pt. F, §2 (AFF). 2011, c. 655, Pt. EE, §§8, 9 (AMD). 2011, c. 655, Pt. EE, §30 (AFF). 2011, c. 657, Pt. W, §6 (REV).

Article 3: ENERGY CONSERVATION DIVISION

§13084. ENERGY CONSERVATION PROGRAMS

(REPEALED)

SECTION HISTORY
1989, c. 875, §§M7,13 (NEW). 1991, c. 246, §4 (AMD). 1991, c. 548, §A1 (AMD). 1995, c. 560, §B12 (RP).

§13085. STATE STANDARDS FOR APPLIANCE ENERGY EFFICIENCY

(REPEALED)

SECTION HISTORY
1989, c. 875, §§M7,13 (NEW). 1995, c. 560, §B13 (RP).

Article 4: AFFORDABLE HOUSING

§13086. MAINE AFFORDABLE HOUSING ALLIANCE ESTABLISHED

(REPEALED)

SECTION HISTORY
1989, c. 875, §§M7,13 (NEW). 1991, c. 610, §1 (RP).

§13087. COORDINATION

(REPEALED)

SECTION HISTORY
1989, c. 875, §§M7,13 (NEW). 1991, c. 610, §1 (RP).

§13088. ADVISORY COMMITTEE ESTABLISHED

(REPEALED)

SECTION HISTORY
1989, c. 875, §§M7,13 (NEW). 1991, c. 610, §1 (RP).

Article 5: ECONOMIC OPPORTUNITY

Article 5-A: ECONOMIC OPPORTUNITY

§13090-A. ECONOMIC OPPORTUNITY FUND

1. **Creation.** The Economic Opportunity Fund, referred to in this section as the "fund," is created under the jurisdiction and control of the department.

[1991, c. 780, Pt. N, §1 (NEW) .]

2. **Sources of money.** The fund consists of the following:

A. All money appropriated or allocated for inclusion in the fund, from whatever source; [1991, c. 780, Pt. N, §1 (NEW).]

B. Subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money from the fund; [1991, c. 780, Pt. N, §1 (NEW).]

C. Subject to any pledge, contract, fee or other obligation, any money that the department receives in repayment of advances from the fund; and [1991, c. 780, Pt. N, §1 (NEW).]

D. Any other money available to the department and directed by the department to be paid into the fund. [1991, c. 780, Pt. N, §1 (NEW).]

[1991, c. 780, Pt. N, §1 (NEW) .]

3. **Application of fund.** Money in the fund may be applied to carry out any power of the department under or in connection with section 13090-B or to pay obligations incurred in connection with the fund. Money in the fund not needed to meet the obligations of the department as provided in this section may accrue interest and be invested in a manner permitted by law.

[1991, c. 780, Pt. N, §1 (NEW) .]

4. **Allocations from fund.** The department may request allocations from the fund as it determines necessary or convenient to carry out this article, including, but not limited to, allocations for grants or loans.

[1991, c. 780, Pt. N, §1 (NEW) .]

5. **Revolving fund.** The fund is a nonlapsing, revolving fund. The department shall apply continuously all money in the fund to carry out this article.

[1991, c. 780, Pt. N, §1 (NEW) .]

SECTION HISTORY
1991, c. 780, §N1 (NEW).

§13090-B. ECONOMIC OPPORTUNITY PROGRAM

The Economic Opportunity Program, referred in this section as the "program," is established to provide grants to municipalities for public and private investments to stimulate economic growth. [1991, c. 780, Pt. N, §1 (NEW).]

1. **Eligibility for loans.** Municipalities may apply to the department for grants under the program. Municipalities shall loan money from those grants to business entities based on the following eligibility criteria.

A. The projects to be financed must:

(1) Pertain to manufacturing, industrial, real estate development, child care, recreational or natural resource enterprises;

(2) Be located or establishing a presence in the State; and

(3) Provide significant public benefit in relation to the amount of the loan, as determined by the department. Public benefits include, but are not limited to: increased opportunities for employment; increased capital flows, particularly of capital from outside the State; increased state and municipal tax revenues; rehabilitation of blighted or underutilized areas; and provision of necessary services.

Loan proceeds may be used for any appropriate commercial purpose, as determined by the department, including working capital. [1999, c. 272, §2 (AMD).]

B. The department must determine that the borrower is a for-profit or nonprofit commercial entity and that it is creditworthy and reasonably likely to repay the loan. [1991, c. 780, Pt. N, §1 (NEW).]

C. The department must determine that the loan is necessary to implement the project because the borrower either has insufficient access to other funds or demonstrates, and the department determines, that the project would not provide the projected public benefits without the availability of the loan. [1991, c. 780, Pt. N, §1 (NEW).]

D. The department must determine that the project would not result in a substantial detriment to existing business in the State. In making this determination, the department shall consider factors it considers necessary to measure and evaluate the effect of the project on existing business, including:

(1) Whether a loan for a project should be approved if, as a result of the project, there would not be sufficient demand within the market area of the State served by the project to employ the efficient capacity of existing business; and

(2) Whether any adverse economic effect of the project on existing business or other municipalities is outweighed by the contribution that the project would make to the economic growth and vitality of the State.

The applicant for the loan has the burden of demonstrating a reasonable likelihood that the project would not result in a substantial detriment to existing business or other municipalities, except in cases in which no interested parties object to the project, in which event the requirements of this paragraph are satisfied. Interested parties must be given an opportunity, with or without a hearing at the discretion of the department, to present their objections to the project on grounds that the project would result in a substantial detriment to existing business or other municipalities. If such a party presents these objections with reasonable specificity and persuasiveness, the department may divulge whatever information concerning the project it considers necessary for a fair presentation by the objecting party and evaluation of such objections. If the department finds that the applicant has failed to meet its burden of proof as specified in this paragraph, the application must be denied. [1991, c. 780, Pt. N, §1 (NEW).]

[1999, c. 272, §2 (AMD) .]

2. **Loan terms and conditions.** The department may establish prudent terms and conditions for loans, including limiting the amount of loans for any one project and requiring adequate collateral for the loans. Loan terms may not exceed 20 years for loans primarily secured by real estate, 10 years for loans secured primarily for machinery and equipment and 7 years for other loans. The interest rate charged on each loan must be determined on a case-by-case basis.

[1991, c. 780, Pt. N, §1 (NEW) .]

3. **Rulemaking.** The department shall establish rules to implement the program.

[1991, c. 780, Pt. N, §1 (NEW) .]

4. **Local and regional organizations.**

[1995, c. 40, §1 (NEW); T. 5, §13090-B, sub-§4 (RP) .]

5. **Nonprofit organizations.**

[1997, c. 590, §1 (NEW); T. 5, §13090-B, sub-§5 (RP) .]

SECTION HISTORY
1991, c. 780, §N1 (NEW). 1995, c. 40, §1 (AMD). 1997, c. 590, §1 (AMD). 1999, c. 272, §2 (AMD).

Article 5-B: TOURISM

§13090-C. TOURISM

(REALLOCATED FROM TITLE 5, SECTION 13080-O)

1. **Tourism; establishment.** The Office of Tourism shall administer a program to support and expand the tourism industry and promote the State as a tourist destination. The Director of the Office of Tourism shall administer the office in accordance with the policies of the commissioner and the provisions of this article. The office includes the Maine State Film Commission.

[2011, c. 563, §4 (AMD) .]

2. **Duties.** The Director of the Office of Tourism shall:

A. Implement advertising and promotion programs to market the State's travel industry and to attract on-location filming of movies, advertisements and videos in the State; [1995, c. 2, §11 (RAL).]

B. Print, or cause to have printed, alone or in cooperation with other travel promotion agencies and groups, booklets, brochures, pamphlets and other materials as required to fulfill requests for information on the State's travel products and the State's facilities, sites and services for the filming of movies and videos in the State; [1995, c. 2, §11 (RAL).]

C. Encourage the development of travel product facilities and activities by locating potential developers, providing market and feasibility analysis, assisting developers in complying with applicable laws and rules and providing technical assistance to local decision making, including decisions regarding site selection, financing and utilities; [1995, c. 2, §11 (RAL).]

D. Review and comment upon the policies and programs of state agencies that directly affect the achievement of the duties and responsibilities of the office; [1995, c. 2, §11 (RAL).]

E. Provide basic support and discretionary matching grants to local, regional and statewide nonprofit agencies that directly affect the achievement of the duties and responsibilities of the office; [1995, c. 2, §11 (RAL).]

F. Staff or cause to be staffed any information center constructed, owned, leased, acquired or operated by the State; [1995, c. 2, §11 (RAL).]

G. Employ or engage outside technical or professional consultants or organizations as are necessary or appropriate to assist the office in carrying out its functions; [1995, c. 2, §11 (RAL).]

H. Accept fees as the director may designate for the preparation and distribution of books, booklets, brochures, pamphlets, films, photos, maps, exhibits, mailing lists and all similar materials and media advertising. There is established within the office a revolving fund for the use of the office to help offset the preparation and distribution costs of these materials. The office shall retain, without charge, an appropriate number of each publication for complimentary distribution. Income from the sale of publications and other materials charged to the revolving fund is credited to the revolving fund to be used as a continuing carrying account to carry out the purposes of the revolving fund; [1995, c. 2, §11 (RAL).]

I. Subject to the approval of the commissioner, adopt, amend and repeal rules to carry out the purposes of this section; and [1995, c. 2, §11 (RAL).]

J. Undertake other activities that the commissioner considers appropriate and necessary to ensure the successful implementation of this section. [1995, c. 2, §11 (RAL).]

[2003, c. 198, §7 (AMD) .]

SECTION HISTORY
RR 1995, c. 2, §11 (RAL). 2003, c. 198, §§6,7 (AMD). 2011, c. 563, §4 (AMD).

§13090-D. HISTORICAL MARKER PROGRAM

(REALLOCATED FROM TITLE 5, SECTION 13080-P)

1. **Historical markers.** The Director of the Office of Tourism may erect historical markers or signs on any highway. No more than 10 historical markers may be erected in one year. Markers that would interfere with reasonable use of highways may not be erected.

[2003, c. 198, §8 (AMD) .]

2. **Review council.** The Director of the Office of Tourism shall consult with the Maine Historic Preservation Commission and the Department of Transportation on the historical marker program. Before erecting any marker, the director shall secure the Maine Historic Preservation Commission's approval of the marker, the marker's location and the marker's wording. The Maine Historic Preservation Commission shall obtain, or cause to be obtained, as needed, information on the event to be commemorated and on the appropriate location for the marker, including consulting historians and holding public hearings.

[2003, c. 198, §8 (AMD) .]

3. **Municipal permission.** Municipal officers may permit the erection of monuments, tablets and markers by individuals or societies on public highways or other public grounds, in places and of a character as may be approved by the municipal officers, to indicate the occurrence of historic events and matters of public interest, as long as the markers do not interfere with reasonable use of the highways or other public places.

[1995, c. 2, §11 (RAL) .]

4. **Cooperative agreements.** The Maine Historic Preservation Commission may enter into cooperative agreements with any municipality or historical society to erect a historical marker on any highway. The agreement must provide for reasonable sharing of the initial expense and for the municipality or society to maintain and care for the marker.

[1995, c. 2, §11 (RAL) .]

5. **Damages.** If a person's property is damaged by the erection of a monument, tablet or marker, that person may apply to the municipal officers within 6 months after the erection to assess and recover damages.

[1995, c. 2, §11 (RAL) .]

6. **Change of location.** A person whose rights or interests are affected by the location of a monument, tablet or marker may, within 60 days after the approval of the municipal officers, petition the municipal officers for a change of location and, after notice to parties and hearing, the municipal officers may alter or revoke approval to use the location.

[1995, c. 2, §11 (RAL) .]

7. **Petition to court.** If the municipal officers neglect or refuse after 30 days to decide upon any petition addressed to them or if a party whose interests are affected by the decision is dissatisfied with the decision, the dissatisfied petitioner or party may apply to the Superior Court for relief within 60 days of the decision.

[1995, c. 2, §11 (RAL) .]

8. **Return; record; fees.** The municipal officers shall, within 30 days, decide upon every petition presented to them and upon every location approved under this section, and shall cause this information to be recorded by the town clerk. The fees of the municipal officers and town clerk must be paid by the petitioner.

[1995, c. 2, §11 (RAL) .]

SECTION HISTORY
RR 1995, c. 2, §11 (RAL). 2003, c. 198, §8 (AMD).

§13090-E. TOURISM MARKETING AND DEVELOPMENT STRATEGY

(REALLOCATED FROM TITLE 5, SECTION 13080-Q)

1. **Development.** The Office of Tourism with input from the tourism industry shall develop a 5-year marketing and development strategy for state tourism growth that maximizes the effectiveness of state and private sector contributions in attracting visitors to the State and increasing tourism-based revenues. The strategy must incorporate components of direct marketing in maintenance and primary markets, matching grants programs, trade markets, regional development and research.

[2011, c. 563, §5 (AMD) .]

2. **Administration.** The Office of Tourism shall administer the components of the strategy after development. Administration includes development of new markets, creation of an image of the State to entice visitor inquiries and provision of appropriate technical assistance and response mechanisms. The Office of Tourism shall support staffing of the visitor information centers and fulfill tourism information requests and shall work in partnership with the tourism industry in the State in administering the strategy. The Office of Tourism shall seek direct input and consultation from the tourism industry on the Office of Tourism's marketing and promotional plans and collaborate with tourism regions and industry sectors to accomplish the goals identified in the marketing and promotional plans and the marketing and development strategy required under subsection 1, including, but not limited to, the outdoor recreation industry, the lodging industry, the restaurant industry, representatives of large landowners, campground organizations, the transportation industry, the retail industry, cultural organizations, tourism destination marketing organizations, private businesses, statewide tourism associations and nonprofit organizations. The Office of Tourism shall seek tourism industry input in other areas the commissioner considers appropriate and necessary to ensure the successful implementation of this section. The Office of Tourism shall provide a quarterly presentation of its activities under this section beginning January 1, 2013 to tourism industry stakeholders and provide an annual report to the Governor and the Legislature summarizing the goals and achievements of the Office of Tourism.

[2011, c. 563, §5 (AMD) .]

3. **Tourism Marketing and Development Fund.**

[1995, c. 2, §11 (RAL); T. 5, §13090-E, sub-§3 (RP) .]

SECTION HISTORY
RR 1995, c. 2, §11 (RAL). 2003, c. 198, §9 (AMD). 2011, c. 563, §5 (AMD).

§13090-F. MAINE TOURISM COMMISSION

(REPEALED)

SECTION HISTORY
RR 1995, c. 2, §11 (RAL). RR 1995, c. 2, §§12, 13 (COR). 1997, c. 268, §1 (AMD). 1999, c. 445, §1 (AMD). 2003, c. 198, §10 (AMD). 2005, c. 33, §1 (AMD). 2009, c. 211, Pt. B, §2 (AMD). 2011, c. 563, §6 (RP).

§13090-G. TRAVEL PROMOTION MATCHING FUND PROGRAM

(REALLOCATED FROM TITLE 5, SECTION 13080-S)

1. **Statement of purpose.** The Travel Promotion Matching Fund Program is established for the following purposes:

A. To allow the State to provide part of the funds necessary for public and private, nonprofit travel promotional organizations to conduct promotional programs; and [1995, c. 2, §11 (RAL).]

B. To strengthen the State's image by coordinating the promotional efforts of the private sector with those of the Office of Tourism. [2003, c. 198, §11 (AMD).]

[2003, c. 198, §11 (AMD) .]

2. **Eligible organization.** Matching funds must be made available to those nonprofit travel promotional organizations that best meet the purposes of this section. An organization may not disburse state matching funds to a private, for-profit business for the purpose of promoting its goods, services, functions or activities.

[1995, c. 2, §11 (RAL) .]

3. **Limitations.** This section does not reduce any organization's financial participation in any ongoing project, but rather to increase or develop new programs. The grant program as established in subsection 4, must be geared to specific promotional efforts and costs and is not intended to match any administrative costs, including any form of personal services.

[1995, c. 2, §11 (RAL) .]

4. **Administration.** The Office of Tourism in consultation with the tourism industry shall administer the Travel Promotion Matching Fund Program with such flexibility as to bring about the most effective and economical travel promotion program possible. Applications from all regions of the State must be equally considered. The Office of Tourism shall consult with the tourism industry in the development of rules and procedures necessary and appropriate to the proper operation of the Travel Promotion Matching Fund Program. These rules must establish eligibility requirements, allocation formulas, application procedures and criteria subject to the final approval of the commissioner. The Office of Tourism, in consultation with the tourism industry, shall establish a schedule and process for review and approval of grant applications. Grants must be approved by the Director of the Office of Tourism prior to any disbursement of funds.

[2011, c. 563, §7 (AMD) .]

5. **Bookkeeping systems.** The department and all tourist promotional organizations qualifying for matching funds under this section shall keep accurate records of any applications, transactions, payment receipts and correspondence relating to the implementation of the Travel Promotion Matching Fund Program.

A. The department shall establish a standard accounting procedure to be used by any organization receiving money under this section. [1995, c. 2, §11 (RAL).]

B. The records of any organization pertaining to accounts and contracts funded with money under this section must be open to audit by the State or by any firm employed by the State to audit these records. [1995, c. 2, §11 (RAL).]

Additional matching funds may not be awarded to an organization until the provisions of this subsection have been met.

[1995, c. 2, §11 (RAL) .]

SECTION HISTORY
RR 1995, c. 2, §11 (RAL). 2003, c. 198, §§11,12 (AMD). 2011, c. 563, §7 (AMD).

§13090-H. MAINE STATE FILM COMMISSION

(REALLOCATED FROM TITLE 5, SECTION 13080-T)

1. **Maine State Film Commission established.** The Maine State Film Commission, as established by section 12004-I, subsection 88, is within the Office of Tourism and shall advise and assist the office as necessary. The commission shall advise the commissioner and the Director of the Office of Tourism with respect to the operation of the Maine State Film Office program.

A. The commission consists of 11 members appointed by the Governor.

(1) The members appointed must be involved in a related business field or have experience or familiarity with media marketing or public relations. The Governor shall ensure an equitable regional representation from the State.

(2) The Director of the Maine Arts Commission and the commissioner or the commissioner's designee shall serve as ex officio, nonvoting members of the commission. [2007, c. 466, Pt. B, §1 (AMD).]

B. The terms of office of commission members are as follows.

(1) All members are appointed for 3-year terms. Of those first appointed, 3 are appointed for 3-year terms, 4 are appointed for 2-year terms and 4 are appointed for one-year terms. The Governor shall designate the terms of office of those first appointed at the time of appointment.

(2) Members shall serve until their successors are appointed and take office. The Governor may terminate the membership of any appointee for just cause and the reason for the termination must be communicated in writing to each member whose term is so terminated.

(3) Vacancies must be filled in the same manner as original appointments, except that any person appointed to fill a vacancy shall serve for the remainder of the unexpired term of the vacancy. [1995, c. 2, §11 (RAL).]

C. The chair and vice-chair are appointed by the Governor annually at the first meeting of the commission and serve for one-year terms.

(1) The chair shall call meetings of the commission. [1995, c. 2, §11 (RAL).]

D. Members are compensated for expenses only in accordance with chapter 379. [1995, c. 2, §11 (RAL).]

E. Financing of promotional and development materials and expenses pursuant to this section must be made with funds within the limit of the budget of the department for the Office of Tourism. [2003, c. 198, §13 (AMD).]

[2007, c. 466, Pt. B, §1 (AMD) .]

2. **Powers and duties.** The Maine State Film Commission has the following powers and duties:

A. To recommend rules for the implementation of the provisions relating to the promotion of filming activities in the State; [1995, c. 2, §11 (RAL).]

B. To advise and assist the Director of the Maine State Film Office and the Director of the Office of Tourism with respect to this section and section 13090-I; [2003, c. 198, §14 (AMD).]

C. To raise and accept funds from public and private sources to be used to promote filming activities in the State; and [1995, c. 2, §11 (RAL).]

D. To promote the State for in-state, on-location filming of movies, advertisements and videos. [1995, c. 2, §11 (RAL).]

[2003, c. 198, §14 (AMD) .]

SECTION HISTORY
RR 1995, c. 2, §11 (RAL). RR 1995, c. 2, §14 (COR). 2003, c. 198, §§13,14 (AMD). 2005, c. 519, §P1 (AMD). 2007, c. 466, Pt. B, §1 (AMD).

§13090-I. MAINE STATE FILM OFFICE

(REALLOCATED FROM TITLE 5, SECTION 13080-U)

The Maine State Film Office is established within the Office of Tourism. The Director of the Maine State Film Office is responsible for undertaking a program of film promotion and implementing the recommendations and policies of the commissioner. [2003, c. 198, §15 (AMD).]

SECTION HISTORY
RR 1995, c. 2, §11 (RAL). 2003, c. 198, §15 (AMD).

§13090-J. TOURISM COOPERATIVE MARKETING FUND

1. **Statement of purpose.** The Tourism Cooperative Marketing Fund is established to allow the Office of Tourism to accept private donations to be used in support of special public and private marketing opportunities.

[2003, c. 198, §16 (AMD) .]

2. **Tourism Cooperative Marketing Fund.** The Tourism Cooperative Marketing Fund, referred to in this section as the "fund," is established as an interest-bearing account. All charges collected pursuant to this section must be deposited into the fund. All interest earned by the account becomes part of 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. Revenue to the fund is collected, managed, deposited, invested and disbursed by the Office of Tourism.

[2003, c. 198, §16 (AMD) .]

3. **Revenue sources.** For purposes of funding its activities, the Office of Tourism is authorized to accept donations from private sources and shall consult with donors in making distribution determinations.

[2003, c. 198, §16 (AMD) .]

4. **Administrative costs.** The Office of Tourism may retain a portion of the total donations collected equivalent to the office's administrative costs incurred in the collection and remission of the donations, not to exceed 2% of the total donations collected.

[2003, c. 198, §16 (AMD) .]

5. **Reporting requirements.** The Office of Tourism shall submit a report by February 1, 1998 and February 1st of each subsequent year to the joint standing committees of the Legislature having jurisdiction over economic development matters and appropriations and financial affairs identifying the amount collected and how the fund was disbursed by the office.

[2003, c. 198, §16 (AMD) .]

6. **Repeal.**

[2005, c. 517, §1 (RP) .]

SECTION HISTORY
1997, c. 395, §H1 (NEW). 2003, c. 198, §16 (AMD). 2005, c. 517, §1 (AMD).

§13090-K. TOURISM MARKETING PROMOTION FUND

1. **Fund established.** The Tourism Marketing Promotion Fund is established in the Department of Economic and Community Development, Office of Tourism as a nonlapsing dedicated account.

[2001, c. 439, Pt. UUUU, §1 (NEW) .]

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 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 beginning July 1, 2016 the amount is equivalent to 5% of the 8% tax and 5% of the 9% tax imposed on tangible personal property and taxable services pursuant to Title 36, section 1811. 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 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 beginning October 1, 2016 the amount is equivalent to 5% of the 8% tax and 5% of the 9% tax imposed on tangible personal property and taxable services pursuant to Title 36, section 1811. 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.

[2015, c. 267, Pt. OOOO, §1 (AMD); 2015, c. 267, Pt. OOOO, §7 (AFF) .]

3. **Restrictions.** A minimum of 10% of the funds received by the Tourism Marketing Promotion Fund in accordance with subsection 2 must be used for regional marketing promotion and regional special events promotion.

[2001, c. 439, Pt. UUUU, §1 (NEW) .]

SECTION HISTORY
2001, c. 439, §UUUU1 (NEW). 2013, c. 368, Pt. M, §1 (AMD). 2015, c. 267, Pt. OOOO, §1 (AMD). 2015, c. 267, Pt. OOOO, §7 (AFF).

§13090-L. VISUAL MEDIA PRODUCTION CERTIFICATION

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

[2009, c. 470, §1 (AMD) .]

2. **Definitions.**

[2009, c. 470, §1 (RP) .]

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

A. "Digital media project" means visual and audio content on an electronic, digital medium and created, referred to and distributed electronically. "Digital media project" includes publicly accessible websites, computer multimedia, video and computer games and digital video discs. [2009, c. 470, §1 (NEW).]

B. "Maine State Film Office" means the Maine State Film Office established in the Office of Tourism pursuant to section 13090-I. [2009, c. 470, §1 (NEW).]

C. "Person" has the same meaning as in Title 36, section 111, subsection 3. [2009, c. 470, §1 (NEW).]

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

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

(2) A talk show;

(3) A sports event or activity;

(4) A gala presentation or awards show;

(5) A finished production that solicits funds; or

(6) A production for which records are required to be maintained by 18 United States Code, Section 2257. [2009, c. 470, §1 (NEW).]

E. "Visual media production company" means a person engaged in the business of producing a visual media production. [2009, c. 470, §1 (NEW).]

F. "Visual media production expense" means an expense directly incurred in this State for preproduction, production or postproduction of a visual media production certified under this section. "Visual media production expense" includes wages and salaries of individuals employed in the production on which taxes have been paid or accrued if those wages do not exceed $50,000 per individual and payments to a temporary employee-leasing company, as defined in Title 36, section 6901, subsection 3-A, and other contractual payments for the services of individuals working in the State if those payments do not exceed $50,000 per individual providing services in the production. "Visual media production expense" includes the cost of construction; operations; editing and related services; music, photography and film processing, including transferring film to tape or a digital format; sound recording, mixing and synchronization; lighting, makeup, wardrobe and accessories; transportation; food and lodging for cast and crew; insurance and bonding; and the rental of facilities and equipment, including location fees. "Visual media production expense" does not include expenses incurred in marketing or advertising a visual media production or in printing or disseminating a visual media production. [2009, c. 470, §1 (NEW).]

[2009, c. 470, §1 (NEW) .]

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

A. Provide the names of the principals involved in the visual media production and contact information for them; [2009, c. 470, §1 (AMD).]

B. Provide a certificate of insurance for the visual media production; [2009, c. 470, §1 (AMD).]

C. Provide financial information that demonstrates that the visual media production is fully financed and that at least $75,000 of visual media production expense will be incurred for the visual media production certified in accordance with this subsection; [2009, c. 470, §1 (AMD).]

D. Provide data demonstrating that the visual media production will benefit the people of the State by increasing opportunities for employment and will strengthen the economy of the State; [2009, c. 470, §1 (AMD).]

E. Agree to include, in the certified visual media production, an on-screen credit for the State of Maine. The exact wording and size of that credit must be determined in rules adopted by the Maine State Film Office and the department. The Maine State Film Office or the department may, at its discretion, exempt visual media productions from this requirement. Rules adopted pursuant to this paragraph are routine technical rules as defined in chapter 375, subchapter 2-A; [2009, c. 470, §1 (AMD).]

F. Provide evidence that the visual media production company is not owned by, affiliated with or controlled by, in whole or in part, a person that is in default on a loan made by the State or a loan guaranteed by the State; [2009, c. 470, §1 (AMD).]

G. Provide any other information required by the department; and [2009, c. 470, §1 (AMD).]

H. Provide a projected schedule for preproduction, production and postproduction of the visual media production that shows that the production will begin within 60 days after certification pursuant to this subsection. [2009, c. 470, §1 (NEW).]

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

[2009, c. 470, §1 (AMD) .]

4. **Certified visual media production report.** No later than 4 weeks after completion of a certified visual media production, the visual media production company shall report, in a format specified by the Maine State Film Office or the department, its compliance with the requirements of subsection 3 with respect to the certified visual media production to the Maine State Film Office.

[2011, c. 285, §1 (AMD) .]

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

[2009, c. 470, §1 (AMD) .]

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

[2005, c. 519, Pt. GG, §1 (NEW) .]

7. **Report.** The Maine State Film Office shall submit a report by January 15th annually to the joint standing committee of the Legislature having jurisdiction over taxation matters regarding the certification and reporting process pursuant to this section and the visual media production tax credit and reimbursement

activities pursuant to Title 36, section 5219-Y and Title 36, chapter 919-A. The report must include a description of any rule-making activity related to the implementation of the credit and reimbursement activities, outreach efforts to visual media production companies, the number of applications for the visual media production credit and tax reimbursement, the number of credits and reimbursements granted, the revenue loss associated with the credit and reimbursement and the amount of visual media production expenses generated in the State as a result of the credit and reimbursement.

[2009, c. 470, §1 (NEW) .]

SECTION HISTORY
2005, c. 519, §GG1 (NEW). 2009, c. 470, §1 (AMD). 2011, c. 285, §1 (AMD).

§13090-M. VISUAL AND DIGITAL MEDIA LOAN PROGRAM

(REPEALED)

SECTION HISTORY
2011, c. 372, §1 (NEW). MRSA T. 5, §13090-M, sub-§7 (RP).

Subchapter 4: TOURISM

§13091. FINDINGS

(REPEALED)

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW). 1989, c. 875, §§M8,13 (RP).

§13092. OFFICE OF TOURISM

(REPEALED)

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW). 1989, c. 875, §§M8,13 (RP).

§13092-A. HISTORICAL MARKER PROGRAM

(REPEALED)

SECTION HISTORY
1989, c. 553, §1 (NEW). 1989, c. 700, §A21 (AMD). 1989, c. 875, §§M8,13 (RP). 2003, c. 198, §17 (RP).

§13093. MAINE TOURISM COMMISSION

(REPEALED)

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW). 1989, c. 503, §B30 (AMD). 1989, c. 700, §A22 (AMD). 1989, c. 875, §§M8,13 (RP).

§13094. TRAVEL PROMOTION MATCHING FUND PROGRAM

(REPEALED)

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW). 1989, c. 875, §§M8,13 (RP).

§13095. MAINE STATE FILM COMMISSION

(REPEALED)

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW). 1989, c. 503, §B31 (AMD). 1989, c. 875, §§M8,13 (RP).

§13096. POWERS AND DUTIES

(REPEALED)

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW). 1989, c. 875, §§M8,13 (RP).

§13097. DIRECTOR OF THE MAINE STATE FILM COMMISSION

(REPEALED)

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW). 1989, c. 875, §§M8,13 (RP).

Subchapter 4-A: SMALL BUSINESS AND ENTREPRENEURSHIP

§13100. SMALL BUSINESS AND ENTREPRENEURSHIP

The commissioner shall create within existing budgeted resources the Office of Small Business and Entrepreneurship and appoint a director to operate the office. [2005, c. 458, §2 (NEW).]

1. **Director.** The director reports to the commissioner. The director is responsible for advocacy, policies and programs that stimulate investment and growth in small business and entrepreneurship. The director is the liaison to the public for gubernatorial initiatives on small business and entrepreneurship.

[2005, c. 458, §2 (NEW) .]

2. **Duties.** The director shall:

A. Advocate for small business and entrepreneurship throughout all levels of State Government; [2005, c. 458, §2 (NEW).]

B. Assist in the oversight and auditing of the State's investments in small business and entrepreneurship initiatives, programs and service providers; [2005, c. 458, §2 (NEW).]

C. Chair the Maine Entrepreneurship Working Group, which shall act as the advisory group to the Maine Small Business and Entrepreneurship Commission and subsequently the department; [2005, c. 458, §2 (NEW).]

D. Prepare a biennial state of small business and entrepreneurship report to the Legislature; and [2005, c. 458, §2 (NEW).]

E. Oversee the Business Answers program, the Maine Products Marketing Program and other department programs and initiatives relevant to small business and entrepreneurship. [2005, c. 458, §2 (NEW).]

[2005, c. 458, §2 (NEW) .]

SECTION HISTORY
2005, c. 458, §2 (NEW).

Subchapter 5: DEVELOPMENT POLICY

§13101. DIVISION OF DEVELOPMENT POLICY; ESTABLISHED

(REPEALED)

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW). 1989, c. 875, §§M9,13 (RP).

§13102. DIVISION OF DEVELOPMENT POLICY; DUTIES

(REPEALED)

SECTION HISTORY
1987, c. 534, §§A17,A19 (NEW). 1989, c. 875, §§M9,13 (RP).

Subchapter 5-A: RESEARCH

§13103. MAINE BIOMEDICAL RESEARCH PROGRAM

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

A. "Biennium" means that period of time encompassed by the state budget fiscal biennium. [1999, c. 731, Pt. SSS, §1 (NEW).]

A-1. "Academic medical center" is a Maine-based nonprofit clinical, educational and research organization with a critical number of hospital beds, with multiple and independent residency and fellowship programs, with a significant number of residents and fellows and that is affiliated with but independent of a medical school. [2001, c. 196, §2 (NEW).]

A-2. "Affiliate" means a corporation, limited liability company or other entity that controls, is controlled by or is under common control with the applicant. A majority of the membership, stock ownership or other voting authority is conclusively presumed to establish control. [2005, c. 168, §1 (NEW).]

B. "Eligible institution" means a Maine-based private nonprofit biomedical research institution or academic medical center or medical school that, as of July 1, 2001:

(1) Performs competitive biomedical research in on-site, wetbench biomedical research laboratories in the State, as evidenced by publications in recognized peer review journals; and

(2) Receives or expends funds in the State from federal agencies or specified grant sources for the purpose of producing peer-reviewed biomedical research in on-site, wetbench biomedical research laboratories.

For purposes of this paragraph, "wetbench" has the meaning generally ascribed to that term by the biomedical research community and refers to laboratories that use solutions or cell extracts and biological reagents. [2001, c. 196, §3 (RPR).]

C. "Fund" means the Maine Biomedical Research Fund established in subsection 3. [1999, c. 731, Pt. SSS, §1 (NEW).]

D. "Program" means the Maine Biomedical Research Program established in subsection 2. [1999, c. 731, Pt. SSS, §1 (NEW).]

E. "Private nonprofit biomedical research institution" means a Maine-based institution that is a nonprofit organization described in 26 United States Code, Section 501(c)(3); with a primary purpose of biomedical research; with research laboratories on site; with scientific doctoral degrees who are principal investigators on biomedical research grants expended in the State through that institution and who have

published a significant number of publications in Index Medicus journals in each of the past 3 years; and with a significant level of research activity funded by specified grant sources. [2001, c. 196, §4 (NEW).]

F. "Specified grant sources" means a federal agency, a nonprofit foundation, private company or corporation, a voluntary membership organization such as the American Cancer Society, or an out-of-state educational university, that, as of July 1, 2001, issues grants or contracts for the purpose of producing peer-reviewed biomedical research when the grantee retains complete editorial control over the content of the research performed. [2001, c. 196, §4 (NEW).]

G. "Medical school" means a state-based private nonprofit medical school that, as of July 1, 2001, is authorized to grant a doctorate degree in osteopathic or allopathic medicine and is accredited by the American Osteopathic Association or its successor or the Liaison Committee on Medical Education or its successor. [2001, c. 196, §4 (NEW).]

[2005, c. 168, §1 (AMD) .]

1-A. **Eligibility and fulfillment of requirements based on prior activity of affiliate.** Until July 1, 2009, any one or more of the requirements of this subchapter, including eligibility requirements under subsection 1, paragraph B, may be satisfied by an applicant created after July 1, 2001 if that requirement is satisfied by one or more affiliates of the applicant and if at least one affiliate of the applicant received funding from the fund prior to July 1, 2005. After July 1, 2009, an applicant that has established eligibility pursuant to this subsection must itself meet all other requirements of this subchapter.

[2005, c. 168, §2 (NEW) .]

2. **Program established.** The Maine Biomedical Research Program is established to promote economic development and jobs in the State primarily by making state investments in organizations with successful results in attracting biomedical research funds from specified grant sources. As a secondary purpose, the Maine Biomedical Research Program is intended to provide incentives for small eligible institutions to grow. The program shall disburse program funds from the Maine Biomedical Research Fund to eligible institutions pursuant to this section. The Maine Biomedical Research Board shall administer the program. The Maine Biomedical Research Board shall:

A. Develop and modify detailed program guidelines consistent with this section in consultation as needed with members of the biomedical community; [1999, c. 731, Pt. SSS, §1 (NEW).]

B. Review and if necessary verify applications for funds from eligible institutions; [1999, c. 731, Pt. SSS, §1 (NEW).]

C. Determine whether the institution is an eligible institution; [1999, c. 731, Pt. SSS, §1 (NEW).]

D. Verify that the proposed use of program funds is consistent with subsection 4; [1999, c. 731, Pt. SSS, §1 (NEW).]

E. Determine the allocation that each eligible institution will receive in a given biennium; [1999, c. 731, Pt. SSS, §1 (NEW).]

F. Advertise the availability of funds each biennium; and [1999, c. 731, Pt. SSS, §1 (NEW).]

G. Submit each biennium a report to the Governor, the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters. The report

must include detailed information on the status of the funds in the Maine Biomedical Research Fund and a listing and explanation of each specific source of funding from grant sources for biomedical research. [2009, c. 337, §6 (AMD).]

[2009, c. 337, §6 (AMD) .]

3. **Fund established.** The Maine Biomedical Research Fund is established as an Other Special Revenue fund for the purposes specified in this section. Funds appropriated for this purpose may be transferred on a one-time basis to the Other Special Revenue fund in fiscal year 2000-01. Any unexpended balance in the fund may not lapse, but must be carried forward for the benefit of the fund.

[1999, c. 731, Pt. SSS, §1 (NEW) .]

4. **Use of funds.** Program funds are to support biomedical research in this State, with priority given to research and research technologies with the potential to affect diseases and biomedical mechanisms. An eligible institution receiving program funds under this section may use those funds for any of the following purposes:

A. Project funding; [1999, c. 731, Pt. SSS, §1 (NEW).]

B. Facilities funding, including debt service; [1999, c. 731, Pt. SSS, §1 (NEW).]

C. Equipment used in research, including debt service; or [1999, c. 731, Pt. SSS, §1 (NEW).]

D. Ancillary support. [1999, c. 731, Pt. SSS, §1 (NEW).]

An eligible institution that receives funds under this section may charge overhead expenses consistent with federal research granting criteria. The institution may utilize up to 2% of the program funds it receives to evaluate the impact of the research it is conducting. An institution is not obligated to expend program funds during the period in which those funds are received, but may carry over funding for up to 5 years.

[2001, c. 196, §6 (AMD) .]

5. **Application procedure.** In order to receive program funds, an eligible institution must submit to the program:

A. A preliminary plan describing how the institution would utilize program funds and what research and economic benefits it anticipates as a result of this funding; [1999, c. 731, Pt. SSS, §1 (NEW).]

B. Citations of articles from peer review journals published within the previous 2 years that show the institution is engaged in competitive biomedical research; [1999, c. 731, Pt. SSS, §1 (NEW).]

C. Copies of the institution's Internal Revenue Service form 990, showing the amount of funding from outside sources; [1999, c. 731, Pt. SSS, §1 (NEW).]

D. A breakdown and explanation of all funding from specified grant sources for biomedical research, listing each specific source of funding and its use; and [2001, c. 196, §7 (AMD).]

E. A statement signed by the institution's chief executive officer asserting that all the submitted materials are accurate. [1999, c. 731, Pt. SSS, §1 (NEW).]

[2001, c. 196, §7 (AMD) .]

6. **Allocation of funds to eligible institutions.** The Maine Biomedical Research Board shall allocate funds from the fund to eligible institutions biannually, based on a formula to be developed by the board. The formula must be designed both to provide an ongoing incentive to leverage outside funding and to facilitate the growth of smaller institutions.

A. The formula must link the amount of the program funds to be received by an eligible institution to the total amount of funding that the institution has received or expended from specific grant sources during the previous 2 calendar years for the purpose of producing peer-reviewed biomedical research in on-site biomedical research laboratories in the State. An institution receiving more funding from federal agencies and specified grant sources must receive more program funds under the formula. [2001, c. 196, §8 (RPR).]

B. The formula must be weighted to provide smaller eligible institutions with an incentive to grow. [2001, c. 196, §8 (RPR).]

C. [2001, c. 196, §8 (RP).]

[2001, c. 196, §8 (RPR) .]

7. **Final plan.** Once funding decisions are made according to the formula established pursuant to subsection 6, each eligible institution shall revise its preliminary plan into a final plan that reflects the actual amount of funding allocated. A final plan must describe how the institution would utilize the allocated program funds and what research and economic benefits it anticipates as a result of this funding. An institution must submit a final plan to the department prior to disbursement of funding.

[1999, c. 731, Pt. SSS, §1 (NEW) .]

8. **Accounting, evaluation and reporting requirements.** Each institution receiving funding shall:

A. Maintain an accurate accounting of the use of all program funds as required by state procedures and program guidelines; [1999, c. 731, Pt. SSS, §1 (NEW).]

B. Undertake an ongoing process to evaluate the impact of the research undertaken with program funds. At a minimum, the evaluation process must be designed to provide the following:

(1) An assessment of the direct and indirect economic impact of the funded research; and

(2) An assessment of the contribution of the funded research to scientific advancement and the institution's competitive position; and [1999, c. 731, Pt. SSS, §1 (NEW).]

C. Each biennium, submit a report to the department. The report must include:

(1) An accounting of the use of all program funds received in the previous 2 years, prepared by a certified public accountant;

(2) A summary of the status of any ongoing research;

(3) A summary of the results of any completed research; and

(4) Evaluation data and assessment. [2003, c. 20, Pt. RR, §4 (AMD); 2003, c. 20, Pt. RR, §18 (AFF).]

[2003, c. 20, Pt. RR, §4 (AMD); 2003, c. 20, Pt. RR, §18 (AFF) .]

9. **Rulemaking.** The Maine Biomedical Research Board may adopt routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A to implement this section.

[2003, c. 464, §3 (AMD) .]

SECTION HISTORY
1999, c. 731, §SSS1 (NEW). 2001, c. 196, §§2-8 (AMD). 2003, c. 20, §RR4 (AMD). 2003, c. 20, §RR18 (AFF). 2003, c. 50, §B1 (AMD). 2003, c. 50, §B2 (AFF). 2003, c. 464, §3 (AMD). 2005, c. 168, §§1,2 (AMD). 2009, c. 337, §6 (AMD).

§13104. MAINE BIOMEDICAL RESEARCH BOARD

1. **Board established.** The Maine Biomedical Research Board, referred to in this section as the "board," is established pursuant to section 12004-G, subsection 4-B to administer the Maine Biomedical Research Fund and the Maine Biomedical Research Program as provided in section 13103.

[2001, c. 196, §9 (NEW) .]

2. **Board membership.** The board consists of 7 members appointed as follows:

A. Four persons, appointed by the Governor and nominated by a statewide biomedical research coalition; [2001, c. 196, §9 (NEW).]

B. Two members, appointed by the Governor, who are distinguished and credentialed in the type of biomedical research that is performed by eligible institutions defined in section 13103, subsection 1; and [2001, c. 196, §9 (NEW).]

C. The commissioner or the commissioner's designee. [2001, c. 196, §9 (NEW).]

[2001, c. 196, §9 (NEW) .]

3. **Initial appointment; terms.** Members of the board appointed by the Governor are appointed for 3-year terms, except for the initial terms of appointment, which are as follows: Two members appointed for one year; 2 members appointed for 2 years; and 2 members appointed for 3 years. Members who serve on the board by virtue of their office serve terms coincident with their terms in office.

[2001, c. 196, §9 (NEW) .]

4. **Powers and duties of board.** The board has the following powers and duties:

A. To perform all duties and take such actions pursuant to section 13103 as necessary to administer the Maine Biomedical Research Program; [2001, c. 196, §9 (NEW).]

B. To contract with the Maine Technology Institute for such assistance in fulfilling the board's duties as the board may require; and [2001, c. 196, §9 (NEW).]

C. To approve a budget for administration of the Maine Biomedical Research Program. [2001, c. 196, §9 (NEW).]

[2001, c. 196, §9 (NEW) .]

SECTION HISTORY
2001, c. 196, §9 (NEW).

Subchapter 5-B: OFFICE OF INNOVATION

Article 1: OFFICE OF INNOVATION

§13105. OFFICE OF INNOVATION

1. **Office established.** The commissioner shall establish the Office of Innovation, referred to in this subchapter as "the office." The office shall encourage and coordinate the State's research and development activities to foster collaboration among the State's higher education and nonprofit research institutions and the business community. The commissioner shall appoint the State Science Advisor, who shall serve as the Director of the Office of Innovation.

[2005, c. 425, §6 (AMD) .]

2. **Office functions.** The office shall promote, evaluate and support research and development relevant to the State including:

A. Technology transfer activities to increase the competitiveness of businesses and public institutions of higher education in the State; [2003, c. 673, Pt. M, §8 (NEW).]

B. Effective and efficient application of technologies in the public and private sectors; [2003, c. 673, Pt. M, §8 (NEW).]

C. The development of new commercial products and the fabrication of such products in the State through the Maine Technology Institute under section 15302 and the technology centers under section 15322; and [2011, c. 691, Pt. C, §2 (AMD).]

D. Research opportunities that create sustained, interinstitutional, multidisciplinary efforts. [2003, c. 673, Pt. M, §8 (NEW).]

The office shall coordinate cooperative efforts among government agencies, the private sector and universities and colleges for the purposes outlined in this subchapter.

[2011, c. 691, Pt. C, §2 (AMD) .]

SECTION HISTORY
2003, c. 673, §M8 (NEW). 2005, c. 19, §2 (AMD). 2005, c. 425, §6 (AMD). 2011, c. 691, Pt. C, §2 (AMD).

§13106. SCIENCE AND TECHNOLOGY PLAN

The office shall develop and submit the following to the Governor and the Legislature by the first day of the first legislative session of each biennium: [2003, c. 673, Pt. M, §8 (NEW).]

1. **Action plan.**

[2007, c. 420, §3 (AMD); T. 5, §13106, sub-§1 (RP) .]

2. **Report card.** A report card that:

A. Compares the State's science and technology infrastructure standing to that of other states, based on the results of all independent organizations or reports that make such comparisons and on any other appropriate comparisons as determined by the office and those agencies with which the office is directed by this section to consult; [2003, c. 673, Pt. M, §8 (NEW).]

B. Assesses the performance of the State and those who receive state funds in meeting the goals and objectives and taking the action steps outlined in the action plan; and [2003, c. 673, Pt. M, §8 (NEW).]

C. Makes recommendations for improving the results shown on the report card. [2003, c. 673, Pt. M, §8 (NEW).]

[2003, c. 673, Pt. M, §8 (NEW) .]

SECTION HISTORY
2003, c. 673, §M8 (NEW). 2007, c. 420, §3 (AMD). MRSA T. 5, §13106, sub-§1 (AMD).

§13107. COMPREHENSIVE RESEARCH AND DEVELOPMENT EVALUATION

The office shall develop and submit to the Governor and the Legislature by July 1, 2012 and on July 1st every 6 years thereafter an evaluation of state investments in research and development, as well as a progress report from the office and the independent reviewers under subsection 2 beginning on February 1, 2014 and on February 1st every even-numbered year thereafter. The evaluation must: [2011, c. 563, §8 (AMD).]

1. **Outcome measures.** Establish outcome measures considered appropriate by public and private practitioners inside and outside of the State in the fields of research and development and economic development. Practitioners in this State must include, but are not limited to, a representative from the University of Maine System, a representative of the targeted technology sectors, a representative of the Executive Department, Governor's Office of Policy and Management and representatives of other state agencies having economic development responsibility;

[2011, c. 655, Pt. EE, §10 (AMD); 2011, c. 655, Pt. EE, §30 (AFF) .]

2. **Independent reviewers.** Utilize independent reviewers to assess the competitiveness of technology sectors in this State and the impact of research and development activities in this State on economic development in this State. The independent reviewers must incorporate the goals and objectives described in the State’s innovation economy action plan, as described in Title 10, chapter 107-D, in their analysis of the success of the State’s investments in research and development; and

[2007, c. 420, §4 (AMD) .]

3. **Recommendations.** Include recommendations to the Legislature on existing and proposed state-supported research and development programs and activities to affect technology-based economic development in this State.

[2003, c. 673, Pt. M, §8 (NEW) .]

By February 1, 2014 and by February 1st every even-numbered year thereafter, the office and the independent reviewers under subsection 2 shall submit to the Governor and the Legislature a progress report related to the 6-year evaluation required under this section. The independent reviewers must incorporate the goals and objectives described in the State's innovation economy action plan, as described in Title 10, chapter 107-D, in their analysis of the success of the State's investments in research and development. [2011, c. 563, §9 (AMD).]

SECTION HISTORY
2003, c. 673, §M8 (NEW). 2007, c. 420, §4 (AMD). 2011, c. 563, §§8, 9 (AMD). 2011, c. 655, Pt. EE, §10 (AMD). 2011, c. 655, Pt. EE, §30 (AFF).

§13108. REPORTING REQUIREMENTS OF RECIPIENTS OF RESEARCH AND DEVELOPMENT FUNDING

To assist the office in preparing a comprehensive research and development evaluation, a recipient of state funding including general obligation bond proceeds for research and development shall, in addition to any other reporting requirements required by law: [2003, c. 673, Pt. M, §8 (NEW).]

1. **Data.** Collect, maintain and provide data relating to each investment's performance, outputs and outcomes;

[2003, c. 673, Pt. M, §8 (NEW) .]

2. **Report card indicators.** Identify the indicators in the report card developed by the office pursuant to section 13106 that will be affected as a result of the proposed research and development activity; and

[2003, c. 673, Pt. M, §8 (NEW) .]

3. **Action plan goals.** Identify the goals in the action plan developed by the office pursuant to section 13106 that will be advanced by the recipient's research and development activity.

[2003, c. 673, Pt. M, §8 (NEW) .]

SECTION HISTORY
2003, c. 673, §M8 (NEW).

Article 2: SCIENCE AND TECHNOLOGY PROGRAMS

§13109. MAINE RESEARCH AND DEVELOPMENT EVALUATION FUND

1. **Fund established.** The Maine Research and Development Evaluation Fund, referred to in this section as "the fund," is established as a nonlapsing Other Special Revenue Funds account administered by the office for the purposes of funding the comprehensive research and development evaluation required pursuant to section 13108.

[2003, c. 673, Pt. M, §8 (NEW) .]

2. **Definition.** For the purposes of this section, "research and development" means activities that directly or through capital investment support basic and applied scientific research and related commercial development funded by state appropriations and bond proceeds.

[2003, c. 673, Pt. M, §8 (NEW) .]

3. **Fund sources.** The fund receives money deposited by the Treasurer of State pursuant to this section and any other gift, grant or other source of revenue deposited for that use.

[2003, c. 673, Pt. M, §8 (NEW) .]

4. **Payments to fund.** Notwithstanding section 1585 or any other provision of law, agencies or private entities that receive General Fund or general obligation bonds for research and development shall contribute to the fund an amount not to exceed 0.8% of General Fund appropriations received by and general obligation bonds issued to an agency or entity for research and development efforts. Private entities that receive funds from general obligation bonds for research and development efforts shall pay to the Treasurer of State in the fiscal year in which the general obligation bond was issued an amount not to exceed 0.8% of the proceeds from the bond issue in any fiscal year, which payment must be made from available resources other than bond proceeds. Only those programs that receive $500,000 or more in research and development appropriations in any fiscal year, or those entities that receive funds from a general obligation bond issue of $500,000 or more for research and development efforts in any fiscal year, as identified and certified by the Office of Innovation and the Office of Fiscal and Program Review, may be assessed. The Office of Innovation shall provide to each agency or private entity an annual budget for the fund and a detailed account of each institution's required assessment. Total payments made pursuant to this section may not exceed $200,000 in any fiscal year.

[2009, c. 337, §7 (AMD) .]

5. **Repeal; lapse of funds.**

[2005, c. 425, §8 (RP) .]

SECTION HISTORY
2003, c. 673, §M8 (NEW). 2005, c. 425, §§7,8 (AMD). 2009, c. 337, §7 (AMD).

§13110. MAINE EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH ESTABLISHED

The office, the University of Maine System and the Governor's Maine Science and Technology Advisory Council are jointly responsible for the administration of the Maine Experimental Program to Stimulate Competitive Research, referred to in this chapter as "the Maine EPSCoR Program," which is established in this section as a partnership effort between the State Government and the Federal Government to strengthen the State's science and engineering infrastructure. [2007, c. 240, Pt. K, §1 (AMD).]

1. **Linkage with state policies.** The policies, programs and activities of the Maine EPSCoR Program must consider the State's economic, education and science and technology strategies and policies.

[2003, c. 673, Pt. M, §8 (NEW) .]

2. **Policy recommendation.** Through the office, the University of Maine System and the Governor's Maine Science and Technology Advisory Council, the Maine EPSCoR Program may recommend to the Governor and the Legislature policies and programs essential to the strengthening of the State's science and engineering infrastructure.

[2007, c. 240, Pt. K, §2 (AMD) .]

SECTION HISTORY
2003, c. 673, §M8 (NEW). 2007, c. 240, Pt. K, §§1, 2 (AMD).

§13110-A. MAINE EPSCOR CAPACITY FUND

The Maine EPSCoR Capacity Fund is established within the office to provide the matching funds that are required by several federal agencies in their EPSCoR activities. The fund must be used to match EPSCoR awards, and is a nonlapsing Other Special Revenue Funds account. [2003, c. 673, Pt. M, §8 (NEW).]

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

A. "Fund" means the Maine EPSCoR Capacity Fund account within the Other Special Revenue Funds account. [2003, c. 673, Pt. M, §8 (NEW).]

B. "Match" means the cash commitment required from the State as defined by a federal funding agency. Match requirements vary among federal agencies. [2003, c. 673, Pt. M, §8 (NEW).]

C. "Research capacity committee" means the Governor's Maine Science and Technology Advisory Council referred to in section 13110. [2007, c. 240, Pt. K, §3 (AMD).]

[2007, c. 240, Pt. K, §3 (AMD) .]

2. **Organization.** The commissioner, at the commissioner's discretion, may delegate the administration of the fund to the director of the office. The research capacity committee shall advise the commissioner or the director of the office on the use of the funds.

[2003, c. 673, Pt. M, §8 (NEW) .]

3. **Guidelines.** The commissioner or the director of the office, with the advice of the research capacity committee, shall establish guidelines for cash and in-kind match requirements based on the activities to be supported with the fund. Match levels must reflect the requirements identified by federal funding agencies.

[2003, c. 673, Pt. M, §8 (NEW) .]

SECTION HISTORY
2003, c. 673, §M8 (NEW). 2007, c. 240, Pt. K, §3 (AMD).

Subchapter 6: COMPREHENSIVE LAND USE PLANNING

§13111. OFFICE OF COMPREHENSIVE LAND USE PLANNING

(REPEALED)

SECTION HISTORY
1987, c. 816, §P14 (NEW). 1987, c. 861, §6 (AMD). 1989, c. 7, §O4 (AMD). 1989, c. 878, §B5 (AMD). RR 1991, c. 2, §17 (COR). 1991, c. 528, §D1 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 562, (AMD). 1991, c. 591, §D1 (AMD). 1991, c. 622, §F14 (RP). 1993, c. 92, §16 (AMD).

Article 1: MUNICIPAL GROWTH MANAGEMENT AND CAPITAL INVESTMENT

§13112. MUNICIPAL GROWTH MANAGEMENT AND CAPITAL INVESTMENT FUND

(REPEALED)

SECTION HISTORY
1989, c. 631, §§3,6 (NEW). 1991, c. 622, §F14 (RP).

§13113. ASSISTANCE TO MUNICIPALITIES

(REPEALED)

SECTION HISTORY
1989, c. 631, §§3,6 (NEW). 1991, c. 622, §F14 (RP).

§13114. REPORT TO THE LEGISLATURE

(REPEALED)

SECTION HISTORY
1989, c. 631, §§3,6 (NEW). 1991, c. 622, §F14 (RP).

Subchapter 7: MAINE AFFORDABLE HOUSING ALLIANCE

§13116. MAINE AFFORDABLE HOUSING ALLIANCE ESTABLISHED

(REPEALED)

SECTION HISTORY

1989, c. 601, §B3 (NEW). 1989, c. 875, §§M10,13 (RP).

§13117. COORDINATION

(REPEALED)

SECTION HISTORY
1989, c. 601, §B3 (NEW). 1989, c. 875, §§M10,13 (RP).

§13118. ADVISORY COMMITTEE CREATED

(REPEALED)

SECTION HISTORY
1989, c. 601, §B3 (NEW). 1989, c. 875, §§M10,13 (RP).

Subchapter 8: CONFIDENTIALITY OF RECORDS

§13119. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1991, c. 368, (NEW).]

1. **Local development corporation.** "Local development corporation" means any nonprofit corporation organized by a city or town under Title 13, chapter 81 or Title 13-B.

[1991, c. 368, (NEW) .]

2. **Municipality.** "Municipality" means any city, town or local development corporation and any board, commission, agency or authority of any such city, town or local development corporation.

[1991, c. 368, (NEW) .]

3. **Person.** "Person" means an individual, corporation, partnership, firm, organization or other legal entity.

[1991, c. 368, (NEW) .]

4. **Program of assistance.** "Program of assistance" means any financial or technical assistance program established or authorized by the department or a municipality and providing assistance to persons for the improvement and development of housing, community and economic development opportunities.

[1991, c. 368, (NEW) .]

SECTION HISTORY
1991, c. 368, (NEW).

§13119-A. RECORDS CONFIDENTIAL

The following records are confidential for purposes of Title 1, section 402, subsection 3, paragraph A and are not open for public inspection: [1991, c. 368, (NEW).]

1. **Proprietary information.** Information that is provided to or developed by the department or a municipality that has to do with a program of assistance and is included in a business or marketing plan or a grant application or provided or developed to fulfill reporting requirements, as long as:

A. The person to whom the information belongs or pertains requests that it be designated as confidential; and [1991, c. 368, (NEW).]

B. The department or municipality determines that the information gives the person making the request opportunity to obtain business or competitive advantage over another person who does not have access to that information or will result in loss of business or other significant detriment to the person making the request if access is provided to others; [1991, c. 368, (NEW).]

[1991, c. 368, (NEW) .]

2. **Tax or financial information.** Any financial statement, supporting data or tax return of any person;

[1991, c. 368, (NEW) .]

3. **Monitoring.** Any financial statement, supporting data or tax return obtained or developed by the department or the municipality in connection with any monitoring or servicing activity by the department or the municipality pertaining to any program of assistance provided or to be provided;

[1991, c. 368, (NEW) .]

4. **Credit assessment.** Any record obtained by the department or the municipality that contains an assessment of the credit worthiness, credit rating or financial condition of any person or project; and

[1991, c. 368, (NEW) .]

5. **Potential investors.** Any record, including any financial statement or supporting data, business plan or tax return obtained or developed by the department or municipality in connection with the matching of potential investors with businesses in the State by the department or the municipality through its maintenance of a data base or other record-keeping system.

[1991, c. 368, (NEW) .]

Nothing in this section prevents the disclosure of any records, correspondence or other materials to authorized officers and employees of municipal government, State Government or Federal Government for authorized use. [1991, c. 368, (NEW).]

SECTION HISTORY
1991, c. 368, (NEW).

§13119-B. DISCLOSURE REQUIRED

Notwithstanding section 13119-A, the department or the municipality shall make available, upon request, to any person reasonably describing the records to which access is sought or, if no request is made, in any manner and at any time that the department or municipality determines appropriate, the following information. [1991, c. 368, (NEW).]

1. **Certain limited information.** The following must be released after provision of assistance:

A. Names of recipients of or applicants for business assistance, including the business principals, if applicable; [1991, c. 368, (NEW).]

B. Types and general terms of assistance provided to those recipients or requested by those applicants; [1991, c. 368, (NEW).]

C. Descriptions of projects and businesses benefiting or to benefit from the assistance provided; [1991, c. 368, (NEW).]

D. Number of jobs and the amount of tax revenues projected or resulting in connection with a completed project; and [1991, c. 368, (NEW).]

E. Amounts and names of recipients of assistance provided under a program of assistance. [1991, c. 368, (NEW).]

[1991, c. 368, (NEW) .]

2. **Subject to waiver.** Any information pursuant to waiver determined satisfactory by the department must be released.

[1991, c. 368, (NEW) .]

3. **Available to public.** Information that the department determines has already been made available to the public must be released.

[1991, c. 368, (NEW) .]

4. **Not otherwise confidential.** Any information not otherwise confidential under section 13119-A or other applicable law must be released.

[1991, c. 368, (NEW) .]

SECTION HISTORY
1991, c. 368, (NEW).

§13119-C. DISCLOSURE PERMITTED

Notwithstanding section 13119-A, information otherwise confidential under that section may be disclosed: [1991, c. 368, (NEW).]

1. **Financing institutions or credit reporting services.** To a financing institution or credit reporting service;

[1991, c. 368, (NEW) .]

2. **Transfer of securities or bonds.** To the extent necessary to the sale or transfer of revenue obligation securities or of general obligation bonds;

[1991, c. 368, (NEW) .]

3. **Collection of certain obligations.** If necessary to ensure collection of any obligation in which the department or municipality has or may have an interest;

[1991, c. 368, (NEW) .]

4. **Litigation or proceeding.** In any litigation or proceeding in which the department or the municipality appears, for the purposes of introduction of the information into the record;

[1991, c. 368, (NEW) .]

5. **Order by lawful authority.** Pursuant to a subpoena, request for production of documents, warrant or other order by competent authority, as long as any such order appears to have first been served on the person to whom the confidential information sought pertains or belongs and as long as any such order appears on its face or otherwise to have been issued or made upon lawful authority; or

[1991, c. 368, (NEW) .]

6. **Authorization.** Upon written authorization of release of the confidential information by the person or persons to whom such information pertains.

[1991, c. 368, (NEW) .]

SECTION HISTORY
1991, c. 368, (NEW).

Subchapter 9: MAINE RURAL DEVELOPMENT AUTHORITY

§13120-A. AUTHORITY ESTABLISHED; PURPOSE

The Maine Rural Development Authority, as established by section 12004-F, subsection 18 and referred to in this subchapter as the "authority," is a body both corporate and politic and a public instrumentality of the State established for the purpose of providing loans to communities for the development of commercial facilities on a speculative basis and for serving as lender or investor in the acquisition, development, redevelopment and sale of commercial facilities in areas where economic needs are not supported by private investment. The authority may also provide loans to businesses that currently do not own real estate and that are not supported by private investment. [2011, c. 563, §10 (AMD).]

The purposes of this subchapter are public and the authority is performing a governmental function in carrying out this subchapter. [2001, c. 703, §6 (NEW).]

SECTION HISTORY
2001, c. 703, §6 (NEW). 2003, c. 281, §1 (AMD). 2011, c. 563, §10 (AMD).

§13120-B. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [2001, c. 703, §6 (NEW).]

1. **Carrying costs.** "Carrying costs" means reasonable costs incurred for the maintenance, protection and security of a speculative industrial building prior to occupancy, including, but not limited to, insurance, taxes and interest.

[2005, c. 425, §9 (AMD) .]

2. **Board of trustees.** "Board of trustees" means the Maine Rural Development Authority Board of Trustees.

[2001, c. 703, §6 (NEW) .]

3. **Commercial.** "Commercial" means related to or connected with the furtherance of a profit-making enterprise.

[2001, c. 703, §6 (NEW) .]

4. **Commercial facility.** "Commercial facility" means real estate and improvements used principally for commercial purposes or suitable for commercial use. The term commercial facilities includes, but is not limited to:

A. Offices and office buildings; [2001, c. 703, §6 (NEW).]

B. Manufacturing, processing, assembly and other industrial buildings and related improvements; [2001, c. 703, §6 (NEW).]

C. Property used in connection with commercial fishing and other marine-related industries; [2001, c. 703, §6 (NEW).]

D. Property used in connection with agricultural production, storage, processing, packing and transportation; [2001, c. 703, §6 (NEW).]

E. Warehouses, transportation and distribution facilities; [2001, c. 703, §6 (NEW).]

F. Service and repair facilities; [2001, c. 703, §6 (NEW).]

G. Retail establishments; and [2001, c. 703, §6 (NEW).]

H. Lodging, restaurant and entertainment facilities. [2001, c. 703, §6 (NEW).]

[2001, c. 703, §6 (NEW) .]

5. **Community industrial building.**

[2005, c. 425, §10 (RP) .]

6. **Department.** "Department" means the Department of Economic and Community Development.

[2001, c. 703, §6 (NEW) .]

7. **Lease.** "Lease" means a contract providing for the use of a project or portions of a project for a term of years for a designated or determinable rent. A lease may include an installment sales contract.

[2001, c. 703, §6 (NEW) .]

8. **Lessee.** "Lessee" means a tenant under lease and may include an installment purchaser.

[2001, c. 703, §6 (NEW) .]

9. **Local development corporation.** "Local development corporation" means any nonprofit organization created by a municipality that is incorporated under Title 13, chapter 81 or that is incorporated under Title 13-B or otherwise chartered by the State, which is designed to foster, encourage and assist the settlement or resettlement of industrial, manufacturing, fishing, agricultural, recreational and other business enterprises within the State. A majority vote of the municipal officers is sufficient to form a local development corporation, notwithstanding Title 13, chapter 81. "Local development corporation" also means any nonprofit organization that is incorporated under Title 13, chapter 81 or that is incorporated under Title 13-B or otherwise chartered by the State, and is designed to foster, encourage and assist the settlement or resettlement of industrial, manufacturing, fishing, agricultural, recreational and other business enterprises within the State that applies for financial assistance for a project under this article, as long as that application is formally endorsed by a vote of the governing body of the municipality in which the project is to be located. "Local development corporation" also means a development authority under subchapter 3 that is acting under the authority of a memorandum of understanding with a municipality to carry out the authorized activities of a local development corporation under this subsection.

[2011, c. 148, §2 (AMD) .]

10. **Municipality.** "Municipality" means any county, city or town in the State.

[2001, c. 703, §6 (NEW) .]

11. **Speculative industrial building.** "Speculative industrial building" means a building of flexible design and suitable for commercial use, for which the construction or carrying costs or both are financed through this subchapter for the purpose of creating new jobs in a municipality resulting from the sale or lease of the building.

[2005, c. 425, §11 (NEW) .]

SECTION HISTORY
2001, c. 703, §6 (NEW). 2005, c. 425, §§9-11 (AMD). 2011, c. 148, §2 (AMD).

§13120-C. ORGANIZATION AND RESPONSIBILITIES

1. **Administrative responsibilities.** The authority is responsible for the administration of the:

A. Speculative industrial building program, pursuant to section 13120-N; [2005, c. 425, §12 (AMD).]

B. Commercial Facilities Development Program, established under section 13120-P; and [2001, c. 703, §6 (NEW).]

C. Such other programs as the authority may by law be authorized to administer. [2001, c. 703, §6 (NEW).]

[2005, c. 425, §12 (AMD) .]

2. **Programs and policies.** In implementing its powers, duties, responsibilities and programs, the authority shall consider the state economic development strategy and the policies and activities of the department.

[2001, c. 703, §6 (NEW) .]

SECTION HISTORY
2001, c. 703, §6 (NEW). 2005, c. 425, §12 (AMD).

§13120-D. BOARD OF TRUSTEES; APPOINTMENT; CHAIR; EMPLOYEES

1. **Membership.** The authority is governed by a board of trustees comprised of 7 voting members as follows:

A. Five members appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over economic development matters and to confirmation by the Senate; and [2001, c. 703, §6 (NEW).]

B. Two ex officio members:

(1) The Commissioner of Economic and Community Development or the commissioner's designee; and

(2) The Chief Executive Officer of the Finance Authority of Maine or the chief executive officer's designee. [2005, c. 425, §13 (AMD).]

[2005, c. 425, §13 (AMD) .]

2. **Terms of office.** Members appointed by the Governor are appointed for 4-year terms except that, for initial appointments, one member is appointed to a 2-year term, 2 members to 3-year terms and 2 members to 4-year terms.

A member continues to hold office until a successor is appointed and qualified, but the term of the successor is not altered from the original expiration date of the holdover member's term.

[2001, c. 703, §6 (NEW) .]

3. **Limitation on terms; removal.** Except for the ex officio members, a member of the authority may serve no more than 2 full consecutive terms. Any member of the board may be removed by the Governor for cause.

[2001, c. 703, §6 (NEW) .]

4. **Administration.** The Commissioner of Economic and Community Development shall serve as chair of the board of trustees. The board of trustees shall elect one member as vice-chair, who shall serve as secretary, one member as treasurer and such other officers as the board of trustees may from time to time consider necessary.

[2003, c. 281, §2 (AMD) .]

5. **Meetings; compensation.** All the powers of the authority may be exercised by the board of trustees in lawful meeting and a majority of the members is necessary for a quorum. Regular meetings of the board of trustees may be established by bylaw and no notice need be given to the members of the regular meeting. Each member is compensated according to the provisions of chapter 379.

[2001, c. 703, §6 (NEW) .]

6. **Limitation of liability.** A member of the board of trustees of the authority or an employee of the authority may not be subject to any personal liability for having acted within the course and scope of that person's membership or employment to carry out any power or duty under this subchapter. The authority shall indemnify any member of the authority, any member of any board of the authority and any employee of the authority against expenses actually and necessarily incurred by that person in connection with the defense of any action or proceeding in which that person is made a party by reason of past or present association with the authority.

[2001, c. 703, §6 (NEW) .]

7. **Employees.** The authority may employ an executive director and such other technical experts, agents and employees, permanent and temporary, that it requires and may determine their qualifications, duties and compensation. Permanent employees of the authority are eligible to elect to participate in the Maine Public Employees Retirement System, the state employee health plan under section 285, any state-deferred compensation plan or any other plan or program adopted by the members to the extent the members may determine. For required legal services, the authority may employ or retain its own counsel and legal staff.

[2003, c. 281, §3 (AMD); 2007, c. 58, §3 (REV) .]

8. **Establishment and operating expenses.** The department shall pay the expenses that are reasonable and necessary to the establishment of the authority. Following its establishment, the operations and related expenses of the authority are subject to the availability of funding as provided in section 13120-F.

[2001, c. 703, §6 (NEW) .]

SECTION HISTORY

2001, c. 703, §6 (NEW). 2003, c. 281, §§2,3 (AMD). 2005, c. 425, §13 (AMD). 2007, c. 58, §3 (REV).

§13120-E. AGREEMENTS; CONTRACTS

The authority, the department and the Finance Authority of Maine may enter into such agreements as the board of trustees determines to be in the best interests of the State for the authority to acquire, construct, maintain, operate and dispose of any or all facilities funded from bonds issued under section 13120-I. Any agreements must set forth the terms and conditions of the operation and be subject to all the terms and conditions of any trust indenture and covenants relating to revenue bonds. [2001, c. 703, §6 (NEW).]

The authority may contract with the Federal Government or its instrumentalities or agencies, this State or its agencies, instrumentalities or municipalities, public bodies, private corporations, community development corporations, partnerships, associations and individuals to carry out the purposes of this subchapter. [2001, c. 703, §6 (NEW).]

SECTION HISTORY
2001, c. 703, §6 (NEW).

§13120-F. RECEIVE, USE AND INVEST FUNDS

The authority may receive and accept from any source allocations, appropriations, loans, grants and contributions of money or other things of value to be held, used or applied to carry out this subchapter, subject to the conditions upon which the loans, grants and contributions may be made, including, but not limited to, appropriations, allocations, loans, grants or gifts from any federal agency or governmental subdivision or the State and its agencies. [2001, c. 703, §6 (NEW).]

The authority may invest funds received from any source for carrying out this subchapter and expend interest and other earnings on those funds as appropriate to implement this subchapter, including use for program and administrative costs. [2001, c. 703, §6 (NEW).]

SECTION HISTORY
2001, c. 703, §6 (NEW).

§13120-G. ACQUISITION, USE AND DISPOSITION OF PROPERTY

All real and personal property owned by and in the name of the authority is property of the State and entitled to the privileges and exemptions of property of the State, except insofar as waived by the duly authorized contract or other written instrument of the authority or by this subchapter. The authority and the department shall agree upon and from time to time review the preferred status of property held or controlled by the authority and the department and necessary to either body's performing its statutory duty and shall arrange to sell, exchange, give or otherwise transfer title or possession of various properties between the authority and the department consistent with sound business management and as may serve the best interest of the State in the opinion of the authority and the department. The authority and the department may execute and record a deed or lease to effectuate the transfer. [2001, c. 703, §6 (NEW).]

The authority may acquire, use and dispose of real and personal property as follows. [2001, c. 703, §6 (NEW).]

1. **Purchase, improve, lease and sell.** Property may be purchased, improved, leased and sold, in whole or in part, to accomplish the development and redevelopment of commercial facilities as directed by the authority in accordance with the purposes of this subchapter. Revenues to the authority resulting from the lease, sale or other use of property in which the authority has an interest become operating revenues or assets of the authority. The authority may contract for services as necessary to accomplish this purpose.

[2001, c. 703, §6 (NEW) .]

2. **Authority for transfers of interest in land to authority.** Notwithstanding any other provision of law, upon the authority's request, on reasonable and fair terms and conditions and without the necessity for advertisement, order of court or action or formality other than the regular and formal action of the authorities concerned, counties, municipalities, public agencies or instrumentalities of the State, public service corporations and special districts may lease, lend, grant or convey to the authority real or personal property or rights in that property that may be necessary or convenient for the effectuation of the authorized purposes of the authority, including real and personal property or rights in that property already devoted to public use. As used in this subsection, the term "public service corporation" includes a public utility as defined in Title 35-A, section 102, subsection 13 and a corporation as defined in Title 13-C.

[2003, c. 688, Pt. A, §3 (AMD) .]

Facilities financed, acquired, constructed, operated or maintained under this subchapter, and land upon which the facilities are located are subject to the environmental laws of the State that are applicable to facilities owned or operated by the private sector. [2001, c. 703, §6 (NEW).]

SECTION HISTORY
2001, c. 703, §6 (NEW). 2003, c. 688, §A3 (AMD).

§13120-H. TAXATION AND FEES

Notwithstanding any other provision of law, for the purposes of this subchapter, transactions and property of the authority must be treated as follows. [2001, c. 703, §6 (NEW).]

1. **Revenue obligation securities; exemption from taxation.** Revenue obligation securities of the authority are issued for an essential public and governmental purpose, are public instruments and, together with interest and income, including the profit made from their transfer or sale, are exempt from taxation within the State.

[2001, c. 703, §6 (NEW) .]

2. **Conveyances, leases, mortgages, deeds of trust; trust indentures; exemptions from taxation.** Conveyances by or to the authority and leases, mortgages and deeds of trust or trust indentures by or to the authority are exempt from all taxation by the State or any of its political subdivisions, including, but not limited to, any applicable license, excise or other taxes imposed in respect of the privilege of engaging in any of the activities in which the authority may engage.

[2001, c. 703, §6 (NEW) .]

3. **Property exemption from taxation and other assessments.** Property acquired, held or transferred by the authority is exempt from all taxes and from betterments and special assessments of the city, town, county, State or any political subdivision of State Government or county or local governments. The authority may agree to make payments in lieu of taxes to the applicable political subdivisions.

[2001, c. 703, §6 (NEW) .]

SECTION HISTORY
2001, c. 703, §6 (NEW).

§13120-I. BONDS

1. **Authorization.** The authority may provide by resolution for the issuance of bonds for the purpose of funding the Speculative Industrial Buildings Fund, or any successor to the fund, for the construction of proposed commercial facilities and improvement of existing or acquired commercial facilities and for the fulfillment of other undertakings that it may assume. The bonds of the authority do not constitute a debt of

the State or of any agency or political subdivision of the State but are payable solely from the revenue of the authority, and neither the faith nor credit nor taxing power of the State or any political subdivision of the State is pledged to payment of the bonds. Notwithstanding any other provision of law, any bonds issued pursuant to this subchapter are fully negotiable. If any member of the board of trustees whose signature appears on the bond or coupons ceases to be a member of the board of trustees before the delivery of those bonds, that signature is valid and sufficient for all purposes as if that member of the board of trustees had remained a member of the board of trustees until delivery.

[2005, c. 425, §14 (AMD) .]

2. **Resolution; prospective issues.** The authority may, by resolution authorizing prospective issues, provide:

A. The manner of executing bonds and coupons; [2001, c. 703, §6 (NEW).]

B. The form and denomination of bonds or coupons; [2001, c. 703, §6 (NEW).]

C. Maturity dates; [2001, c. 703, §6 (NEW).]

D. Interest rates on bonds or coupons; [2001, c. 703, §6 (NEW).]

E. For redemption prior to maturity and the premium payable; [2001, c. 703, §6 (NEW).]

F. The place or places for the payment of interest and principal; [2001, c. 703, §6 (NEW).]

G. For registration if the authority determines it to be desirable; [2001, c. 703, §6 (NEW).]

H. For the pledge of all or any of the revenue for securing payment; [2001, c. 703, §6 (NEW).]

I. For the replacement of lost, destroyed or mutilated bonds; [2001, c. 703, §6 (NEW).]

J. For the setting aside and the regulation and disposition of reserve and sinking funds; [2001, c. 703, §6 (NEW).]

K. For limitation on the issuance of additional bonds; [2001, c. 703, §6 (NEW).]

L. For the procedure, if any, by which the contract with a bondholder may be abrogated or amended; [2001, c. 703, §6 (NEW).]

M. For the manner of sale and purchase of bonds; [2001, c. 703, §6 (NEW).]

N. For covenants against pledging of any of the revenue of the authority; [2001, c. 703, §6 (NEW).]

O. For covenants fixing and establishing rates and charges for use of the authority's facilities and services made available so as to provide funds that will be sufficient to pay all costs of operation and maintenance, to meet and pay the principal and interest of all bonds as they severally become due and payable, for the creating of such revenues for the principal and interest of all bonds and for the meeting of contingencies and the operation and maintenance of its facilities as the board of trustees determines; [2001, c. 703, §6 (NEW).]

P. For such other covenants as to rates and charges as the board of trustees determines; [2001, c. 703, §6 (NEW).]

Q. For covenants as to the rights, liability, powers and duties arising upon the breach by the authority of any covenant, condition or obligation; [2001, c. 703, §6 (NEW).]

R. For covenants as to the bonds to be issued, as to the issuance of those bonds in escrow and otherwise and as to the use and disposition of the proceeds; [2001, c. 703, §6 (NEW).]

S. For covenants as to the use of its facilities and their maintenance and replacement, and the insurance to be carried on them, and the use and disposition of insurance money; [2001, c. 703, §6 (NEW).]

T. For the issuance of bonds in series; [2001, c. 703, §6 (NEW).]

U. For the performance of any and all acts as may be in the discretion of the board of trustees necessary, convenient or desirable to secure bonds or that tend to make bonds more marketable; and [2001, c. 703, §6 (NEW).]

V. For the issuance of bonds on terms and conditions to effectuate the purpose of this subchapter. [2001, c. 703, §6 (NEW).]

[2001, c. 703, §6 (NEW) .]

3. **Money received.** All money received from any bonds issued must be applied solely for loans to municipalities or local development corporations for speculative industrial buildings, for the construction of proposed commercial facilities and improvement of existing or acquired commercial facilities and for the fulfillment of other undertakings that are within the power of the authority. There is created a lien upon the money until so applied in favor of the bondholders or any member of the board of trustees as may be provided in respect of the bonds.

[2005, c. 425, §15 (AMD) .]

4. **Trust indenture.** In the discretion of the board of trustees, bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company, located either within or outside the State. Such a trust indenture may pledge or assign the revenues of the authority or any part of it. Any trust indenture may set forth the rights and remedies of the bondholders and the trustee, restrict the individual right of action of bondholders and contain such other provisions as the board of trustees may consider reasonable and proper for the security of bondholders. Expenses incurred in carrying out any trust indenture may be treated as a part of maintenance.

[2001, c. 703, §6 (NEW) .]

5. **Rights of bondholders.** Provisions may be made for protecting and enforcing the rights and remedies of bondholders, including covenants as to acquisition of property, construction, maintenance, operation and repair, insurance and the custody, security and application of all money.

[2001, c. 703, §6 (NEW) .]

6. **Depositories.** Any trust company or bank having the powers of a trust company and located either within or outside the State may act as a depository of the proceeds of bonds and revenue and may furnish such indemnity or pledge such securities as may be required by the authority.

[2001, c. 703, §6 (NEW) .]

7. **Tax free.** The purposes of this subchapter being public and for the benefit of the people of the State, bonds of the authority are free from taxation by the State.

[2001, c. 703, §6 (NEW) .]

8. **Revenue refunding bonds.** The authority may issue revenue refunding bonds for the purpose of refunding revenue bonds issued under this subchapter. The issuance of any refunding bonds is the same as provided for in this subchapter relating to revenue bonds.

[2001, c. 703, §6 (NEW) .]

9. **Default.** In the event of default on bonds and in the event the default continues for a period of 3 months, action may be brought to enforce the rights of the bondholders by insuring that the operation by the trustees be in conformity with the covenants of the bonds or trust indenture.

[2001, c. 703, §6 (NEW) .]

SECTION HISTORY
2001, c. 703, §6 (NEW). 2003, c. 281, §4 (AMD). 2005, c. 425, §§14,15 (AMD).

§13120-J. INTEREST OF TRUSTEE OR EMPLOYEE

1. **Acquisition of interest.** A member of the board of trustees or employee of the authority may not acquire or hold a direct or an indirect personal financial interest in:

A. An authority activity; [2001, c. 703, §6 (NEW).]

B. Property or facilities included, planned to be included or expected to directly benefit from an authority activity; or [2001, c. 703, §6 (NEW).]

C. A contract or proposed contract in connection with an authority activity. [2001, c. 703, §6 (NEW).]

When an acquisition is involuntary, the interest acquired must be disclosed immediately in writing to the board of trustees and the disclosure must be entered in the board of trustees' minutes.

[2005, c. 425, §16 (AMD) .]

2. **Present or past interest in property.** If a member of the board of trustees or employee of the authority presently owns or controls, or owned or controlled within the preceding 2 years, a direct or an indirect interest in property known to be included or planned to be included in an authority activity, that member or employee shall disclose this fact immediately in writing to the board of trustees and the disclosure must be entered in the board of trustees' minutes.

[2001, c. 703, §6 (NEW) .]

3. **Recusal.** A member of the board of trustees or employee of the authority with an interest under subsection 2 may not participate in an action by the authority affecting that property.

[2001, c. 703, §6 (NEW) .]

4. **Violation.** A violation of this section is a Class E crime.

[2001, c. 703, §6 (NEW) .]

SECTION HISTORY
2001, c. 703, §6 (NEW). 2005, c. 425, §16 (AMD).

§13120-K. ANNUAL REPORT; AUDIT

1. **Report.** The authority shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives and the joint standing committee of the Legislature having jurisdiction over economic development matters, not later than 120 days after the close of its fiscal year, a complete report on the activities of the authority. The report may also be provided to any other member of the Legislature and to any other person. The report must include all of the following:

A. A description of the authority's operations, including a description of projects assisted under this subchapter and the criteria used in selecting those projects; [2001, c. 703, §6 (NEW).]

B. An accounting of the authority's receipts and expenditures, assets and liabilities at the end of its fiscal year; [2001, c. 703, §6 (NEW).]

C. A schedule of the bonds and notes outstanding at the end of the authority's fiscal year and a statement of the amounts redeemed and issued during its fiscal year, including a report on its reserve funds; [2001, c. 703, §6 (NEW).]

D. A statement of the authority's proposed and projected activities for the ensuing year, the relationship of these activities to the State's economic development policies and the selection criteria expected to be used; [2001, c. 703, §6 (NEW).]

E. Recommendations as to further actions that may be suitable for achieving the purposes of this subchapter; [2001, c. 703, §6 (NEW).]

F. A statement of the defaults, if any, of persons, firms, corporations and other organizations receiving assistance under this subchapter; and [2001, c. 703, §6 (NEW).]

G. A summary of the actual and potential employment opportunities resulting from the authority's activities. [2001, c. 703, §6 (NEW).]

[2001, c. 703, §6 (NEW) .]

2. Treasurer of State; annual financial report. The authority shall provide the Treasurer of State, within 120 days after the close of its fiscal year, its annual financial report certified by an independent certified public accountant, who may be the accountant or a member of the firm of accountants who regularly audits the books and accounts of the authority, selected by the authority. The authority shall also provide the Treasurer of State with an accounting of the authority's assets and liabilities at the end of its fiscal year. The authority is also subject to the provisions of chapter 11. The authority may combine for accounting purposes any or all funds established for its programs and activities. For any complete fiscal year that the authority contracts with the Finance Authority of Maine, or any other state agency or quasi-state agency that is required to submit to the Treasurer of State its own audited financial report, and the audited annual financial report of that state agency or quasi-state agency includes for accounting purposes the funds administered for the authority, the audited financial report of that state agency or quasi-state agency satisfies the requirements of this subsection.

[2013, c. 465, §1 (AMD) .]

SECTION HISTORY
2001, c. 703, §6 (NEW). 2013, c. 465, §1 (AMD).

§13120-L. RULES

Pursuant to chapter 375, the authority may adopt any rule, including its bylaws, necessary or useful for carrying out any of its powers or duties. Rules adopted pursuant to this section are routine technical rules as defined in chapter 375, subchapter II-A. [2001, c. 703, §6 (NEW).]

SECTION HISTORY
2001, c. 703, §6 (NEW).

§13120-M. DISCLOSURE AND CONFIDENTIALITY OF RECORDS

1. Disclosure required. Notwithstanding subsections 2 and 3, the following must be made available to any person upon request reasonably describing the records to which access is sought or, if no request is made, in any manner and at any time that the authority may determine:

A. After filing of a written application or proposal for financial assistance, investment or property transfer, in a form specified by or acceptable to the authority:

(1) Names of recipients of or applicants for financial assistance or investment, including principals, where applicable;

(2) Amounts, types and general terms of financial assistance or investment provided to those recipients or requested by those applicants;

(3) Descriptions of projects and businesses that are benefiting or that will benefit from the financial assistance or investment;

(4) Names of transferors or transferees, including principals, of property to or from the authority, the general terms of transfer and the purposes for which transferred property will be used;

(5) The number of jobs and the amount of tax revenues projected or resulting in connection with a project; and

(6) Names of financial institutions participating in providing financial assistance or investment and the general terms of that financial assistance or investment; [2001, c. 703, §6 (NEW).]

B. Any information pursuant to waiver considered satisfactory by the authority; [2001, c. 703, §6 (NEW).]

C. Information that, as determined by the authority, has already been made available to the public; and [2001, c. 703, §6 (NEW).]

D. Information necessary to comply with Title 1, section 407, subsection 1. [2001, c. 703, §6 (NEW).]

Information or records specified in a written request signed by the cochairs of a legislative committee must be provided to the legislative committee. The information or records may be used only for the lawful purposes of the committee and in any action arising out of any investigation conducted by it.

[2001, c. 703, §6 (NEW) .]

2. **Confidential information.** The following records are designated as confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

A. A record obtained or developed by the authority in advance of the receipt of a formal written application or proposal, in a form specified by or acceptable to the authority, for financial assistance or investment to be provided by or with the assistance of the authority or in connection with a transfer of property to or from the authority. After receipt by the authority of the application or proposal, a record pertaining to the application or proposal is not confidential unless it meets the requirements of paragraphs B to G; [2001, c. 703, §6 (NEW).]

B. A record obtained or developed by the authority that fulfills the following requirements:

(1) A person, including the authority, to whom the record belongs or pertains has requested that the record be designated confidential; and

(2) The authority has determined that the record contains proprietary information or commercial or financial information, the release of which could be competitively harmful to the submitter of the information or that would result in loss of business or other significant detriment to any person, including the authority, to whom the record belongs or pertains; [2001, c. 703, §6 (NEW).]

C. A financial statement or tax return of an individual or any other record obtained or developed by the authority, the disclosure of which would constitute an invasion of personal privacy, as determined by the authority; [2001, c. 703, §6 (NEW).]

D. A record that includes a financial statement or tax return obtained or developed by the authority in connection with any monitoring or servicing activity by the authority, pertaining to any financial assistance or investment provided or to be provided by or with the assistance of the authority; [2001, c. 703, §6 (NEW).]

E. A record obtained or developed by the authority that contains an assessment by a person who is not employed by the authority of the credit worthiness or financial condition of any person or project; [2001, c. 703, §6 (NEW).]

F. A financial statement or business and marketing plan in connection with any project receiving or to receive financial assistance or investment from the authority, if a person to whom the statement or plan belongs or pertains has requested that the record be designated confidential; and [2001, c. 703, §6 (NEW).]

G. A record that includes any financial statement, business plan or tax return obtained or developed by the authority in connection with the marketing of its property and the identification and qualification of potential investors. [2001, c. 703, §6 (NEW).]

For purposes of this section, an application by a potential investor is not an application for financial assistance or solicitation of investment.

[2001, c. 703, §6 (NEW) .]

3. **Wrongful disclosure prohibited.** A member of the board of trustees, officer, employee, agent, other representative of the authority or other person may not knowingly divulge or disclose records declared confidential by this section, except that the authority may, in its discretion, make or authorize any disclosure of information of the following types:

A. Impersonal, statistical or general information; [2001, c. 703, §6 (NEW).]

B. Information necessary in connection with processing an application for obtaining or maintaining an investment or financial assistance for a person or in connection with acquiring, maintaining or disposing of property; [2001, c. 703, §6 (NEW).]

C. Information disclosed to a financial institution or credit reporting service; [2001, c. 703, §6 (NEW).]

D. Information necessary to comply with a federal or state law or rule or with an agreement pertaining to financial assistance or investment; [2001, c. 703, §6 (NEW).]

E. Information to the extent the authority determines the disclosure necessary to the sale or transfer of revenue obligation securities; [2001, c. 703, §6 (NEW).]

F. Information necessary to ensure collection of an obligation in which the authority has or may have an interest; [2001, c. 703, §6 (NEW).]

G. Information obtained from records declared confidential by this section for introduction for the record in litigation or a proceeding in which the board has appeared; or [2001, c. 703, §6 (NEW).]

H. Information pursuant to a subpoena, request for production of documents, warrant or other order by competent authority, as long as the order appears to have first been served on the person to whom the confidential information sought pertains or belongs and as long as the order appears on its face or otherwise to have been issued or made upon lawful authority. [2001, c. 703, §6 (NEW).]

[2001, c. 703, §6 (NEW) .]

4. **Records on effective date.** Whether a record in the possession of the authority on the effective date of this section is confidential must be determined pursuant to this section and not pursuant to the law in effect when the authority or any of its predecessors obtained the record and the record may be disclosed or divulged to the extent required or permitted by this section.

[2001, c. 703, §6 (NEW) .]

SECTION HISTORY
2001, c. 703, §6 (NEW).

§13120-N. SPECULATIVE INDUSTRIAL BUILDING PROGRAM

The authority may assist a municipality or local development corporation to construct a speculative industrial building by loaning the municipality or local development corporation money for construction or carrying costs or both for the project, subject to the following. [2005, c. 425, §17 (AMD).]

1. **Project.** The following conditions apply to a project receiving money under this section.

A. The project must be within the scope of this subchapter, must be of public use and benefit and must reasonably be expected to accomplish one or more of the following:

(1) Create new employment opportunities;

(2) Retain or improve existing employment; or

(3) Improve the competitiveness of the occupant business. [2001, c. 703, §6 (NEW).]

B. Not more than one unoccupied speculative industrial building project may be financed in a municipality. [2005, c. 425, §17 (AMD).]

C. The authority shall charge interest on loans or funds provided under this section to the municipality or local development corporation for a speculative industrial building that remains unoccupied for 3 or more years following completion of the building. [2005, c. 425, §17 (AMD).]

D. The authority shall adopt rules under chapter 375 with respect to:

(1) The methodology and criteria for allocating funds to speculative industrial building projects;

(2) The process through which municipalities and local development corporations must apply for speculative industrial building funds;

(3) Rates of interest, the duration of interest payments and any other terms to which municipalities and local development corporations must be subject under this paragraph; and

(4) Other matters necessary to the proper administration of this section.

Rules adopted under this paragraph are routine technical rules pursuant to chapter 375, subchapter 2-A. [2005, c. 425, §17 (AMD).]

[2005, c. 425, §17 (AMD) .]

2. **Obligations.** The municipality or local development corporation receiving money under this section must:

A. Own, or hold on long-term lease, the site for the project; [2001, c. 703, §6 (NEW).]

B. Be responsible for and present evidence to the authority of its ability to carry out the project as planned; [2001, c. 703, §6 (NEW).]

C. Site and maintain the speculative industrial building on property that is appropriate to the size and location of the speculative industrial building; [2005, c. 425, §17 (AMD).]

D. Provide and maintain, with funds other than those provided by the authority, an adequate access road from a public highway to the proposed site and provide and maintain water, sewer and power facilities. The municipality or local development corporation must be responsible for plowing out the plant site at all times and for landscaping the grounds surrounding the building until the building is occupied by a tenant; [2001, c. 703, §6 (NEW).]

E. Comply with applicable zoning, planning and sanitary regulations in the municipality where the speculative industrial building is to be located. A loan may not be approved and a certificate of approval for the project or for any subsequent enlargement or addition to the project may not be issued until the Department of Environmental Protection has certified to the authority that all licenses required by the authority have been issued or that none are required; and [2005, c. 425, §17 (AMD).]

F. Make adequate provisions for insurance and fire protection and for maintenance of the speculative industrial building while it is unoccupied. [2005, c. 425, §17 (AMD).]

[2005, c. 425, §17 (AMD) .]

3. **Loan terms.** Terms for a loan under this section are as follows.

A. The authority shall prescribe the terms and conditions of the loan. [2001, c. 703, §6 (NEW).]

B. Loans must be repaid in full, including interest and other charges, within 90 days after the speculative industrial building is occupied. [2005, c. 425, §17 (AMD).]

C. A speculative industrial building financed by an authority loan may not be sold or leased without the express approval of the purchaser or lessee by the authority. If the municipality or local development corporation and the authority agree that a speculative industrial building is unlikely to be sold in the near future despite a marketing effort, the authority may permit an interim lease upon terms it considers appropriate for the protection of the Speculative Industrial Buildings Fund or any successor to the fund. Occupation of the premises under an interim lease does not require payment in full of the entire loan within 90 days, as provided in paragraph B. [2005, c. 425, §17 (AMD).]

[2005, c. 425, §17 (AMD) .]

4. **Marketing and promotion.** The municipality or local development corporation receiving money under this section shall make a reasonable and continual effort to market the speculative industrial building for sale into private commercial use. Upon the request of the authority, the municipality or local development corporation shall present evidence of its marketing efforts and expenditures related to the speculative industrial building.

[2005, c. 425, §17 (AMD) .]

5. **Taxes.** While a speculative industrial building under this section remains unoccupied and a first mortgage is held by the authority, it is property held for a legitimate public use and benefit and is exempt from all taxes and special assessments of the State or any of its political subdivisions.

[2005, c. 425, §17 (AMD) .]

6. **Municipality.** A municipality may raise or appropriate money supporting and guaranteeing the obligation of a chamber of commerce, board of trade or local development corporation for the purpose of constructing a speculative industrial building subject to the provisions of this subchapter.

[2005, c. 425, §17 (AMD) .]

SECTION HISTORY

2001, c. 703, §6 (NEW). 2003, c. 281, §§5,6 (AMD). 2005, c. 425, §17 (AMD).

§13120-O. COMMUNITY INDUSTRIAL BUILDINGS FUND

(REPEALED)

SECTION HISTORY
2001, c. 703, §6 (NEW). 2003, c. 281, §7 (RP).

§13120-P. COMMERCIAL FACILITIES DEVELOPMENT PROGRAM

1. **Establishment; purpose.** The Commercial Facilities Development Program is established within the authority to serve the following purposes:

A. Restore employment opportunities by serving as principal, partner, lender or investor in the acquisition and redevelopment of nonproductive commercial facilities for subsequent return to productive use through sale or lease; and [2003, c. 281, §8 (AMD).]

B. Create employment opportunities in areas of economic need that are underserved by private investors by serving as principal, partner, lender or investor in the acquisition of property and development of commercial facilities for subsequent sale or lease into private productive use. [2003, c. 281, §8 (AMD).]

In carrying out its duties under this section, the authority shall make all reasonable and appropriate efforts to maximize the leverage of its funds through partnership and risk-sharing arrangements with public and private organizations.

[2003, c. 281, §8 (AMD) .]

2. **Redevelopment of property.** Except as provided in section 13120-Q, the authority may undertake the redevelopment of property as an owner or lender for subsequent use and sale under the following conditions:

A. The property has been previously and materially used as a commercial facility or the property is suitable for adaptive use as a commercial or industrial facility; [2003, c. 281, §8 (AMD).]

B. The property is currently not in productive commercial use or is expected to be taken out of productive commercial use within the immediate future; [2001, c. 703, §6 (NEW).]

C. The property has not been placed under a purchase option or contract; [2001, c. 703, §6 (NEW).]

D. The authority, using due diligence, has determined that:

(1) There is a reasonable expectation that the property will become financially viable following its redevelopment; and

(2) The economic benefits, including the restoration of employment opportunities, expected to result from the redevelopment justify the risks associated with the authority's equity, security or other interest in the property; and [2005, c. 425, §18 (AMD).]

E. The municipality, local development corporation or another entity will provide funding for the project equal to 25% of the funding that the authority provides to the project. [2005, c. 425, §18 (AMD).]

The authority may finance undeveloped land or personal property only if the undeveloped land or personal property is part of the overall redevelopment project. The authority may take custody of any machinery and equipment held as collateral for a loan issued to the commercial facility being redeveloped.

[2011, c. 563, §11 (AMD) .]

3. **Development of property.** Except as provided in section 13120-Q, the authority may undertake the development of property as an owner or lender for subsequent use and sale under the following conditions:

A. The property consists of real estate that is zoned, sited or otherwise suitable for development as a commercial facility; [2001, c. 703, §6 (NEW).]

B. The property is currently not in productive commercial use; [2001, c. 703, §6 (NEW).]

C. The property has not been placed under a purchase option or contract; [2001, c. 703, §6 (NEW).]

D. The authority, using due diligence, has determined that:

(1) There is a reasonable expectation that the property will become financially viable following its development;

(2) The development of the property will create employment opportunities and other economic benefits within the region; and

(3) The economic benefits expected to result from the development justify the risks associated with the authority's equity, loan or other interest in the property; and [2005, c. 425, §18 (AMD).]

E. The municipality, local development corporation or another entity will provide funding for the project equal to 25% of the funding that the authority provides to the project. [2005, c. 425, §18 (AMD).]

The authority may finance undeveloped land or personal property only if the undeveloped land or personal property is part of the overall development project. The authority may take custody of any machinery and equipment held as collateral for a loan issued to the commercial facility being redeveloped.

[2011, c. 563, §12 (AMD) .]

SECTION HISTORY
2001, c. 703, §6 (NEW). 2003, c. 281, §8 (AMD). 2005, c. 425, §18 (AMD). 2011, c. 563, §§11, 12 (AMD).

§13120-Q. EXCEPTIONS

The authority, with the advice of the department, the Department of Labor and such other agencies it determines appropriate, may waive the requirements of section 13120-P, subsection 2, paragraph E and section 13120-P, subsection 3, paragraph E if the municipality has experienced a historical lack of private investment and it is reasonably expected that private investment will not be available to assist with project financing and one of the following conditions is met: [2011, c. 655, Pt. DD, §7 (AMD); 2011, c. 655, Pt. DD, §24 (AFF).]

1. **Sudden and severe economic dislocation.** The property is located in a municipality that has experienced a sudden and severe economic dislocation, which may include but is not limited to:

A. The loss of a significant percentage of jobs within the municipality due to the closure or downsizing of a business or other employer; [2001, c. 703, §6 (NEW).]

B. The loss of a significant percentage of the municipality's tax base due to the closure or downsizing of a business or other commercial taxpayer; or [2001, c. 703, §6 (NEW).]

C. The unanticipated loss of a significant percentage or component of a municipality's economic development infrastructure as a result of an accident, natural disaster or other catastrophe; or [2001, c. 703, §6 (NEW).]

[2001, c. 703, §6 (NEW) .]

2. **Chronic and severe economic distress.** The property is located in a municipality that has experienced long-term economic distress, as evidenced by factors that may include, but are not limited to:

A. An unemployment rate that is significantly greater than the average State unemployment rate; [2001, c. 703, §6 (NEW).]

B. The significant migration of workers or population out of the area; and [2001, c. 703, §6 (NEW).]

C. An average personal income that is significantly below the state average or considered to be at or below the poverty level as defined in Title 22, section 5321. [2001, c. 703, §6 (NEW).]

[2001, c. 703, §6 (NEW) .]

SECTION HISTORY
2001, c. 703, §6 (NEW). 2011, c. 655, Pt. DD, §7 (AMD). 2011, c. 655, Pt. DD, §24 (AFF).

Chapter 385: SCIENCE AND TECHNOLOGY

§13121. DEFINITIONS

(REPEALED)

SECTION HISTORY
1987, c. 816, §DD3 (NEW). 1993, c. 410, §§E5-9 (AMD). 1999, c. 608, §§1,2 (AMD). 2001, c. 95, §1 (AMD). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

§13122. MAINE SCIENCE AND TECHNOLOGY COMMISSION

(REPEALED)

SECTION HISTORY
1987, c. 816, §DD3 (NEW). 1993, c. 410, §E10 (RP).

§13122-A. ESTABLISHMENT

(REPEALED)

SECTION HISTORY
1993, c. 410, §E11 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

§13122-B. PURPOSE

(REPEALED)

SECTION HISTORY
1993, c. 410, §E11 (NEW). 1999, c. 608, §3 (AMD). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

§13122-C. BOARD OF DIRECTORS

(REPEALED)

SECTION HISTORY

1993, c. 410, §E11 (NEW). 1995, c. 519, §2 (AMD). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

§13122-D. TERMS

(REPEALED)

SECTION HISTORY
1993, c. 410, §E11 (NEW). 1999, c. 608, §4 (AMD). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

§13122-E. OFFICERS

(REPEALED)

SECTION HISTORY
1993, c. 410, §E11 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

§13122-F. QUORUM

(REPEALED)

SECTION HISTORY
1993, c. 410, §E11 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

§13122-G. EXECUTIVE COMMITTEE

(REPEALED)

SECTION HISTORY
1993, c. 410, §E11 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

§13122-H. REPORT

(REPEALED)

SECTION HISTORY
1993, c. 410, §E11 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

§13122-I. PLAN

(REPEALED)

SECTION HISTORY
1995, c. 445, §1 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

§13122-J. COMPREHENSIVE RESEARCH AND DEVELOPMENT EVALUATION

(REPEALED)

SECTION HISTORY

1999, c. 401, §BBB1 (NEW). 1999, c. 731, §XXX1 (AMD). 1999, c. 790, §F1 (AMD). 1999, c. 790, §F2 (AFF). 2001, c. 471, §B2 (AMD). 2001, c. 471, §B3 (AFF). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

§13122-K. REPORTING REQUIREMENTS OF RECIPIENTS OF RESEARCH AND DEVELOPMENT FUNDING

(REPEALED)

SECTION HISTORY
1999, c. 731, §XXX2 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

§13122-L. MAINE RESEARCH AND DEVELOPMENT EVALUATION FUND

(REPEALED)

SECTION HISTORY
2001, c. 439, §AAAA1 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

§13123. POWERS AND DUTIES OF COMMISSION

(REPEALED)

SECTION HISTORY
1987, c. 816, §DD3 (NEW). 1993, c. 410, §E12 (RP).

§13123-A. DUTIES OF FOUNDATION

(REPEALED)

SECTION HISTORY
1993, c. 410, §E13 (NEW). 1999, c. 608, §§5-7 (AMD). RR 2001, c. 2, §B58 (AFF). RR 2001, c. 2, §B5 (COR). 2001, c. 95, §2 (AMD). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

§13123-B. POWERS

(REPEALED)

SECTION HISTORY
1993, c. 410, §E13 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

§13123-C. LIMITATION OF POWERS

(REPEALED)

SECTION HISTORY
1993, c. 410, §E13 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

§13123-D. LIABILITY OF OFFICERS, DIRECTORS AND EMPLOYEES

(REPEALED)

SECTION HISTORY
1993, c. 410, §E13 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

§13123-E. PROHIBITED INTERESTS OF OFFICERS, DIRECTORS AND EMPLOYEES

(REPEALED)

SECTION HISTORY
1993, c. 410, §E13 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

§13123-F. GENERAL CONDITIONS; DISSOLUTION

(REPEALED)

SECTION HISTORY
1993, c. 410, §E13 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

§13123-G. LIBERAL CONSTRUCTION

(REPEALED)

SECTION HISTORY
1993, c. 410, §E13 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

§13123-H. REPORT

(REPEALED)

SECTION HISTORY
1993, c. 410, §E13 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

§13124. CENTERS FOR INNOVATION

(REPEALED)

SECTION HISTORY
1987, c. 816, §DD3 (NEW). 1993, c. 410, §E14 (AMD). 2001, c. 95, §3 (RP).

§13124-A. CONFLICT OF INTEREST

(REPEALED)

SECTION HISTORY
1991, c. 219, (NEW). 1993, c. 410, §E15 (RP).

§13124-B. EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH

(REPEALED)

SECTION HISTORY
1993, c. 410, §E16 (NEW). 1999, c. 608, §§8,9 (AMD). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

§13124-C. SBIR TECHNICAL ASSISTANCE PROGRAM

(REPEALED)

SECTION HISTORY
1993, c. 410, §E16 (NEW). 1999, c. 608, §10 (RP).

§13124-D. MAINE EPSCOR CAPACITY FUND

(REPEALED)

SECTION HISTORY
2001, c. 439, §RR1 (NEW). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

§13125. PRESIDENT

(REPEALED)

SECTION HISTORY
1987, c. 816, §DD3 (NEW). 1993, c. 410, §E17 (AMD). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

§13126. POWERS AND DUTIES OF PRESIDENT

(REPEALED)

SECTION HISTORY
1987, c. 816, §DD3 (NEW). 1993, c. 410, §E17 (AMD). 2001, c. 95, §4 (AMD). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

§13127. MARINE RESEARCH BOARD

(REPEALED)

SECTION HISTORY
1989, c. 529, §2 (NEW). 1989, c. 903, §§1,2 (AMD). 1993, c. 410, §E18 (AMD). 1993, c. 410, §E19 (AMD). 1995, c. 502, §E32 (AMD). 1999, c. 556, §7 (AMD). 1999, c. 668, §50 (RP).

§13128. POWERS AND DUTIES OF THE MARINE RESEARCH BOARD

(REPEALED)

SECTION HISTORY
1989, c. 529, §2 (NEW). 1989, c. 903, §3 (AMD). 1999, c. 668, §51 (RP).

§13129. MARINE RESEARCH GRANTS PROGRAM

(REPEALED)

SECTION HISTORY

1989, c. 529, §2 (NEW). 1989, c. 903, §§4,5 (AMD). 1993, c. 410, §E20 (AMD). 1999, c. 668, §52 (RP).

§13130. MAINE COAST ENVIRONMENTAL TRUST FUND

(REPEALED)

SECTION HISTORY
1989, c. 903, §6 (NEW). 1993, c. 410, §E21 (AMD). 1999, c. 668, §§53,54 (AMD). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

§13131. ESTABLISHMENT OF THE MAINE TECHNOLOGY CAPACITY FUND

(REPEALED)

SECTION HISTORY
1995, c. 445, §2 (NEW). 1999, c. 401, §CCC1 (AMD). 2003, c. 20, §RR18 (AFF). 2003, c. 20, §RR5 (RP).

Chapter 387: CENTERS FOR INNOVATION PROGRAM

§13141. CENTERS FOR INNOVATION PROGRAM

The Centers for Innovation Program, referred to in this chapter as the "program," is established. The program shall administer and establish centers throughout the State to carry out the purposes of this chapter. [2001, c. 95, §5 (NEW).]

1. **Centers for innovation.** A center for innovation, referred to in this chapter as "center," represents a specific industry sector identified as offering significant potential for economic growth, employment and business development for the State. A center shall consult with state development agencies to carry out the purposes of this chapter. The centers established include:

A. The Center for Innovation in Biotechnology, which promotes the development of the biotechnology sector; and [2001, c. 95, §5 (NEW).]

B. The Aquaculture Innovations Center, which promotes the development of the aquaculture sector. [2001, c. 95, §5 (NEW).]

[2001, c. 95, §5 (NEW) .]

2. **Purposes.** A center has the following purposes:

A. To bring together a cluster of related experience, business activity and technology in order to promote economic growth and target assistance from government development agencies and resources; [2001, c. 95, §5 (NEW).]

B. To advise the Commissioner of Economic and Community Development, the Maine International Trade Center, the Maine Technology Institute and other state agencies of the needs of a targeted industry; [2001, c. 95, §5 (NEW).]

C. To serve as a facilitator of state, local and federal efforts directed at developing an industry sector; [2001, c. 95, §5 (NEW).]

D. To assist in the recruitment of businesses and personnel within an industry sector seeking to relocate to the State; and [2001, c. 95, §5 (NEW).]

E. To educate, inform and facilitate funding for emerging technologies that are the basis of an industry sector. [2001, c. 95, §5 (NEW).]

[2001, c. 95, §5 (NEW) .]

SECTION HISTORY
2001, c. 95, §5 (NEW).

Chapter 389: FUTURE FOR YOUTH IN MAINE STATE WORK ACTION TACTICS TEAM

§13161. FUTURE FOR YOUTH IN MAINE STATE WORK ACTION TACTICS TEAM ESTABLISHED

(REPEALED)

SECTION HISTORY
2003, c. 704, §3 (NEW). 2007, c. 240, Pt. RRRR, §2 (RP). 2007, c. 395, §4 (RP).

§13162. DUTIES

(REPEALED)

SECTION HISTORY
2003, c. 704, §3 (NEW). 2007, c. 240, Pt. RRRR, §2 (RP). 2007, c. 395, §4 (RP).

§13163. CONSTRUCTION; AUTHORITY OF BOARDS OF TRUSTEES OF HIGHER EDUCATION INSTITUTIONS

(REPEALED)

SECTION HISTORY
2003, c. 704, §3 (NEW). 2007, c. 240, Pt. RRRR, §2 (RP). 2007, c. 395, §4 (RP).

Chapter 391: POVERTY AND ECONOMIC SECURITY

§13171. MAINE COUNCIL ON POVERTY AND ECONOMIC SECURITY

(REPEALED)

SECTION HISTORY
2007, c. 641, §2 (NEW). RR 2009, c. 1, §8 (COR). 2011, c. 344, §15 (RP).

Part 19: RESEARCH AND DEVELOPMENT

Chapter 401: MAINE SMALL BUSINESS LOAN ACT

§15001. TITLE

(REPEALED)

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 696, §48 (RAL). 1983, c. 519, §3 (RP).

§15002. DEFINITIONS

(REPEALED)

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 696, §48 (RAL). 1983, c. 519, §3 (RP).

§15003. CREDIT OF STATE PLEDGED

(REPEALED)

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 696, §48 (RAL). 1983, c. 519, §3 (RP).

§15004. ORGANIZATION OF MAINE SMALL BUSINESS LOAN AUTHORITY BOARD

(REPEALED)

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 696, §48 (RAL). 1979, c. 533, §§5,6 (AMD). 1983, c. 519, §3 (RP).

§15005. POWERS OF LOAN AUTHORITY BOARD

(REPEALED)

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 696, §48 (RAL). 1983, c. 519, §3 (RP).

§15006. EXPENSES OF LOAN AUTHORITY BOARD

(REPEALED)

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 696, §48 (RAL). 1983, c. 519, §3 (RP).

§15007. LOAN INSURANCE FUND

(REPEALED)

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 696, §48 (RAL). 1983, c. 519, §3 (RP).

§15008. ADDITIONS TO

(REPEALED)

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 696, §48 (RAL). 1983, c. 519, §3 (RP).

§15009. INSURANCE OF LOANS

(REPEALED)

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 696, §48 (RAL). 1983, c. 519, §3 (RP).

§15010. LOAN INSURANCE PREMIUMS

(REPEALED)

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 696, §48 (RAL). 1983, c. 519, §3 (RP).

§15011. ACQUISITION AND DISPOSAL OF PROPERTY

(REPEALED)

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 696, §48 (RAL). 1983, c. 519, §3 (RP).

§15012. LOANS ELIGIBLE FOR INVESTMENT

(REPEALED)

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 696, §48 (RAL). 1983, c. 519, §3 (RP).

§15013. SAFEGUARDING THE FUND

(REPEALED)

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 696, §48 (RAL). 1983, c. 519, §3 (RP).

§15014. ACCOUNTS

(REPEALED)

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 696, §48 (RAL). 1983, c. 519, §3 (RP).

§15015. RECORDS CONFIDENTIAL

(REPEALED)

SECTION HISTORY
1977, c. 568, §1 (NEW). 1977, c. 696, §48 (RAL). 1983, c. 519, §3 (RP).

Chapter 403: JOB OPPORTUNITY ZONES ACT

§15131. SHORT TITLE

(REPEALED)

SECTION HISTORY
1987, c. 542, §§I3,I6 (NEW). 1993, c. 359, §A2 (RP).

§15132. FINDINGS

(REPEALED)

SECTION HISTORY
1987, c. 542, §§I3,I6 (NEW). 1993, c. 359, §A2 (RP).

§15133. PURPOSE

(REPEALED)

SECTION HISTORY
1987, c. 542, §§I3,I6 (NEW). 1993, c. 359, §A2 (RP).

§15134. DEFINITIONS

(REPEALED)

SECTION HISTORY
1987, c. 542, §§I3,I6 (NEW). 1987, c. 769, §§A20,A21 (AMD). 1993, c. 359, §A2 (RP).

§15135. COMMISSION ON JOB OPPORTUNITY ZONES

(REPEALED)

SECTION HISTORY
1987, c. 542, §§I3,I6 (NEW). 1987, c. 769, §A22 (AMD). 1993, c. 359, §A2 (RP).

§15136. DESIGNATION OF JOB OPPORTUNITY ZONES

(REPEALED)

SECTION HISTORY
1987, c. 542, §§I3,I6 (NEW). 1987, c. 769, §A23 (AMD). 1989, c. 915, §1 (AMD). 1993, c. 359, §A2 (RP).

§15137. DETERMINATION OF REGIONAL ECONOMIC DISTRESS

(REPEALED)

SECTION HISTORY
1987, c. 542, §§I3,I6 (NEW). 1987, c. 769, §A24 (AMD). 1993, c. 359, §A2 (RP).

§15138. ASSISTANCE TO JOB OPPORTUNITY ZONES

(REPEALED)

SECTION HISTORY

1987, c. 542, §§I3,I6 (NEW). 1987, c. 769, §A25 (AMD). 1989, c. 443, §15 (AMD). 1989, c. 700, §A23 (AMD). 1989, c. 915, §§2-5,10 (AMD). 1991, c. 716, §5 (AMD). 1993, c. 349, §15 (AMD). 1993, c. 359, §A2 (RP).

§15139. COOPERATION OF STATE AGENCIES

(REPEALED)

SECTION HISTORY
1987, c. 542, §§I3,I6 (NEW). 1987, c. 769, §A26 (AMD). 1993, c. 359, §A2 (RP).

§15140. EVALUATION

(REPEALED)

SECTION HISTORY
1987, c. 542, §§I3,I6 (NEW). 1989, c. 915, §6 (AMD). 1993, c. 359, §A2 (RP).

§15141. SUNSET

(REPEALED)

SECTION HISTORY
1987, c. 542, §§I3,I6 (NEW). 1989, c. 915, §7 (RP).

§15142. AUTHORIZATION OF ZONES

(REPEALED)

SECTION HISTORY
1989, c. 915, §8 (NEW). 1993, c. 359, §A2 (RP).

§15143. TRANSITION PLAN

(REPEALED)

SECTION HISTORY
1989, c. 915, §8 (NEW). 1993, c. 359, §A2 (RP).

Chapter 405: SPECIAL COMMISSION ON GOVERNMENTAL RESTRUCTURING

§15193. COMMISSION ESTABLISHED

(REPEALED)

SECTION HISTORY
1991, c. 9, §S2 (NEW). 1991, c. 139, §2 (RP).

Chapter 407: RESEARCH AND DEVELOPMENT

Subchapter 1: MAINE TECHNOLOGY INSTITUTE

§15301. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1999, c. 401, Pt. AAA, §3 (NEW).]

1. **Institute.** "Institute" means the Maine Technology Institute.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

2. **Targeted technologies.** "Targeted technologies" means biotechnology, aquaculture and marine technology, composite materials technology, environmental technology, advanced technologies for forestry and agriculture, information technology and precision manufacturing technology. These targeted technologies may be amended only by the Legislature.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

3. **SBIR program.** "SBIR program" means the small business innovation research program enacted pursuant to the federal Small Business Innovation Development Act of 1982, Public Law 97-219, which provides funds to small businesses to conduct innovation research having commercial application.

[1999, c. 608, §11 (NEW) .]

4. **Small business.** "Small business" as related to eligibility to participate in the SBIR program is defined pursuant to 13 Code of Federal Regulations, Section 121.

[1999, c. 608, §11 (NEW) .]

SECTION HISTORY
1999, c. 401, §AAA3 (NEW). 1999, c. 608, §11 (AMD).

§15302. MAINE TECHNOLOGY INSTITUTE

1. **Establishment.** The Maine Technology Institute, as established in section 12004-G, subsection 33-D, is a nonprofit corporation with public and charitable purposes. The duties, activities and operations of the institute are within the provisions of the federal Internal Revenue Code, Section 501(c)(3).

[1999, c. 401, Pt. AAA, §3 (NEW) .]

2. **Purpose.** The institute, through a public and private partnership, shall encourage, promote, stimulate and support research and development activity leading to the commercialization of new products and services in the State's technology-intensive industrial sectors to enhance the competitive position of those sectors and increase the likelihood that one or more of the sectors will support clusters of industrial activity and to create new jobs for Maine people. The institute is one element of the State's economic development strategy and will contribute to the long-term development of a statewide research, development and product deployment infrastructure.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

3. **Board of Directors of the Maine Technology Institute.** The institute is governed and all of its powers exercised by a board of directors, referred to in this chapter as the "board," consisting of 13 voting members and 2 nonvoting members.

A. The Governor shall appoint 10 voting directors, 8 of whom must be representatives of targeted technologies. The other 2 directors must have demonstrated significant experience in finance, lending or venture capital. In making the appointments from targeted technologies, the Governor shall consider recommendations submitted by representatives of targeted technology sectors. Directors of the board appointed by the Governor are entitled to receive reimbursement at the legislative rate for necessary expenses for their attendance at authorized meetings of the board. [2005, c. 425, §19 (AMD).]

B. The Commissioner of Economic and Community Development or the commissioner's designee, the President of the Maine Community College System or the president's designee and the Chancellor of the University of Maine System or the chancellor's designee are ex officio voting directors. [1999, c. 541, §1 (AMD); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF).]

C. The Director of the Governor's Office of Policy and Management or the director's designee is an ex officio nonvoting director. [2011, c. 655, Pt. EE, §11 (AMD); 2011, c. 655, Pt. EE, §30 (AFF).]

D. The Maine Technology Institute Director is a nonvoting director. [1999, c. 401, Pt. AAA, §3 (NEW).]

[2011, c. 655, Pt. EE, §11 (AMD); 2011, c. 655, Pt. EE, §30 (AFF) .]

4. **Terms.** Directors of the board appointed by the Governor are appointed for 3-year terms. The terms of the initial appointments are staggered as follows: Three are one-year terms, 3 are 2-year terms and 3 are 3-year terms. Those directors may serve no more than 2 consecutive terms. Directors who serve on the board by virtue of their offices serve terms coincident with their terms in office.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

5. **Chair; vice-chair; secretary; treasurer.** The board shall elect a chair, a vice-chair, a secretary and a treasurer from among its members. Each officer serves for a one-year term and is eligible for reelection.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

6. **President.** The Maine Technology Institute Director at the Department of Economic and Community Development serves as president of the institute upon confirmation by the board. Once every 2 years, the Governor shall submit the Maine Technology Institute Director's name to the board for reappointment. Reappointment is subject to confirmation by the board. The president shall:

A. Serve as the liaison between the board and the targeted technology boards; [1999, c. 401, Pt. AAA, §3 (NEW).]

B. Manage the institute's programs, services and staff; and [1999, c. 401, Pt. AAA, §3 (NEW).]

C. Perform other duties the board considers appropriate. [1999, c. 401, Pt. AAA, §3 (NEW).]

[1999, c. 401, Pt. AAA, §3 (NEW) .]

7. **Quorum.** A majority of the voting directors constitutes a quorum.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

8. **Executive committee.** The board may elect an executive committee of not fewer than 6 members who, in intervals between meetings of the board, may transact such business of the institute as the board may authorize from time to time.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

9. **Annual report.** By December 15th of each year, the institute shall provide an annual report, with audited financial reports, on its activities to the joint standing committee or joint select committee of the Legislature having jurisdiction over research and development matters.

[2001, c. 562, §1 (AMD) .]

10. **Independent evaluation.**

[2009, c. 337, §8 (RP) .]

SECTION HISTORY
1999, c. 401, §AAA3 (NEW). 1999, c. 541, §1 (AMD). 2001, c. 562, §1 (AMD). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF). 2005, c. 425, §19 (AMD). 2007, c. 466, Pt. B, §2 (AMD). 2009, c. 337, §8 (AMD). 2011, c. 655, Pt. EE, §11 (AMD). 2011, c. 655, Pt. EE, §30 (AFF).

§15302-A. CONFIDENTIALITY; FREEDOM OF ACCESS

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

A. "Commercial or financial information" means information related to businesses, commerce, trade, employment, profits or finances, including personal finances. [2001, c. 562, §2 (NEW).]

B. "Grant" means any disbursement of funds through grants or other financial awards to private companies, targeted technology incubators or nonprofit organizations, pursuant to section 15303, as well as any investment of funds, equity investment, securities, loan, contractual arrangement or other evidence of indebtedness authorized by section 15304. [2001, c. 562, §2 (NEW).]

C. "Trade secret" means a secret, commercially valuable plan, formula, process or device that is used for the making, preparing, compounding or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort. There must be a direct relationship between the trade secret and the productive process. [2001, c. 562, §2 (NEW).]

[2001, c. 562, §2 (NEW) .]

2. **Proceedings; records; confidentiality.** The proceedings of the board and the records of the institute are public for the purposes of Title 1, chapter 13, except that the following records are designated as confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

A. A record obtained or developed by the board prior to receipt of a written application or proposal in a form acceptable to the board for either financial assistance from the board or in connection with a transfer of property to or from the board. After receipt by the board of the application or proposal, a record pertaining to the application or proposal may not be considered confidential unless it is confidential under another provision of this subsection; [2001, c. 562, §2 (NEW).]

B. A peer review or analysis or other document related to the evaluation of a grant application or proposal; [2001, c. 562, §2 (NEW).]

C. A record that the person, including the institute, to whom the record belongs or pertains has requested be designated confidential and that the institute has determined contains proprietary information, trade secrets or commercial or financial information, the release of which could be competitively harmful

to the submitter of the information, could impair the institute's ability in the future to obtain similar necessary information solely through the voluntary provision of such information and could affect other institute interests, such as program effectiveness and compliance; [2001, c. 562, §2 (NEW).]

D. A financial statement, credit report or tax return of an individual or other record obtained or developed by the board, the disclosure of which would constitute an invasion of personal privacy as determined by the board; [2001, c. 562, §2 (NEW).]

E. A record, including a financial statement or tax return obtained or developed by the board in connection with monitoring or servicing activity of the board, pertaining to financial assistance provided or to be provided by or with the assistance of the board; [2001, c. 562, §2 (NEW).]

F. A record obtained or developed by the board that contains an assessment by a person who is not employed by the board of the creditworthiness or financial condition of a person or project; [2001, c. 562, §2 (NEW).]

G. A financial statement or business and marketing plan in connection with a project receiving or to receive financial assistance from the board, if the person to whom the statement or plan belongs or pertains has requested that the record be designated confidential; and [2001, c. 562, §2 (NEW).]

H. Those employee personnel records made confidential pursuant to section 957, subsection 5 and section 17057. [2001, c. 562, §2 (NEW).]

[2001, c. 562, §2 (NEW) .]

3. **Wrongful disclosure prohibited.** A member, officer, employee, agent, other representative of the board or other person may not knowingly divulge or disclose records declared confidential by this section, except that the board may, in its discretion, make or authorize a disclosure of impersonal, statistical or general information or may make or authorize disclosure of information:

A. If necessary in connection with processing an application for or obtaining or maintaining financial assistance for a person or in connection with acquiring, maintaining or disposing of property; [2001, c. 562, §2 (NEW).]

B. To a financing institution or credit reporting service; [2001, c. 562, §2 (NEW).]

C. If necessary to comply with any federal or state law or rule or with an agreement pertaining to financial assistance; [2001, c. 562, §2 (NEW).]

D. If necessary to ensure collection of an obligation in which the board has or may have an interest; [2001, c. 562, §2 (NEW).]

E. Obtained from records declared confidential by this section for introduction for the record in litigation or a proceeding in which the board has appeared; or [2001, c. 562, §2 (NEW).]

F. Pursuant to a subpoena, request for production of documents, warrant or other order by competent authority, as long as the order appears to have first been served on the person to whom the confidential information sought pertains or belongs and as long as the order appears on its face or otherwise to have been issued or made upon lawful authority. [2001, c. 562, §2 (NEW).]

[2001, c. 562, §2 (NEW) .]

4. **Public information.** Notwithstanding subsection 2, the institute shall make available the following information upon request:

A. Names and addresses of recipients of or applicants for financial assistance, including principals where applicable; [2001, c. 562, §2 (NEW).]

B. Amounts, types and terms of financial assistance provided to recipients or requested by applicants, including, without limitation, repayment period, security and rights of the institute to receive royalties and other payments, if any; [2001, c. 562, §2 (NEW).]

C. General descriptions of projects and businesses benefiting or to benefit from financial assistance; [2001, c. 562, §2 (NEW).]

D. Names of transferors or transferees, including principals, of property to or from the institute, the general terms of transfer, the transfer instrument or agreement and the purposes for which the transferred property will be used; [2001, c. 562, §2 (NEW).]

E. Number of new jobs created, the number of patents and copyrightable works produced, information identifying the patents and registered copyrightable works produced, the amount of royalties or returns on equity investments received by the institute or the amount of repayments received by the institute in connection with institute grants, except for information that would place a recipient of or an applicant for financial assistance at a competitive disadvantage; [2001, c. 562, §2 (NEW).]

F. Policies concerning institute governance, operations or procedures for review or funding of applications; and [2001, c. 562, §2 (NEW).]

G. Any information pursuant to waiver considered satisfactory by the institute. [2001, c. 562, §2 (NEW).]

[2001, c. 562, §2 (NEW) .]

5. **Construction.** This section must be strictly construed to protect the confidentiality of all documents designated as confidential, the confidentiality of which is essential to the technology development purpose of the institute and to the confidence of the private sector in the institute and its mission.

[2001, c. 562, §2 (NEW) .]

SECTION HISTORY
2001, c. 562, §2 (NEW).

§15303. DUTIES OF INSTITUTE

1. **Fiscal agent for public investments in private research and development.** The institute is the fiscal agent of the State for all funds appropriated or allocated to the institute. Fiscal duties include the disbursement of funds through grants to private companies, targeted technology incubators and nonprofit research laboratories. Other duties include the accounting, evaluation and monitoring of all activities of the institute and all programs funded in whole or in part by grants from the institute. The institute may fund necessary precursors to commercialization of products and services, including the development of new technologies and processes, the development of product concepts and the manufacture of prototypes.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

2. **Targeted technology boards.** The institute shall work directly with and provide staffing to targeted technology sectors to stimulate and manage the research and development grant process in private companies through technology-specific boards, which are subsidiaries of the board consisting of private sector representatives, scientists and others determined appropriate by representatives of the targeted technology sectors. If the institute's board determines it necessary, the institute shall provide start-up organizational and development grants to those targeted technology sectors. Each technology board may establish goals and objectives for its sector based on state economic development goals, establish research and development priorities, help companies network with each other and advise them on funding opportunities and on the availability of other support services, prepare criteria by which to evaluate proposals, solicit and receive competitive funding proposals, arrange for peer reviews and screen proposals and select those to be forwarded

to the board for final evaluation. The board may delegate, based on conditions it determines appropriate, partial or full regranting authority to those technology boards that have demonstrated capacity to execute grants that are likely to lead to commercialization of a new technology or product.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

3. **Measures of performance.** The institute shall develop quantifiable measures of performance to which it will hold all grantees accountable, including, but not limited to, the number of new jobs created by the grant, the amount of sales generated, the number of patents produced and the amount of corporate income taxes paid, and shall require all grantees to report regularly to the institute on those measures during the grant period and for 5 years following the end of the grant period.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

4. **Adoption of bylaws.** The institute shall adopt bylaws, through the board, consistent with this chapter for the governance of its affairs.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

5. **Employees.** The institute shall fix, through the board, the compensation of all employees of the institute.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

6. **Cooperation with associated organizations and the University of Maine System.** The institute, in implementing its powers and duties:

A. Shall foster strategic considerations of economic development in the allocation of resources among the targeted technology sectors and promote activities that cut across technologies and achieve competitive advantages for Maine; [1999, c. 401, Pt. AAA, §3 (NEW).]

B. Shall ensure that the institute's programs reflect the policies as described in the State's science and technology plan developed by the Maine Science and Technology Foundation and consult with the Maine Science and Technology Foundation in the formation of those programs; [1999, c. 401, Pt. AAA, §3 (NEW).]

C. Shall collaborate with the University of Maine System on the development and annual update of an outcome-based 5-year technology plan that integrates private sector commercialization in the targeted technologies with university-sponsored research and development; [1999, c. 401, Pt. AAA, §3 (NEW).]

D. Shall coordinate its priorities with the applied research and development efforts of the University of Maine System insofar as those efforts are in the targeted technologies and encourage, when possible and appropriate, companies and research laboratories receiving funds from the institute to establish joint ventures with the university system; and [1999, c. 401, Pt. AAA, §3 (NEW).]

E. Shall cooperate with the Department of Economic and Community Development, the Maine Science and Technology Foundation, the Maine Manufacturing Extension Program, the University of Maine System and others in their efforts to ensure that a complementary system of support services, including, as needed and appropriate, incubators, business assistance, technology transfer, market research, patent research and similar services, is in place and available to companies and research laboratories receiving funds from the institute. [1999, c. 401, Pt. AAA, §3 (NEW).]

[1999, c. 401, Pt. AAA, §3 (NEW) .]

6-A. **SBIR technical assistance program.** The institute shall establish a program to provide technical assistance to small businesses based in the State, pursuant to the federal Small Business Innovation Development Act of 1982, Public Law 97-219, to develop competitive small business innovation research, or SBIR, proposals for submission to any of the federal agencies participating in the SBIR program.

A. The technical assistance program may include, but is not limited to, small grants to hire grant writers, networking with scientists and other successful SBIR awardees, seminars on agency-specific solicitations and grant writing. [1999, c. 608, §12 (NEW).]

B. The institute shall conduct a program to inform small businesses of the federal SBIR program and the state program in order to ensure that all firms have the opportunity to participate in these programs. [1999, c. 608, §12 (NEW).]

C. The institute shall establish eligibility requirements and award selection criteria to serve as the basis for technical assistance funding under this program. [1999, c. 608, §12 (NEW).]

This subsection is in effect if, and as long as, federal financial participation is available pursuant to the federal Small Business Innovation Development Act of 1982.

[1999, c. 608, §12 (NEW) .]

6-B. **Maine Biomedical Research Board.** The institute shall contract with the Maine Biomedical Research Board as established in section 12004-G, subsection 4-B to provide assistance in fulfilling the board's duties as the board may require.

[2001, c. 196, §10 (NEW) .]

6-C. **Administer funds.** The institute shall administer the Maine Technology Capacity Fund established under section 15303-A.

[2003, c. 20, Pt. RR, §6 (NEW); 2003, c. 20, Pt. RR, §18 (AFF) .]

7. **Other duties.** The institute shall do all things necessary or convenient to carry out the lawful purposes of the institute under this chapter.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

SECTION HISTORY
1999, c. 401, §AAA3 (NEW). 1999, c. 608, §12 (AMD). 2001, c. 196, §10 (AMD). 2003, c. 20, §RR6 (AMD). 2003, c. 20, §RR18 (AFF).

§15303-A. MAINE TECHNOLOGY CAPACITY FUND

The Maine Technology Capacity Fund is established within the institute to strengthen employment opportunities in the State by increasing the science and technology investment level through partnerships among the State Government, private enterprise, the Federal Government and private and public research institutions. The fund may be used to match public and private funds that provide program or consulting resources to targeted technology sectors to increase their capacity to develop into industry clusters. The fund may also be used to support best-practice studies or to provide technical assistance on a contractual basis to enhance the capacity of the targeted technology sectors to develop into industry clusters. [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

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

A. "Enterprise" means a firm doing business in this State that is engaged or proposes to be engaged in this State in value-added agricultural, natural resource-based or other manufacturing, research and development, or in the provision of knowledge-based services. [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

B. "Fund" means the Maine Technology Capacity Fund account in the Other Special Revenue funds. [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

C. "Intellectual property" means any legally protectable materials, including new information, technologies, inventions, designs, works of authorship, any strain, variety or culture of an organism, or any portion, modification, translation or extension of these items, and processes, mineral discoveries and other legally protectable materials, including know-how and trade secrets, that are generated as a direct and indirect result of investments made by the institute through contracts, grants or any other legal agreement. [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

D. "Protection of intellectual property rights" means protecting the institute's rights to intellectual property through intellectual property protection mechanisms, including, but not limited to, patents, copyrights, trademarks, trade secrets and licensing rights. [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

E. "Technology commercialization" means the process of bringing an investment-grade technology out of an enterprise or a private or public laboratory for first-run application in the marketplace. [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

F. "Technology development" means strategically focused research aimed at developing investment-grade technologies essential to market competitiveness. For purposes of this section, "technology development" does not refer to basic research, but rather to products, devices, techniques or processes that have advanced beyond the theoretical stage and are in a prototype or industry practice stage. [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

G. "Technology extension" means the introduction and adaptation of off-the-shelf technologies and state-of-the-art management practices to the specific circumstances of individual firms. [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

[2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF) .]

2. **Organization.** The board has all the powers and authority, not explicitly prohibited by law, necessary or convenient to carry out and effectuate the functions, duties and responsibilities of the fund, including, but not limited to:

A. Taking actions in partnership with private enterprise, the Federal Government and private and public research institutions to:

(1) Increase the rate of technology extension across manufacturing and knowledge-based firms throughout the State;

(2) Increase the amount of technology development occurring in the State; and

(3) Increase the rate at which technologies with potential commercial application are moved out of private and public laboratories into the marketplace; [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

B. Soliciting, borrowing, accepting and receiving money from any public or private source to augment state contributions to the fund; [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

C. Approving an annual budget for the fund and investing and expending money from the fund; [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

D. Contracting with public entities as necessary to further the purposes of this section; [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

E. Carrying forward any unexpended state appropriations into succeeding fiscal years; [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

F. Providing an annual report to the Governor and the Legislature by January 1st of each regular session of the Legislature within the annual report of the institute, setting forth:

(1) The operations and accomplishments of the fund during the fiscal year; and

(2) The assets and liabilities of the fund at the end of its most recent fiscal year; [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

G. Owning intellectual property, licensing intellectual property and negotiating for and collecting royalty rights or otherwise realizing a return on investment made under the fund and all programs of the institute when appropriate in order to promote the interests and investments of the State in furthering science and technology; and [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

H. Protecting all proprietary information contained in proposals, contracts and grants or any other legal agreement only when such information is likely to involve patentable material that loses its protectable nature when presented in a public forum. [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

[2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF) .]

3. **Authorized activities.** The board may:

A. Receive and accept from any source allocations, appropriations, grants or contributions of money to be held, used or applied to carry out this subchapter, subject to the conditions upon which the grants and contributions may be made, including, but not limited to, appropriations, allocations, grants or gifts from any federal agency or governmental subdivision or the State and its agencies. The amounts of the revenues generated by the investment of money contained in the fund may be used to pay the institute's operating expenses associated with the operation of the fund; and [2007, c. 1, §2 (COR).]

B. Engage in matching grants activities, including, but not limited to, federal, private and foundation awards for technology extension, science and technology development and technology commercialization activities that require state funding matches and are considered consistent with the purposes of the fund. Focus areas for investment include, but are not limited to, targeted technologies as defined in section 15301. [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

[2007, c. 1, §2 (COR) .]

4. **Guidelines.** The board shall establish guidelines for:

A. The amounts of the revenues generated by the investment of money in the fund that may be used to pay the institute's operating expenses associated with the operation of the fund; and [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

B. Cash and in-kind match requirements based on the activities to be supported with the fund. The institute shall strive to achieve a minimum match of 1:1, on an annual basis, for matching grant activities supported under the fund. [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

[2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF) .]

5. **Liquidation and dissolution.** In the event of liquidation or dissolution of the institute or the fund, any rights or interests in a qualified security or portion of a qualified security purchased with money invested by the State vest in the State. The State is entitled to, in proportion to the amount of investment in the fund by the State, any balance of money remaining in the fund after payment of all debts and obligations upon liquidation or dissolution of the institute or the fund.

[2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF) .]

SECTION HISTORY
2003, c. 20, §RR7 (NEW). 2003, c. 20, §RR18 (AFF). RR 2007, c. 1, §2 (COR).

§15304. POWERS OF INSTITUTE

The institute may: [1999, c. 401, Pt. AAA, §3 (NEW).]

1. **Suit.** Sue or be sued in its own name;

[1999, c. 401, Pt. AAA, §3 (NEW) .]

2. **Application for and receipt of funds.** Apply for and receive funds from any private source or governmental entity, whether by way of grant, donation or loan or in any other manner. The State Controller shall pay the institute's total state allotment for each fiscal year to the institute on July 1st of that year, and these funds are nonlapsing;

[1999, c. 401, Pt. AAA, §3 (NEW) .]

3. **Invest funds.** Invest, reinvest and use on behalf of the institute for any of its purposes funds received from any source for carrying out this chapter, including the use of funds for program and administrative costs, and expend interest earnings on those funds as appropriate to implement this chapter;

[1999, c. 401, Pt. AAA, §3 (NEW) .]

4. **Real and personal property.** Purchase, seek, receive, hold, lease, acquire by foreclosure, operate, manage, license, sell, convey, transfer, grant or lease real and personal property, together with those rights and privileges that may be incidental and appurtenant to the property and the use of the property, including, but not limited to, any real or personal property acquired by the institute from time to time in the satisfaction of debts or enforcement of obligations;

[1999, c. 401, Pt. AAA, §3 (NEW) .]

5. **Expenditures and obligations regarding real and personal property.** Make all expenditures and incur any obligations reasonably required in the exercise of sound business principles to secure possession of, preserve, maintain, insure and improve real and personal property or interests in real and personal property acquired by the institute;

[1999, c. 401, Pt. AAA, §3 (NEW) .]

6. **Securities.** Acquire, subscribe to, own, hold, sell, assign, transfer, mortgage or pledge the stock, shares, bonds, debentures, notes or other securities and evidences of interest in or indebtedness of any person, firm, corporation, joint stock company, partnership, association or trust and, while the owner or holder thereof, exercise all the rights, powers and privileges of ownership, including the right to vote;

[1999, c. 401, Pt. AAA, §3 (NEW) .]

7. **Encumbrance of property.** Mortgage, pledge or otherwise encumber any property right or thing of value acquired pursuant to the powers contained in subsection 3, 4 or 5 as security for the payment of any part of the purchase price of the property right or thing of value;

[1999, c. 401, Pt. AAA, §3 (NEW) .]

8. **Equity investments; loans; contractual arrangements.** In addition to disbursement of funds through grants as described in section 15303, make alone or in participation or cooperation with others direct equity investments in, loans to or any other contractual arrangement allowed by law with private companies, targeted technology incubators and nonprofit research laboratories for the same purposes for which grants may be made. For each disbursement of funds made by the institute, the institute shall require satisfactory evidence of matching funds in cash in an amount equal to the state funds invested in whatever form by the institute in eligible recipients. Matching funds may be in the form of debt or equity, but must be at risk in the business for a minimum of 5 years;

[1999, c. 401, Pt. AAA, §3 (NEW) .]

9. **Royalties.** Establish and execute a policy on royalties;

[1999, c. 401, Pt. AAA, §3 (NEW) .]

10. **Employees; contracts and liabilities.** Hire and compensate employees, make contracts for goods or services and incur liabilities with respect to the same with any entity for any of the purposes described by those contracts and authorized by this chapter;

[1999, c. 401, Pt. AAA, §3 (NEW) .]

11. **Debt.** Borrow money for any of the purposes authorized in this chapter, incur debt, which includes the issuance of bonds, debt, notes or other evidences of indebtedness, whether secured or unsecured, and secure the same by mortgage, pledge, deed of trust or other lien on the institute's property, rights and privileges of every kind and nature or any part of or interest in any of them;

[1999, c. 401, Pt. AAA, §3 (NEW) .]

12. **Seal.** Have and use a corporate seal;

[1999, c. 401, Pt. AAA, §3 (NEW) .]

13. **Pension plans; insurance.** Establish and carry out pension plans, profit sharing plans and other retirement, incentive or insurance plans for any of its employees; and

[1999, c. 401, Pt. AAA, §3 (NEW) .]

14. **Other powers.** Act or do anything necessary or useful for carrying out any of its powers, duties or purposes.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

SECTION HISTORY
1999, c. 401, §AAA3 (NEW).

§15305. LIMITATION OF POWERS

The institute may not enter into contracts, obligations or commitments of any kind on behalf of the State or any of its agencies, nor does it have the power of eminent domain or any other power not provided to business corporations generally. Bonds, notes and other evidences of indebtedness of the institute may not in any way be a debt or liability of the State or constitute a pledge of the faith and credit of the State. The institute may not expend more than 10% of funds appropriated per biennium by the State for management and related operating costs of the institute. [2013, c. 225, §1 (AMD).]

SECTION HISTORY
1999, c. 401, §AAA3 (NEW). 2013, c. 225, §1 (AMD).

§15306. LIABILITY OF OFFICERS, DIRECTORS AND EMPLOYEES

All officers, directors, employees and other agents of the institute entrusted with the custody of the securities of the institute or authorized to disburse the funds of the institute must be bonded either by a blanket bond or by individual bonds with a minimum limitation of $100,000 coverage for each person covered by the bond or bonds, or equivalent fiduciary liability insurance, conditioned upon the faithful performance of their duties. The premiums for the bond or bonds must be paid out of the assets of the institute. [2005, c. 425, §20 (AMD).]

SECTION HISTORY
1999, c. 401, §AAA3 (NEW). 2005, c. 425, §20 (AMD).

§15307. PROHIBITED INTERESTS OF OFFICERS, DIRECTORS AND EMPLOYEES

An officer, director or employee of the institute or a spouse or dependent child of any of those individuals may not receive any direct personal benefit from the activities of the institute in assisting any private entity. This section does not prohibit corporations or other entities with which an officer or director is associated by reason of ownership or employment from participating in science and technology activities with the institute if ownership or employment is made known to the board and the officer or director abstains from voting on matters relating to that participation. This prohibition does not extend to corporators who are not officers or directors of the institute. [1999, c. 401, Pt. AAA, §3 (NEW).]

SECTION HISTORY
1999, c. 401, §AAA3 (NEW).

§15308. GENERAL CONDITIONS; DISSOLUTION

The institute shall operate as a nonprofit organization consistent with its composition and broad public purposes. The following conditions apply to the operation or dissolution of the institute. [1999, c. 401, Pt. AAA, §3 (NEW).]

1. **Net earnings of institute.** No part of the net earnings of the institute may benefit any member, officer, director or employee except that the institute may pay reasonable compensation for services rendered and otherwise hold, manage and dispose of its property in furtherance of the purposes of the institute.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

2. **Dissolution of institute.**

[2005, c. 425, §21 (RP) .]

SECTION HISTORY

1999, c. 401, §AAA3 (NEW). 2005, c. 425, §21 (AMD).

§15309. LIBERAL CONSTRUCTION

This chapter must be construed liberally to effect the interest and purposes of the institute for an improved science and technology capacity-building effort in the State and must be broadly interpreted to effect that intent and those purposes. [1999, c. 401, Pt. AAA, §3 (NEW).]

SECTION HISTORY
1999, c. 401, §AAA3 (NEW).

§15310. MAINE TECHNOLOGY INSTITUTE DIRECTOR

(REALLOCATED FROM TITLE 5, SECTION 13070-N)

1. **Appointment.** The Governor shall appoint, using a full and competitive search process and after giving proper consideration to the qualifications in subsection 3, a full-time Maine Technology Institute Director, referred to in this section as the "director," subject to review by the joint standing committee or joint select committee of the Legislature having jurisdiction over research and development matters and to confirmation by the Legislature, who serves at the pleasure of the Governor. The director shall report to the commissioner in the execution of the director's responsibilities.

[1999, c. 708, §3 (RAL) .]

2. **Duties.** The director serves as the president of the Maine Technology Institute upon confirmation by the institute's board of directors. The director shall oversee activities of the institute and has the duties and responsibilities provided in chapter 407.

[1999, c. 708, §3 (RAL) .]

3. **Qualifications.** The director must have demonstrated experience in the management of organizations that innovate, commercialize and deploy technology and expertise in integrating technology commercialization and deployment with economic development.

[1999, c. 708, §3 (RAL) .]

SECTION HISTORY
1999, c. 708, §3 (RAL).

§15311. FUNDING FOR RESEARCH AND DEVELOPMENT

For fiscal years 2003-04 and 2004-05 only, the Governor shall submit a funding level recommendation for operational costs of applied research and development. The recommendation must be transmitted to the Legislature within the time schedules set forth in section 1666. If the Governor submits legislation setting forth appropriations for operational costs of applied research and development that differ from the equivalent of not less than 2% of total actual General Fund revenue of the previous fiscal year, the Governor shall simultaneously submit a report to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and research and development matters explaining why the Governor's budget legislation differs from the equivalent of not less than 2% of total actual General Fund revenue of the previous fiscal year. [2001, c. 559, Pt. MM, §1 (NEW).]

SECTION HISTORY
2001, c. 559, §MM1 (NEW).

Subchapter 2: TECHNOLOGY CENTERS

§15321. TECHNOLOGY CENTERS

(REPEALED)

SECTION HISTORY
1999, c. 731, §UUU3 (NEW). 2001, c. 471, §§A8,9 (AMD). 2001, c. 562, §3 (AMD). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF). 2005, c. 19, §4 (AMD). 2007, c. 597, §7 (AMD). 2009, c. 90, §2 (AMD). 2009, c. 369, Pt. A, §19 (RP). 2011, c. 691, Pt. C, §3 (RP).

Subchapter 3: TECHNOLOGY CENTERS

§15322. TECHNOLOGY CENTERS

1. **Establishment; purpose.** The technology centers, referred to in this section as "the centers," are established. The purpose of the centers is to support early-stage development of technology-based businesses. The self-managed, state-coordinated centers, strategically placed throughout the State, are an integral component of the State's efforts to foster new technology-based businesses. The goals of the centers include the following:

A. The retention of successful start-up businesses in the State; [2011, c. 691, Pt. C, §4 (NEW).]

B. The improvement of opportunities for workers through the creation of technologically advanced jobs; and [2011, c. 691, Pt. C, §4 (NEW).]

C. The encouragement of private-sector initiatives. [2011, c. 691, Pt. C, §4 (NEW).]

[2011, c. 691, Pt. C, §4 (NEW) .]

2. **Administration.** The following provisions govern the administration of the centers.

A. Each technology center is governed by its own board of directors. Each board of directors shall determine services to be provided pursuant to subsection 3, paragraph C. [2011, c. 691, Pt. C, §4 (NEW).]

B. The Department of Economic and Community Development shall determine assistance criteria and desired program outcomes and establish an application process so that technology centers possessing personnel with applicable skills can be chosen to best deliver services to technology-based entrepreneurs within a respective area. [2011, c. 691, Pt. C, §4 (NEW).]

[2011, c. 691, Pt. C, §4 (NEW) .]

3. **Technology centers.** The following provisions govern technology centers.

A. A technology center may be incorporated as a nonprofit organization, be part of a nonprofit organization, be incorporated as a for-profit organization or be part of a for-profit organization. The following provisions govern a for-profit technology center.

(1) Services made available to a technology center by the center director must be made available to all clients of a for-profit center.

(2) A for-profit center in a targeted technology may apply for available funding. A for-profit center selected for funding shall accept the funding as a loan that may be paid back in the form of cash, equity or royalties as agreed upon by the for-profit center and the Department of Economic and Community Development. [2011, c. 691, Pt. C, §4 (NEW).]

B. The records and proceedings of the technology centers are public for the purposes of Title 1, chapter 13 except that the following records are designated as confidential for the purposes of Title 1, section 402, subsection 3, paragraph A:

(1) A record obtained or developed by a technology center prior to receipt of a written application or proposal in a form acceptable to the technology center for assistance from the technology center. After receipt by the technology center of the application or proposal, a record pertaining to the application or proposal may not be considered confidential unless it is confidential under another provision of this paragraph;

(2) A peer review or analysis or other document related to the evaluation of a grant application or proposal;

(3) A record that the person, including the technology center, to whom the record belongs or pertains has requested be designated confidential and that the technology center has determined contains proprietary information, trade secrets or commercial or financial information, the release of which could be competitively harmful to the submitter of the information, could impair the technology center's ability in the future to obtain similar necessary information solely through the voluntary provision of such information and could affect other technology center interests, such as program effectiveness and compliance. For purposes of this subparagraph, the following terms have the following meanings.

(a) "Commercial or financial information" means information related to businesses, commerce, trade, employment, profits or finances, including personal finances.

(b) "Trade secret" means a secret, commercially valuable plan, formula, process or device that is used for the making, preparing, compounding or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort. There must be a direct relationship between the trade secret and the productive process;

(4) A financial statement, credit report or tax return of an individual or other record obtained or developed by the technology center, the disclosure of which would constitute an invasion of personal privacy as determined by the technology center;

(5) A record, including a financial statement or tax return obtained or developed by the technology center in connection with a monitoring or servicing activity of the technology center, pertaining to financial assistance provided or to be provided by or with the assistance of the technology center;

(6) A record obtained or developed by the technology center that contains an assessment by a person who is not employed by the technology center of the creditworthiness or financial condition of a person or project;

(7) A financial statement or business and marketing plan in connection with a project receiving or to receive financial or other assistance from the technology center, if the person to whom the statement or plan belongs or pertains has requested that the record be designated confidential; and

(8) Those employee personnel records made confidential pursuant to section 957, subsection 5 and section 17057. [2011, c. 691, Pt. C, §4 (NEW).]

C. The technology centers shall provide support for early-stage technology-based businesses in the State through at least one of the following mechanisms:

(1) One-on-one sessions;

(2) Peer networks;

(3) Classroom training on subjects unique to technology commercialization and the management of high-growth enterprises;

(4) Mentor programs that link senior technology executives with entrepreneurs; and

(5) Networking opportunities. [2011, c. 691, Pt. C, §4 (NEW).]

[2011, c. 691, Pt. C, §4 (NEW) .]

4. **Funding.** The following provisions govern funding for technology centers.

A. Funding for the technology centers must be commensurate with the level of assistance provided. [2011, c. 691, Pt. C, §4 (NEW).]

B. All funding must be provided on a competitive basis. [2011, c. 691, Pt. C, §4 (NEW).]

[2011, c. 691, Pt. C, §4 (NEW) .]

5. **Relationship with academic institution.** A technology center shall establish a relationship with at least one academic institution in this State. The Department of Economic and Community Development shall establish guidelines for such a relationship and determine whether a technology center has met the requirements of this subsection.

[2011, c. 691, Pt. C, §4 (NEW) .]

6. **Rule-making authority.** The Department of Economic and Community Development may adopt rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in chapter 375, subchapter 2-A.

[2011, c. 691, Pt. C, §4 (NEW) .]

SECTION HISTORY
2011, c. 691, Pt. C, §4 (NEW).

Part 20: PUBLIC HEALTH

Chapter 501: MEDICAL CONDITIONS

§17001. DEFINITIONS

(REPEALED)

SECTION HISTORY
1985, c. 711, §2 (NEW). 1987, c. 402, §A63 (RP). 1987, c. 443, §1 (RP).

§17002. COMMITTEE TO ADVISE THE DEPARTMENT OF HUMAN SERVICES ON AIDS

(REPEALED)

SECTION HISTORY
1985, c. 711, §2 (NEW). 1987, c. 402, §A63 (RP). 1987, c. 443, §1 (RP).

§17003. CONFIDENTIALITY OF TEST

(REPEALED)

SECTION HISTORY
1985, c. 711, §2 (NEW). 1987, c. 283, (AMD). 1987, c. 402, §A63 (RP). 1987, c. 443, §1 (RP). 1987, c. 769, §A27 (RP).

§17004. RESTRICTIONS UPON REVEALING HTLV-III ANTIBODY TEST RESULTS

(REPEALED)

SECTION HISTORY
1985, c. 711, §2 (NEW). 1987, c. 309, (AMD). 1987, c. 402, §A63 (RP). 1987, c. 443, §1 (RP). 1987, c. 769, §A28 (RP).

§17005. COORDINATION OF SERVICES TO PERSONS WITH AIDS, AIDS RELATED COMPLEX AND VIRAL POSITIVITY

(REPEALED)

SECTION HISTORY
1985, c. 711, §2 (NEW). 1987, c. 349, §H7 (AMD). 1987, c. 402, §A63 (RP). 1987, c. 443, §1 (RP). 1987, c. 769, §A29 (AMD).

§17006. CIVIL LIABILITY

(REPEALED)

SECTION HISTORY
1985, c. 711, §2 (NEW). 1987, c. 402, §A63 (RP). 1987, c. 443, §1 (RP).

Part 20: STATE RETIREMENT SYSTEM

Chapter 421: GENERAL PROVISIONS

Subchapter 1: DEFINITIONS

§17001. DEFINITIONS

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

As used in this Part, unless the context otherwise indicates, the following terms have the following meanings. [1985, c. 801, §§5, 7 (NEW).]

1. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 1991, c. 619, §18) **Accumulated contributions.** "Accumulated contributions" means the sum of all the amounts contributed by the member or picked up by the employer from the compensation of a member and credited to the member's individual account in the Members' Contribution Fund, plus regular interest on the member's account, as provided in subchapter IV, article 2, except that, for a member with less than 10 years of creditable service, if the amounts contributed by the member or picked up by the employer do not equal 7.5% of the member's compensation for service as a part-time, seasonal or temporary employee for service rendered after December 31, 1991, "accumulated contributions" includes as much of the employer's contribution in the Retirement Allowance Fund as is needed to reach 7.5% of the member's compensation for service as a part-time, seasonal or temporary employee.

[1991, c. 619, §1 (AMD); 1991, c. 619, §18 (AFF) .]

1. (TEXT EFFECTIVE ON CONTINGENCY: See PL 1991, c. 619, §18) **Accumulated contributions.** "Accumulated contributions" means the sum of all the amounts contributed by the member or picked up by the employer from the compensation of a member and credited to the member's individual account in the Members' Contribution Fund, plus regular interest on the member's account, as provided in subchapter IV, article 2.

[1987, c. 739, §§1, 48 (AMD) .]

2. **Actuarial equivalent.** "Actuarial equivalent" means an amount of equal value when computed at an interest rate contained in actuarial assumptions adopted by the board and upon the basis of mortality and service tables adopted by the board. "Actuarial equivalent," when used to indicate the amount that must be paid in order to purchase service credit, means the amount that equals the cost of additional benefits that become payable as a result of the service credit, including, when applicable, the projected cost of a member's earlier eligibility for retirement.

[1993, c. 387, Pt. A, §3 (AMD) .]

3. **Actuary.** "Actuary" means the individual or the organization designated by the board to be the technical advisor to the board under section 17107.

[1985, c. 801, §§5, 7 (NEW) .]

3-A. **Annual base compensation.** "Annual base compensation" means a member's gross compensation, based upon amounts reported by the member's employer on the member's previous year's federal wage and tax statement, that is used the first day of each April for setting the amount of coverage prior to retirement for participants in the group life insurance program administered by the board.

[1993, c. 386, §1 (AMD) .]

3-B. **Alternate payee.** "Alternate payee" means a spouse, former spouse, child or other dependent of a member or retiree who is recognized by a domestic relations order as having a right to receive all or a portion of the benefits payable by the retirement system with respect to that member or retiree.

[1991, c. 746, §3 (NEW); 1991, c. 746, §10 (AFF) .]

4. **Average final compensation.** "Average final compensation" means:

A. The average annual rate of earnable compensation of a member during the 3 years of creditable service as an employee in Maine, not necessarily consecutive, in which the member's annual rate of earnable compensation is highest. However, if a member is subject to a temporary layoff or other time off without pay as a result of a Governor's Executive Order, time off without pay or loss of pay pursuant to the agreements of February 15, 1991, October 23, 1991 and June 11, 1993 between the Executive Department and the American Federation of State, County and Municipal Employees, Council 93, time off without pay pursuant to the agreement of June 11, 1993 between the Executive Department and the Maine State Employees Association, days off without pay as authorized by legislative action or days off without pay resulting from any executive order declaring or continuing a state of emergency relating to the lack of an enacted budget document for fiscal years ending June 30, 1992 and June 30, 1993, or, if a member elects to make the payments as set forth in section 17704-B, as a result of days off without pay or for days worked for which the level of pay is reduced as the result of the freezing of merit pay and longevity pay as authorized by legislative action, by the State Court Administrator or from executive order for the fiscal year beginning July 1, 2002, July 1, 2009, July 1, 2010, July 1, 2011 or July 1, 2012, or a combination thereof, or, if a member is subject to days off without pay, not to exceed 10 days in each fiscal year ending June 30, 1992 and June 30, 1993, as a result of actions taken by local school administrative units to offset school subsidy reductions, or, if a member is subject to days off without pay during the fiscal year beginning July 1, 2009 or July 1, 2010, as a result of actions taken by a local school administrative unit and the member elects to make the payments as set forth in section 17704-B or, notwithstanding section 18202, as a result of actions of a participating local district to offset reductions in municipal revenue sharing or a combination thereof, for the fiscal years ending June 30, 1992 and June 30, 1993, or, if a member is subject to days off without pay during the fiscal year beginning July 1, 2009 or July 1, 2010, as a result of actions of a participating local district and the member elects to make the payments as set forth in section 18305-C, the 3-year average final compensation must be determined as if the member had not been temporarily laid off, reduced in pay or provided days off without pay; or [2015, c. 385, §2 (AMD).]

B. The average annualized rate of earnable compensation of a member during his entire period of creditable service if that period is less than 3 years. [1985, c. 801, §§5, 7 (NEW).]

[2015, c. 385, §2 (AMD) .]

5. **Beneficiary.** "Beneficiary" means a person or persons designated by a member to receive a benefit under this Part or a person otherwise entitled to receive a benefit under this Part.

[1985, c. 801, §§5, 7 (NEW) .]

6. **Benefit.** "Benefit" means any payment made, or required to be made, to a beneficiary under chapter 423, subchapter V or chapter 425, subchapter V.

[1985, c. 801, §§5, 7 (NEW) .]

7. **Board.** "Board" means the board of trustees, established under section 12004-F, subsection 9, to administer the Maine Public Employees Retirement System.

[1989, c. 503, Pt. B, §32 (AMD); 2007, c. 58, §3 (REV) .]

8. **Child.** "Child" means any natural or legally adopted, born or unborn, progeny of a member.

[1985, c. 801, §§5, 7 (NEW) .]

9. **Consumer Price Index.** "Consumer Price Index" means:

A. The Consumer Price Index for All Urban Consumers, CPI-U, as compiled by the Bureau of Labor Statistics, United States Department of Labor; or [2001, c. 181, §3 (AMD).]

B. If the index described in paragraph A is revised or superseded, the board must employ the Consumer Price Index compiled by the Bureau of Labor Statistics, United States Department of Labor that the board finds to be most reflective of changes in the purchasing power of the dollar for the broadest population of consumers, including retired consumers. [2001, c. 181, §3 (AMD).]

[2001, c. 181, §3 (AMD) .]

10. **Creditable service.** "Creditable service" means a person's membership service, the person's prior service and service for which credit is allowable under sections 17755 and 17756; section 17760, subsection 3; section 18258; sections 18355 and 18356; and section 18360, subsection 2.

[2003, c. 693, §1 (AMD) .]

11. **Department.** "Department" means any department, commission, institution or agency of State Government including the Maine Community College System.

[1989, c. 443, §16 (AMD); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF) .]

12. **Dependent child.** "Dependent child" means:

A. Any unmarried, natural or legally adopted, born or unborn, member's progeny, who is:

(1) Under 18 years of age; or

(2) Under 22 years of age and a full-time student; or [1985, c. 801, §§5, 7 (NEW).]

B. Regardless of age or marital status, any other progeny certified by the medical board to be permanently mentally incompetent or permanently physically incapacitated and determined by the executive director to be unable to engage in any substantially gainful employment. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

12-A. **Domestic relations order.** "Domestic relations order" means a judgment, decree or order, including approval of a property settlement agreement, that:

A. Relates to the provision of child support, alimony payments or marital property rights to a spouse, former spouse, child or other dependent of a member or retiree; and [1991, c. 746, §4 (NEW); 1991, c. 746, §10 (AFF).]

B. Is made pursuant to a domestic relations law of this State or another state. [1991, c. 746, §4 (NEW); 1991, c. 746, §10 (AFF).]

[1991, c. 746, §4 (NEW); 1991, c. 746, §10 (AFF) .]

13. **Earnable compensation.** "Earnable compensation" means salaries and wages paid for services rendered in an employment position, subject to the following inclusions, exclusions and limitations.

A. "Earnable compensation" includes:

(1) Workers' compensation benefits;

(2) Maintenance, if any;

(3) Any money paid by an employer to a 3rd party under a tax sheltered annuity contract or a deferred compensation plan for the future benefit of an employee provided that the money is not derived from amounts excluded from earnable compensation by paragraph B; and

(4) Pick-up contributions. [1989, c. 800, (AMD).]

B. "Earnable compensation" does not include:

(1) For any member who has 10 years of creditable service by July 1, 1993 or who has reached 60 years of age and has been in service for a minimum of one year immediately before that date, payment for more than 30 days of unused accumulated or accrued sick leave, payment for more than 30 days of unused vacation leave or payment for more than 30 days of a combination of both and, effective October 1, 1999, whether or not the member is in service on October 1, 1999, the 30-day limitation may not be decreased and the exclusion set out in subparagraph (2) may not be made applicable to such a member;

(2) For any member who is not covered by subparagraph (1), payment for any unused accumulated or accrued sick leave or payment for any unused vacation leave; or

(3) Any other payment that is not compensation for actual services rendered or that is not paid at the time the actual services are rendered.

A payment for unused sick leave or unused vacation leave may not be included as part of earnable compensation unless it is paid upon the member's last termination before the member applies for retirement benefits. [2009, c. 274, §1 (AMD).]

C. The following provisions govern limitations on earnable compensation.

(1) Notwithstanding the other provisions of this subsection, for the purposes of determining average final compensation, "earnable compensation" does not include any increase that exceeds the prior year's earnable compensation by more than 5% or that results in a total increase of more than 10% during the 3-year period used in the calculation of average final compensation, unless the cost of the additional actuarial liability arising from the excess increase is paid by the employer as provided in section 17154. Any payment made under paragraph B, subparagraph (1) must be included in determining the amount of increase in the year in which the payment is made. This subparagraph does not apply to excess increases resulting from compensation paid prior to July 1, 1993, from compensation paid in accordance with an individual employment contract executed prior to July 1, 1993 or a collective bargaining agreement executed or ratified in its final form by final vote of one party to the agreement prior to July 1, 1993 for the initial term of that contract or agreement or from other action by the governing body of a school administrative unit in effect on July 1, 1993. This subparagraph does not apply to increases in compensation of state employees during fiscal year 1993-94 and fiscal year 1994-95. In all circumstances in which this subparagraph does not apply to earnable compensation of state employees and teachers, the provisions of this subparagraph that were in effect prior to June 30, 1993 apply. This subparagraph does not apply to earnable compensation of employees of participating local districts.

(2) Effective October 1, 1999, the 5% limitation and the 10% limitation on increases in earnable compensation set out in subparagraph (1) may not be changed to a lower percentage for members who, on October 1, 1999 or thereafter, meet the creditable service requirement for eligibility to receive a service retirement benefit, at the applicable age if so required, under section 17851 or section 17851-A, subsection 2. [1999, c. 489, §2 (RPR).]

D. For a teacher who is eligible for participation in the State Employee and Teacher Retirement Program who is on a leave of absence while serving as President of the Maine Education Association, "earnable compensation" means the amount that the teacher would have earned if the teacher had remained in a teaching position. [2007, c. 491, §61 (AMD).]

E. (TEXT REPEALED ON CONTINGENCY) (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 1991, c. 619, §18) "Earnable compensation" of a part-time, seasonal or temporary employee is the sum of amounts computed under paragraphs A, B, C and D adjusted to reflect the wages or salary that the member would have been paid if the member had been employed, at the member's rate of pay, for the number of days or hours that a permanent full-time employee of the same employer would have been employed. [1991, c. 619, §2 (NEW); 1991, c. 619, §18 (AFF).]

F. For a teacher who, as provided by subsection 42, serves as president of a recognized or certified bargaining agent representing teachers for which released time from teaching duties for performance of the functions of president has been negotiated in a collective bargaining agreement between the collective bargaining agent and the teacher's school administrative unit, "earnable compensation" includes compensation paid for the released time, except that the amount of that compensation included in "earnable compensation" may not be more than the compensation that the teacher would have been paid had the teacher remained that same amount of time in the teacher's teaching position. [1993, c. 482, §1 (NEW).]

[2009, c. 274, §1 (AMD) .]

14. **Employee.** "Employee" means:

A. For purposes of this chapter, a state employee, including any person serving during any probationary period required under the Civil Service Law and rules of the Civil Service Appeals Board, a teacher or a participating local district employee; [1987, c. 402, Pt. A, §§64, 65 (AMD).]

B. For purposes of chapter 423, a state employee, including any person serving during any probationary period required under the Civil Service Law and rules of the Civil Service Appeals Board, or a teacher; or [1987, c. 402, Pt. A, §§64, 65 (AMD).]

C. For purposes of chapter 425, a participating local district employee. [1985, c. 801, §§5, 7 (NEW).]

[1987, c. 402, Pt. A, §§64, 65 (AMD) .]

15. **Executive body.** "Executive body" means the official or body of officials who, in their official capacity, have the general powers and duties of administering, supervising and managing the affairs of an organization or governmental unit.

[1985, c. 801, §§5, 7 (NEW) .]

16. **Executive director.** "Executive director" means the executive director of the Maine Public Employees Retirement System.

[1985, c. 801, §§5, 7 (NEW); 2007, c. 58, §3 (REV) .]

17. **Father.** "Father" means a natural or adoptive father or stepfather.

[1985, c. 801, §§5, 7 (NEW) .]

18. **Full-time student.** "Full-time student" means a person who meets the requirements for a full-time student set out in rules adopted by the board.

[1985, c. 801, §§5, 7 (NEW) .]

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

[2009, c. 474, §11 (NEW) .]

19. **Local district.** "Local district" means:

A. Any county, municipality, quasi-municipal corporation or incorporated instrumentality of the State or of one or more of its political subdivisions; [1985, c. 801, §§5, 7 (NEW).]

B. Any incorporated association of employees of the State or employees of any of the entities set out in paragraph A; [1985, c. 801, §§5, 7 (NEW).]

C. Any incorporated association of any of the entities set out in paragraph A; [1985, c. 801, §§5, 7 (NEW).]

D. Any entity eligible to become a participating local district before January 1, 1976; [1985, c. 801, §§5, 7 (NEW).]

E. Any entity participating in the retirement system before January 1, 1976; [2011, c. 657, Pt. I, §1 (AMD).]

F. Any educational institution in the State teaching courses equivalent to or higher than secondary institutions; or [2011, c. 657, Pt. I, §1 (AMD).]

G. Any public charter school, as authorized by Title 20-A, chapter 112. [2011, c. 657, Pt. I, §2 (NEW).]

[2011, c. 657, Pt. I, §§1, 2 (AMD) .]

20. **Member.** "Member" means any person included in the membership of a retirement program of the retirement system, as provided in chapter 423, subchapter 2, or chapter 425, subchapter 2.

[2007, c. 491, §62 (AMD) .]

21. **Membership service.** "Membership service" means service rendered while a member of a retirement program of the retirement system on account of which contributions are made and for which credit is allowable under chapter 423, subchapter 4 or chapter 425, subchapter 4.

[2007, c. 491, §63 (AMD) .]

22. **Mother.** "Mother" means a natural or adoptive mother or a stepmother.

[1985, c. 801, §§5, 7 (NEW) .]

23. **Normal retirement age.** "Normal retirement age" means the specified age, the years of service requirement or any combination of age and years of service requirements at which a member becomes eligible for retirement benefits and at which those benefits may not be reduced under section 17852, subsection 3 or 3-A; section 17852, subsection 10, paragraph C; and section 18452, subsection 3.

[2001, c. 118, §1 (AMD) .]

24. **Organization.** "Organization" means a corporation, partnership or unincorporated association.

[1985, c. 801, §§5, 7 (NEW) .]

25. **Out-of-state service.** "Out-of-state service" means service rendered as an employee of:

A. Any state, territory or possession of the United States, except Maine; or [1985, c. 801, §§5, 7 (NEW).]

B. Any political subdivision of any state, territory or possession of the United States, except Maine. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

26. **Parent.** "Parent" means mother or father.

[1985, c. 801, §§5, 7 (NEW) .]

26-A. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 1991, c. 619, §18) **Part-time, seasonal or temporary employee.** "Part-time, seasonal or temporary employee" means an employee whose employment position is part-time, seasonal or temporary as defined in 26 CFR Part 31.

[1991, c. 619, §3 (NEW); 1991, c. 619, §18 (AFF) .]

26-A. (TEXT EFFECTIVE ON CONTINGENCY: See PL 1991, c. 619, §18) **Part-time, seasonal or temporary employee.**

[1991, c. 619, §18 (RP) .]

27. **Participating local district.** "Participating local district" means a local district that has approved the participation of its employees in the Participating Local District Retirement Program of the retirement system under section 18201.

[2007, c. 491, §64 (AMD) .]

28. **Participating local district employee.** "Participating local district employee" means an employee of a participating local district.

[1985, c. 801, §§5, 7 (NEW) .]

28-A. **Pick-up contributions.** "Pick-up contributions" means member contributions to the retirement system which are assumed and paid by the employer through a reduction of members' salaries for services rendered, in accordance with the United States Internal Revenue Code, Section 414(h), in lieu of employee contributions.

[1987, c. 739, §§3, 48 (NEW) .]

29. **Prior service.** "Prior service" means service rendered before the date of establishment of the retirement system as set forth in section 17101.

[1985, c. 801, §§5, 7 (NEW) .]

29-A. **Professional employee.** "Professional employee" means any employee engaged in work:

A. Predominantly intellectual and varied in character as opposed to routine mental, manual or mechanical work; [1989, c. 550, §1 (NEW).]

B. Involving the consistent exercise of discretion and judgment; [1989, c. 550, §1 (NEW).]

C. Of such a character that the product or result of the work cannot be standardized in relation to a given time period; and [1989, c. 550, §1 (NEW).]

D. Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual or physical processes. [1989, c. 550, §1 (NEW).]

[1989, c. 550, §1 (NEW) .]

30. **Public school.** "Public school" is defined as follows.

A. "Public school" includes:

(1) Any public school conducted within the State under the authority and supervision of a duly elected board of education, superintending school committee or school directors; and

(2) Any school which received any direct state aid in 1950 and municipal tuition funds amounting to at least the amount of that state aid during 1950. [1985, c. 801, §§5, 7 (NEW).]

B. "Public school" does not include:

(1) Maine Wesleyan Seminary and College, commonly known as Kents Hill School, as of September 23, 1971;

(2) Bridgton Academy, as of September 1, 1979;

(3) Gould Academy, as of September 1, 1979;

(4) North Yarmouth Academy, as of September 1, 1979; and

(5) Public charter schools, as authorized by Title 20-A, chapter 112. [2011, c. 657, Pt. I, §3 (AMD).]

[2011, c. 657, Pt. I, §3 (AMD) .]

30-A. **Qualified domestic relations order.** "Qualified domestic relations order" means a domestic relations order that:

A. Creates or recognizes the right of an alternate payee, or assigns to an alternate payee the right, to receive all or a portion of the benefits payable with respect to a member or retiree under any of the programs of the Maine Public Employees Retirement System; [2007, c. 491, §65 (AMD).]

B. Directs the retirement system to disburse benefits to the alternate payee; and [1991, c. 746, §5 (NEW); 1991, c. 746, §10 (AFF).]

C. Meets the requirements of section 17059. [1991, c. 746, §5 (NEW); 1991, c. 746, §10 (AFF).]

[2007, c. 491, §65 (AMD) .]

31. **Regular interest.** "Regular interest" means interest at the rate set from time to time by the board in accordance with section 17156.

[1985, c. 801, §§5, 7 (NEW) .]

32. **Restoration to service.** "Restoration to service" is defined as follows.

A. For a retired state employee or teacher, "restoration to service" means acceptance of employment as either a state employee or a teacher. [1985, c. 801, §§5, 7 (NEW).]

B. For a retired participating local district employee:

(1) Except as provided in subparagraph (2), "restoration to service" means acceptance of employment with the participating local district from which the employee retired; and

(2) After the date on which the consolidated plan under chapter 427 goes into operation, for a participating local district employee who retires from a participating local district that at the time of the employee's retirement is in the consolidated plan, "restoration to service" means acceptance of employment with the participating local district from which the employee retired or with any other participating local district that is in the consolidated plan at the time the employee accepts employment. [1995, c. 274, §2 (AMD).]

C. "Restoration to service" does not include election to the Legislature. [1985, c. 801, §§5, 7 (NEW).]

[1995, c. 274, §2 (AMD) .]

33. **Retirement.** "Retirement" means termination of membership with a retirement allowance granted under this chapter.

[1985, c. 801, §§5, 7 (NEW) .]

34. **Retirement allowance.** "Retirement allowance" means the retirement payments to which a member is or may be entitled as provided in this Part.

[1985, c. 801, §§5, 7 (NEW) .]

35. **Retirement benefit.** "Retirement benefit" means the same as retirement allowance.

[1985, c. 801, §§5, 7 (NEW) .]

36. **Retirement system.** "Retirement system" means the Maine Public Employees Retirement System.

[1985, c. 801, §§5, 7 (NEW); 2007, c. 58, §3 (REV) .]

37. **Service.** "Service" means service as an employee for which compensation was paid.

[1985, c. 801, §§5, 7 (NEW) .]

38. **Service credit.** "Service credit" means credit received for creditable service as defined under subsection 10.

[1985, c. 801, §§5, 7 (NEW) .]

39. **Spouse.** "Spouse" means the person currently legally married to a member.

[1985, c. 801, §§5, 7 (NEW) .]

40. **State employee.** "State employee" means any regular classified or unclassified officer or employee in a department, any employee of the Maine Community College System except those who make the election provided under Title 20-A, section 12722, any employee of the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf except as provided in Title 20-A, section 7407, subsection 3-A, any employee of the Maine Military Authority, any employee of the Northern New England Passenger Rail Authority, any employee of the Maine Port Authority, any employee of the Efficiency Maine Trust who on June 30, 2009 is an employee of the Public Utilities Commission energy efficiency or renewable energy programs who elects to remain a state employee, any employee of the Efficiency Maine Trust who accepts employment with the Efficiency Maine Trust prior to July 1, 2010 who was a state employee immediately prior to accepting such employment who elects to remain a state employee and any employee transferred from the Division of Higher Education Services to the Finance Authority of Maine who elects to be treated as a state employee, but does not include:

A. A judge, as defined in Title 4, section 1201 or 1301, who is now or later may be entitled to retirement benefits under Title 4, chapter 27 or 29; [2003, c. 688, Pt. A, §4 (RPR).]

B. A member of the State Police who is now entitled to retirement benefits under Title 25, chapter 195; or [2003, c. 688, Pt. A, §4 (RPR).]

C. A Legislator who is now or later may be entitled to retirement benefits under Title 3, chapter 29. [2003, c. 688, Pt. A, §4 (RPR).]

[2009, c. 372, Pt. C, §1 (AMD) .]

41. **Surviving spouse.** "Surviving spouse" means the spouse alive at the time of the death of the member or former member.

[1985, c. 801, §§5, 7 (NEW) .]

42. **Teacher.** "Teacher" means:

A. Any employee of a public school who fills any position that the Department of Education requires be filled by a person who holds the appropriate certification or license required for that position and:

(1) Holds appropriate certification from the Department of Education, including an employee whose duties include, in addition to those for which certification is required, either the setup, maintenance or upgrading of a school computer system the use of which is to assist in the introduction of new learning to students or providing school faculty orientation and training related to use of the computer system for educational purposes; or

(2) Holds an appropriate license issued to a professional employee by a licensing agency of the State; [2001, c. 699, §1 (AMD).]

B. Any employee of a public school who fills any position not included in paragraph A, the principal function of which is to introduce new learning to students, except that a coach who is employed by a public school and who is not otherwise covered by the definition of teacher as defined in this subsection or an employee who is employed in adult education as defined in Title 20-A, section 8601-A, subsection 1 and who is not otherwise covered by the definition of teacher defined in this subsection may not be considered a teacher for purposes of this Part; [1997, c. 355, §1 (AMD).]

C. Any employee of a public school on June 30, 1989, in a position not included in paragraph A or B which was included in the definition of teacher in effect on June 30, 1989, as long as:

(1) The employee does not terminate employment; or

(2) The employee terminates employment and returns to employment in a position in the same classification within 2 years of the date of termination.

Regardless of any subsequent employment history, any employee of a public school in a position which was included in the definition of teacher in effect on June 30, 1989, is entitled to creditable service as a teacher for all service in that position on or before that date; [1989, c. 550, §2 (NEW); 1989, c. 878, Pt. D, §4 (RPR).]

D. Any employee of a public school in a position not included in paragraph A, B or C who was a member of the State Employee and Teacher Retirement Program of the retirement system as a teacher on August 1, 1988, as long as:

(1) The employee does not terminate employment; or

(2) The employee terminates employment and returns to employment in a position in the same classification within 2 years of the date of termination; [2007, c. 491, §66 (AMD).]

E. Any former employee of a public school in a position not included in paragraph A, B or C who was a member of the State Employee and Teacher Retirement Program of the retirement system as a teacher before August 1, 1988, as long as the former employee returns to employment in a position in the same classification before July 1, 1991; or [2007, c. 491, §67 (AMD).]

F. For service before July 1, 1989, any employee of a public school in a position which was included in the definition of teacher before July 1, 1989. [1989, c. 550, §2 (NEW); 1989, c. 878, Pt. D, §4 (RPR).]

"Teacher" includes a person who is on a one-year leave of absence from a position as a teacher and is participating in the education of prospective teachers by teaching and supervising students enrolled in college-level teacher preparation programs in this State.

"Teacher" also includes a person who is on a leave of absence from a position as a teacher and is duly elected as President of the Maine Education Association.

"Teacher" also includes a person who, subsequent to July 1, 1981, has served as president of a recognized or certified bargaining agent representing teachers for which released time from teaching duties for performance of the functions of president has been negotiated in a collective bargaining agreement between the collective bargaining agent and the teacher's school administrative unit and for whom contributions related to the portion of the person's salary attributable to the released time have been paid as part of the regular payroll of the school administrative unit.

[2007, c. 491, §§66, 67 (AMD) .]

43. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 1991, c. 619, §18) **26 CFR Part 31.** "26 CFR Part 31" means 26 Code of Federal Regulations, Part 31, as amended effective July 1, 1991, or as hereafter amended.

[1991, c. 619, §4 (NEW); 1991, c. 619, §18 (AFF) .]

43. (TEXT EFFECTIVE ON CONTINGENCY: See PL 1991, c. 619, §18) **26 CFR Part 31.**

[1991, c. 619, §18 (RP) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1985, c. 808, §§1,2 (AMD). 1987, c. 256, §§1-3 (AMD). 1987, c. 402, §§A64,A65 (AMD). 1987, c. 402, §A63 (RP). 1987, c. 443, §1 (RP). 1987, c. 739, §§1-3,48 (AMD). 1989, c. 443, §§16,17 (AMD). 1989, c. 491, §1 (AMD). 1989, c. 503, §B32 (AMD). 1989, c. 550, §§1,2 (AMD). 1989, c. 698, §3 (AMD). 1989, c. 700, §A24 (AMD). 1989, c. 710, §1 (AMD). 1989, c. 800, (AMD). 1989, c. 878, §D4 (AMD). 1991, c. 121, §A1 (AMD). 1991, c. 360, §§1,2 (AMD). 1991, c. 432, (AMD). 1991, c. 480, §1 (AMD). 1991, c. 528, §§EEE3,4 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §§EEE3,4 (AMD). 1991, c. 616, (AMD). 1991, c. 618, §2 (AMD). 1991, c. 618, §7 (AFF). 1991, c. 619, §§1-4 (AMD). 1991, c. 619, §18 (AFF). 1991, c. 622, §DD1 (AMD). 1991, c. 746, §§3-5 (AMD). 1991, c. 746, §10 (AFF). 1991, c. 780, §FF1 (AMD). 1991, c. 824, §A6 (AMD). P&SL 1993, c. 67, §1 (AMD). 1993, c. 250, §1 (AMD). 1993, c. 386, §1 (AMD). 1993, c. 387, §A3 (AMD). 1993, c. 410, §§L12,13,RR1 (AMD). 1993, c. 482, §§1,2 (AMD). 1993, c. 580, §1 (AMD). 1993, c. 580, §3 (AFF). 1993, c. 595, §3 (AMD). 1993, c. 595, §16 (AFF). 1995, c. 274, §§1,2 (AMD). 1995, c. 462, §A13 (AMD). 1995, c. 471, §1 (AMD). 1997, c. 355, §1 (AMD). 1997, c. 763, §2 (AMD). 1997, c. 763, §7 (AFF). 1999, c. 152, §E3 (AMD). 1999, c. 489, §§1,2 (AMD). 1999, c. 731, §CC1 (AMD). 2001, c. 118, §1 (AMD). 2001, c. 181, §3 (AMD). 2001, c. 239, §2 (AMD). 2001, c. 239, §5 (AFF). 2001, c. 374, §4 (AMD). 2001, c. 699, §1 (AMD). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF). 2003, c. 486, §3 (AMD). 2003, c. 688, §A4 (AMD). 2003, c. 693, §1 (AMD). 2005, c. 279, §3 (AMD). 2007, c. 58, §3 (REV). 2007, c. 134, §3 (AMD). 2007, c. 491, §§61-67 (AMD). 2009, c. 213, Pt. SSS, §1 (AMD). 2009, c. 274, §1 (AMD). 2009, c. 372, Pt. C, §1 (AMD). 2009, c. 474, §11 (AMD). 2009, c. 571, Pt. RRR, §1 (AMD). 2009, c. 630, §1 (AMD). 2011, c. 657, Pt. I, §§1-3 (AMD). 2015, c. 385, §2 (AMD).

Subchapter 2: GENERAL POLICIES AND INTENT

§17050. LEGISLATIVE INTENT

It is the intent of the Legislature to encourage qualified persons to seek public employment and to continue in public employment during their productive years. It is further the intent of the Legislature to assist these persons in making provision for their retirement years by establishing benefits reasonably related to their highest earnings and years of service and by providing suitable disability and death benefits. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§17051. NONAPPLICABILITY OF OTHER RETIREMENT BENEFIT LAWS

A law outside of this Part that provides wholly or in part at the expense of the State or of any subdivision of the State for retirement benefits for employees, or for the surviving spouses or other beneficiaries of those employees, may not apply to members or beneficiaries of any of the programs of the retirement system or to the surviving spouses or other beneficiaries of those members or beneficiaries. A member may not receive service credit toward a benefit under this Part and under another system supported wholly or in part by the State for the same service. [2007, c. 491, §68 (AMD).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 491, §68 (AMD).

§17052. MANDATORY RETIREMENT

1. **Prohibition.** No employee may be required, as a condition of employment, to retire at or before a specified age or after completion of a specified number of years of service.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Normal retirement age.** This section may not be construed to prohibit the use of a normal retirement age, except that normal retirement age and the accrual or awarding of pension or retirement benefits may not be used in any way to require the retirement of an employee or to deny employment to a person.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§17053. EXEMPTION FROM TAXATION

The money in the various funds created by this Part are exempt from any state, county or municipal tax in the State. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§17054. LEGAL PROCESS AND ASSIGNMENT

The right of a person to a retirement allowance, the retirement allowance itself, the refund of a person's accumulated contributions, any death benefit, any other right accrued or accruing to any person under this Part and the money in the various funds created by this Part may not be subject to execution, garnishment, attachment or any other process and shall be unassignable except that: [1987, c. 739, §§4, 48 (AMD).]

1. **Retirement allowance available for child support.** A member's retirement allowance is available to satisfy any child support obligation that is otherwise enforceable by execution, garnishment, attachment, assignment or other process;

[1991, c. 184, §1 (AMD) .]

2. **Accumulated contributions available for child support.** A member's accumulated contributions that are refundable under sections 17705-A, 17706-A, 18306-A and 18307-A are available to satisfy any child support obligation that is otherwise enforceable by execution, garnishment, attachment, assignment or other process;

[2011, c. 606, §8 (AMD) .]

3. **Recovery of overpayments by the retirement system.** Any amounts due the retirement system as the result of overpayment or erroneous payment of benefits, an excess refund of contributions or overpayment or erroneous payment of life insurance benefits may be recovered from an individual's contributions, any benefits or life insurance benefits payable under this Part to the individual or the beneficiary of the individual or any combination of contributions and benefits. If the overpayment or excess refund of contributions resulted from a mistake of or incorrect information provided by an employee of the retirement system, or a mistake of the retiree or the recipient of the benefit or life insurance benefit, a penalty or interest may not be assessed by the retirement system. In all cases of recovery of overpayments through the reduction of a retirement benefit, whether with or without the assessment of interest by the retirement system, the recovery practices must be reasonable and consider the personal economic stability of the retiree in the establishment of the recovery schedule. The executive director may also take action to recover those amounts due from any amounts payable to the individual by any other state agency or by an action in a court of competent jurisdiction. Whenever the executive director makes a decision to recover any amounts under this subsection, that decision is subject to appeal under section 17451.

Employers are responsible for enrolling employees in the correct retirement plan. The retirement system shall provide training, education and information to assist employers in the correct enrollment of employees. If an employee is enrolled in the incorrect retirement plan by the employer through no fault of the employee, the employee may not lose any retirement benefits. The State is not responsible for the employer contribution when the employer is a school district, municipality or county and those contributions and assessed interest, if applicable, must be paid to the retirement system by the school district, municipality or county;

[2011, c. 606, §9 (AMD) .]

4. **Qualified domestic relations order.** The rights of a member, retiree, beneficiary or other payee under this Part are subject to the rights of or assignment to an alternate payee under a qualified domestic relations order in accordance with section 17059; and

[2011, c. 606, §10 (AMD) .]

5. **Forfeiture and restitution.** The rights and benefits of a member or retiree under this Part are subject to forfeiture or assignment to the member's spouse, dependent or former spouse in accordance with the provisions of Title 5, section 17062.

[2011, c. 606, §11 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§4,48 (AMD). 1991, c. 184, §§1,2 (AMD). 1991, c. 746, §§6-8 (AMD). 1991, c. 746, §10 (AFF). 1993, c. 386, §2 (AMD). 2005, c. 560, §1 (AMD). 2005, c. 560, §5 (AFF). 2007, c. 137, §9 (AMD). 2009, c. 322, §1 (AMD). 2011, c. 606, §§8-11 (AMD).

§17054-A. RESPONSIBILITIES OF EMPLOYERS AND THE RETIREMENT SYSTEM

Employers are responsible for providing procedures by which employees for whom membership in the retirement system is optional make a membership election, for maintaining all records relevant to the election process and an individual employee's election and for informing the retirement system as to employee elections in accordance with procedures established by the executive director. The retirement system is responsible to ensure that its records accurately reflect the information provided by the employer. With respect to matters related to participation and membership in the retirement system other than those specified in this section, the retirement system and the board retain responsibility and authority according to applicable retirement system law and rules as to the employer and the employees to whom this Part applies, including the authority to make final administrative decisions. [2009, c. 474, §12 (NEW).]

SECTION HISTORY
2009, c. 474, §12 (NEW).

§17055. BENEFICIARY WHO IS AN INCAPACITATED PERSON OR A MINOR

For the purposes of this Part: [1985, c. 801, §§ 5, 7 (NEW).]

1. **Election of benefit.** If a beneficiary is not lawfully qualified to make an election, the election shall be made for him by the person authorized to do so by Title 18-A, article V; and

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Payment of benefit.** Payment of any benefit to an incapacitated person, as defined in Title 18-A, section 5-101, or a minor shall be made in accordance with Title 18-A, article V.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§17056. SUPERIOR COURT EMPLOYEES

1. **Transfer to state employee account.** Notwithstanding sections 18202 and 18408, funds held by the retirement system to the credit of employees of any Superior Court who became employees of the State pursuant to Public Law 1975, chapters 383 and 408, shall be transferred on the records of the retirement system to the state employee account.

[1989, c. 399, §1 (AMD) .]

2. **Vote.**

[1989, c. 399, §2 (RP) .]

3. **Creditable service.** Creditable service shall be determined as follows.

A. Creditable service for employees described in subsection 1 shall be determined as if their service had been rendered as state employees. [1985, c. 801, §§ 5, 7 (NEW).]

B. Creditable service for former employees of any Superior Court who retired after July 1, 1976, shall be determined as if all their service had been rendered as state employees. [1989, c. 399, §3 (AMD).]

[1989, c. 399, §3 (AMD) .]

4. **Additional funds.** If, after review by the actuary of the State Employee and Teacher Retirement Program, it is determined that additional funds are required to finance in full the accrued retirement benefits for employees described in this section:

A. The actuary shall estimate the amount of additional funds necessary to provide full retirement benefits for the period before July 1, 1976; and [1985, c. 801, §§ 5, 7 (NEW).]

B. The counties shall provide funds necessary to fulfill this obligation from the retirement allowance funds of those counties. [1989, c. 399, §4 (AMD).]

[2007, c. 491, §69 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 399, §§1-5 (AMD). 2007, c. 491, §69 (AMD).

§17057. INFORMATION NOT PUBLIC RECORD

1. **Medical information.** Medical information of any kind in the possession of the retirement system, including information pertaining to diagnosis or treatment of mental or emotional disorders, is confidential and not open to public inspection and does not constitute "public records" as defined in Title 1, section 402, subsection 3. Records containing medical information may be examined by the employee to whom they relate or by the State or participating local district employer of the employee for any purposes related to any claim for workers' compensation or any other benefit. The employee must be advised in writing by the retirement system of any request by the employer to examine the employee's medical records. Medical information obtained pursuant to this section remains confidential, except as otherwise provided by law, and except when involved in proceedings resulting from an appeal pursuant to section 17451 or proceedings regarding claims for other retirement benefits.

[1991, c. 824, Pt. A, §7 (RPR) .]

2. **Group life insurance information.** Information in the possession of the retirement system regarding a participant's designated beneficiary or amount of insurance coverage or group life insurance is confidential and not open to public inspection and does not constitute "public records" as defined in Title 1, section 402, subsection 3.

[1991, c. 824, Pt. A, §7 (RPR) .]

3. **Home contact information.** Except as provided in this subsection, records of home contact information of members and benefit recipients of any of the programs of the retirement system and of staff members that are in the possession of the retirement system are confidential, not open to public inspection and not public records as defined in Title 1, section 402, subsection 3.

A. For purposes of this subsection, "home contact information" means a home address, home telephone number, home facsimile transmission number or home e-mail address. [2003, c. 632, §1 (NEW).]

B. [2007, c. 47, §1 (RP).]

C. This subsection does not apply to the home address of a member or a benefit recipient of any of the programs of the retirement system used only for membership recruitment purposes by a nonprofit or public organization established to provide programs, services and representation to Maine public sector retirees unless the retirement system member or benefit recipient has signed a form made available by the retirement system indicating that the individual does not authorize disclosure of that individual's home address. The retirement system may not provide information under this subsection to

an organization if the retirement system has determined that the organization obtained information for the purpose of membership recruitment but used the information for a purpose other than membership recruitment. [2007, c. 491, §70 (AMD).]

[2007, c. 491, §70 (AMD) .]

4. **Investment activity information.** Disclosure of private market investment activity of the retirement system is governed by this subsection.

A. Documentary material, data or information in the possession of the retirement system that consists of trade secrets or commercial or financial information that relates to actual or potential private market investments of the retirement system is confidential and not open to public inspection and does not constitute "public records" as defined in Title 1, section 402, subsection 3 if, in the sole discretion of the retirement system, the disclosure of the material, data or information may:

(1) Impair the retirement system's ability to obtain such material, data or information in the future;

(2) Cause substantial harm to the competitive position of the retirement system or of the person or entity from whom the information was obtained; or

(3) Result in the potential violation of state and federal laws and regulations relating to insider trading. [2011, c. 449, §1 (AMD).]

B. The following information concerning any fund in which the retirement system is invested is not exempt from disclosure:

(1) The retirement system's total commitment to the fund;

(2) The date of the commitment to the fund;

(3) Contributions and distributions made to or received from the fund;

(4) The market value of the investment;

(5) The name of the fund; and

(6) The interim internal rate of return of the fund. [2011, c. 449, §1 (AMD).]

C. For purposes of this subsection, "private market investment" means:

(1) Direct investments in land, timber, mineral rights, private company equity or private company debt;

(2) Indirect investments in limited partnerships, limited liability corporations or other entities that may invest in the investments described in subparagraph (1);

(3) Investments in unregistered securities or funds offered under exemptions provided in Section 144(A) of the Securities Act of 1933, as amended, or Section 3(c)1 or 3(c)7 of the Investment Company Act of 1940, as amended; or

(4) Investments or potential investments of the retirement system pursuant to the state innovation finance program authorized under Title 10, section 1026-T. [2011, c. 449, §1 (NEW).]

[2011, c. 449, §1 (AMD) .]

5. **Personnel records of Maine Public Employees Retirement System staff.** The following records are confidential and not open to public inspection and are not public records as defined in Title 1, section 402, subsection 3:

A. Papers relating to applications, examinations or evaluations of applicants. Except as provided in this subsection, applications, resumes, letters and notes of reference, working papers, research materials, records, examinations and any other documents or records and the information they contain, solicited or prepared either by the applicant or the retirement system for use in the examination or evaluation of applicants for positions as retirement system employees, are confidential.

(1) Notwithstanding any confidentiality provision to the contrary, applications, resumes and letters and notes of reference, other than those letters and notes of reference expressly submitted in confidence, pertaining to the applicant hired are public records after the applicant is hired, except that personal contact information is not a public record as provided in Title 1, section 402, subsection 3, paragraph O.

(2) Telephone numbers are not public records if they are designated as "unlisted" or "unpublished" in an application, resume or letter or note of reference.

(3) This paragraph does not preclude a union representative from access to personnel records, consistent with paragraph D, that may be necessary for the bargaining agent to carry out collective bargaining responsibilities. Any records available to union representatives that are otherwise covered by this paragraph remain confidential and are not open to public inspection; [2011, c. 449, §2 (NEW).]

B. Personal information. Records containing the following information are confidential, except that the records may be examined by the employee to whom they relate when the examination is permitted or required by law:

(1) Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

(2) Performance evaluations and personal references submitted in confidence;

(3) Information pertaining to the creditworthiness of a named employee;

(4) Information pertaining to the personal history, general character or conduct of members of the employee's immediate family;

(5) Personal information pertaining to the employee's race, color, religion, sex, national origin, ancestry, age, physical disability, mental disability, marital status and sexual orientation; social security number; personal contact information as provided in Title 1, section 402, subsection 3, paragraph O; and personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans, pension plans, health insurance and life insurance; and

(6) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final written decision, with regard to that employee, is public.

For purposes of this subparagraph, "final written decision" means:

(a) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or

(b) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written decision of the neutral arbitrator is not issued and released before the expiration of the 120 days.

This paragraph does not preclude a union representative from having access to personnel records that are necessary for the bargaining agent to carry out collective bargaining responsibilities. Any records available to union representatives that are otherwise covered by this paragraph remain confidential and are not open for public inspection; [2011, c. 449, §2 (NEW).]

C. Other information to which access by the general public is prohibited by law; and [2011, c. 449, §2 (NEW).]

D. Certain information for grievance and other proceedings. The retirement system may release specific information designated confidential by this paragraph to be used in negotiations, mediation, fact finding, arbitration, grievance proceedings and other proceedings in which the retirement system is a party. For the purpose of this paragraph, "other proceedings" means unemployment compensation proceedings, workers' compensation proceedings, human rights proceedings and labor relations proceedings. [2011, c. 449, §2 (NEW).]

[2011, c. 449, §2 (NEW) .]

6. **Treatment of confidential information.** Confidential information provided under subsection 5 is governed by the following.

A. Only the information that is necessary and directly related to the proceeding may be released. [2011, c. 449, §2 (NEW).]

B. The proceeding for which the confidential information is provided must be private and not open to the public if possible. If the proceeding is open to the public, the confidential information may not be disclosed except exclusively in the presence of the fact finder, the parties and counsel of record and the employee who is the subject of the proceeding and provisions are made to ensure that there is no public access to the confidential information. [2011, c. 449, §2 (NEW).]

C. The retirement system may use this confidential information in proceedings and provide copies to an employee organization if that organization is a party to the proceedings and the information is directly related to those proceedings as defined by the applicable collective bargaining agreement. Confidential personnel records in the possession of the retirement system are not open to public inspection and are not public records. [2011, c. 449, §2 (NEW).]

[2011, c. 449, §2 (NEW) .]

SECTION HISTORY
1989, c. 76, (NEW). 1991, c. 480, §2 (RPR). 1991, c. 580, §2 (AMD). 1991, c. 824, §A7 (RPR). 2003, c. 632, §1 (AMD). 2005, c. 149, §§1,2 (AMD). 2007, c. 47, §§1, 2 (AMD). 2007, c. 491, §70 (AMD). RR 2009, c. 2, §3 (COR). 2009, c. 633, §1 (AMD). 2011, c. 449, §§1, 2 (AMD).

§17058. INFORMATION FOR ADMINISTRATIVE OR JUDICIAL PROCEEDINGS

If information regarding the availability, calculation or value of any benefit is required for an administrative or judicial proceeding, the party seeking the information must file written questions requesting that information with the executive director. The executive director, or the executive director's designee, shall make a certified response to those questions within 30 days and the certified response is admissible as evidence in any administrative or judicial proceeding. A subpoena or other form of discovery directed at obtaining the information may not be issued nor may employees of the retirement system be required to testify on the subjects covered by the certified response unless there is an express finding by an administrative agency or a court that there is a compelling necessity to permit further discovery or to require testimony. [1991, c. 580, §3 (NEW).]

SECTION HISTORY
1991, c. 580, §3 (NEW).

§17059. QUALIFIED DOMESTIC RELATIONS ORDERS

1. **Determination by executive director.** The executive director or the executive director's designee has exclusive authority to determine whether a domestic relations order is a qualified domestic relations order under this section. A determination by the executive director or the executive director's designee under this section may be appealed to the board as provided by section 17451.

[1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF) .]

2. **No jurisdiction over retirement system.** The retirement system may not be made a party with respect to a divorce or other domestic relations action in which an alternate payee's right to receive all or a portion of the benefits payable to a member or retiree under the retirement system is created or established. A party to such an action who attempts to make the retirement system a party to the action contrary to this subsection is liable to the retirement system for its costs and attorney's fees.

[1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF) .]

3. **Benefits and withdrawal of contributions.** For the purposes of this section, benefits payable with respect to a member or retiree under any of the programs of the retirement system include the types of benefits payable by the retirement system and a withdrawal of contributions from the retirement system.

[2007, c. 491, §71 (AMD) .]

4. **Requirements.** A domestic relations order is a qualified domestic relations order only if the order:

A. Clearly specifies the name, social security number and last known mailing address, if any, of the member or retiree and the name, social security number and mailing address of each alternate payee covered by the order; [1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF).]

B. Clearly specifies the amount or percentage of the member's or retiree's benefits to be paid by the retirement system to each alternate payee or the manner in which the amount or percentage is to be determined; [1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF).]

C. Clearly specifies the number of payments or the period to which the order applies; [1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF).]

D. Clearly specifies that the order applies to the retirement system; [1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF).]

E. Does not require the retirement system to provide a type or form of benefit or an option not otherwise provided by the retirement system; [1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF).]

F. Does not require the retirement system to provide increased benefits determined on the basis of actuarial value; [1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF).]

G. Does not require the payment of benefits to an alternate payee that are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order; and [1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF).]

H. Does not require the payment of benefits to an alternate payee before the retirement of a member other than when the payee reaches the member's normal retirement age, the distribution of a withdrawal of contributions to a member or other distribution to a member required by law. [2015, c. 322, §1 (AMD).]

[2015, c. 322, §1 (AMD) .]

5. **Additional criteria.** The board may also require by rule that a qualified domestic relations order meet one or more of the following requirements.

A. The order must provide for a proportional reduction of the amount awarded to an alternate payee in the event of the retirement of the member before normal retirement age. [1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF).]

B. The order may not purport to require the designation of a particular person as the recipient of benefits in the event of a member's or retiree's death. [1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF).]

C. The order may not purport to require the selection of a particular benefit payment plan or option. [1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF).]

D. The order must provide clearly for each possible benefit distribution under plan provisions. [1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF).]

E. The order may not require any action on the part of the retirement system contrary to its governing laws or plan provisions other than the direct payment of the benefit awarded to an alternate payee or the direct payment of the benefit awarded to an alternate payee before the retirement of a member and when the payee reaches the member's normal retirement age. [2015, c. 322, §2 (AMD).]

F. The order may not make the award of an interest contingent on any condition other than those conditions resulting in the liability of the retirement system for payments under its plan provisions. [1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF).]

G. The order may not purport to award any future benefit increases that are provided or required by the Legislature. [1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF).]

H. The order must provide for a proportional reduction of the amount awarded to an alternate payee in the event that benefits available to the retiree or member are reduced by law. [1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF).]

[2015, c. 322, §2 (AMD) .]

6. **Determination.** The executive director or the executive director's designee, upon receipt of a certified copy of a domestic relations order and written request for a determination, shall determine whether the order is a qualified domestic relations order and shall notify the member or retiree and each alternate payee of the determination.

A. If the order is determined to be a qualified domestic relations order, it is presumed to be in compliance with all requirements of this Part. The retirement system shall pay benefits in accordance with the order and shall give effect to the plain meaning of its terms notwithstanding any failure of the order to cite or reference statutory or rule provisions. A beneficiary or recipient of a right or benefit provided for or awarded in a qualified domestic relations order may not be deprived of that right or benefit, or any part of that right or benefit, by a subsequent act or omission of the member, another claimant or beneficiary or the retirement system, notwithstanding any provision of law to the contrary or any policy or procedure the retirement system employs in the implementation of this Part. [2005, c. 560, §2 (AMD); 2005, c. 560, §5 (AFF).]

B. If the order is determined not to be a qualified domestic relations order, the member or retiree or any alternate payee named in the order may appeal the executive director's determination in the manner specified in section 17451 or may petition the court that issued the order to amend the order so that it is qualified. Except as otherwise provided by law, the court that issued the order or that otherwise would have jurisdiction over the matter has jurisdiction to amend the order so that it will be qualified even though all other matters incident to the action or proceeding have been fully and finally adjudicated. [1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF).]

[2005, c. 560, §2 (AMD); 2005, c. 560, §5 (AFF) .]

7. **Interim accounting.** During any period in which the issue of whether a domestic relations order is a qualified domestic relations order is being determined by the executive director, the executive director's designee, the board, a court of competent jurisdiction or otherwise, the retirement system shall account separately for the amounts, in this section referred to as the "segregated amounts," that would have been payable to the alternate payee during that period if the order had been determined to be a qualified domestic relations order.

[1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF) .]

8. **Payment of segregated amounts.** If a domestic relations order is determined to be a qualified domestic relations order, the retirement system shall pay the segregated amounts to the person or persons entitled to the segregated amounts and shall thereafter pay benefits pursuant to the order.

[1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF) .]

9. **Payments if determined not qualified or if no determination within 18 months.** If a domestic relations order is determined not to be a qualified domestic relations order or if the issue as to whether a domestic relations order is a qualified domestic relations order is not resolved within 18 months of the date the order and written request for a determination are received by the retirement system, the retirement system shall pay the segregated amounts without interest, and shall thereafter pay benefits, to the person or persons who would have been entitled to such amounts if there had been no order. This subsection may not be construed to limit or otherwise affect any liability, responsibility or duty of a party with respect to any other party to the action from which the order arose.

[1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF) .]

10. **Determination after 18 months.** Any determination that an order is a qualified domestic relations order that is made after the close of the 18-month period established in subsection 9 must be applied prospectively only.

[1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF) .]

11. **No liability.** The retirement system, the board and officers and employees of the retirement system are not liable to any person for making payments of any benefits in accordance with a domestic relations order in a cause of action in which a member or a retiree was a party or for making payments in accordance with subsection 9.

[1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF) .]

12. **Information provided to spouse.** Upon being furnished with an attested copy of a complaint for divorce, the retirement system shall provide the spouse of a member with the same information that would be provided to the member.

[1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF) .]

13. **Rules.** The board may adopt rules to implement this section. The rules may provide for charging a reasonable fee for processing domestic relations orders.

[1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF) .]

14. **Application.** This section applies to all domestic relations orders issued after March 27, 1992 and, with the mutual consent of the parties, to any domestic relations orders issued on or before March 27, 1992.

[1997, c. 2, §20 (COR) .]

SECTION HISTORY
1991, c. 746, §9 (NEW). 1991, c. 746, §10 (AFF). RR 1997, c. 2, §20 (COR). 2005, c. 560, §2 (AMD). 2005, c. 560, §5 (AFF). 2007, c. 491, §71 (AMD). 2015, c. 322, §§1, 2 (AMD).

§17060. LIFE ANNUITY OR LUMP-SUM PAYMENT IN LIEU OF BENEFITS AWARDED BY QUALIFIED DOMESTIC RELATIONS ORDER

1. **Annuity or lump sum.** The board may by rule provide that, in lieu of paying an alternate payee the interest awarded by a qualified domestic relations order, the retirement system may pay the alternate payee an amount that is the actuarial equivalent of that interest in the form of:

A. An annuity payable in equal monthly installments for the life of the alternate payee; or [1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF).]

B. A lump sum. [1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF).]

[1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF) .]

2. **Determination by retirement system.** The determination of whether to pay an amount authorized by this section in lieu of the interest awarded by the qualified domestic relations order is within the exclusive discretion of the retirement system.

[1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF) .]

3. **Reduced payment to member, retiree or beneficiary.** If the retirement system elects to pay the alternate payee pursuant to this section, the benefit payable by the retirement system to the member, retiree or beneficiary must be reduced by the interest in the benefit awarded to the alternate payee by the qualified domestic relations order.

[1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF) .]

4. **Reliance on designation or selection.** If the retirement system pays the alternate payee pursuant to this section, the retirement system is entitled to rely on a beneficiary designation or benefit option selection made or changed pursuant to its plan without regard to any domestic relations order.

[1991, c. 746, §9 (NEW); 1991, c. 746, §10 (AFF) .]

SECTION HISTORY
1991, c. 746, §9 (NEW). 1991, c. 746, §10 (AFF).

§17061. TERMINATION OF INTEREST IN RETIREMENT SYSTEM

The death of an alternate payee as defined in section 17001, subsection 3-B terminates the interest of the alternate payee in the retirement system. This section does not affect an interest in the retirement system accrued to an individual as a member of a retirement program of the retirement system. [2007, c. 491, §72 (AMD).]

SECTION HISTORY
1991, c. 746, §9 (NEW). 1991, c. 746, §10 (AFF). 2007, c. 491, §72 (AMD).

§17062. FORFEITURE OF BENEFITS FOR CRIME; RESTITUTION

1. **Crime.** If a member is convicted of or pleads guilty or no contest to a crime committed in connection with the member's public office or public employment or to a crime the member's position placed the member in a position to commit, the member's right to receive any benefit or payment of any kind under this Part is subject to the following.

A. If the penalties for the crime are greater than or equal to the penalties for a Class C crime, the court may order the forfeiture of the member's right to receive any benefit or payment of any kind under this Part except a return of the amount contributed by the member to the retirement system without interest, subject to paragraph B. [2011, c. 606, §12 (NEW).]

B. If the court orders the member to make restitution to the State or any political subdivision of the State for monetary loss incurred as a result of the crime, the court may order that restitution payments be made by the retirement system from the amount contributed by the member to the retirement system. [2011, c. 606, §12 (NEW).]

C. Subject to the requirements of subsection 2, the court may award to the member's spouse, dependent or former spouse as an alternate payee some or all of the amount that, but for the forfeiture under paragraph A, may otherwise be payable. Upon order of the court, the retirement system shall provide information concerning the member's membership that the court considers relevant to the determination of the amount of an award under this paragraph. In determining the award, the court shall consider the totality of the circumstances, including, but not limited to:

(1) The role, if any, of the member's spouse, dependent or former spouse in connection with the crime;

(2) The degree of knowledge, if any, possessed by the member's spouse, dependent or former spouse in connection with the crime; and

(3) The extent to which the spouse, dependent or former spouse was relying on the forfeited benefits. [2011, c. 606, §12 (NEW).]

[2011, c. 606, §12 (NEW) .]

2. **Benefit award requirements.** An award ordered under subsection 1, paragraph C may not require the retirement system to:

A. Provide a type or form of benefit or an option not otherwise provided by the retirement system; [2011, c. 606, §12 (NEW).]

B. Provide increased benefits determined on the basis of actuarial value; or [2011, c. 606, §12 (NEW).]

C. Take an action contrary to its governing laws or plan provisions other than the direct payment of the benefit awarded to the spouse, dependent or former spouse. [2011, c. 606, §12 (NEW).]

[2011, c. 606, §12 (NEW) .]

SECTION HISTORY
2011, c. 606, §12 (NEW).

Subchapter 3: ESTABLISHMENT AND ADMINISTRATION

§17101. ESTABLISHMENT

1. **Purpose.** There is established a retirement system, the functions and operations of which are under the supervision of the board, for the purpose of providing retirement allowances and other benefits under this Part for employees.

[1993, c. 410, Pt. L, §14 (AMD) .]

2. **Name.** The retirement system is known as the "Maine Public Employees Retirement System" and by that name all of its business must be transacted, all of its funds invested and all of its cash and securities and other property held in trust for the purpose for which received.

[2007, c. 58, §1 (AMD) .]

3. **Date of establishment.** The date of establishment of the retirement system is:

A. July 1, 1942, for all employees who were employed by the State before July 1, 1947; [1985, c. 801, §§ 5, 7 (NEW).]

B. July 1, 1947, for employees employed for the first time after July 1, 1947; [1985, c. 801, §§ 5, 7 (NEW).]

C. July 1, 1947, for all teachers employed as teachers before July 1, 1947; [1985, c. 801, §§ 5, 7 (NEW).]

D. The date of participation set by the participating local district under section 18201; or [1985, c. 801, §§ 5, 7 (NEW).]

E. The date on which contributions were first made to any retirement system supported in whole or in part by the State, for all other employees. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

4. **Corporation.**

[1993, c. 410, Pt. L, §15 (RP) .]

5. **Body corporate and politic.** The retirement system is a body corporate and politic and an incorporated public instrumentality of the State and the exercise of powers conferred by this Part are held to be the performance of essential government functions.

[1993, c. 410, Pt. L, §16 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1993, c. 410, §§L14-16 (AMD). 2007, c. 58, §1 (AMD).

§17102. BOARD OF TRUSTEES

1. **Composition.** The Board of Trustees of the Maine Public Employees Retirement System, established by section 12004-F, subsection 9, is composed of 8 trustees, as follows:

A. The Treasurer of State or the Deputy Treasurer of State; [1997, c. 625, §1 (AMD).]

B. A person who is a member of the State Employee and Teacher Retirement Program of the retirement system through employment as a teacher and who is duly elected by the Maine Education Association; [2007, c. 491, §73 (AMD).]

C. A person who is a member of the State Employee and Teacher Retirement Program of the retirement system through employment as a state employee and who is duly elected by the Maine State Employees' Association; [2007, c. 491, §74 (AMD).]

D. Four persons appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over retirement matters and to confirmation by the Legislature:

(1) At least 2 of whom must be qualified through training or experience in the field of investments, accounting, banking or insurance or as actuaries;

(2) One of whom must be selected from a list of 3 nominees submitted by the Maine Retired Teachers' Association; and

(3) One of whom must be the recipient of a retirement allowance through the retirement system and be selected from a list or lists of nominees submitted by retired state employees, retired participating local district employees or a committee comprised of representatives of these groups; and [1995, c. 3, §1 (AMD).]

E. A person who is a member of the Participating Local District Retirement Program of the retirement system through a participating local district and who is appointed by the governing body of the Maine Municipal Association. [2007, c. 491, §75 (AMD).]

F. [1987, c. 715, §5 (RP).]

The names of proposed trustees elected or appointed under paragraphs B, C or E must be submitted to the Legislature by the Governor and are subject to review by the joint standing committee of the Legislature having jurisdiction over retirement matters and to confirmation by the Legislature. A member who is elected or appointed may serve in the position of trustee from the date of election or appointment unless the Legislature rejects the confirmation.

Each trustee subject to paragraphs B to E must have a working knowledge of retirement policy and legal issues and a general knowledge and understanding of banking, finance and investment practices.

[2007, c. 491, §§73-75 (AMD) .]

1-A. **Retirement system employees ineligible.** The executive director and the employees of the retirement system may not serve on the board of trustees.

[1989, c. 483, Pt. A, §25 (NEW) .]

2. **Chairman.** The board shall elect from its membership a chairman.

[1985, c. 801, §§5, 7 (NEW) .]

3. **Term.** The terms of the trustees shall be determined as follows.

A. Each trustee, except the Treasurer of State, shall serve a term of 3 years. [1985, c. 801, §§5, 7 (NEW).]

B. A trustee shall continue to serve after the expiration of his term until a successor is appointed and qualified, but the trustee's continuation as a trustee does not change the expiration date of the trustee's term. [1985, c. 801, §§5, 7 (NEW).]

C. The term of a trustee appointed to succeed a trustee whose term has expired shall begin on the day after the expiration date of the 3-year term of the previous trustee, regardless of the effective date of the new appointment. [1985, c. 801, §§5, 7 (NEW).]

D. Appointments to any vacancy caused by death, resignation or ineligibility shall be for the unexpired portion of the term. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

4. **Oath.** Each trustee shall, within 30 days after the trustee's appointment, take an oath of office to faithfully discharge the duties of a trustee, in the form prescribed by the Constitution of Maine.

A. The oath must be subscribed to by the trustee making it. [2001, c. 181, §4 (AMD).]

B. The oath must be certified by the officer before whom it was taken and immediately filed in the office of the Secretary of State. [2001, c. 181, §4 (AMD).]

[2001, c. 181, §4 (AMD) .]

5. **Transaction of business.** The transaction of business by the board is governed as follows.

A. Five trustees constitute a quorum for the transaction of any business. [1997, c. 625, §2 (AMD).]

B. Each trustee is entitled to one vote. [1997, c. 625, §2 (AMD).]

C. Five votes are necessary for any resolution or action by the board at any meeting of the board. [1997, c. 625, §2 (AMD).]

[1997, c. 625, §2 (AMD) .]

6. **Compensation.** The trustees shall be compensated, as provided in chapter 379, from the funds of the retirement system. For the purposes of this subsection, "administrative leave" means an excused absence from work during the employee's normal work schedule for which the employee does not receive a reduction in compensation, except that it does not include the use of earned vacation time specified by the employment contract; "public employee trustee" means a trustee selected or elected according to subsection 1, paragraph B, C or E, or an employee as that term is defined by section 17001, subsection 14. Notwithstanding section 12004-F, subsection 9, certain trustees shall be compensated as follows. The employer of a public employee trustee shall grant administrative leave at the request of that trustee in order for that trustee to attend an activity compensable under section 12002-B. If administrative leave is granted to the trustee, then the trustee shall not receive per diem authorized under chapter 379 and an amount equal to the legislative per diem which would otherwise be paid from the funds of the retirement system to the trustee shall be paid directly to that person's employer, unless the employer is the State.

[1989, c. 483, Pt. A, §26 (RPR) .]

7. **Expenses.** All administrative costs and expenses attributable to the administrative operating budget of the retirement system must be charged against the assets of the applicable fund.

[2015, c. 385, §3 (RPR) .]

8. **Legal advisor.** The Attorney General or an assistant designated by the Attorney General shall be legal advisor to the board.

[1985, c. 801, §§5, 7 (NEW) .]

9. **Record.** The board shall keep a record of all its proceedings, which:

A. Shall comply with the requirements of section 8056, subsection 5 and sections 9059 and 9061, to the extent those laws are applicable; and [1985, c. 801, §§5, 7 (NEW).]

B. Shall be open to public inspection. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

10. **Reports.** The board shall publish annually for each fiscal year:

A. A report showing the fiscal transactions of the retirement system for the fiscal year and the assets and liabilities of each of the programs of the retirement system at the end of the fiscal year; and [2007, c. 491, §76 (AMD).]

B. The actuary's report on the actuarial valuation of the financial condition of each of the programs of the retirement system for the fiscal year. [2007, c. 491, §76 (AMD).]

[2007, c. 491, §76 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §4 (AMD). 1987, c. 715, §§4,5 (AMD). 1989, c. 483, §§A25,A26 (AMD). 1989, c. 503, §B33 (AMD). P&SL 1993, c. 67, §1 (AMD). 1993, c. 410, §L17 (AMD). 1995, c. 3, §1 (AMD). 1997, c. 625, §1 (AMD). 1997, c. 625, §2 (AMD). 2001, c. 181, §4 (AMD). 2007, c. 58, §3 (REV). 2007, c. 240, Pt. U, §5 (AMD). 2007, c. 491, §§73-76 (AMD). 2015, c. 385, §3 (AMD).

§17103. DUTIES OF THE BOARD OF TRUSTEES

In addition to other duties set out in this Part, the board shall have the following duties. [1985, c. 801, §§5, 7 (NEW).]

1. **Operation of retirement system.** The board shall have responsibility for the proper operation of the retirement system and for making this Part effective.

[1985, c. 801, §§5, 7 (NEW) .]

2. **Policy-making and supervision.** The board shall formulate policies and exercise general supervision under this Part.

[1985, c. 801, §§5, 7 (NEW) .]

3. **Meeting.** The board shall meet at least once in each month for the transaction of such business as may properly come before it.

[1985, c. 801, §§5, 7 (NEW) .]

4. **Rules.** Subject to the limitations of this Part, and subject to the requirements of chapter 375, subchapter II, to the extent those requirements are applicable, the board shall, from time to time, establish rules for the administration of the funds created by this Part and for the transaction of business, including rules establishing the requirements for a beneficiary to qualify as a full-time student.

[1985, c. 801, §§5, 7 (NEW) .]

5. **Determination of employee.** In all cases of doubt, the board shall determine whether any person is an employee.

[1985, c. 801, §§5, 7 (NEW) .]

6. **Rights, credits and privileges; decisions.** The board shall in all cases make the final and determining administrative decision in all matters affecting the rights, credits and privileges of all members of all programs of the retirement system whether in participating local districts or in the state service. The board has no jurisdiction to hear a matter or make an administrative decision regarding a claim of an employee of a local plan for which membership is optional pursuant to section 18252, if that claim applies to a time when the employee was not a member of the retirement system.

Whenever the board finds that, because of an error or omission on the part of the employer of a member or retired member, a member or retired member is required to make a payment or payments to the retirement system, the board may waive payment of all or part of the amount due from the member or retired member. In these instances of recovery of overpayments from members of the retirement system, the retirement system is governed by section 17054, subsection 3.

[2015, c. 384, §1 (AMD) .]

6-A. **Communication between the board and members of the retirement system.** Communications between the board and members of the retirement system are governed by this subsection.

A. The board shall make all members aware of the requirements in law or rule and any changes to these requirements governing retirees, disability benefits and any other benefits provided by the retirement system. All retirement information provided to retirement system members must be provided by highly competent individuals well-trained and knowledgeable about the benefits and requirements of the retirement system in both law and rules, including requirements to qualify for disability retirement, and including information provided by individuals representing participating local districts to members. The board shall provide applicants for retirement or disability status with materials summarizing the most significant requirements and restrictions in state laws and rules to include, at a minimum, retirement benefits, postretirement employment and responsibilities of retirees. These materials must be clearly written in simple and understandable terms. [2009, c. 322, §3 (NEW).]

B. In the event that a member requests to retire before normal retirement age, it is the primary responsibility of the retirement system to ensure through all feasible means that the member is informed of all the restrictions related to early retirement. [2009, c. 322, §3 (NEW).]

[2009, c. 322, §3 (NEW) .]

7. **Administrative and financial decisions.** The board shall make the final decision on all matters pertaining to administration, actuarial assumptions, actuarial recommendations and the reserves and the investments of the retirement system and direct cash receipts as it considers appropriate, notwithstanding section 131. Notwithstanding any other provision of law, the board, as the employer of the staff of the retirement system and as the executive body, shall establish policies and make decisions on matters pertaining to the administration and operations of the Maine Public Employees Retirement System as an independent agency, including, but not limited to, personnel and payroll, accounting and financial matters, acquisition and disposition of capital assets and data processing. The board may delegate these duties and responsibilities as it considers appropriate. Board policies regarding the operation of its administrative offices must be consistent with applicable state and federal health and safety requirements.

A. If the decision is related to or results in rules, rules must be adopted as provided in subsection 4. [1993, c. 410, Pt. L, §18 (AMD).]

B. If the decision determines the rights, credits or privileges of an individual member or group of members, the determination is considered an adjudicatory proceeding under chapter 375, subchapter 4 and may be made only after the giving of notice as required in that subchapter and after hearing if a hearing is requested by a person whose rights, credits or privileges are to be determined. A hearing must be conducted in accordance with chapter 375. [2007, c. 249, §10 (AMD).]

[2007, c. 58, §3 (REV); 2007, c. 249, §10 (AMD) .]

8. **Executive director.** The board shall appoint an executive director whose salary shall be set by the board subject to the requirements of Title 2, section 6-D.

[1989, c. 483, Pt. A, §§27, 63 (AMD) .]

9. **Review of statutory amendments.** The board shall review all amendments to this Part that are proposed to be enacted by the Legislature and shall report to the proper legislative committee or authority on the impact of each of those amendments on the retirement system.

A. The report shall state the impact of each amendment on all aspects of the retirement system, including the amendment's purposes, the resulting equitable or inequitable treatment of members, the funding of the costs of benefits, the amendment's consistency with other provisions of this Part and the value of the amendment to the retirement system. [1985, c. 801, §§5, 7 (NEW).]

B. When determined necessary by the retirement system or directed by the legislative committee or a member of that committee, the report on each amendment must include a separate evaluation by the actuary. [1993, c. 595, §4 (AMD).]

[1993, c. 595, §4 (AMD) .]

10. **Review of special resolves.** The board shall review, in the manner described in subsection 9, all special resolves or other legislation which propose to grant benefits to be paid to any person by the retirement system and to which the person would not be entitled under the provisions of this Part but for the enactment of the special resolve or other legislation.

[1985, c. 801, §§5, 7 (NEW) .]

11. **Report to Legislature.** The board shall make a written report to the appropriate legislative committee on or before March 1st of each year that must contain:

A. A discussion of any areas of policy or administration that, in the opinion of the board, should be brought to the attention of the committee; [1997, c. 651, §3 (AMD).]

B. Any proposed legislation amending the retirement system law that the board recommends to improve the retirement system; [1997, c. 651, §3 (AMD).]

C. [2015, c. 385, §4 (RP).]

D. A review of the operations of the retirement system, including a summary of administrative expenses and improvements in the delivery of services to members of the retirement system; [2009, c. 322, §4 (AMD).]

E. A budget report showing the budget status of the administrative operations and functions of the system for the current fiscal year relative to the budget for the current fiscal year; [2009, c. 322, §4 (AMD).]

F. The number of individuals who retired in the previous calendar year categorized by plan status; [2009, c. 322, §4 (NEW).]

G. The number of new active members of the retirement system who became members during the previous year, by plan status; [2009, c. 322, §4 (NEW).]

H. The amount of earnings on investment in the previous calendar year; [2009, c. 322, §4 (NEW).]

I. The total amount of employee and employer contributions to the retirement system in the previous calendar year and the total amount of payout to retirees, categorized by plan status; and [2009, c. 322, §4 (NEW).]

J. The number of persons who applied for disability retirement during the previous calendar year including:

(1) The number of applicants for disability retirement who were awarded benefits at the application stage;

(2) The number of applicants for disability retirement who were awarded benefits following the submission of additional information;

(3) The net number of applicants for disability retirement who appealed decisions that denied disability retirement status; and

(4) The number of applicants who were granted disability retirement following their appeals. [2009, c. 322, §4 (NEW).]

[2015, c. 385, §4 (AMD) .]

12. **Defined contribution plan.** The board shall establish a defined contribution plan by July 1, 1994 that is consistent with the requirements of the United States Internal Revenue Code and may be a defined contribution plan for other purposes. The board may establish a separate defined contribution plan or plans for other purposes.

[1993, c. 387, Pt. A, §4 (NEW) .]

13. **Budget.** By December 1st, annually, the board shall present to the Legislature for its approval the administrative operating budget of the Maine Public Employees Retirement System for the next fiscal year. All expenses incurred in carrying out this Part must be paid from funds deposited in the Expense Fund, and no liability or obligation may be incurred under this chapter beyond the amount approved in the administrative operating budget. The board may make expenditures out of the Expense Fund only in accordance with allocations approved by the Legislature. Any balance of an allocation or subdivision of an allocation made by the Legislature for the Maine Public Employees Retirement System that at the time is not required for the purpose named in the allocation or subdivision may be transferred prior to the closing of the books to any other allocation or subdivision of any allocation made by the Legislature for the use of the Maine Public Employees Retirement System for the same fiscal year. The transfer is subject to review by the joint standing committee of the Legislature having jurisdiction over retirement matters. Financial statements describing the transfer must be submitted by the Maine Public Employees Retirement System to the Office of Fiscal and Program Review 30 days before the transfer is implemented. In case of extraordinary emergency transfers, the 30-day prior submission requirement may be waived by vote of the committee. These financial statements must include information specifying the accounts that are affected, the amount to be transferred, a description of the transfer and a detailed explanation of the reason the transfer is needed. At the end of each fiscal year, unexpended balances must be carried forward to the next year and do not lapse. Any unexpended balance in the Expense Fund on December 31, 1993 must be transferred to the system as an independent agency and carried forward.

[1993, c. 410, Pt. L, §22 (NEW); 2007, c. 58, §3 (REV) .]

14. **Collective bargaining agreements.**

[2015, c. 385, §5 (RP) .]

SECTION HISTORY
1985, c. 801, §§5, 7 (NEW). 1987, c. 247, §§5,6 (AMD). 1989, c. 483, §§A27-30,A63 (AMD). 1989, c. 677, §§1,3 (AMD). 1993, c. 387, §A4 (AMD). 1993, c. 410, §§L18-22 (AMD). 1993, c. 595, §4 (AMD). 1997, c. 651, §3 (AMD). 2007, c. 58, §3 (REV). 2007, c. 249, §10 (AMD). 2007, c. 491, §77 (AMD). 2009, c. 322, §§2-4 (AMD). 2015, c. 384, §1 (AMD). 2015, c. 385, §§4, 5 (AMD).

§17104. POWERS OF THE BOARD OF TRUSTEES

In addition to other powers set forth in this Part, the board may employ or contract with persons for investment counsel or advice and for other expert, professional or other assistance as may be appropriate to aid in carrying out the board's functions. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§17105. EXECUTIVE DIRECTOR

1. **Duties.** In addition to other duties set out in this Part, the executive director, as appointed under section 17103, subsection 8, shall have the following duties.

A. The executive director shall have administrative responsibility for the retirement system, including responsibility for the approval of the payment of all benefits under this Part. [1985, c. 801, §§5, 7 (NEW).]

B. The executive director shall obtain whatever services are required to transact the business of the retirement system. [1985, c. 801, §§5, 7 (NEW).]

C. The executive director shall keep in convenient form whatever data are necessary for actuarial valuation of the various funds of the retirement system and for checking the experience of each of the programs of the retirement system. [2007, c. 491, §78 (AMD).]

D. Whenever the executive director determines that a fraud, attempted fraud or a violation of law in connection with funds administered by the retirement system may have occurred, the executive director shall:

(1) Report in writing all information concerning the fraud or violation to the Attorney General or the Attorney General's designee for such action as he may deem appropriate, including civil action for recovery of funds and criminal prosecution by the Attorney General; and

(2) Upon request of the Attorney General and in such a manner as the Attorney General deems appropriate, assist in the recovery of funds. [1985, c. 801, §§5, 7 (NEW).]

E. The executive director shall cause to be delivered to each participating local district a written notice setting forth the amendments or additions to this Part and shall require from each participating local district an acknowledgment of receipt of that notice. [1985, c. 801, §§5, 7 (NEW).]

F. Upon discovery of any error in any record of the retirement system, the executive director shall, to the extent practicable, correct the record. [1985, c. 801, §§5, 7 (NEW).]

G. [2007, c. 249, §11 (RP).]

[2007, c. 491, §78 (AMD) .]

2. **Powers.** In addition to other powers granted to the executive director by this Part, the executive director shall have the following powers.

A. The executive director may request from the head of any department information required to administer this Part and, upon such a request, the head of the department shall promptly furnish the information requested. [1985, c. 801, §§5, 7 (NEW).]

B. Whenever the executive director finds it impossible or impracticable to consult an original record to determine the date of birth, length of service, amount of regular compensation or other pertinent fact with regard to any member, the executive director may, subject to the approval of the actuary, use estimates on any basis which, in the executive director's judgment, is fair and just. [1985, c. 801, §§5, 7 (NEW).]

C. The executive director, with the approval of the board, may delegate the duties and powers given to the executive director by this Part to the retirement system staff. [1993, c. 387, Pt. A, §5 (NEW).]

[1993, c. 387, Pt. A, §5 (AMD) .]

3. **Staff.** The executive director shall employ personnel as necessary and in accordance with board policy to transact the business of the system, which may include a general counsel. Additional attorneys may be employed to assist the general counsel with the approval of the Attorney General. The duties of the general counsel and any assistant counsel must be consistent with the terms of a memorandum of understanding between the executive director and the Attorney General.

[2005, c. 238, §1 (AMD) .]

4. **Expenses.** The necessary expenses incurred by the executive director in the operation of the retirement system shall be paid from the funds so allocated.

[1985, c. 801, §§5, 7 (NEW) .]

5. **Reporting; simplification and enforcement.** The executive director may:

A. Review the retirement system's payroll and other reporting requirements and implement changes that simplify reporting methods or require less frequent filing of reports, provided that a change must not impair the completeness and accuracy of the records necessary for the retirement system's operations or compromise the integrity of the retirement system's funds or operations; and [1993, c. 387, Pt. A, §6 (NEW).]

B. Recommend to the board for adoption under its rule-making authority a schedule of administrative penalties and interest intended to:

(1) Ensure compliance with payroll and other reporting requirements, including, but not limited to, the timely filing of reports and the accuracy of reports and of back-up records of the employer;

(2) Deter actions or omissions by the employer that impair the retirement system's ability to process accurately and in a timely manner membership and retirement applications, requests for refunds, group life insurance premium payments and claims and to conduct its other functions; and

(3) Deter actions or omissions by the employer that impede or delay the retirement system's efforts to resolve issues related to these matters. [1993, c. 387, Pt. A, §6 (NEW).]

For purposes of this subsection, "employer" means a department or agency of State Government, a school administrative unit or a participating local district.

[1993, c. 387, Pt. A, §6 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 402, §§A66,A67 (AMD). 1993, c. 387, §§A5,6 (AMD). 1993, c. 410, §L23 (AMD). 1995, c. 368, §G5 (AMD). 2005, c. 238, §1 (AMD). 2007, c. 249, §11 (AMD). 2007, c. 491, §78 (AMD).

§17105-A. ADVERSE DECISIONS OF THE RETIREMENT SYSTEM

Prior to any adverse decision rendered by retirement system staff with respect to the recoupment, suspension or termination of benefits, or assessment of penalties or interest, the affected member or retiree is entitled to an informal hearing to which the member or retiree may bring legal counsel. The retirement system shall issue a written decision; this decision is subject to the retirement system's review and appeal process pursuant to section 17451. [2009, c. 322, §5 (NEW).]

SECTION HISTORY
2009, c. 322, §5 (NEW).

§17106. MEDICAL BOARD

1. **Establishment.** The board shall designate a medical board to be composed of at least 3 physicians not eligible to participate in any of the retirement programs of the retirement system. The board shall make a good faith effort to appoint physicians to the medical board who are from those fields of medicine within which the Maine Public Employees Retirement System receives the greatest number of applications for disability retirement benefits.

[2009, c. 322, §6 (AMD) .]

2. **Other physicians.** If determined advisable by the board, the board may designate other physicians to provide medical consultation on disability cases.

[1995, c. 643, §4 (AMD) .]

3. **Powers and duties.** The medical board is advisory only to the retirement system. The medical board or other physicians designated by the board shall review the file of an applicant for disability retirement and:

A. Recommend an additional medical review in those instances where there are conflicting medical opinions; [1985, c. 801, §§5, 7 (NEW).]

B. Recommend additional medical tests to be performed on an applicant to obtain objective evidence of a permanent disability; [1985, c. 801, §§5, 7 (NEW).]

C. Assist the executive director in determining if a disability review of a recipient of a disability allowance is warranted; [1989, c. 409, §§1, 12 (AMD).]

D. Provide a written report of its analysis of how the applicant's medical records do or do not demonstrate the existence of physical or mental functional limitations entitling an applicant to benefits under chapter 423, subchapter 5, articles 3 and 3-A, or chapter 425, subchapter 5, articles 3 or 3-A; and [2009, c. 322, §6 (AMD).]

E. Advise the retirement system whether there are medical indications that a person who is the recipient of a disability retirement benefit under chapter 423, subchapter 5, article 3-A or chapter 425, subchapter 5, article 3-A should not engage in a rehabilitation program or whether a recipient is too severely disabled to benefit from rehabilitation in accordance with the purposes of chapter 423, subchapter 5, article 3-A or chapter 425, subchapter 5, article 3-A. [2009, c. 322, §6 (AMD).]

[2009, c. 322, §6 (AMD) .]

4. **Medical evidence.** The provisions of this subsection apply to medical evidence used for a disability retirement determination.

A. The retirement system shall consider the applicant's disability application, medical records and the medical board's analysis in making a disability retirement determination. [2009, c. 322, §6 (NEW).]

B. Explicit or implicit preferential weight may not be afforded any medical evidence or source of evidence, whether provided by the retirement system, its medical board or contracted examiners, or by any member, in connection with the application, review or hearing processes. [2009, c. 322, §6 (NEW).]

C. When addressing the weight to be given any medical evidence upon which a determination to award, deny or discontinue benefits is made, the retirement system, hearing officers and board of trustees shall consider, at least, the expertise of the medical source, the foundation of information upon which the opinion is rendered and its consistency with other medical evidence in the record. [2009, c. 322, §6 (NEW).]

D. The retirement system shall offer to review the decision and the records supporting that decision with the applicant prior to issuing a determination. [2009, c. 322, §6 (NEW).]

[2009, c. 322, §6 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 409, §§1,2,12 (AMD). 1995, c. 643, §4 (AMD). 2007, c. 491, §79 (AMD). 2009, c. 322, §6 (AMD).

§17106-A. USE OF HEARING OFFICERS

A hearing officer employed, contracted or otherwise provided by the board to implement the provisions of this chapter is subject to the provisions of this section. [2009, c. 322, §7 (NEW).]

1. **Independent decision makers.** All hearing officers are independent decision makers and are authorized to make recommended final decisions in regard to matters that come before them, consistent with applicable statutes and rules. A decision of the hearing officer must be based upon the record as a whole. The board shall accept the recommended decision of the hearing officer unless the recommended decision is not supported by the record as a whole, the retirement system is advised by the Attorney General that the hearing officer has made an error of law or the decision exceeds the authority or jurisdiction conferred upon the hearing officer. A decision of the board upon a recommended decision of the hearing officer constitutes final agency action. The board shall retain its decision-making authority in all retirement system policy areas.

[2009, c. 322, §7 (NEW) .]

2. **No direct or indirect influence.** A party to the appeal, including the appellant, the board, the executive director or the staff of the board may not exert direct or indirect influence on a hearing officer with regard to decisions of the hearing officer or the decision-making process.

[2009, c. 322, §7 (NEW) .]

3. **Decision-making process.** In the course of the decision-making process, hearing officers may accept, reject or determine the amount of weight to be given any information offered into evidence, including, but not limited to, medical evidence submitted by any of the parties to the appeal.

[2009, c. 322, §7 (NEW) .]

4. **Discussion of issues before the hearing officers.** All parties to an appeal, including the appellant, the board, the executive director and the retirement system staff are prohibited from ex parte communication with the hearing officer. All parties, including the appellant, the board, the executive director and the retirement system staff are prohibited from initiating or engaging in any discussion with a hearing officer regarding the substance of any pending case without first making all parties aware of the proposed contact and without also giving all parties the opportunity to participate in any communication.

[2009, c. 322, §7 (NEW) .]

5. **Investigation.** The joint standing committee of the Legislature having jurisdiction over labor matters shall monitor the compliance of the retirement system and all involved parties with regard to the use of hearing officers and the independence of hearing officers in the decision-making process. The joint standing committee of the Legislature having jurisdiction over labor matters may request the Attorney General to conduct an investigation if a complaint is made by a hearing officer or any participating party regarding the independence of the hearing process.

[2009, c. 322, §7 (NEW) .]

6. **Engagement and termination.** The board shall engage only qualified hearing officers, who must be monitored by the board. A hearing officer may be terminated for misconduct. Retaliatory action of any kind, including reprimand or termination, may not be taken against a hearing officer on the basis of that hearing officer's having issued decisions contrary to the decision of the executive director. In the event of termination, the retirement system shall set forth in writing the basis for the termination, the propriety of which may then be considered by the joint standing committee of the Legislature having jurisdiction over labor matters pursuant to subsection 5.

[2009, c. 322, §7 (NEW) .]

SECTION HISTORY
2009, c. 322, §7 (NEW).

§17107. ACTUARY

1. **Designation.** The board shall designate an actuary who shall be the technical advisor to the board on matters regarding the operation of the funds created by this Part.

A. If the designated actuary is an individual, he must be a Fellow of the Society of Actuaries. [1985, c. 801, §§5, 7 (NEW).]

B. If the designated actuary is an organization of actuaries, the organization shall designate one of its members, who must be a Fellow of the Society of Actuaries, to perform the functions required of the actuary under this Part. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

2. **Duties.** In addition to other duties set out in this Part, the actuary shall have the following duties.

A. The actuary shall perform whatever duties are required in connection with being the technical advisor to the board on matters regarding the operation of the funds created by this Part. [1985, c. 801, §§5, 7 (NEW).]

B. The actuary shall certify the amounts of the benefits payable under this Part, except for benefits payable under chapter 423, subchapter VI and chapter 425, subchapter VI. [1985, c. 801, §§5, 7 (NEW).]

C. The actuary shall make annual valuations of the assets and liabilities of each of the programs of the retirement system on the basis of actuarial assumptions adopted by the board. [2007, c. 491, §80 (AMD).]

D. The actuary shall furnish a written report to the board.

(1) The report shall include information on each annual valuation, as required under paragraph C.

(2) The report shall include an analysis of the year's operations and all results shall be separated between those applicable to benefits payable by employer contributions and those applicable to benefits payable by employee contributions, where properly determinable. [1985, c. 801, §§5, 7 (NEW).]

E. The actuary shall make whatever investigations the actuary considers necessary of the experience of each of the programs of the retirement system with respect to the factors that affect the cost of the benefits provided by the those programs.

(1) The purpose of the investigations is to determine the actuarial assumptions to be recommended to the board for adoption in connection with actuarial determinations required under this Part.

(2-A) These investigations must be made whenever the board, on recommendation of the actuary, determines an investigation to be necessary to the actuarial soundness or prudent administration of the program or programs to which the investigation is related. The determination must take into account program demographics and changes in program demographics, employment patterns and projections, relevant economic measures and expectations and other factors that the board or actuary considers significant. With respect to the retirement system program for state employees and teachers, if 6 fiscal years have elapsed without an investigation being conducted, the board must either conduct an investigation within the next fiscal year or must record in the official minutes of a meeting of the board, in each fiscal year until the year in which an investigation is conducted, its decision not to do so and the reason or reasons for its decision. [2007, c. 491, §81 (AMD).]

F. The actuary shall determine the equivalent cash compensation value to the members of the programs of the retirement system of the benefits provided for them by those programs and shall furnish that information to the Director of Human Resources. [2007, c. 491, §82 (AMD).]

[2007, c. 491, §§80-82 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 402, §§A68,A69 (AMD). 2001, c. 181, §5 (AMD). 2007, c. 491, §§80-82 (AMD).

§17108. INVESTMENT COUNSEL

1. **Contract.** The board may contract with one or more fiduciaries or registered investment advisors. All contracts with fiduciaries or registered investment advisors must have the approval of a majority of the board.

[1993, c. 410, Pt. L, §24 (AMD) .]

2. **Duties.** The fiduciary or registered investment advisor has the following duties.

A. The fiduciary or registered investment advisor shall invest and reinvest the funds of the retirement system in accordance with the standards defined in Title 18-B, sections 802 to 807 and chapter 9. The investment and reinvestment are subject to periodic review by the board. [2003, c. 618, Pt. B, §1 (AMD); 2003, c. 618, Pt. B, §20 (AFF).]

B. The fiduciary or registered investment advisor shall inform the board immediately of any changes in its investment philosophy. [1985, c. 801, §§5, 7 (NEW).]

C. The fiduciary or registered investment advisor shall submit reports of the investments and any changes upon request from the board. [1985, c. 801, §§5, 7 (NEW).]

[2003, c. 618, Pt. A, §1 (AMD); 2003, c. 618, Pt. A, §20 (AFF) .]

3. **Expenses.** The expenses incurred in employing one or more fiduciaries or investment advisors shall be charged to earnings received from investments of the retirement system.

[1985, c. 801, §§5, 7 (NEW) .]

SECTION HISTORY

1985, c. 801, §§5,7 (NEW). 1993, c. 410, §L24 (AMD). 2003, c. 618, §B1 (AMD). 2003, c. 618, §B20 (AFF).

§17109. OTHER COUNSEL AND ASSISTANCE

1. **Contract.** The board may employ or contract for the services of persons or associations, other than those contracted with under section 17108, for investment counsel or advice and for other professional or other assistance, as may be necessary or appropriate to aid in carrying out the board's functions.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Expenses.** The expenses incurred in employing or contracting with persons or associations under subsection 1 shall be charged to earnings received from investments of the retirement system.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§17110. CUSTODIAL CARE OF SECURITIES

1. **Contract or agreement.** The board may enter into a contract or agreement with any national bank, trust company or safe deposit company for custodial services for the securities belonging to any fund of the retirement system and other related services.

A. A contracting bank performing services under a contract or agreement pursuant to this section shall comply with Title 9-B, section 473. [1997, c. 398, Pt. L, §3 (AMD).]

B. The contracting bank shall give assurance of proper safeguards, which are usual to contracts such as these. [1985, c. 801, §§5, 7 (NEW).]

C. The contracting bank shall furnish insurance protection satisfactory to both parties. [1985, c. 801, §§5, 7 (NEW).]

D. All contracts or agreements entered into between the board and the custodian bank, trust company or safe deposit company selected by the board must have the approval of a majority of the board. [1993, c. 410, Pt. L, §25 (AMD).]

[1997, c. 398, Pt. L, §3 (AMD) .]

2. **Payment for services.** The board may arrange for the payment of services rendered under this section:

A. By cash payments to be charged pro rata to the income of the several funds of the retirement system; [1985, c. 801, §§5, 7 (NEW).]

B. By an agreement for a compensating deposit balance with the bank in question in lieu of the cash payment under paragraph A; or [1985, c. 801, §§5, 7 (NEW).]

C. By some combination of the methods of payment in paragraphs A and B. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

3. **Withdrawal or deposit.** The executive director, or another person or persons designated to the custodian by the board, may withdraw securities from or deposit securities with the custodian as circumstances may require, except that all withdrawals or delivery instructions must bear the written approval of 2 other persons duly authorized by a resolution of the board.

[1985, c. 801, §§5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1993, c. 410, §L25 (AMD). 1997, c. 398, §L3 (AMD).

Subchapter 4: FINANCING

Article 1: GENERAL PROVISIONS

§17151. LEGISLATIVE FINDINGS AND INTENT

1. **Findings.** The Legislature finds that the State owes a great debt to its retired employees for their years of faithful and productive service.

A. Part of that debt is repaid by the benefits provided to retirees through the State Employee and Teacher Retirement Program. [2007, c. 491, §83 (AMD).]

B. Retirees, who depend heavily on these benefits, and current employees, who will one day retire and receive benefits, are concerned about the financial viability of the retirement program. [2007, c. 491, §83 (AMD).]

[2007, c. 491, §83 (AMD) .]

2. **Intent.** It is the intent of the Legislature that there must be appropriated and transferred annually to the retirement system the funds necessary to meet the State Employee and Teacher Retirement Program's long-term and short-term financial obligations based on the actuarial assumptions established by the board upon the advice of the actuary. The amount of the unfunded liability attributable to state employees and teachers as of July 1, 2004, as certified by the board or as that amount may be revised in accordance with the terms of the certification, must be retired in no more than 23 years from June 30, 2005. For fiscal year 2004-05, the Legislature must appropriate or allocate and there must be transferred to the retirement system funds necessary to institute, as of July 1, 2005, the 23-year amortization schedule. For each fiscal year starting with the fiscal year that begins July 1, 2005, the Legislature shall appropriate or allocate and transfer to the retirement system the funds necessary to meet the 23-year requirement set forth in this subsection, unless the Legislature establishes a different amortization period. Funds that have been appropriated must be considered assets of the retirement system.

A. The goal of the actuarial assumptions is to achieve a fully funded retirement program. [2007, c. 491, §83 (AMD).]

B. The State Employee and Teacher Retirement Program's unfunded liability for persons formerly subject to the Maine Revised Statutes of 1944, chapter 37, sections 212 to 220 must be repaid to the system from annual appropriations over the funding period of the program. [2007, c. 491, §83 (AMD).]

C. This section may not be construed to require the State to appropriate and transfer funds to meet the obligations of participating local districts to the retirement system. [1985, c. 801, §§5, 7 (NEW).]

[2007, c. 491, §83 (AMD) .]

3. **Intent.**

[2005, c. 12, Pt. R, §2 (RP) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1991, c. 9, §E7 (AMD). 1991, c. 528, §P1 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §P1 (AMD). 1997, c. 643, §R1 (AMD). 1999, c. 731, §XX1 (AMD). 2003, c. 20, §§NN1,2 (AMD). 2005, c. 12, §§R1,2 (AMD). 2007, c. 58, §3 (REV). 2007, c. 491, §83 (AMD).

§17152. FUNDS

The board may combine the assets of the State Employee and Teacher Retirement Program with the assets of other programs of the retirement system for investment purposes. The assets of the State Employee and Teacher Retirement Program may not be combined with the assets of another program for benefit purposes or for administrative expenses. All of the assets of the retirement system must be credited according to the purpose for which they are held among the several funds created by this section, namely: [2013, c. 602, Pt. A, §1 (AMD).]

1. **Members' Contribution Fund.** The Members' Contribution Fund; and

[2015, c. 2, §3 (COR) .]

2. **Retirement Allowance Fund.** The Retirement Allowance Fund.

[2015, c. 385, §6 (AMD) .]

3. **Expense Fund.**

[2015, c. 385, §7 (RP) .]

4. **Survivors' Benefit Fund.**

[2007, c. 249, §12 (RP) .]

5. **State Retiree Health Insurance Fund.**

[2007, c. 249, §13 (RP) .]

6. **State Retired Teachers' Health Insurance Fund.**

[2007, c. 249, §14 (RP) .]

7. **Disability Retirement Benefit Fund.**

[2007, c. 249, §15 (RP) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 409, §§3,12 (AMD). 1995, c. 368, §G6 (AMD). 2007, c. 249, §§12-15 (AMD). RR 2013, c. 2, §6 (COR). 2013, c. 602, Pt. A, §1 (AMD). RR 2015, c. 2, §3 (COR). 2015, c. 385, §§6, 7 (AMD).

§17153. BOARD OF TRUSTEES

1. **Actuarially sound basis.**

[1987, c. 193, §1 (RP) .]

1-A. **Actuarially sound basis.** The board shall calculate the funds necessary to maintain all programs of the retirement system on an actuarially sound basis, including the unfunded liability arising from payment of benefits for which contributions were not received and shall transmit those calculations to the State Budget Officer as required by chapter 149.

A. For benefits applicable to state employees, teachers or participating local district employees that are established through collective bargaining, the board shall apply the funding methods and assumptions adopted by the board pursuant to this subsection. [1987, c. 193, §2 (NEW).]

B. The Legislature shall appropriate and transfer annually those funds the board determines to be necessary under this subsection to maintain the programs of the retirement system on an actuarially sound basis, except that for fiscal year 1991-92 the annual appropriation must be $73,500,000 less than the amount that would otherwise be applied toward the repayment of the unfunded liability of the State Employee and Teacher Retirement Program. [2007, c. 491, §84 (AMD).]

C. This subsection may not be construed to require the State to appropriate and transfer funds to meet the obligations of participating local districts to the retirement system. [1987, c. 193, §2 (NEW).]

[2007, c. 491, §84 (AMD) .]

2. **Trustee of funds.** The members of the board shall be the trustees of the several funds created by this Part.

[1985, c. 801, §§5, 7 (NEW) .]

3. **Investment of funds.** The board may cause the funds created by this Part to be invested and reinvested in accordance with the standards defined in Title 18-B, sections 802 to 807 and chapter 9, subject to periodic approval of the investment program by the board.

[2003, c. 618, Pt. B, §2 (AMD); 2003, c. 618, Pt. B, §20 (AFF) .]

4. **Prohibitions.** In addition to the limitations of section 18 and except as otherwise provided, no trustee and no employee of the board of trustees may:

A. Have any direct interest in the gains or profits of any investment made by the board; [1985, c. 801, §§5, 7 (NEW).]

B. Directly or indirectly, for himself or as an agent, in any manner, use the gains or profits of any investment made by the board except to make whatever current and necessary payments are authorized by the board; or [1985, c. 801, §§5, 7 (NEW).]

C. Become an endorser, surety or obligor for money loaned to or borrowed from the board. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 193, §§1,2 (AMD). 1991, c. 528, §P2 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §P2 (AMD). 2003, c. 618, §B2 (AMD). 2003, c. 618, §B20 (AFF). 2007, c. 491, §84 (AMD).

§17154. ADMINISTRATION OF FUNDS

1. **Custodian.**

[2007, c. 249, §16 (RP) .]

2. **Budget estimates.** The board shall submit budget estimates of contributions required to fund benefits for state employees and teachers to the State Budget Officer in accordance with section 1665, except that after July 1, 1995, the board may not submit estimates of contributions required to pay premiums for health insurance for retired state employees and retired teachers.

[1995, c. 368, Pt. G, §7 (AMD) .]

3. **Combination or elimination of funds.** On the advice of the actuary of the retirement system, the board may combine or eliminate all or any parts of the funds set forth in this subchapter, except that any combination or elimination may not impair the actuarial valuations.

[1985, c. 801, §§5, 7 (NEW) .]

4. **Payment upon vouchers.**

[2007, c. 249, §17 (RP) .]

5. **Payment of employer charges for state employees.** For state employees, on every payroll from which retirement contributions are deducted or picked up, the State Controller shall cause a charge to be made to each department of the State in order to pay employer costs.

A. The charge shall be a percentage, to be predetermined by the actuary and approved by the board, of the total earnable compensation of members appearing on the payroll of each department. [1987, c. 739, §§5, 48 (AMD).]

B. The amount or amounts shall be credited to the appropriate funds as listed in this subchapter. [1985, c. 801, §§5, 7 (NEW).]

[1987, c. 739, §§5, 48 (AMD) .]

6. **Payment of employer charges for teachers.** For teachers, percentage rates to be predetermined by the actuary and approved by the board must be applied to the total earnable compensation of members covering the most recent school year preceding the preparation of the biennial budget.

A. The resulting amount must be appropriated and credited to the appropriate funds. [2007, c. 240, Pt. U, §6 (AMD).]

B. Notwithstanding this section, the employer retirement costs and administrative operating expenses related to the retirement programs applicable to those teachers whose funding is provided from federal grants or through federal reimbursement must be paid by local school systems from those federal funds. [2007, c. 491, §85 (AMD).]

C. Notwithstanding this section, the employer retirement costs and administrative operating expenses related to the retirement program applicable to those teachers who are permitted to continue to accrue service credit while on a one-year leave of absence and participating in the education of prospective teachers by teaching and supervising students enrolled in college-level teacher preparation programs in this State must be paid from funds provided by the college employing the teacher during that year. [2007, c. 491, §85 (AMD).]

D. Notwithstanding this section, the employer retirement costs and administrative operating expenses related to the retirement program applicable to a teacher who is permitted to continue to accrue service credit while on a leave of absence and serving as President of the Maine Education Association must

be paid from funds provided by the Maine Teachers Association. For purposes of this paragraph, in computing the employer cost, "earnable compensation" means the amount that the teacher would have earned if the teacher had remained in a teaching position. [2007, c. 491, §85 (AMD).]

E. Notwithstanding this section, the employer retirement costs and administrative operating expenses related to the retirement program applicable to those teachers whose funding is provided directly or through reimbursement from private or public grants must be paid by local school systems from those funds. "Public grants" does not include state or local funds provided to school administrative units under Title 20-A, chapters 315 and 606-B. [2007, c. 491, §85 (AMD).]

F. Notwithstanding this section, effective September 1, 1993, the employer retirement costs and administrative operating expenses related to the retirement program, less the unfunded liability, that are applicable to a teacher who is permitted to continue to accrue service credit while on released time and serving as president of a recognized or certified collective bargaining agent representing teachers must be paid from funds provided by the collective bargaining agent or school administrative unit. For purposes of this paragraph, in computing the employer cost, "earnable compensation" means the amount that the teacher would have earned if the teacher had remained in a teaching position. [2007, c. 491, §85 (AMD).]

G. Notwithstanding this section, beginning in fiscal year 2013-14, the employer retirement costs that are applicable to the normal cost of retirement for a teacher must be included in the total allocation in accordance with Title 20-A, chapter 606-B for the school administrative unit that employs the teacher. [2013, c. 368, Pt. C, §1 (NEW).]

H. Notwithstanding this section, beginning in fiscal year 2013-14, the employer retirement costs and administrative operating expenses related to the retirement programs applicable to those teachers employed by school administrative units, as defined in Title 20-A, section 1, subsection 26, whose funding is provided from local and state funds must be paid by local school administrative units. [2013, c. 368, Pt. C, §1 (NEW).]

I. Notwithstanding this section, beginning in fiscal year 2013-14, the employer retirement costs and administrative operating expenses related to the retirement programs applicable to those teachers employed by private schools, as defined in Title 20-A, section 1, subsection 22, must be paid by the private school. [2013, c. 368, Pt. C, §1 (NEW).]

[2013, c. 368, Pt. C, §1 (AMD) .]

7. **Payment of employer charges for participating local district employees.** Employer charges for participating local district employees are governed by sections 18301 to 18303.

[1985, c. 801, §§5, 7 (NEW) .]

8. **Transfers among funds.** When considered necessary by the executive director for the efficient administration of the retirement system, he may make transfers among the various funds of the system set forth in this subchapter in accordance with accepted accounting and actuarial principles.

[1987, c. 256, §5 (NEW) .]

9. **Improper application of statutes.** Notwithstanding the other provisions of this section, additional actuarial and administrative costs resulting from omissions or misrepresentations by an employer as to a member's earnings, service or service credits or from improper application of retirement system statutes or rules regarding earnings, service or service credits must be charged to and paid by the employer that omitted information, provided misinformation or improperly applied the statutes or rules, unless the omission, misrepresentation or improper application results from erroneous information provided by the retirement system. The employer is liable for amounts not recovered from the retiree and for costs incurred by the retirement system in resolving problems caused by the employer's actions and in addition may be subject to

administrative fees, penalties and interest under section 17105, subsection 5. For purposes of this subsection, "employer" means any department of State Government, school administrative unit or participating local district.

[1993, c. 595, §5 (AMD) .]

10. **Payment of additional actuarial costs incurred by the retirement system due to early retirement incentives.** Notwithstanding the other provisions of this section, additional actuarial and reasonable administrative costs that result from the early retirement of a member offered a retirement incentive by an employer must be paid by the employer that offered and provided the incentive pursuant to section 17159. For purposes of this subsection, "early retirement" has the same meaning as in section 17159, subsection 1.

[1995, c. 541, §2 (RPR) .]

11. **Payment of actuarial cost of excess increase in earnable compensation.** Notwithstanding the other provisions of this section, the employer may pay to the retirement system the cost of the actuarial liability resulting from any increase in earnable compensation for any year within the 3-year period used in determining average final compensation that exceeds the prior year's earnable compensation by more than 5% or, if it would result in a lesser additional actuarial liability, any increase in earnable compensation over a total increase of 10% during the 3-year period. The retirement system shall calculate the cost of the additional actuarial liability for each member when calculating the retirement benefit for that member at retirement. The cost must be paid in accordance with this subsection.

A. For state employees, the State Controller shall establish an account from which payments required by section 17001, subsection 13, paragraph C must be made. At the time any collective bargaining agreement is funded, funds must be appropriated to this account to pay for the anticipated cost of any increases over the limits established in section 17001, subsection 13, paragraph C that may result from the provisions of that agreement. When the additional actuarial liability is incurred with respect to a retiring state employee, the retirement system shall bill the State Controller for the cost and the State Controller shall transfer to the retirement system the amount billed. [1993, c. 410, Pt. L, §27 (NEW).]

B. For teachers, the cost must be paid by the school administrative unit that provides an increase over the limits established in section 17001, subsection 13, paragraph C. If the school administrative unit has agreed to pay the cost of the additional actuarial liability, the retirement system shall bill the school administrative unit for the cost, which must be paid by the school administrative unit within 60 days of its receipt of the bill. If the retirement system does not receive payment within 60 days, the system shall notify the State Controller, who shall immediately reduce the school administrative unit's general purpose aid by the amount billed plus interest applied as of the 60th day and transfer the total amount of the reduction to the retirement system. If the general purpose aid payable at the time to the school administrative unit is insufficient to pay the entire amount of the reduction, general purpose aid payable to the school administrative unit in the future must be reduced until the entire amount of the reduction, plus any additional accrued interest, has been transferred to the retirement system. [1993, c. 410, Pt. L, §27 (NEW).]

C. The retirement system shall provide information with the bill to the employer stating the basis on which the cost billed was calculated and showing the calculations. If the State Controller or school administrative unit questions the cost, its basis or the calculations, the retirement system shall promptly respond and, if necessary, meet with the State Controller or school administrative unit to resolve any dispute. [1993, c. 410, Pt. L, §27 (NEW).]

This subsection does not apply to excess increases resulting from compensation paid prior to July 1, 1993, from compensation paid in accordance with an individual employment contract executed prior to July 1, 1993 or collective bargaining agreement executed or ratified in its final form by final vote of one party to the

agreement prior to July 1, 1993 for the initial term of that contract or agreement or from other action by the governing body of the school administrative unit in effect on July 1, 1993. In addition, this subsection does not apply to increases granted to state employees during fiscal years 1993-94 and 1994-95.

[1993, c. 580, §2 (AMD); 1993, c. 580, §3 (AFF) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §5 (AMD). 1987, c. 739, §§5,48 (AMD). 1989, c. 491, §2 (AMD). 1991, c. 360, §3 (AMD). 1991, c. 857, §1 (AMD). P&SL 1993, c. 67, §1 (AMD). 1993, c. 387, §A7 (AMD). 1993, c. 410, §§L26,27 (AMD). 1993, c. 482, §3 (AMD). 1993, c. 580, §2 (AMD). 1993, c. 580, §3 (AFF). 1993, c. 595, §5 (AMD). 1995, c. 368, §G7 (AMD). 1995, c. 462, §A14 (AMD). 1995, c. 471, §§2,3 (AMD). 1995, c. 541, §2 (AMD). 2003, c. 504, §B1 (AMD). 2005, c. 2, §D1 (AMD). 2005, c. 2, §§D72,74 (AFF). 2005, c. 12, §WW18 (AFF). 2007, c. 240, Pt. U, §6 (AMD). 2007, c. 249, §§16, 17 (AMD). 2007, c. 491, §85 (AMD). 2013, c. 368, Pt. C, §1 (AMD).

§17155. SPECIAL RESOLVES

If and when any special resolve or other legislation described in section 17103, subsection 10, is enacted by the Legislature, the entire actuarial costs of benefits granted shall be fully funded by act of the same Legislature which enacts the special resolve or other legislation. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§17156. RATE OF INTEREST

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 1991, c. 619, §18)

The board shall, from time to time, by order, set the rate of regular interest at a percent rate compounded periodically determined by the board to be equitable, both to members and to the taxpayers of the State. [1985, c. 95, §1 (AMD).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 95, §1 (AMD). 1991, c. 619, §5 (AMD). 1991, c. 619, §18 (AFF).

§17156. RATE OF INTEREST

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See PL 1991, c. 619, §18)

The board shall, from time to time, by order, set the rate of regular interest at a percent rate compounded periodically determined by the board to be equitable, both to members and to the taxpayers of the State, provided that the interest credited to a member with less than 10 years of creditable service on contributions related to compensation for service rendered as a part-time, seasonal or temporary employee after December 31, 1991 must at least equal the yield of a 10-year United States treasury bond on the last business day of the previous calendar year reduced by administrative expenses. [1991, c. 619, §5 (AMD); 1991, c. 619, §18 (AFF).]

SECTION HISTORY

1985, c. 801, §§5,7 (NEW). 1989, c. 95, §1 (AMD). 1991, c. 619, §5 (AMD). 1991, c. 619, §18 (AFF).

§17157. INTEREST AND DIVIDEND CREDITS

All interest and dividends earned on the funds of the retirement system shall be credited to the Retirement Allowance Fund. [1985, c. 801, §§ 5, 7 (NEW).]

1. **Transfer to Members' Contribution Fund.** The board shall periodically allow regular interest on the individual accounts of members in the Members' Contribution Fund and shall transfer those amounts from the Retirement Allowance Fund to the Members' Contribution Fund.

[1989, c. 95, §2 (AMD) .]

2. **Transfer to Survivors' Benefit Fund.**

[2007, c. 249, §18 (RP) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 95, §2 (AMD). 2007, c. 249, §18 (AMD).

§17158. FULL FUNDING

Upon full funding of the accrued unfunded reserves of any program of the Maine Public Employees Retirement System, the board of trustees may reduce employer contributions to the level required to maintain proper funding of earned benefits. The board of trustees may also seek legislative action to reduce employee contributions or pick-up contributions established by this Part. [2007, c. 491, §86 (AMD).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§6,48 (AMD). 2007, c. 58, §3 (REV). 2007, c. 491, §86 (AMD).

§17159. EARLY RETIREMENT INCENTIVE COSTS

When an employee retires prior to normal retirement age and receives from the employer any significant monetary or nonmonetary payment or award in connection with the employee's retirement, the employer must, prior to the effective date of the employee's retirement, demonstrate that the payment or award is not a retirement incentive or pay the additional actuarial and reasonable administrative costs of the employee's early retirement. [1995, c. 541, §3 (NEW).]

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

A. "Early retirement" means retirement before normal retirement age with a reduced retirement benefit as provided by section 17851-A, subsection 4, section 17852, subsection 3 or 3-A or subsection 10, paragraph C or C-1; section 17857, subsection 3-A; section 18452, subsection 3; or section 18462, subsection 3. [2007, c. 249, §19 (AMD).]

B. "Employer" means, in the case of a member who is a state employee, the department of State Government by which the member was last employed prior to retirement; in the case of a member who is a teacher, the local school administrative unit by which the member was last employed prior to retirement; and in the case of a member who is an employee of a participating local district, the district by which the member was last employed prior to retirement. [1995, c. 541, §3 (NEW).]

[2007, c. 249, §19 (AMD) .]

2. **Criteria for identifying an early retirement incentive.** A payment or award in connection with retirement is an incentive for early retirement for which the employer offering the incentive is responsible for the additional costs pursuant to section 17154, subsection 10 if all the criteria established in this subsection are met:

A. The payment or award is intended to induce the member's early retirement; [1995, c. 541, §3 (NEW).]

B. The payment or award is a one-time, time-limited or occasional offer outside the employer's regular benefit program; [1995, c. 541, §3 (NEW).]

C. The payment or award is not part of a longevity-based employee retention program; and [1995, c. 541, §3 (NEW).]

D. The payment or award is not made pursuant to a collective bargaining agreement for the initial term of that agreement if that agreement is executed or ratified in its final form by final vote of at least one of the parties to the agreement prior to July 1, 1993. [1995, c. 541, §3 (NEW).]

[1995, c. 541, §3 (NEW) .]

3. **Employer provides information.** If a member retires prior to normal retirement age and receives a significant monetary or nonmonetary payment or award in connection with the retirement, prior to the effective date of the member's retirement or, if a payment or award that was not known or anticipated prior to retirement is given after retirement, within 7 business days of the date upon which the payment or award is given, the employer must provide the following information to the retirement system:

A. Documents demonstrating that any of the criteria established in subsection 2 is not met. By way of example and not limitation, such documents include collective bargaining agreements, whether principal agreements, side agreements or memoranda of agreement or understanding; records of official actions by the employer; relevant rules or policies of the employer; records of prior or contemporaneous relevant retirements of employees of the employer; notices, memoranda or other communications from the employer to employees regarding retirement; and correspondence between the employer and an employee, employees or employee representatives concerning retirement; and [1995, c. 541, §3 (NEW).]

B. Certification on a form provided by the retirement system and signed by the employer, or the responsible officer of the employer on the employer's behalf, that the payment or award does not meet the criteria established in subsection 2 and is not an action or practice causing or encouraging early retirement. [1995, c. 541, §3 (NEW).]

[1995, c. 541, §3 (NEW) .]

4. **Early Retirement Incentives Review Panel.**

[1999, c. 668, §55 (RP) .]

5. **Panel determinations.**

[1999, c. 668, §56 (RP) .]

6. **Panel decision.**

[1999, c. 668, §56 (RP) .]

7. **Reconsideration; final decision.**

[1999, c. 668, §56 (RP) .]

8. **Employer payment for costs resulting from early retirement incentives.** Employer payment for costs resulting from early retirement incentives are governed by this section pursuant to section 17154, subsection 10.

A. The additional actuarial costs that result from the early retirement of a member who has received an early retirement incentive must be paid to the retirement system by the employer as provided in this paragraph.

(1) The retirement system shall determine the additional actuarial costs for which the employer is liable in individual situations as follows:

(a) First, the annual retirement benefit payable to the member upon the member's early retirement date must be calculated in accordance with the governing provisions of the retirement system statutes and rules;

(b) Second, the annual retirement benefit that would be payable to the member on a fully actuarially reduced basis must be calculated in accordance with the actuarial equivalent early retirement reduction factors prescribed by the retirement system's consulting actuary and approved by the board;

(c) Third, the retirement benefit calculated in division (b) must be subtracted from the retirement benefit calculated in division (a); and

(d) Fourth, a present-value factor must be applied to the amount determined in division (c) to convert the annual benefit amount to a lump sum present-value dollar amount. This amount represents the additional actuarial cost resulting from the early retirement of a member who has been offered a retirement incentive.

(2) The retirement system shall bill the employer of retiring members who will receive or have received early retirement incentives for the additional actuarial costs as determined by the retirement system in subparagraph (1). The bill must be accompanied by a statement of the basis of the costs identified in the bill and the supporting calculations.

(3) All determinations of additional actuarial costs are subject to recalculation upon the actual retirement of the member and upon any subsequent recalculation of the member's early retirement benefit due to misreporting of member-specific information, error or any direction by the board to recalculate a member's benefit. Any resulting change in additional actuarial costs must be paid or refunded, as appropriate, to the employer. Any administrative costs for recalculation of additional actuarial costs that is caused by actions of the employer must be paid by the employer. [1995, c. 541, §3 (NEW).]

B. The reasonable administrative costs that result from the early retirement of a member who has received a retirement incentive must be paid to the retirement system by the employer as provided in this paragraph.

(1) Subject to review and approval by the board, the executive director shall establish and may revise from time to time an administrative processing fee to determine the member-specific additional actuarial costs relating to an early retirement incentive for which the employer is liable. The fee must be based on the time required for making such determinations, must be reasonable and may not be set at a level that requires the retirement system's members and employers as a whole to subsidize the cost of a determination. The fee must be paid before the retirement system determines the member-specific additional actuarial costs.

(2) The employer must pay any additional actual administrative costs for member-specific information at an hourly administrative cost rate for the retirement system plus the retirement system's actual costs related to actuarial and legal services. Subject to review and approval by the board, the executive director shall establish and may from time to time revise the administrative cost rate.

(3) The employer must be billed for any actual administrative costs beyond the processing fee. If the member is already receiving a retirement benefit or preliminary benefit when the employer is billed for administrative costs, the employer must also be charged interest as a cost and must pay interest retroactive to the member's effective date of retirement. The bill must be accompanied by a statement of the basis of the administrative costs. [1995, c. 541, §3 (NEW).]

C. For early retirement incentives granted between July 1, 1993 and March 15, 1996, the employer must pay the amount calculated under paragraphs A and B plus interest due to the retirement system in accordance with a payment schedule not to exceed 10 years. For early retirement incentives granted after March 15, 1996, the employer must pay the amount calculated under paragraphs A and B to the retirement system within 30 days of receipt of the bill. [1995, c. 541, §3 (NEW).]

D. If the employer or the member disputes the determination that additional actuarial costs must be paid by the employer, the amount of the additional actuarial costs or the amount of actual administrative costs, an appeal may be brought pursuant to section 17451 and Chapter 702 of the board's rules. [1995, c. 541, §3 (NEW).]

E. Interest must be charged by the retirement system and must be paid by the employer on all overdue amounts pertaining to the processing fee, additional actuarial costs and administrative costs. In addition, an employer who fails to pay is liable for penalties on a case-by-case basis as recommended by the executive director and approved by the board and shall pay all of the retirement system's costs associated with collection of amounts overdue and enforcement of the provisions of this section. [1995, c. 541, §3 (NEW).]

[1995, c. 541, §3 (NEW) .]

SECTION HISTORY
1995, c. 541, §3 (NEW). 1997, c. 651, §4 (AMD). 1999, c. 668, §§55,56 (AMD). 1999, c. 731, §CC2 (AMD). 2007, c. 249, §19 (AMD).

§17160. MINIMUM LEVEL OF EMPLOYER CONTRIBUTION

1. **Portion of employer contribution.** Beginning in fiscal year 2002-03 and continuing until the unfunded liabilities of the State Employee and Teacher Retirement Program attributable to state employees and teachers, as defined in the Constitution of Maine, Article IX, Section 18-B, are retired, within the term provided in Section 18-B or within any shorter term provided by statute, the portion of the employer contribution amount devoted to paying the unfunded liabilities of the program attributable to state employees and teachers may not be less than the amount paid for that purpose during the immediately preceding fiscal year.

A. In circumstances in which the unfunded liability amount to be paid in a given year would be less than the amount paid in the immediately preceding year, the Board of Trustees of the Maine Public Employees Retirement System shall request the system's actuary to recommend a methodology to adjust program funding in order to realize payment of the required amount. The methodology for adjustment must be actuarially sound in itself and may not jeopardize the actuarial soundness of the program or its funding. [2007, c. 491, §87 (AMD).]

B. If the system's actuary determines pursuant to paragraph A that no methodology meeting the requirements of this subsection can be identified, then the requirement that the unfunded liability payment in a given year may not be less than the amount paid in the immediately preceding fiscal year applies only to the General Fund portion of the unfunded liability payment. A General Fund appropriation in the amount of the difference between the General Fund portions of the unfunded liability payment in the 2 years in question must be sought. [2001, c. 707, §1 (NEW).]

[2007, c. 491, §87 (AMD) .]

SECTION HISTORY

2001, c. 707, §1 (NEW). 2007, c. 58, §3 (REV). 2007, c. 491, §87 (AMD).

Article 2: MEMBERS' CONTRIBUTION FUND

§17201. ESTABLISHMENT

The Members' Contribution Fund is established and it shall contain accumulated contributions deducted from the compensation of members. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§17202. DEDUCTION ADJUSTMENTS

In order to facilitate the making of deductions, the board may modify the deduction required of any member by an amount that does not exceed 1/10 of 1% of the member's annual rate of earnable compensation. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§17203. PAYROLL DEDUCTION

1. **Certification and deduction.** The board shall certify to the chief administrative officer of each department, school and participating local district and the chief administrative officer shall cause to be deducted from the compensation of each member on each payroll of the department, school or participating local district for each payroll period, the appropriate percentage of earnable compensation to be contributed.

A. Amounts deducted from the compensation of state employees must be credited to the State Employee and Teacher Retirement Program in the same manner and at the same time that employer charges are credited to that program as provided by section 17154, subsection 5. [2007, c. 491, §88 (AMD).]

B. Amounts deducted from the compensation of teachers must be paid to the State Employee and Teacher Retirement Program by the chief administrative officer of each school administrative unit monthly in accordance with rules of the board. Delinquent payments due under this paragraph:

(1) May be subject to a late fee as directed by the board and interest at a rate, to be set by the board and paid by the school administrative unit, not to exceed regular interest by 5 or more percentage points;

(2) May be recovered by action in a court of competent jurisdiction against the school administrative unit; or

(3) May, at the request of the retirement system, be deducted from any other money payable to that school administrative unit. [2007, c. 491, §88 (AMD).]

C. Payment of members' contributions to the Participating Local District Retirement Program by participating local districts is governed by sections 18301 to 18303. [2007, c. 491, §88 (AMD).]

[2007, c. 491, §88 (AMD) .]

2. **Manner of deduction.** The amounts deducted under subsection 1, when deducted, shall be:

A. Paid into the Members' Contribution Fund; and [1985, c. 801, §§ 5, 7 (NEW).]

B. Credited to the individual account of the member from whose compensation the deduction was made. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Member's consent.** It is deemed that every member has consented to allow the chief administrative officer of the member's department, school or participating local district to make deductions from the member's compensation or to make pick-up contributions to satisfy the member's required contribution to the applicable retirement program.

[2007, c. 491, §89 (AMD) .]

4. **Discharge of claims.** Payment of compensation to a member, minus the adjustment to compensation resulting from a deduction or employer pick-up contributions under this section, shall be a complete discharge of all claims and demands based on the services rendered by the member during the period covered by the payment, except for any claims or demands for the benefits provided under this Part.

[1987, c. 739, §§7,48 (AMD) .]

5. **Reduction of minimum compensation.** The deductions under this section shall be made notwithstanding that the minimum compensation provided for by law for any member is reduced by the deduction.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§7,48 (AMD). 1989, c. 95, §3 (AMD). 1991, c. 185, §1 (AMD). 2007, c. 491, §§88, 89 (AMD).

§17204. CONTRIBUTIONS ON MEMBER'S OWN ACCOUNT

Any member in service may make contributions on his own account, in addition to the employee contributions required under this Part, to the Members' Contribution Fund, at a rate not in excess of 10% of earnable compensation for the purpose of increasing the amount of payment of the member's retirement allowance under any service retirement provision of this Part. [1985, c. 801, §§ 5, 7 (NEW).]

1. **Rules.** The board shall adopt rules governing this right of members to make additional contributions.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Exception to 10% rule.** Any member in service on January 1, 1976, and ineligible to make contributions under sections 17754, 17763 and 18354 because of the amendments of the predecessors of those sections by Public Law 1975, chapter 622, may make whatever additional contributions, at a rate in excess of 10% of earnable compensation, as are necessary to provide an increased retirement allowance equal to any benefits to which the member would have been entitled under the predecessors of sections 17754, 17763 and 18354, as in effect immediately before January 1, 1976.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Limitation.** This section shall not be applicable to any member who has not begun increased contributions under this section before January 1, 1990.

[1989, c. 95, §4 (NEW) .]

SECTION HISTORY

1985, c. 801, §§5,7 (NEW). 1989, c. 95, §4 (AMD).

§17205. TRANSFERS OF FUNDS

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §5A (RP).

§17206. STATEMENT OF ACCOUNT

The executive director shall furnish to each member of the retirement programs of the retirement system, upon request, a statement showing the amount of accumulated contributions to the member's credit in the member's individual account in the Members' Contribution Fund. [2007, c. 491, §90 (AMD).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 491, §90 (AMD).

Article 3: RETIREMENT ALLOWANCE FUND

§17251. ESTABLISHMENT

The Retirement Allowance Fund is established in which must be accumulated all reserves required for the payment of benefits under this Part, other than reserves in the Members' Contribution Fund. [2007, c. 249, §20 (AMD).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 409, §§4,12 (AMD). 2007, c. 249, §20 (AMD).

§17252. EMPLOYER CONTRIBUTION

On account of each member, the State and each participating local district shall pay annually into the Retirement Allowance Fund an amount equal to a certain percentage of the annual earnable compensation of employees. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§17253. EMPLOYER CONTRIBUTION RATE

The percentage rate of the employer contribution, described in section 17252, to be known as the "employer contribution rate," is fixed on the basis of the assets and liabilities of the retirement programs of the Maine Public Employees Retirement System as shown by actuarial valuation. [2007, c. 491, §91 (AMD).]

1. **Computation.** The employer contribution rate is determined as the percentage of the members' earnable compensation payable during the members' periods of membership required to provide the difference between the total liabilities for retirement allowances, survivors' benefits and disability retirement benefits not provided by the members' accumulated contributions and the amount of the assets in the Retirement Allowance Fund.

[2007, c. 249, §21 (AMD) .]

2. **Manner of determination.** The employer contribution rate shall be determined after each valuation based on actuarial assumptions adopted by the board and shall continue in force until a new valuation is made.

[1985, c. 801, §§5, 7 (NEW) .]

3. **Components of unfunded liability contribution.** The annual valuation report prepared by the actuary in accordance with section 17107 must include identification of the impact on the employer contribution rate of any excess General Fund revenues transferred to the Retirement Allowance Fund pursuant to section 1532.

[2005, c. 2, Pt. A, §10 (AMD); 2005, c. 2, Pt. A, §14 (AFF) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§8,48 (AMD). 1995, c. 464, §15 (AMD). 2005, c. 2, §A10 (AMD). 2005, c. 2, §A14 (AFF). 2007, c. 249, §21 (AMD). 2007, c. 491, §91 (AMD).

§17254. MINIMUM STATE CONTRIBUTION

The aggregate payment by the State into the Retirement Allowance Fund for state employees and teachers must be at least sufficient, when combined with the amount in the Retirement Allowance Fund, to provide the benefits payable out of the fund and the administrative operating expenses of the Maine State Retirement System during the current year. [2007, c. 240, Pt. U, §7 (AMD).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 240, Pt. U, §7 (AMD).

Article 4: EXPENSE FUND

§17301. ESTABLISHMENT

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2015, c. 385, §8 (RP).

§17302. ADMINISTRATION OF FUND

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2015, c. 385, §8 (RP).

Article 5: SURVIVORS' BENEFIT FUND

§17351. ESTABLISHMENT

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 249, §22 (RP).

§17352. SURVIVORS' CONTRIBUTION

(REPEALED)

SECTION HISTORY

1985, c. 801, §§5,7 (NEW). 2007, c. 249, §22 (RP).

§17353. SURVIVORS' CONTRIBUTION RATE

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 249, §22 (RP).

Article 6: STATE RETIREE HEALTH INSURANCE FUND

§17401. ESTABLISHMENT AND LIMITATION OF FUND

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1995, c. 368, §G8 (AMD). 2007, c. 249, §23 (RP).

§17402. PAYMENT OF PREMIUM

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1995, c. 368, §G9 (AMD). 2007, c. 249, §23 (RP).

Article 7: STATE RETIRED TEACHERS' HEALTH INSURANCE FUND

§17411. ESTABLISHMENT AND LIMITATION OF FUND

(REPEALED)

SECTION HISTORY
1987, c. 450, §§1,3 (NEW). 1995, c. 368, §G11 (AMD). 2007, c. 249, §24 (RP).

§17412. PAYMENT OF PREMIUM

(REPEALED)

SECTION HISTORY
1987, c. 450, §§1,3 (NEW). 1995, c. 368, §G12 (AMD). 2007, c. 249, §24 (RP).

Article 8: DISABILITY RETIREMENT BENEFIT FUND

§17421. ESTABLISHMENT

(REPEALED)

SECTION HISTORY
1989, c. 409, §§5,12 (NEW). 2007, c. 249, §25 (RP).

§17422. DISABILITY CONTRIBUTION

(REPEALED)

SECTION HISTORY

1989, c. 409, §§5,12 (NEW). 2007, c. 249, §25 (RP).

§17423. DISABILITY CONTRIBUTION RATE

(REPEALED)

SECTION HISTORY
1989, c. 409, §§5,12 (NEW). 2007, c. 249, §25 (RP).

Article 9: RETIREE HEALTH INSURANCE POST-EMPLOYMENT BENEFITS INVESTMENT TRUST FUND

§17431. DEFINITIONS

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [2007, c. 240, Pt. RRR, §2 (NEW).]

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

[2007, c. 240, Pt. RRR, §2 (NEW) .]

2. **Investment trust fund.** "Investment trust fund" means the Retiree Health Insurance Post-employment Benefits Investment Trust Fund established in section 17432.

[2007, c. 240, Pt. RRR, §2 (NEW) .]

3. **Assets of the investment trust fund.** "Assets of the investment trust fund" means the funds appropriated or otherwise provided to fund the investment trust fund, together with the interest, earnings and returns on the funds.

[2007, c. 240, Pt. RRR, §2 (NEW) .]

4. **Investment trust fund agreement.** "Investment trust fund agreement" means the trust agreement to be entered into by the State and the trustees of the investment trust fund.

[2007, c. 240, Pt. RRR, §2 (NEW) .]

5. **System.** "System" means the Maine State Retirement System.

[2007, c. 240, Pt. RRR, §2 (NEW) .]

SECTION HISTORY
2007, c. 240, Pt. RRR, §2 (NEW).

§17432. ESTABLISHMENT

1. **Investment trust fund established.** The Retiree Health Insurance Post-employment Benefits Investment Trust Fund is established as an irrevocable trust for the sole purpose of holding and investing funds appropriated or otherwise provided to the investment trust fund for the benefit of the Irrevocable Trust Fund for Other Post-employment Benefits established in section 286-B with respect to the State's liabilities for retiree health benefits. The purpose of accumulating assets in this investment trust fund is to provide funding of the State's unfunded liability obligations for retiree health benefits. The Legislature has no authority or power to divert any of the assets of the investment trust fund to use for any other purpose.

[2007, c. 240, Pt. RRR, §2 (NEW) .]

2. **Date of establishment.** The date of establishment of the investment trust fund is July 1, 2007.

[2007, c. 240, Pt. RRR, §2 (NEW) .]

3. **Trustees.** The trustees of the investment trust fund are the members of the Board of Trustees of the Maine State Retirement System.

[2007, c. 240, Pt. RRR, §2 (NEW) .]

SECTION HISTORY
2007, c. 240, Pt. RRR, §2 (NEW).

§17433. STATUTORY REFERENCES

Notwithstanding that Article 9 is placed in the Maine Revised Statutes in Part 20, chapter 421, subchapter 4, any reference to "Part," "in this Part," "under this Part" or similar wording in Part 20 is inapplicable to every provision in this article. Article 9 stands apart from all other provisions of this Part except by explicit reference. [2007, c. 240, Pt. RRR, §2 (NEW).]

SECTION HISTORY
2007, c. 240, Pt. RRR, §2 (NEW).

§17434. ADMINISTRATION OF INVESTMENT TRUST FUND

1. **Administration.** The trustees of the investment trust fund may delegate to the Executive Director, Chief Investment Officer or other staff of the system as appropriate the responsibility to carry out, as directed by the trustees of the investment trust fund, the administration of the investment trust fund and its investment and disbursement activities.

[2007, c. 240, Pt. RRR, §2 (NEW) .]

2. **Expenses.** Associated administrative costs and expenses attributable to the investment trust fund must be charged to the investment trust fund.

[2007, c. 240, Pt. RRR, §2 (NEW) .]

SECTION HISTORY
2007, c. 240, Pt. RRR, §2 (NEW).

§17435. DUTIES OF THE TRUSTEES OF THE INVESTMENT TRUST FUND

The trustees of the investment trust fund have the following duties. [2007, c. 240, Pt. RRR, §2 (NEW).]

1. **Manage assets.** The trustees of the investment trust fund shall hold, invest, reinvest and manage assets appropriated to the investment trust fund and all other assets of the investment trust fund for the sole benefit of the Irrevocable Trust Fund for Other Post-employment Benefits established in section 286-B and may not encumber, invest, divest or disburse the funds for any other purpose. The trustees of the investment trust fund have full power to hold, purchase, sell, assign, transfer and dispose of any such assets and investments and will provide for all necessary services with respect to such assets.

The primary goals of the investment trust fund are the preservation and growth of principal in accordance with long-term investment assumptions established from time to time by the Board of Trustees of the Maine State Retirement System for the defined benefits plans of the system, as considered appropriate by the trustees of the investment trust fund.

[2007, c. 240, Pt. RRR, §2 (NEW) .]

2. **Investment policy.** Except as provided in subsection 3, the trustees of the investment trust fund shall determine and revise as necessary an appropriate investment trust fund investment policy, including but not limited to provisions for asset allocation and investment strategy. This policy must take into account the following factors as established by the trustees of the Irrevocable Trust Fund for Other Post-employment Benefits established in section 286-B, subsection 2 and as may be revised in the investment trust fund agreement from time to time:

A. A long-term time horizon for the assets of the investment trust fund; [2007, c. 240, Pt. RRR, §2 (NEW).]

B. A funding plan; and [2007, c. 240, Pt. RRR, §2 (NEW).]

C. A projected disbursement schedule that does not begin before the year 2027. [2007, c. 240, Pt. RRR, §2 (NEW).]

[2007, c. 240, Pt. RRR, §2 (NEW) .]

3. **Transfer of funds before policy established.** Any funds transferred to the investment trust fund prior to the establishment of the investment policy in subsection 2 must be held and transitionally invested in a prudent manner as determined by the trustees of the investment trust fund.

[2007, c. 240, Pt. RRR, §2 (NEW) .]

4. **Investment and management of assets.** The trustees of the investment trust fund shall invest and manage the assets of the investment trust fund in accordance with the requirements of subsections 1 and 2 and with the reasonable care, skill and expertise of a prudent investor.

[2007, c. 240, Pt. RRR, §2 (NEW) .]

5. **Investment expenses.** The trustees of the investment trust fund may incur reasonable investment expenses payable from the assets of the investment trust fund, including but not limited to services of investment managers, investment consultants, actuaries, investment counsel, banks and trust companies and other investment professionals or advisors as they consider necessary and prudent in determining investment policy, in investing funds and in liquidating assets.

[2007, c. 240, Pt. RRR, §2 (NEW) .]

6. **Disbursement of funds.** The trustees of the investment trust fund may disburse funds from the investment trust fund only to the Irrevocable Trust Fund for Other Post-employment Benefits as established in section 286-B, subsection 2. The trustees of the Irrevocable Trust Fund for Other Post-employment Benefits must present jointly a lawful payment order. The trustees of the investment trust fund have no responsibility to ensure that the stated use or actual use by the trustees of the Irrevocable Trust Fund for Other Post-employment Benefits of such money is to fund retiree health benefits. The trustees of the investment trust fund's duties under the investment trust fund are discharged by disbursing money under the terms of this subsection.

[2007, c. 240, Pt. RRR, §2 (NEW) .]

7. **Report.** The trustees of the investment trust fund shall provide annually a report to the State, the trustees of the Irrevocable Trust Fund for Other Post-employment Benefits established in section 286-B, subsection 2 and the joint standing committee of the Legislature having jurisdiction over the system and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. The trustees of the investment trust fund shall provide quarterly to the trustees of the Irrevocable Trust Fund for Other Post-employment Benefits a report of the performance of the investment trust fund.

[2007, c. 240, Pt. RRR, §2 (NEW) .]

SECTION HISTORY
2007, c. 240, Pt. RRR, §2 (NEW).

§17436. LIABILITY AND IMMUNITY OF TRUSTEES OF THE INVESTMENT TRUST FUND

1. **Limited liability of trustees of the investment trust fund.** A trustee of the investment trust fund is not:

A. Personally liable for any liability, loss or expense suffered by the investment trust fund, unless such a liability, loss or expense arises out of or results from the willful misconduct or intentional wrongdoing of that trustee of the investment trust fund; [2007, c. 240, Pt. RRR, §2 (NEW).]

B. Responsible for the adequacy of the investment trust fund to meet and discharge any obligation; or [2007, c. 240, Pt. RRR, §2 (NEW).]

C. Required to take action to enforce the payment of any contribution or appropriation to the investment trust fund. [2007, c. 240, Pt. RRR, §2 (NEW).]

[2007, c. 240, Pt. RRR, §2 (NEW) .]

2. **Immunity of trustees of the investment trust fund.** The trustees of the investment trust fund are immune from suit on any and all tort claims seeking recovery of damages to the same extent as governmental entities under the Maine Tort Claims Act.

[2007, c. 240, Pt. RRR, §2 (NEW) .]

3. **Legal representation and defense of trustees of the investment trust fund.** The Attorney General is legal counsel to the trustees of the investment trust fund and shall represent and defend the trustees of the investment trust fund, as a group and individually, in connection with any claim, suit or action at law arising out of the performance or nonperformance of any actions related to the investment trust fund to the same extent as provided for governmental entities in the Maine Tort Claims Act.

[2007, c. 240, Pt. RRR, §2 (NEW) .]

4. **Performance of essential governmental functions.** The exercise of the powers conferred by this article is held to be the performance of essential governmental functions.

[2007, c. 240, Pt. RRR, §2 (NEW) .]

SECTION HISTORY
2007, c. 240, Pt. RRR, §2 (NEW).

§17437. EXEMPTION FROM TAXATION

The money in the investment trust fund is exempt from any state, county or municipal tax in the State. [2007, c. 240, Pt. RRR, §2 (NEW).]

SECTION HISTORY
2007, c. 240, Pt. RRR, §2 (NEW).

§17438. REPORTING REQUIREMENTS UNDER GOVERNMENTAL ACCOUNTING STANDARDS BOARD

The system and trustees of the investment trust fund have no obligation to comply with reporting requirements related to the investment trust fund under Governmental Accounting Standards Board Statement Number 43, Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans, or Governmental Accounting Standards Board Statement Number 45, Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions. The State is obligated to comply with the reporting requirements under Governmental Accounting Standards Board Statement Number 43 and Governmental Accounting Standards Board Statement Number 45. The system shall account for the assets of the investment trust fund in its annual financial statements. [2007, c. 240, Pt. RRR, §2 (NEW).]

SECTION HISTORY
2007, c. 240, Pt. RRR, §2 (NEW).

§17439. INFORMATION FOR ADMINISTRATIVE OR JUDICIAL PROCEEDINGS

If information regarding the investment trust fund is required from the system or the trustees of the investment trust fund for an administrative or judicial proceeding, the party seeking the information must file a written request for that information with the Executive Director of the Maine State Retirement System. The Executive Director or the executive director's designee shall make a certified response to that request within 30 days and the certified response is admissible as evidence in any administrative or judicial proceeding. A subpoena or other form of discovery directed at obtaining the information may not be issued nor may employees of the system be required to testify on the subjects covered by the certified response unless there is an express finding by an administrative agency or a court that there is a compelling necessity to permit further discovery or to require testimony. The Executive Director shall notify the trustees of the Irrevocable Trust Fund for Other Post-employment Benefits established in section 286-B, subsection 2 immediately of any request for information, subpoena or other form of discovery. [2007, c. 240, Pt. RRR, §2 (NEW).]

SECTION HISTORY
2007, c. 240, Pt. RRR, §2 (NEW).

Subchapter 5: APPEALS

§17451. APPEALS

1. **Decision of executive director.** Any person aggrieved by a decision or ruling of the executive director may appeal the decision or ruling to the board.

A. To appeal a person must apply in writing to the board within 30 days after receiving written notice of the executive director's decision or ruling. [1985, c. 801, §§ 5, 7 (NEW).]

B. In any appeal proceeding, the board may investigate and consider all issues of fact or law, including the reasons for the decision or ruling of the executive director. [1985, c. 801, §§ 5, 7 (NEW).]

C. The appeal proceeding is an adjudicatory proceeding within the meaning of chapter 375, subchapter IV. [1985, c. 801, §§ 5, 7 (NEW).]

D. The board shall complete the appeal proceeding within 90 days of receiving the written application for appeal. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Decision of board.** Any person aggrieved by a decision or ruling of the board in an adjudicatory proceeding is entitled to judicial review of the decision or ruling in accordance with chapter 375, subchapter VII.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

Chapter 423: STATE EMPLOYEES AND TEACHERS

Subchapter 1: GENERAL PROVISIONS

§17601. INFORMATION FROM DEPARTMENTS

1. **State employees.** The head of each department shall submit to the board, on behalf of the employee:

A. A statement showing the name, title, compensation, sex, date of birth and length of service of each member of the State Employee and Teacher Retirement Program in that department and any other information required to administer this Part in the format specified by the executive director; and [2007, c. 491, §92 (AMD).]

B. A statement giving whatever information regarding other employees in that department the board may require. [1985, c. 801, §§ 5, 7 (NEW).]

[2007, c. 491, §92 (AMD) .]

2. **Teachers.** Each superintendent or chief administrator of a public school shall submit the information set out in subsection 1 to the board for all teachers, except substitute teachers who elect not to become members of the retirement system pursuant to section 17652, subsection 6.

[2007, c. 305, §1 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 305, §1 (AMD). 2007, c. 491, §92 (AMD).

§17602. NAME, ESTABLISHMENT AND PURPOSE

There is established the State Employee and Teacher Retirement Program as a governmental qualified defined benefit plan pursuant to Sections 401(a) and 414(d) of the Internal Revenue Code and such other provisions of the Internal Revenue Code and United States Treasury regulations and other guidance as are applicable, which has the powers and privileges of a corporation. [2009, c. 474, §13 (AMD).]

The purpose of the State Employee and Teacher Retirement Program is to provide retirement allowances and other benefits under this chapter for state employees and teachers. [2007, c. 491, §93 (NEW).]

SECTION HISTORY
2007, c. 491, §93 (NEW). 2009, c. 474, §13 (AMD).

§17603. INTERNAL REVENUE CODE QUALIFIED PLAN COMPLIANCE

The State Employee and Teacher Retirement Program established in this chapter is subject to the following requirements. [2009, c. 474, §14 (NEW).]

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

[2009, c. 474, §14 (NEW) .]

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

[2009, c. 474, §14 (NEW) .]

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

[2009, c. 474, §14 (NEW) .]

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

[2009, c. 474, §14 (NEW) .]

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

[2009, c. 474, §14 (NEW) .]

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

[2009, c. 474, §14 (NEW) .]

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

[2009, c. 474, §14 (NEW) .]

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

[2009, c. 474, §14 (NEW) .]

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

[2009, c. 474, §14 (NEW) .]

SECTION HISTORY
2009, c. 474, §14 (NEW).

Subchapter 2: MEMBERSHIP

§17651. MANDATORY MEMBERSHIP

All state employees and teachers become members of the State Employee and Teacher Retirement Program as a condition of their employment. [2007, c. 491, §94 (AMD).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 491, §94 (AMD).

§17652. OPTIONAL MEMBERSHIP

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

[2011, c. 449, §3 (AMD) .]

2. **Delayed election of membership.**

[2009, c. 474, §15 (RP) .]

2-A. **Reentry.**

[2009, c. 474, §15 (RP) .]

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

[2011, c. 449, §4 (AMD) .]

4. **Limitation on election to join State Employee and Teacher Retirement Program.** Notwithstanding any other law, confidential employees of the Maine Community College System who are not represented in a collective bargaining unit may join the State Employee and Teacher Retirement Program

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

[2011, c. 449, §5 (AMD) .]

4. (REALLOCATED TO T.5, §17652, sub-§5) **Certain members of the Maine National Guard.**

[2003, c. 1, §4 (RAL); 2003, c. 404, §1 (NEW) .]

5. (REALLOCATED FROM T. 5, §17652, sub-§4) **Certain members of the Maine National Guard.** A member of the Maine National Guard who is not governed by section 17651 and who is on active state service for more than 5 consecutive days pursuant to Title 37-B may elect to be a member of the State Employee and Teacher Retirement Program. A member of the Maine National Guard on active state service pursuant to Title 37-B who does not elect to participate in the State Employee and Teacher Retirement Program or is not eligible to participate in the State Employee and Teacher Retirement Program shall participate in the United States Social Security System. Once a member of the Maine National Guard makes an election under this subsection, that election is irrevocable with respect to all subsequent employment with the same employer when membership in the program is not mandatory. A member of the Maine National Guard on active state service pursuant to Title 37-B may participate in the tax-deferred arrangement of chapter 67.

[2009, c. 474, §15 (AMD) .]

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

[2011, c. 449, §6 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§9,48 (AMD). 1995, c. 180, §1 (AMD). 1997, c. 763, §3 (AMD). 1997, c. 763, §7 (AFF). RR 2003, c. 1, §4 (COR). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF). 2003, c. 261, §§1-4 (AMD). 2003, c. 404, §1 (AMD). 2003, c. 583, §1 (AMD). 2007, c. 58, §3 (REV). 2007, c. 305, §§2, 3 (AMD). 2007, c. 491, §95 (AMD). 2009, c. 474, §15 (AMD). 2011, c. 449, §§3-6 (AMD).

§17653. DENIAL OF MEMBERSHIP RIGHTS

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See PL 1991, c. 619, §18)

The board may, in its discretion, deny the right to become a member to: [1985, c. 801, §§5, 7 (NEW).]

1. **Compensation partly paid by State.** Any class of employees, except teachers, whose compensation is only partly paid by the State; or

[1985, c. 801, §§5, 7 (NEW) .]

2. **Other than per annum payment.** Any class of employees who are serving on a temporary basis or whose compensation is set on any basis other than a per annum basis.

[1985, c. 801, §§5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5, 7 (NEW). 1991, c. 619, §18 (AFF). 1991, c. 619, §6 (RPR). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF).

§17653. DENIAL OF MEMBERSHIP RIGHTS

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 1991, 619, §18)

1. **Board of trustees.** The board may deny membership to any class of employees whose compensation is set on any basis other than a per annum basis and that is not required by 26 CFR Part 31 to be covered by a public employee retirement system or the United States Social Security System.

[1991, c. 619, §18 (AFF); 1991, c. 619, §6 (RPR) .]

2. **Maine Community College System.** The Maine Community College System may deny membership to adjunct faculty members and part-time, seasonal or temporary employees.

[1991, c. 619, §18 (AFF); 1991, c. 619, §6 (RPR); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF) .]

SECTION HISTORY
1985, c. 801, §§5, 7 (NEW). 1991, c. 619, §18 (AFF). 1991, c. 619, §6 (RPR). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF).

§17654. CESSATION OF MEMBERSHIP

A member ceases to be a member of the State Employee and Teacher Retirement Program if the member: [2007, c. 491, §96 (AMD).]

1. **Withdrawal.** Withdraws accumulated contributions;

[1987, c. 739, §§10, 48 (AMD) .]

2. **Beneficiary.** Becomes a beneficiary as a result of the member's own retirement; or

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Death.** Dies.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§10,48 (AMD). 2007, c. 491, §96 (AMD).

§17655. SERVICE IN THE ARMED FORCES

1. **Membership continued.** The membership of the following employees is considered to have continued during the period of the employee's service in the Armed Forces of the United States:

A. Any employee entering a class of service in the Armed Forces of the United States approved by resolution of the board, if the employee does not withdraw accumulated contributions; [1991, c. 479, §1 (AMD).]

B. Any employee who enlists in or is inducted or drafted into the service of the Armed Forces of the United States; [2001, c. 181, §6 (AMD).]

C. Any employee who enlists in or is inducted or drafted into the service of the Armed Forces of the United States while the United States Selective Service Act of 1948, Public Law 759, or any of its amendments or extensions is in effect. [1991, c. 479, §1 (NEW).]

[2001, c. 181, §6 (AMD) .]

2. **Other military benefits.** Any employee who satisfies the criteria of subsection 1, paragraph B, is entitled to all the benefits of Title 26, section 811.

[2001, c. 662, §5 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 402, §§A70,A71 (AMD). 1987, c. 739, §§11,48 (AMD). 1991, c. 479, §1 (AMD). 2001, c. 181, §6 (AMD). 2001, c. 662, §5 (AMD).

§17656. EMPLOYMENT CHANGES AFFECTING MEMBERSHIP

1. **Reemployment with new employer.** Membership of a member who is reemployed with a new employer is governed as follows:

A. Any member of the State Employee and Teacher Retirement Program or the Participating Local District Retirement Program whose service is terminated as a state employee, teacher or participating local district employee and who becomes employed as a state employee, teacher or participating local district employee with a new employer shall, if the member has not previously withdrawn the member's accumulated contributions:

(1) Have the membership transferred to the member's account with the new employer; and

(2) Be entitled to all benefits that:

(a) Are based on creditable service and earnable compensation with the previous employer and the provisions of this Part in effect with respect to the previous employer at the date of termination of service by the member; and

(b) Do not require additional contributions by the new employer. [2007, c. 491, §97 (AMD).]

B. The new employer may elect to include the creditable service and earnable compensation of the member with the previous employer with the creditable service and earnable compensation with the new employer. If that election is made, the new employer shall make, from time to time, whatever contributions are necessary to provide the benefits under the applicable retirement program for the member as have accrued to the member by reason of the member's previous employment and as may accrue to the member by reason of the member's new employment. [2007, c. 491, §97 (AMD).]

C. If the new employer makes the election provided under paragraph B, or the member makes the election provided under paragraph D, all funds in the applicable retirement program contributed by the member's former employer on account of the member's previous employment must be transferred to the account of the new employer and must be used to liquidate the liability incurred by reason of the previous employment. [2007, c. 542, §1 (AMD).]

D. Notwithstanding paragraph A, a member of the Maine Public Employees Retirement System who is a law enforcement officer as defined in Title 25, section 2801-A, subsection 5, or a state firefighter, whose previous membership was based upon employment as a municipal firefighter as defined in section 286-M, a law enforcement officer or a state firefighter may elect to make the contribution necessary to include all or part of the member's creditable service and earnable compensation from the prior plan in the new plan. The retirement system shall establish procedures for determining the contribution necessary for such a member to carry forward all or part of the creditable service and earnable compensation from a prior plan or plans. For purposes of this paragraph, "state firefighter" means a person employed by the State with the primary responsibility of aiding in the extinguishment of fires and includes a member of emergency medical services line personnel as defined in section 286-M, subsection 2, paragraph H. [2007, c. 542, §2 (AMD).]

[2007, c. 542, §§1, 2 (AMD) .]

2. Reemployment of public safety communications dispatchers with Department of Public Safety. Notwithstanding subsection 1, a member of the State Employee and Teacher Retirement Program whose previous membership was based upon employment as a public safety communications dispatcher with a participating local district and whose employment with the participating local district was terminated as a result of the consolidation of the participating local district's public safety dispatching services with the Department of Public Safety and who then becomes employed as a public safety communications dispatcher for the department may elect to include that previously earned creditable service with service earned as a state employee if that member:

A. Makes a one-time, irrevocable election no later than 30 days after commencing employment as a public safety communications dispatcher for the Department of Public Safety; and [2005, c. 668, §1 (NEW).]

B. Has not previously withdrawn all of the member's accumulated contributions. [2005, c. 668, §1 (NEW).]

If a member makes the election provided in this subsection, the State shall make whatever contribution is necessary to provide the benefits under the State Employee and Teacher Retirement Program for the member as though the previous employment had been as a state employee, and all funds in the Participating Local District Retirement Program contributed by the member's former employer on account of the member's previous employment must be transferred to the account of the State and must be used to liquidate the liability incurred by reason of the previous employment.

Upon notification by the Department of Public Safety to the retirement system that an employee has made an election under this subsection, the retirement system shall calculate and provide to the Department of Public Safety the amount of the employer contribution required under this subsection.

A member who makes the election provided in this subsection and for whom applicable additional employer contributions have been paid is entitled to include the creditable service and earnable compensation with the previous employer with the creditable service and earnable compensation with the State for the purposes of benefit qualification under section 17851 and computation of benefits under section 17852.

[2007, c. 491, §97 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1991, c. 580, §4 (AMD). 2005, c. 636, §B1 (AMD). 2005, c. 668, §1 (AMD). 2007, c. 491, §97 (AMD). 2007, c. 542, §§1, 2 (AMD).

§17657. FEDERAL EMPLOYMENT

1. **Membership in the State Employee and Teacher Retirement Program.** The following persons are considered members of the State Employee and Teacher Retirement Program if they make payments to the Members' Contribution Fund in the same amounts and during the same periods as other state employees have made to that fund, either through direct contributions or pick-up contributions:

A. Any person who was an employee on December 31, 1941, and who was transferred to the federal employment service; and [1985, c. 801, §§ 5, 7 (NEW).]

B. Any person employed by the federal employment service after December 31, 1941, who subsequently became a state employee at or after the date on which the federal employment service was returned to the State as an operating unit. [1985, c. 801, §§ 5, 7 (NEW).]

[2007, c. 491, §98 (AMD) .]

2. **Amounts due.** Any person described in subsection 1 may make up any amounts due to the Members' Contribution Fund.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Rights and benefits.** Any person described in subsection 1 is entitled to all the rights and benefits which he could have accrued if he had been employed by the State.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§12,48 (AMD). 2007, c. 491, §98 (AMD).

§17658. MAINE NATIONAL GUARD

1. **Membership in the State Employee and Teacher Retirement Program.** Any person who was an employee on December 31, 1941, and who later transferred to the Maine National Guard and was employed under the National Defense Act of June 3, 1916, section 90, is considered a member of the State Employee and Teacher Retirement Program if that person makes payments to the Members' Contribution Fund in the same amounts and during the same periods as other state employees have made to that fund, either through direct contributions or pick-up contributions.

[2007, c. 491, §99 (AMD) .]

2. **Amounts due.** Any person described in subsection 1 may make up any amounts due to the Members' Contribution Fund.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Rights and benefits.** Any person described in subsection 1 is entitled to all the rights and benefits which he could have accrued if he had been employed by the State.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§13,48 (AMD). 2007, c. 491, §99 (AMD).

Subchapter 3: CONTRIBUTIONS

§17701. MEMBER CONTRIBUTIONS

Each member shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made at a rate of 6.5% of earnable compensation, except as otherwise provided in this Part. [2007, c. 491, §100 (AMD).]

1. **Employer pick-up.** The contributions required to be made on behalf of a member under this section shall, after the effective date of this section, be picked up by the employer in lieu of contributions by the employee with a reduction of the member's salary consistent with section 17001, subsection 28-A.

[1987, c. 739, §§14, 48 (NEW) .]

2. **No employee option.** The employee may not choose to receive pick-up contribution amounts directly instead of having them paid by the employer to the State Employee and Teacher Retirement Program.

[2007, c. 491, §101 (AMD) .]

2-A. **Optional members.** If a person, whose membership in the State Employee and Teacher Retirement Program is optional under section 17652, elects a 5% salary increase in lieu of state payment of the retirement contribution, pursuant to Public Law 1981, chapter 453, and chooses to participate in the State Employee and Teacher Retirement Program, the State shall pick up the retirement contribution with a reduction of the member's salary consistent with section 17001, subsection 28-A.

[2007, c. 491, §102 (AMD) .]

3. **Treatment of pick-up contributions.** Pick-up contributions shall be treated as follows.

A. Pick-up contributions shall be treated as the employer's contribution in determining tax treatment under the United States Internal Revenue Code for federal tax purposes, pursuant to the United States Code, Title 26, Section 414(h)(2). [1987, c. 739, §§14, 48 (NEW).]

B. For all other purposes, pick-up contributions shall be treated in the same manner and to the same extent as member contributions were treated before the effective date of this section. [1987, c. 739, §§14, 48 (NEW).]

[1987, c. 739, §§14, 48 (NEW) .]

4. **Payment of contributions for back time; repayment of refunds; purchase of service credit.** Wherever under this chapter provision is made for payment of contributions for back time, repayment of refunds or purchase of service credit through annual direct payments, those payments may be made either by a single annual payment or by an increased rate of contribution through payroll deduction. For payments or repayments made by single annual payments, the board shall designate, by rule, a period of not less than 30 days during which annual direct payments or repayments may be made. Regardless of whether payment or repayment is made by a single annual payment or by payroll deduction, the payment or deduction must be sufficient to cover interest costs and effect some reduction in principal.

[1999, c. 537, §3 (AFF); 1999, c. 537, §1 (RPR) .]

5. **Earnable compensation for certain members.** The earnable compensation of a public school teacher or employee of the Maine Community College System who is on leave of absence for the purpose of serving as a Legislator is the total amount of earnable compensation upon which the teacher or employee makes member contributions as specified in and subject to the limitations of Title 3, section 801, subsection 1.

[2001, c. 657, §3 (NEW); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§14,48 (AMD). 1989, c. 710, §2 (AMD). 1999, c. 537, §1 (AMD). 1999, c. 537, §3 (AFF). 2001, c. 657, §3 (AMD). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF). 2007, c. 58, §3 (REV). 2007, c. 491, §§100-102 (AMD).

§17701-A. MEMBER CONTRIBUTIONS; MEMBERS HIRED AFTER JULY 1, 1992

Notwithstanding section 17701, a member hired after July 1, 1992 shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made at a rate of 7.5% of earnable compensation, except as otherwise provided in this Part. [2007, c. 491, §103 (AMD).]

SECTION HISTORY
1991, c. 780, §HHH1 (NEW). 1991, c. 780, §HHH11 (AFF). 2007, c. 491, §103 (AMD).

§17701-B. MEMBER CONTRIBUTIONS ON AND AFTER JULY 1, 1993

Notwithstanding sections 17701 and 17701-A, on and after July 1, 1993 all members shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made at a rate of 7.65% of earnable compensation except as otherwise provided in this Part. [2007, c. 491, §104 (AMD).]

SECTION HISTORY
1993, c. 410, §L28 (NEW). 2007, c. 491, §104 (AMD).

§17702. STATE PAYMENT OF MEMBER SHARE IN LIEU OF MEMBER CONTRIBUTION

Notwithstanding any other provision in this Part, except as provided in subsection 5, the State may agree to provide for members, pursuant to law, through a collective bargaining contract, or as the Legislative Council may agree to provide for approved legislative employees, payment for a member's mandatory contribution to the State Employee and Teacher Retirement Program, as established by section 17701, instead of deducting the contribution from the member's compensation or having the contribution picked up by the employer. [2007, c. 491, §105 (AMD).]

1. **Retirement Allowance Fund.** Payments made, whether through a collective bargaining contract or through Legislative Council action, shall be accumulated in the Retirement Allowance Fund.

[1985, c. 801, §§5, 7 (NEW) .]

2. **Manner of payment.** Payments shall be made in the same manner and on the same basis as contributions deducted from the member's compensation or picked up by the employer under sections 17201, 17202 and 17203.

[1987, c. 739, §§16, 48 (AMD) .]

3. **Refundability.** Contributions made by the State on behalf of a member under this section may not be refunded if the member withdraws from membership, terminates service or dies.

[1985, c. 801, §§5, 7 (NEW) .]

4. **Percentage rate.** When the State pays for a member's mandatory contribution, as authorized by this section, the percentage rate paid by the State must be that rate, determined by the actuary and approved by the board, that provides the same net revenues to the State Employee and Teacher Retirement Program as the applicable mandatory rate paid by the member.

[2007, c. 491, §106 (AMD) .]

5. **Member contribution.** Amounts paid by the State in lieu of the member contribution do not include the 1% that is paid by a member hired after July 1, 1992.

[1991, c. 780, Pt. HHH, §3 (NEW) .]

6. **Member contributions on and after July 1, 1993.** On and after July 1, 1993 all members whose contributions are paid by the State in lieu of the member contribution shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made at a rate of 1.15% of earnable compensation in addition to the amount paid by the State.

[2007, c. 491, §107 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§15,16,48 (AMD). 1991, c. 780, §§HHH2,3 (AMD). 1991, c. 780, §HHH11 (AFF). 1993, c. 410, §L29 (AMD). 2007, c. 58, §3 (REV). 2007, c. 491, §§105-107 (AMD).

§17703. FORMER MEMBERS

Any former member who withdrew his contributions after termination of service and who again becomes a member may repay his earlier contributions to the Members' Contribution Fund under the following conditions. [1985, c. 801, §§5, 7 (NEW).]

1. **Time.** The repayment must be made before the date any retirement benefit becomes effective for the member.

[2003, c. 630, Pt. B, §1 (AMD) .]

1-A. **Exception.**

[2003, c. 630, Pt. B, §2 (RP) .]

2. **Manner of repayment.** The repayment must be made to the applicable retirement program by a single direct payment or by annual direct payments. Annual repayments must be made as provided in section 17701, subsection 4.

[2007, c. 491, §108 (AMD) .]

3. **Amount of repayment.** The amount of repayment must be equal to the accumulated contributions withdrawn by the person plus interest on the amount of those accumulated contributions, beginning on the date of withdrawal to the date the repayment or repayments are made, at a rate, to be set by the board, not to exceed regular interest by 5 or more percentage points.

[1985, c. 801, §§5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 710, §3 (AMD). 1991, c. 325, (AMD). 1991, c. 580, §5 (AMD). 2003, c. 261, §5 (AMD). 2003, c. 630, §§B1,2 (AMD). 2007, c. 491, §108 (AMD).

§17704. BACK CONTRIBUTIONS

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§17,48 (AMD). 1989, c. 710, §4 (AMD). 1995, c. 180, §2 (AMD). 2007, c. 491, §109 (AMD). 2009, c. 474, §16 (RP).

§17704-A. BACK CONTRIBUTIONS; ELECTED AND APPOINTED OFFICIALS

(REPEALED)

SECTION HISTORY
1995, c. 180, §3 (NEW). 2003, c. 261, §§6,7 (AMD). 2007, c. 305, §4 (AMD). 2007, c. 491, §§110, 111 (AMD). 2009, c. 474, §17 (RP).

§17704-B. BACK CONTRIBUTIONS FOR CERTAIN DAYS OFF WITHOUT PAY

1. **Election.** If the retirement system determines at the time a member retires that the member's benefit would be increased as a result of the inclusion of compensation that would have been paid for days off without pay or for days worked for which the level of pay is reduced as the result of the freezing of merit pay and longevity pay in fiscal year 2002-03, 2009-10, 2010-11, 2011-12 or 2012-13, or a combination thereof, as provided in section 17001, subsection 4, paragraph A, the retirement system shall advise the member of that result and shall allow the member to elect to have that compensation included in the calculation of the member's benefit and to make payments set forth in subsection 2.

[2015, c. 385, §9 (AMD) .]

2. **Payment.** The amount that a member who makes the election permitted in subsection 1 must pay is the amount equal to the employee contribution that member would have made on compensation that would have been paid to that member on the days off without pay or for days worked for which the level of pay is reduced as the result of the freezing of merit pay and longevity pay during fiscal year 2002-03, 2009-10, 2010-11, 2011-12 or 2012-13, or a combination thereof, as provided in section 17001, subsection 4, paragraph A, plus interest at a rate, to be set by the board, not to exceed regular interest by 5 or more percentage points. Interest must be computed beginning at the end of the year when those contributions or pick-up contributions would have been made to the date of payment. If the member elects to make the payment, the retirement system shall withhold the required amount from the member's first retirement benefit check.

[2015, c. 385, §9 (AMD) .]

3. **Benefit calculation.** If the member fails to make the election within 31 days of the notification provided under subsection 1, the retirement system shall calculate the member's retirement benefit without inclusion of the days off without pay and without inclusion of the compensation that otherwise would have been paid if the freezing of merit pay and longevity pay had not occurred during fiscal year 2002-03, 2009-10, 2010-11, 2011-12 or 2012-13, or a combination thereof, as provided in section 17001, subsection 4, paragraph A.

[2015, c. 385, §9 (AMD) .]

SECTION HISTORY
2003, c. 486, §4 (NEW). 2009, c. 213, Pt. SSS, §2 (AMD). 2009, c. 474, §18 (AMD). 2015, c. 267, Pt. CCCC, §1 (AMD). 2015, c. 385, §9 (AMD).

§17704-C. CONTINUED ELIGIBILITY TO PURCHASE BACK TIME

A member whose membership date is prior to August 1, 2010 and who was eligible to purchase service credit under former section 17704 or 17704-A prior to August 1, 2010, retains eligibility to purchase that service credit under the conditions of those sections as in effect prior to repeal. [2009, c. 474, §19 (NEW).]

SECTION HISTORY
2009, c. 474, §19 (NEW).

§17705. REFUND OF ACCUMULATED CONTRIBUTIONS

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §6 (RPR). 1987, c. 739, §§18,48 (AMD). 1991, c. 619, §§7-9 (AMD). 1991, c. 619, §18 (AFF). 1993, c. 387, §§A8,9 (AMD). 1997, c. 651, §5 (AMD). 2003, c. 630, §B3 (AMD). 2007, c. 137, §10 (RP).

§17705-A. REFUND OF ACCUMULATED CONTRIBUTIONS

1. **Conditions for refund.** If the service of any member has terminated, except by death or by retirement under this Part, the member must be paid the amount of the member's accumulated contributions under the following conditions:

A. The member must have properly applied for a refund of accumulated contributions; [2007, c. 137, §11 (NEW).]

B. Payment must be made after termination of service and not less than 22 days nor more than 60 days after receipt of the application and receipt of the last payroll upon which the name of the member appears; [2007, c. 137, §11 (NEW).]

C. An application for refund is void if the member filing the application returns to membership in any retirement program administered by the retirement system before issuance of the payment; [2007, c. 491, §112 (AMD).]

D. Except when inclusion of a portion of employer contributions is required by paragraph E, only accumulated contributions made by the member or picked up by the employer may be refunded to that member under this subsection; and [2007, c. 137, §11 (NEW).]

E. The amount of the refund of accumulated contributions related to a member's compensation for service rendered as a part-time, seasonal or temporary employee after December 31, 1991 must be at least equal to 7.5% of the member's compensation for that service plus interest as provided by section 17156. [2007, c. 137, §11 (NEW).]

[2011, c. 449, §7 (AMD) .]

SECTION HISTORY
2007, c. 137, §11 (NEW). 2007, c. 491, §112 (AMD). 2011, c. 449, §7 (AMD).

§17706. INACTIVE ACCOUNTS

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§19, 48 (AMD). 2007, c. 137, §12 (RP).

§17706-A. INACTIVE ACCOUNTS

1. **Conditions for refund.** The retirement system may make an automatic refund of contributions to a member who has not properly applied for a refund as provided in section 17705-A and who has terminated service, except by death or by retirement under this Part, and who has not met the minimum creditable service requirement for eligibility to receive a service retirement benefit at the applicable age under the following conditions:

A. The member account has been inactive for 3 or more years; [2007, c. 491, §113 (AMD).]

B. Except when inclusion of a portion of employer contributions is required by this subsection, only accumulated contributions made by the member or picked up by the employer may be refunded to that member under this subsection; [2007, c. 137, §13 (NEW).]

C. The amount of the refund of accumulated contributions related to a member’s compensation for service rendered as a part-time, seasonal or temporary employee after December 31, 1991 must be at least equal to 7.5% of the member’s compensation for that service plus interest as provided by section 17156; and [2007, c. 137, §13 (NEW).]

D. A member who receives an automatic refund under this subsection may, within 30 days of the issuance of the refund, return the full refunded amount to the retirement system. Upon receipt, the retirement system shall restore the accumulated contributions to the member’s credit. [2007, c. 137, §13 (NEW).]

Pursuant to the Code, Section 401(a)(31)(B), the amount of an automatic refund under this section for a member who has not reached normal retirement age may not exceed $1,000.

[2011, c. 449, §8 (AMD) .]

SECTION HISTORY
2007, c. 137, §13 (NEW). 2007, c. 491, §113 (AMD). 2009, c. 474, §20 (AMD). 2011, c. 449, §8 (AMD).

§17707. CETA SERVICE

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

A. "CETA employee" means an employee enrolled in a program under the United States Comprehensive Employment and Training Act of 1973, as amended. [1985, c. 801, §§5, 7 (NEW).]

B. "Employer" means the State or the participating local district with which the CETA employee is placed for training and employment. [1985, c. 801, §§5, 7 (NEW).]

C. "Prime sponsor" means the CETA prime sponsor, a unit of government responsible for planning and operating all CETA programs within the geographic jurisdiction encompassed by that unit of government. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

2. **Eligibility for membership.** CETA employees are considered eligible for membership in the State Employee and Teacher Retirement Program from the date of their enrollment in a CETA program, whether or not they become members.

[2007, c. 491, §114 (AMD) .]

3. **Employer's contributions.** Employer's contributions are governed as follows.

A. Notwithstanding this subchapter, subchapter 2 and chapter 421, subchapter 4, neither the State nor a participating local district is required to contribute to a retirement program of the Maine Public Employees Retirement System for CETA employees. [2007, c. 491, §114 (AMD).]

B. If an employee elects, under section 17761, to purchase the employee's CETA time for past creditable service, the employee's CETA prime sponsor shall then pay to the applicable retirement program an amount equal to the employer's contribution, plus regular interest, for the employee's CETA time, using only CETA funds. [2007, c. 491, §114 (AMD).]

[2007, c. 491, §114 (AMD) .]

4. **Employee's contributions.** Employee's contributions are governed as follows.

A. Notwithstanding section 17701, a CETA employee is not required to contribute to a retirement program of the Maine Public Employees Retirement System. [2007, c. 491, §114 (AMD).]

B. A CETA employee may contribute during the employee's period of CETA employment or may defer contributions until the employee's post-CETA employment status is known. [2007, c. 491, §114 (AMD).]

C. If an employee who has not contributed during the employee's CETA employment or who has withdrawn the employee's contributions later elects, under section 17761, to purchase the employee's CETA time for past creditable service, the employee shall pay to the applicable retirement program of the Maine Public Employees Retirement System an amount equal to the employee's contributions, plus interest, at a rate, to be set by the board, not to exceed regular interest by 5 or more percentage points. Interest must be computed beginning at the end of the year when those contributions or pick-up contributions would have been made to the date of payment. [2009, c. 474, §21 (AMD).]

D. If an employee or member who has not contributed during that employee's or member's CETA employment or who has withdrawn that employee's or member's contributions later elects, under section 17761, subsection 3, to purchase that employee's or member's CETA time for past creditable service before any retirement benefit becomes effective for that member, that employee or member must pay into the Members' Contribution Fund, by a single direct payment or annual direct payments to the applicable retirement program of the Maine Public Employees Retirement System, an amount that, together with regular interest on that amount, is the actuarial equivalent, at the effective date of the retirement benefit, of the portion of the retirement benefit based on the additional creditable service. Annual payments must be made in accordance with section 17701, subsection 4. Additional amounts paid under this paragraph become a part of the employee's or member's accumulated contributions. If any retirement benefit becomes effective before the completion of the payment under this paragraph,

the employee or member is entitled to service credit for a portion of the additional creditable service in the same proportion that the total amount of payments actually made, plus regular interest on those payments to the date the retirement benefit becomes effective, bears to the actuarial equivalent of the total portion of the retirement benefit based on the additional creditable service. [2007, c. 491, §114 (AMD).]

[2009, c. 474, §21 (AMD) .]

5. **Return of contributions.** Any CETA employee who contributed to a retirement program of the Maine Public Employees Retirement System during the member's CETA employment and who does not meet the requirements of section 17761, must be refunded the member's employee contributions, plus regular interest, upon request to the retirement system.

[2007, c. 491, §114 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1999, c. 241, §1 (AMD). 2007, c. 491, §114 (AMD). 2009, c. 474, §21 (AMD).

§17707-A. MEMBERS IN 1998 SPECIAL PLAN; CONTRIBUTIONS AFTER JUNE 30, 1998

After June 30, 1998, members to whom one or more of sections 17708 to 17712-B apply and to whom section 17851-A, subsection 1 also applies must contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made as provided in section 17851-A, subsection 5. [2007, c. 491, §115 (AMD).]

SECTION HISTORY
1997, c. 769, §1 (NEW). 2007, c. 491, §115 (AMD).

§17708. STATE POLICE

1. **Definition.** As used in this section, unless the context otherwise indicates, the term "state police officer" means:

A. A member of the State Police; [1985, c. 801, §§5, 7 (NEW).]

B. The Chief of the State Police; [2001, c. 118, §2 (AMD).]

C. A member of the State Police or Chief of the State Police who is appointed Commissioner of Public Safety; or [2001, c. 118, §2 (AMD).]

D. A special agent investigator in the Bureau of State Police who is hired before June 21, 1982. [2001, c. 118, §3 (NEW).]

[2001, c. 118, §§2, 3 (AMD) .]

2. **Before September 16, 1984.** A state police officer who was first employed by that department after July 9, 1943, but before September 16, 1984, shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made by the employer as follows:

A. At a rate of 7.5% of earnable compensation until the state police officer has completed 20 years of creditable service, as required under section 17851, subsection 4, paragraph A; and [1987, c. 739, §§20, 48 (AMD).]

B. After completing the service described in paragraph A, at a rate of 6.5% of earnable compensation for the remainder of employment as a state police officer. [1987, c. 739, §§20, 48 (AMD).]

[2007, c. 491, §116 (AMD) .]

3. **After September 15, 1984.** A state police officer who was first employed by that department after September 15, 1984 shall contribute to the State Employee and Teacher Retirement Program as follows:

A. At a rate of 7.5% of earnable compensation until the state police officer has completed 25 years of creditable service, as required under section 17851, subsection 4, paragraph B; and [1997, c. 740, §2 (AMD); 1997, c. 740, §6 (AFF).]

B. After completing the service described in paragraph A, at a rate of 6.5% of earnable compensation for the remainder of employment as a state police officer. [1997, c. 740, §2 (AMD); 1997, c. 740, §6 (AFF).]

[2007, c. 491, §117 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§20,48 (AMD). 1997, c. 740, §§1,2 (AMD). 1997, c. 740, §6 (AFF). 2001, c. 118, §§2,3 (AMD). 2007, c. 491, §§116, 117 (AMD).

§17708-A. STATE POLICE; MEMBERS HIRED AFTER JULY 1, 1992

Notwithstanding section 17708, a state police officer hired after July 1, 1992 shall contribute to the State Employee and Teacher Retirement Program at a rate of 1% of earnable compensation in addition to the contribution required under section 17708. [2007, c. 491, §118 (AMD).]

SECTION HISTORY
1991, c. 780, §HHH4 (NEW). 1991, c. 780, §HHH11 (AFF). 2007, c. 491, §118 (AMD).

§17708-B. STATE POLICE; CONTRIBUTIONS ON AND AFTER JULY 1, 1993

Notwithstanding sections 17708 and 17708-A, on and after July 1, 1993 a state police officer shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made at a rate of 1.15% of earnable compensation in addition to the contributions required under section 17708. [2007, c. 491, §119 (AMD).]

SECTION HISTORY
1993, c. 410, §L30 (NEW). 2007, c. 491, §119 (AMD).

§17709. INLAND FISHERIES AND WILDLIFE OFFICERS

1. **Before September 1, 1984.** A law enforcement officer in the Department of Inland Fisheries and Wildlife who was first employed in that capacity before September 1, 1984 shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made by the employer as follows:

A. At a rate of 7.5% of earnable compensation until the officer has completed 20 years of creditable service, as required under section 17851, subsection 5, paragraph A; and [1995, c. 466, Pt. A, §1 (NEW).]

B. After completing the service described in paragraph A, at a rate of 6.5% of earnable compensation for the remainder of the officer's employment in that capacity. [1995, c. 466, Pt. A, §1 (NEW).]

[2007, c. 491, §120 (AMD) .]

2. **After August 31, 1984; option.** A law enforcement officer in the Department of Inland Fisheries and Wildlife who was first employed in that capacity after August 31, 1984 and who elects the retirement option provided in section 17851, subsection 5-A shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made by the employer as provided in section 17852, subsection 5-A.

[2007, c. 491, §120 (AMD) .]

3. **After August 31, 1984.** Beginning September 1, 2002, a law enforcement officer in the Department of Inland Fisheries and Wildlife who was first employed in that capacity after August 31, 1984 shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made by the employer at a rate of 7.5% of earnable compensation until the law enforcement officer has completed 25 years of creditable service and at a rate of 6.5% thereafter.

[2007, c. 491, §120 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§21,48 (AMD). 1995, c. 466, §A1 (RPR). 2001, c. 559, §RR1 (AMD). 2001, c. 559, §RR17 (AFF). 2007, c. 491, §120 (AMD).

§17709-A. INLAND FISHERIES AND WILDLIFE OFFICERS; MEMBERS HIRED AFTER JULY 1, 1992

Notwithstanding section 17709, a law enforcement officer in the Department of Inland Fisheries and Wildlife hired after July 1, 1992 shall contribute to the State Employee and Teacher Retirement Program at a rate of 1% of earnable compensation in addition to the contribution required under section 17709. [2007, c. 491, §121 (AMD).]

SECTION HISTORY
1991, c. 780, §HHH5 (NEW). 1991, c. 780, §HHH11 (AFF). 2007, c. 491, §121 (AMD).

§17709-B. INLAND FISHERIES AND WILDLIFE OFFICERS; CONTRIBUTIONS ON AND AFTER JULY 1, 1993

Notwithstanding sections 17709 and 17709-A, on and after July 1, 1993 a law enforcement officer in the Department of Inland Fisheries and Wildlife who is subject to section 17709 shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made at a rate of 1.15% of earnable compensation in addition to the contributions required under section 17709. [2007, c. 491, §122 (AMD).]

SECTION HISTORY
1993, c. 410, §L30 (NEW). 2007, c. 491, §122 (AMD).

§17710. MARINE RESOURCES OFFICERS

1. **Before September 1, 1984.** A law enforcement officer in the Department of Marine Resources who was first employed in that capacity before September 1, 1984 shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made by the employer as follows:

A. At a rate of 7.5% of earnable compensation until the officer has completed 20 years of creditable service, as required under section 17851, subsection 6; and [1995, c. 466, Pt. B, §1 (RPR).]

B. After completing the service described in paragraph A, at a rate of 6.5% of earnable compensation for the remainder of the officer's employment in that capacity. [1995, c. 466, Pt. B, §1 (RPR).]

[2007, c. 491, §123 (AMD) .]

1-A. **After August 31, 1984; option.** A law enforcement officer in the Department of Marine Resources who was first employed in that capacity after August 31, 1984 and who elects the retirement option provided in section 17851, subsection 6-A shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made by the employer as provided in section 17852, subsection 6-A.

[2007, c. 491, §123 (AMD) .]

1-B. **After August 31, 1984.** Beginning September 1, 2002, a law enforcement officer in the Department of Marine Resources who was first employed in that capacity after August 31, 1984 shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made by the employer at a rate of 7.5% of earnable compensation until the law enforcement officer has completed 25 years of creditable service and at a rate of 6.5% thereafter.

[2007, c. 491, §123 (AMD) .]

2. **Commissioner or deputy commissioner.** A commissioner or deputy commissioner of the Department of Marine Resources may elect to contribute as a member or have pick-up contributions made by the employer under section 17701, rather than under this section, by filing a written copy of the election of choice with the board.

[1987, c. 739, §§22, 48 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§22,48 (AMD). 1995, c. 466, §§B1,2 (AMD). 2001, c. 559, §RR2 (AMD). 2001, c. 559, §RR17 (AFF). 2007, c. 491, §123 (AMD).

§17710-A. MARINE RESOURCES OFFICERS; MEMBERS HIRED AFTER JULY 1, 1992

Notwithstanding section 17710, a law enforcement officer in the Department of Marine Resources hired after July 1, 1992 shall contribute to the State Employee and Teacher Retirement Program at a rate of 1% of earnable compensation in addition to the contribution required under section 17710. [2007, c. 491, §124 (AMD).]

SECTION HISTORY
1991, c. 780, §HHH6 (NEW). 1991, c. 780, §HHH11 (AFF). 2007, c. 491, §124 (AMD).

§17710-B. MARINE RESOURCES OFFICERS; CONTRIBUTIONS ON AND AFTER JULY 1, 1993

Notwithstanding sections 17710 and 17710-A, on and after July 1, 1993 a law enforcement officer in the Department of Marine Resources who is subject to section 17710 shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made at a rate of 1.15% of earnable compensation in addition to the contributions required under section 17710. [2007, c. 491, §125 (AMD).]

SECTION HISTORY
1993, c. 410, §L30 (NEW). 2007, c. 491, §125 (AMD).

§17711. FOREST RANGERS

1. **Before September 1, 1984.** A forest ranger in the Department of Conservation, Bureau of Forestry who was first employed in that capacity before September 1, 1984, shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made by the employer as follows:

A. At a rate of 7.5% of earnable compensation until the forest ranger has met the requirements for eligibility for retirement under section 17851, subsection 8; and [1995, c. 624, §1 (NEW).]

B. After meeting the eligibility requirements for retirement, at a rate of 6.5% of earnable compensation for the remainder of the forest ranger's employment as a forest ranger. [1995, c. 624, §1 (NEW).]

[2007, c. 491, §126 (AMD) .]

2. **After August 31, 1984; option.** A forest ranger in the Department of Agriculture, Conservation and Forestry, Bureau of Forestry who was first employed in that capacity after August 31, 1984 and who elects the retirement option provided in section 17851, subsection 8-A shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made by the employer as provided in section 17852, subsection 7-A.

[2007, c. 491, §126 (AMD); 2011, c. 657, Pt. W, §§5, 7 (REV); 2013, c. 405, Pt. A, §23 (REV) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§23,48 (AMD). 1995, c. 624, §1 (RPR). 2007, c. 491, §126 (AMD). 2011, c. 657, Pt. W, §§5, 7 (REV). 2013, c. 405, Pt. A, §23 (REV).

§17711-A. FOREST RANGERS; MEMBERS HIRED AFTER JULY 1, 1992

Notwithstanding section 17711, a forest ranger in the Department of Agriculture, Conservation and Forestry, Bureau of Forestry hired after July 1, 1992 shall contribute to the State Employee and Teacher Retirement Program at a rate of 1% of earnable compensation in addition to the contribution required under section 17711. [2007, c. 491, §127 (AMD); 2011, c. 657, Pt. W, §§5, 7 (REV); 2013, c. 405, Pt. A, §23 (REV).]

SECTION HISTORY
1991, c. 780, §HHH7 (NEW). 1991, c. 780, §HHH11 (AFF). 2007, c. 491, §127 (AMD). 2011, c. 657, Pt. W, §§5, 7 (REV). 2013, c. 405, Pt. A, §23 (REV).

§17711-B. FOREST RANGERS; CONTRIBUTIONS ON AND AFTER JULY 1, 1993

Notwithstanding sections 17711 and 17711-A, on and after July 1, 1993 a forest ranger in the Department of Agriculture, Conservation and Forestry, Bureau of Forestry who is subject to section 17711 shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made at a rate of 1.15% of earnable compensation in addition to the contributions required under section 17711. [2007, c. 491, §128 (AMD); 2011, c. 657, Pt. W, §§5,7 (REV); 2013, c. 405, Pt. A, §23 (REV).]

SECTION HISTORY
1993, c. 410, §L30 (NEW). 2007, c. 491, §128 (AMD). 2011, c. 657, Pt. W, §§5, 7 (REV). 2013, c. 405, Pt. A, §23 (REV).

§17712. MAINE STATE PRISON EMPLOYEES

1. **Before September 1, 1984.** An employee of the Maine State Prison who holds a position described in section 17851, subsection 11, and who was first employed in one of those capacities before September 1, 1984, shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made by the employer as follows:

A. At a rate of 7.5% of earnable compensation until the employee has met the eligibility requirements for retirement under section 17851, subsection 11, paragraph A; and [1987, c. 739, §§24, 48 (AMD).]

B. After meeting the eligibility requirements for retirement, at a rate of 6.5% of earnable compensation for the remainder of employment in one or more of those capacities. [1987, c. 739, §§24, 48 (AMD).]

[2007, c. 491, §129 (AMD) .]

2. **After August 31, 1984.** An employee of the Maine State Prison who was first employed after August 31, 1984, in a position described in section 17851, subsection 11, shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made by the employer as follows:

A. At a rate of 7.5% of earnable compensation until the employee has completed 25 years of creditable service in one or more of those capacities; and [1987, c. 739, §§24, 48 (AMD).]

B. After completing the service described in paragraph A, at a rate of 6.5% of earnable compensation for the remainder of employment in one or more of those capacities. [1987, c. 739, §§24, 48 (AMD).]

[2007, c. 491, §129 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§24,48 (AMD). 2007, c. 491, §129 (AMD).

§17712-A. MAINE STATE PRISON EMPLOYEES; MEMBERS HIRED AFTER JULY 1, 1992

Notwithstanding section 17712, an employee of the Maine State Prison who holds a position described in section 17851, subsection 11 and who is hired after July 1, 1992 shall contribute to the State Employee and Teacher Retirement Program at a rate of 1% of earnable compensation in addition to the contribution required under section 17712. [2007, c. 491, §130 (AMD).]

SECTION HISTORY

1991, c. 780, §HHH8 (NEW). 1991, c. 780, §HHH11 (AFF). 2007, c. 491, §130 (AMD).

§17712-B. MAINE STATE PRISON EMPLOYEES; CONTRIBUTIONS ON AND AFTER JULY 1, 1993

Notwithstanding sections 17712 and 17712-A, on and after July 1, 1993 an employee of the Maine State Prison who holds a position described in section 17851, subsection 11 shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made at a rate of 1.15% of earnable compensation in addition to the contributions required under section 17712. [2007, c. 491, §131 (AMD).]

SECTION HISTORY
1993, c. 410, §L30 (NEW). 2007, c. 491, §131 (AMD).

§17713. ARMED FORCES

1. **Service after becoming a member.** For employees who qualify to have their membership in the State Employee and Teacher Retirement Program continued under section 17655, subsection 1, because of service in the Armed Forces of the United States, the State shall contribute to the Members' Contribution Fund the same amount that the member would have been required to contribute, if the member had been serving the State during the period of service in the armed forces in the same capacity in which the employee was serving at the time the employee joined the armed forces. Any member whose contributions to the Members' Contribution Fund are paid by the State under this subsection, who withdraws or ceases to be a member of the State Employee and Teacher Retirement Program, may not withdraw any of the contributions made by the State under this subsection.

[2007, c. 491, §132 (AMD) .]

2. **Service before becoming a member.** A member who qualifies under section 17760 to purchase service credit at the cost set forth in section 17760, subsection 4 shall contribute to the State Employee and Teacher Retirement Program for the period of service in the armed forces as follows.

A. Contributions must be calculated at the percentage rate required of active members during the period of time covered by the service in the armed forces applied to the member's earnable compensation during the first year as an employee after service in the armed forces, under the following terms and conditions:

(1) If 2 or more percentage rates were in effect during the period of service in the armed forces, the highest percentage rate must be used;

(2) The minimum rate is 5%; and

(3) Interest at a rate set by the board not to exceed regular interest by 2 or more percentage points must be paid on the unpaid balance beginning January 1, 1976, or the date of attaining 15 years of creditable service, if later, to the date payment is made. [2003, c. 693, §2 (AMD).]

B. [1989, c. 907, §2 (RP).]

C. The payment must be made to the State Employee and Teacher Retirement Program by a single direct payment or by annual direct payments made in accordance with section 17701, subsection 4. [2007, c. 491, §132 (AMD).]

[2007, c. 491, §132 (AMD) .]

SECTION HISTORY

1985, c. 801, §§5,7 (NEW). 1989, c. 710, §§5,6 (AMD). 1989, c. 907, §§1,2 (AMD). 1993, c. 349, §16 (AMD). 2003, c. 693, §2 (AMD). 2007, c. 491, §132 (AMD).

§17714. BAXTER STATE PARK AUTHORITY RANGERS

A law enforcement officer in the employment of the Baxter State Park Authority who elects the retirement option provided in section 17851, subsection 12 shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made by the employer as provided in section 17852, subsection 11. [2007, c. 491, §133 (AMD).]

SECTION HISTORY
1995, c. 466, §C1 (NEW). 2007, c. 491, §133 (AMD).

§17715. STATE FIRE MARSHALS

A state fire marshal, state fire marshal investigator or a state fire marshal inspector who elects the retirement option provided in section 17851, subsection 13 shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made by the employer as provided in section 17852, subsection 13. [2007, c. 491, §134 (AMD).]

SECTION HISTORY
1997, c. 401, §1 (NEW). 2007, c. 491, §134 (AMD).

§17716. MOTOR VEHICLE INVESTIGATORS

A motor vehicle investigator, senior motor vehicle investigator, principal motor vehicle investigator or chief motor vehicle investigator who elects the retirement option provided in section 17851, subsection 14 shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made by the employer as provided in section 17852, subsection 15. [2007, c. 491, §135 (AMD).]

SECTION HISTORY
1997, c. 401, §1 (NEW). 2007, c. 491, §135 (AMD).

Subchapter 4: CREDITABLE SERVICE

§17751. DETERMINATION OF ONE-YEAR'S SERVICE CREDIT

The determination of one-year's service credit shall be governed as follows. [1985, c. 801, §§5, 7 (NEW).]

1. **All service in one calendar year.** The board may not allow more than one year's service credit for all the service:

A. In one calendar year for state employees; or [1985, c. 801, §§5, 7 (NEW).]

B. In one school contract year for teachers or state employees employed as teachers. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

2. **Absence without pay.** Except as provided in section 17766, the board may not allow service credit for a period of absence without pay of more than a month's duration for a full-time position.

[1997, c. 1, §3 (COR) .]

3. **Board determination.** The board shall determine by appropriate rules how much service in any year qualifies for one year's service credit. Service rendered for the full normal working time in any year qualifies for one year's service credit. The board shall provide in its rule related to the determination of creditable service for state employees that any part-time or seasonal state employee who was employed during the period beginning January 1, 1989 and ending June 30, 1991 is credited with a full year of creditable service for each year in which that employee is employed for 1,000 or more hours, for as long as that employee is employed by the State. The board's rule must also treat in the same manner any employee first employed before July 1, 1991 who is employed in a position that is in a career ladder in which the employee is required to move from full-time status to seasonal status when accepting a promotion in the employee's career ladder. Section 17001, subsection 13, paragraph E does not apply to an employee who is credited with a full year of creditable service under this provision. Each state department or agency shall submit to the retirement system a list of all employees to whom this provision applies, in the manner and time provided by board rule.

[1991, c. 878, §1 (AMD) .]

4. **Special provision for certain legislative employees.** A legislative employee receives a full year of service credit for the period of January 1, 1978 to January 1, 1984 for each year of the legislative biennium in a position that may be full-time under Title 3, sections 22 and 42.

[2013, c. 2, §7 (COR) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1991, c. 878, §1 (AMD). RR 1997, c. 1, §3 (COR). 1997, c. 190, §1 (AMD). RR 2013, c. 2, §7 (COR).

§17752. SERVICE CREDIT FOR PRIOR SERVICE

1. **Determination.** Service credit for prior service is determined as follows.

A. If a member can provide the board with satisfactory evidence that he performed any work as a state employee before July 1, 1942, or as a teacher before July 1, 1947, the member shall be granted one year of service credit for each year in which any work was performed, except that:

(1) For the first year of service under this paragraph, service credit may be earned only from the date of beginning work to the end of the year; and

(2) During the calendar year 1942, the maximum amount of prior service credit that may be earned for work as a state employee is 1/2 year; and

(3) Prior service credit for work as a state employee shall be calculated on the basis of calendar years and for work as a teacher on the basis of school years. [1985, c. 801, §§ 5, 7 (NEW).]

B. Service credit for prior service shall be granted for work as a teacher to a member, if the member pays into the Members' Contribution Fund 5% of the salary received during that service. For each year of that service, the payments shall be not less than $20 nor more than $100. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Verification of prior service.** Upon verification of the length of prior service rendered, the board shall grant service credit for that service.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§17753. SERVICE CREDIT FOR BACK CONTRIBUTIONS

Upon complete payment of the back contributions under section 17704-C, the member must be granted service credit for the period of time for which the contributions have been made. Upon making partial payment of the back contributions under section 17704-C, the member must be granted service credit on a pro rata basis in accordance with rules adopted by the board. [2009, c. 474, §22 (AMD).]

1. **Entitlement to service credit.**

[1989, c. 95, §5 (RP) .]

2. **Retirement benefit effective before completion of payment.**

[1989, c. 95, §5 (RP) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 95, §5 (RPR). 1995, c. 180, §4 (AMD). 2009, c. 474, §22 (AMD).

§17754. OUT-OF-STATE SERVICE

1. **Generally.** For members who began membership before January 1, 1976, additional service credit must be allowed for out-of-state service, subject to the following conditions.

A. The member must have creditable service in Maine of at least 20 years in the aggregate. [1985, c. 801, §§ 5, 7 (NEW).]

B. The member, before any retirement benefit becomes effective for that member, must make contributions into the Members' Contribution Fund for the years of out-of-state service on the same basis as the member would have made contributions had the service been in Maine, including interest at a rate to be set by the board not to exceed regular interest by 5 or more percentage points. Interest is computed beginning the end of the year when those contributions would have been made, if the service had been in the State, to the date of payment. The payment must be made to the State Employee and Teacher Retirement Program by a single direct payment or by annual direct payments made in accordance with section 17701, subsection 4. [2007, c. 491, §136 (AMD).]

C. If the member was formerly subject to the Revised Statutes of 1944, chapter 37, sections 221 to 241, the member's last 7 years of creditable service before the date of retirement must be in Maine. [2007, c. 491, §136 (AMD).]

D. If the member is a teacher employed for the first time after July 1, 1947, the member's last 10 years of creditable service before the date of retirement must be in Maine and no more than 10 years of service credit for out-of-state service may be allowed. [2007, c. 491, §136 (AMD).]

E. If a member is not a teacher, the member's last 10 years of creditable service before the date of retirement must be in Maine and no more than 10 years of service credit may be allowed for out-of-state service. [2007, c. 491, §136 (AMD).]

F. [1993, c. 349, §17 (RP).]

G. Upon complete payment of the back contributions under paragraph B or section 17764, the member must be granted service credit for the period of time for which the contributions have been made. Upon making partial payment of the back contributions under paragraph B or section 17764, the member must be granted service credit on a pro rata basis in accordance with rules adopted by the board. [1993, c. 349, §18 (AMD).]

[2007, c. 491, §136 (AMD) .]

2. **Alternative.** If service credit for out-of-state service is not allowed under subsection 1, additional service credit for out-of-state service must be allowed for any member in the determination of the retirement benefit under this Part, if the member, before any retirement benefit becomes effective for that member, pays into the Members' Contribution Fund, by a single direct payment or annual direct payments to the State Employee and Teacher Retirement Program, an amount that, together with regular interest on that amount, is the actuarial equivalent, at the effective date of the retirement benefit, of the portion of the retirement benefit based on the additional creditable service. Annual payments must be made in accordance with section 17701, subsection 4.

A. Additional amounts paid under this subsection become a part of the members' accumulated contributions. [2007, c. 491, §136 (AMD).]

B. If any retirement benefit becomes effective before the completion of the payment under this subsection, the member is entitled to service credit for that portion of the additional creditable service that the total amount of payments actually made, plus regular interest on those payments to the date the retirement benefit becomes effective, bears to the actuarial equivalent of the total portion of the retirement benefit based on the additional creditable service. [1989, c. 710, §9 (AMD).]

[2007, c. 491, §136 (AMD) .]

3. **Service credit not to be used in another state.** Notwithstanding anything to the contrary, any application for a retirement benefit that becomes effective after May 11, 1966, and for which out-of-state service credit is to be granted must be accompanied by a certified statement from the appropriate retirement system that the out-of-state service credit granted has not been or will not be used to obtain benefits in another state.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 95, §6 (AMD). 1989, c. 709, §1 (AMD). 1989, c. 710, §§7-9 (AMD). 1993, c. 349, §§17,18 (AMD). 2007, c. 491, §136 (AMD).

§17755. DISABILITY RETIREMENT SERVICE CREDIT

A beneficiary shall receive service credit for the purpose of determining benefits under this Part for the period following termination of service for which the beneficiary receives disability retirement benefits under subchapter V, articles 3 and 3-A. [1989, c. 409, §§6, 12 (AMD).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 409, §§6,12 (AMD).

§17756. UNUSED ACCRUED OR ACCUMULATED SICK LEAVE OR UNUSED VACATION LEAVE

1. **Service credit.** Unused accumulated or accrued sick leave, unused vacation leave, or a combination of both, for which a member is credited on termination of service, but for which the member does not receive payment, qualifies for service credit.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Limitation.** Leave qualifying for service credit under subsection 1 may not exceed a total of 90 days, except as provided in subsection 3.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Exceptions.** Leave beyond 90 days may qualify for service credit, up to the maximum number of days of leave, set by personnel rules or by contract, that a person is allowed to accumulate, if:

A. For state employees, the member, before any retirement benefit becomes effective for him, pays into the Members' Contribution Fund, a single payment which is the actuarial equivalent, at the effective date of the member's retirement benefit, of the portion of his retirement benefit based on the additional creditable service beyond 90 days; and [1985, c. 801, §§ 5, 7 (NEW).]

B. For teachers, the member or the school administrative unit employing the member pays into the Members' Contribution Fund by a single payment the actuarial equivalent, at the effective date of the member's retirement benefit, of the portion of his retirement benefit based on the additional creditable service beyond 90 days. The member and the school administrative unit may determine by contract the portion to be deposited by each to obtain this additional creditable service. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§17757. FORMER MEMBERS

Upon complete payment of the back contributions under section 17703, the member shall be granted service credit for the period of time for which the contributions have been made. Upon making partial payment of the back contributions under section 17703, the member shall be granted service credit on a pro rata basis in accordance with rules adopted by the board. [1989, c. 95, §7 (NEW).]

1. **Service credit reinstated.**

[1989, c. 95, §7 (RP) .]

2. **Retirement benefit effective before completion of repayment.**

[1989, c. 95, §7 (RP) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 95, §7 (RPR).

§17758. LEGISLATURE AND EXECUTIVE COUNCIL

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2009, c. 474, §23 (RP).

§17759. FEDERAL EMPLOYMENT SERVICE

1. **Creditable service.** An employee of the federal employment service who became an employee of a state department before the federal employment service was returned to state control is entitled to service credit for prior service and membership service for the time the person was with the federal employment service, if the person makes up whatever contributions would have been made if the federal service had been state membership service, including interest at a rate, to be set by the board, not to exceed the regular interest by 5 or more percentage points beginning January 1, 1976, to the date of payment.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Applicability.** This section does not apply to any member who began membership on or after January 1, 1976.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§17760. SERVICE IN THE ARMED FORCES

Service credit for service in the United States Armed Forces is governed as follows. [2003, c. 693, §3 (AMD).]

1. **Service after becoming a member.** A member is entitled to service credit for the period of time during which the member's membership is continued under section 17655, subsection 1, under the following terms and conditions. Except as provided in paragraph B, service credit under this subsection is limited to 5 years.

A. A member who is otherwise entitled to service credit for military leave may not be deprived of these credits if the member's return to membership service is delayed beyond 90 days after the member's separation from the service in the Armed Forces of the United States, under conditions other than dishonorable, if the delay is caused by an illness or disability incurred in the service in the armed forces. [2003, c. 387, §3 (AMD).]

B. A member may not receive service credit for military leave beyond the end of the period of first enlistment or induction or beyond 5 years from the date of original call to active duty in the armed forces, whichever is less, unless:

(1) The member's return to active duty in the armed forces or the extension of the period of service beyond 5 years is required by some mandatory provision; and

(2) The person presents proof of the return to or extension of service satisfactory to the board. [2003, c. 387, §3 (AMD).]

[2003, c. 693, §3 (AMD) .]

2. **Service before becoming a member.**

[2003, c. 693, §3 (RP) .]

3. **Service before becoming member.** A member who served as a full-time active duty member of the United States Armed Forces before becoming a member and who separated from the armed forces under conditions other than dishonorable is entitled under this subsection to purchase service credit for the period of time that the member served in the armed forces by complying with the terms and conditions of this subsection and the applicable provisions of subsection 4 or 5. Service credit under this subsection is limited to 4 years.

A. A member may purchase service credit at the cost set forth in subsection 4 if the member has at least 15 years of creditable service at the time of retirement, the member makes payment as required under subsection 4 and the member:

(1) Began membership prior to January 1, 1976;

(2) Served in the United States Armed Forces during any federally recognized period of conflict; or

(3) Was awarded an Armed Forces Expeditionary Medal, a Combat Action Ribbon, a Combat Infantry Badge or any other campaign or expeditionary medal and the receipt of such a medal would allow the member to be considered "preference eligible" under 5 United States Code, Section 2108(3)(A) or 2108(3)(B). A member described in this subparagraph is entitled to purchase service

credit at the cost set forth in subsection 4 only if a cost subsidy for that member's service credit has been paid to the State Employee and Teacher Retirement Program as provided in subsection 6. [2007, c. 491, §137 (AMD).]

B. A member may purchase service credit at the cost set forth in subsection 5 if the member has at least 5 years of creditable service at the time of retirement and the member makes payment as required under subsection 5. [2003, c. 693, §3 (NEW).]

C. For purposes of this subsection, "federally recognized period of conflict" means World War I, April 6, 1917 to November 11, 1918 or to March 31, 1920 if service was in Russia; World War II, December 7, 1941 to December 31, 1946; the Korean Conflict, June 27, 1950 to January 31, 1955; the Vietnam War, August 5, 1964 to May 7, 1975 and the period beginning on February 28, 1961 and ending on May 7, 1975 in the case of a veteran who served in the Republic of Vietnam during that period; and the Persian Gulf War, August 7, 1990 to the date that the United States Government recognizes as the end of the Persian Gulf War. [2003, c. 693, §3 (NEW).]

[2007, c. 491, §137 (AMD) .]

4. **Members qualified for credit at subsidized cost.** A member qualified under subsection 3 to purchase service credit at the cost set forth in this subsection is entitled to service credit upon payment of back contributions under section 17713, subsection 2. Upon complete payment of back contributions, the member must be granted service credit for the period of time for which payment is made. Upon making partial payment, the member must be granted service credit on a pro rata basis in accordance with rules adopted by the board.

[2003, c. 693, §3 (NEW) .]

5. **Members qualified for credit at actuarial cost.** A member qualified under subsection 3 to purchase service credit at the cost set forth in this subsection is entitled to service credit if the member pays into the Members' Contribution Fund an amount that, together with regular interest on that amount, is the actuarial equivalent, at the effective date of the retirement benefit, of the portion of the retirement benefit based on the additional creditable service.

A. Payment must be made before any retirement benefit becomes effective for that member. [2003, c. 693, §3 (NEW).]

B. Payment may be made to the retirement system by a single direct payment or by annual direct payments in accordance with section 17701, subsection 4. [2003, c. 693, §3 (NEW).]

C. A person who purchases service credit under this subsection and who subsequently, without inclusion of the purchased service credit and prior to retirement, becomes qualified for service credit at the cost set forth in subsection 4 is entitled to purchase the service credit under section 17713, subsection 2 and to receive a refund of the amount paid under this subsection that exceeds the cost to purchase the service credit under section 17713. A person who would have been qualified to purchase service credit under subsection 4 prior to retirement if a timely appropriation had been made under subsection 6 is entitled to a refund under this subsection even if the person becomes qualified after retirement. [2003, c. 693, §3 (NEW).]

[2003, c. 693, §3 (NEW) .]

6. **Cost subsidy for certain award recipients; annual report.** A recipient of an award described in subsection 3, paragraph A, subparagraph (3) may purchase service credit at a subsidized cost under subsection 4 only if the retirement system has received an appropriation of the difference between the actuarial cost of that member's service credit and the amount to be paid by the member under subsection 4.

A. The retirement system shall annually, by February 15th, report to the joint standing committee of the Legislature having jurisdiction over retirement matters and the joint standing committee of the Legislature having jurisdiction over appropriations matters:

(1) The amount, if any, in the account maintained for the purposes of this subsection;

(2) The cost to subsidize the purchase of service credit under this subsection for members who applied and were determined eligible in the calendar year immediately preceding the report; and

(3) The cost to subsidize the purchase of service credit under this subsection for members who applied and were determined eligible in each of the calendar years before the immediately preceding calendar year for which full appropriations were not made. [2003, c. 693, §3 (NEW).]

B. In response to the report described in paragraph A, the joint standing committee of the Legislature having jurisdiction over retirement matters may report out legislation appropriating funds for all or a part of the costs set forth in the report. [2003, c. 693, §3 (NEW).]

C. The retirement system shall maintain a separate account for funds appropriated for the purposes of this subsection. When the account contains sufficient funds to subsidize the purchase of service credit for all members who applied and were determined to be eligible in a particular calendar year, the retirement system shall allow that group of members to make purchases. Funds in the account must be applied to the earliest calendar year for which members remain who are eligible but have not yet been able to make purchases. [2003, c. 693, §3 (NEW).]

[2003, c. 693, §3 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 95, §8 (AMD). 1989, c. 907, §3 (AMD). 1991, c. 479, §§2,3 (AMD). 2001, c. 114, §§1-3 (AMD). 2003, c. 387, §§2,3 (AMD). 2003, c. 693, §3 (AMD). 2007, c. 491, §137 (AMD).

§17761. CETA SERVICE

1. **Service credit allowed.** Service credit for the period of CETA employment occurring after June 30, 1979, shall be granted to any person who, after June 30, 1979, satisfies the following conditions:

A. The person was a CETA employee; [1985, c. 801, §§5, 7 (NEW).]

B. The person, within 90 days of termination of CETA employment, became a non-CETA employee of the employer; [1985, c. 801, §§5, 7 (NEW).]

C. The person, within 90 days of becoming a non-CETA employee, signified in writing to the retirement system his intention to purchase time credit under section 17707, subsection 4; [1985, c. 801, §§5, 7 (NEW).]

D. The person has not received a return of any contributions made under section 17707, subsection 4 or has deposited his contributions within 18 months of obtaining non-CETA employment with the employer under section 17707, subsection 4; and [1985, c. 801, §§5, 7 (NEW).]

E. The employer contribution required by section 17707, subsection 3 has been paid. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

2. **Retirement benefit effective before completion of payment.** If any retirement benefit becomes effective before the completion of the deposit under section 17707, subsection 4, the person is entitled to credit for that portion of his CETA time which the amount of the deposit actually made bears to the total amount which would have been required to purchase the person's entire CETA time.

[1985, c. 801, §§5, 7 (NEW) .]

3. **Service credit allowed.** Service credit for the period of CETA employment occurring before July 1, 1979 must be granted to any person who satisfies the following conditions:

A. The person was a CETA employee; [1999, c. 241, §2 (NEW).]

B. The person within 90 days of termination of CETA employment became a non-CETA employee of the employer; and [1999, c. 241, §2 (NEW).]

C. The employee contribution required by section 17707, subsection 4, paragraph D has been paid. [1999, c. 241, §2 (NEW).]

[1999, c. 241, §2 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1999, c. 241, §2 (AMD).

§17762. ADULT EDUCATION TEACHERS

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 700, §A25 (AMD). 1993, c. 539, §2 (AFF). 1993, c. 539, §1 (RP).

§17763. TEACHERS IN PRIVATE, PAROCHIAL AND OTHER SCHOOLS

1. **Parochial school or public or private academy.** A member who taught in a parochial school or in a public or private academy may purchase up to 10 years of service credit for that service under the following conditions.

A. The member must have taught in a school approved by the Department of Education or the education department of another state while holding an appropriate teaching certificate. [1991, c. 558, §1 (AMD).]

B. The member must have 20 years of creditable service as a state employee or teacher in this State. [1991, c. 558, §1 (AMD).]

C. The member must, before any retirement benefit becomes effective for that member, make contributions into the Members' Contribution Fund, for the years of private or parochial school teaching on the same basis as the member would have made contributions had the service been as a state employee or teacher in this State, including interest at a rate to be set by the board not to exceed regular interest by 5 or more percentage points. The member's earnings for the years of private or parochial school teaching must be assumed to have been the same as the average salary for teachers in this State as determined by the Department of Education for each of the years when the private or parochial school teaching took place. Interest must be computed beginning at the end of the year when those contributions would have been made, if the service had been as a state employee or teacher in this State, to the date of payment. Payment must be made by a single direct payment or annual direct payments to the State Employee and Teacher Retirement Program in accordance with section 17701, subsection 4. [2007, c. 491, §138 (AMD).]

D. The member must have begun membership before January 1, 1976. [1991, c. 558, §1 (NEW).]

E. The member's last 10 years of creditable service before the date of retirement must be as a state employee or teacher in this State. [1991, c. 558, §1 (NEW).]

F. Upon complete payment of the contributions under paragraph C, the member must be granted service credit for the period of time for which the contributions have been made. Upon making partial payment of the contributions under paragraph C, the member must be granted service credit on a pro rata basis in accordance with rules adopted by the board. [1991, c. 558, §1 (NEW).]

[2007, c. 491, §138 (AMD) .]

2. **Other schools and programs.**

[1993, c. 349, §19 (RP) .]

3. **Applicability.**

[1987, c. 148, (RP) .]

4. **Alternative.** In the determination of the retirement benefit under this Part, if service credit for private or parochial school teaching is not allowed under subsection 1 based upon the member's not meeting the requirements of subsection 1, paragraph B or D, additional service credit for private or parochial school teaching is allowed for any member who meets the requirements of subsection 1, paragraphs A and E, if the member, before any retirement benefit becomes effective for that member, pays into the Members' Contribution Fund, by a single direct payment or annual direct payments to the State Employee and Teacher Retirement Program, an amount that, together with regular interest on that amount, is the actuarial equivalent, at the effective date of the retirement benefit, of the portion of the retirement benefit based on the additional creditable service.

Annual payments must be made in accordance with section 17701, subsection 4.

A. Additional amounts paid under this subsection become a part of the members' accumulated contributions. [1993, c. 387, Pt. A, §10 (NEW).]

B. If any retirement benefit becomes effective before the completion of the payment under this subsection, the member is entitled to service credit for that portion of the additional creditable service that the total amount of payments actually made, plus regular interest on those payments to the date the retirement benefit becomes effective, bears to the actuarial equivalent of the total portion of the retirement benefit based on the additional creditable service. [1993, c. 387, Pt. A, §10 (NEW).]

[2007, c. 491, §139 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 148, (AMD). 1989, c. 700, §A26 (AMD). 1989, c. 709, §2 (AMD). 1989, c. 710, §§10,11 (AMD). 1991, c. 558, §1 (AMD). 1993, c. 349, §19 (AMD). 1993, c. 387, §A10 (AMD). 2007, c. 491, §§138, 139 (AMD).

§17763-A. PURCHASE OF SERVICE CREDIT BY AN EDUCATOR OF A CHILD WITH A DISABILITY; SERVICE BEFORE JULY 1, 1976

If a member can provide the board with satisfactory evidence that the member performed before July 1, 1976 any work as an educator or teacher of a child with a disability, as defined in Title 20-A, section 7001, subsection 1-B, including as a teacher who may not meet the definition in section 17001, subsection 42, in a private or parochial school or other school, center, facility or program that was not part of a public school system, the member may purchase up to one year of service credit for any such work performed before July 1, 1976. Service credit for this work must be calculated on the basis of school years. In order to purchase this service credit and before any retirement benefit becomes effective, the member must pay into the Members' Contribution Fund by a single direct payment or annual direct payments to the State Employee

and Teacher Retirement Program an amount that, together with regular interest on that amount, is the actuarial equivalent at the effective date of the retirement benefit of the portion of the retirement benefit based on the additional creditable service. Annual payments must be made in accordance with section 17701, subsection 4. Additional amounts paid under this subsection become a part of the member's accumulated contributions. If any retirement benefit becomes effective before the completion of the payment under this section, the member is entitled to service credit for that portion of the additional creditable service that the total amount of payments actually made plus regular interest on those payments to the date the retirement benefit becomes effective bears to the actuarial equivalent of the total portion of the retirement benefit based on the additional creditable service. [2007, c. 491, §140 (AMD).]

SECTION HISTORY
2007, c. 303, §1 (NEW). 2007, c. 491, §140 (AMD).

§17764. VISTA, PEACE CORPS, HEAD START AND FOREIGN TEACHING

Members who served in the Peace Corps, foreign or domestic, the Volunteers in Service to America Program, or the Fulbright Exchange Program; who taught children of United States Foreign Service Corps personnel outside the continental United States or United States Armed Forces personnel located in any foreign country on a regularly established United States military base; or who served as an employee of a Head Start program in Maine may purchase service credit for that service under the following conditions. For the purposes of this section "members" means state employees and teachers. [1999, c. 250, §1 (AMD).]

1. **Limit on service credit.** The service credit may not exceed 2 years.

[1989, c. 709, §3 (NEW) .]

2. **Creditable service required.** Members whose service in these organizations preceded their becoming members in the State Employee and Teacher Retirement Program must, on the date of retirement, have at least 15 years of creditable service.

[2007, c. 491, §141 (AMD) .]

3. **Return to employment.** Members who terminated service in the State as state employees or teachers prior to service with these organizations must return to state employment or active teaching in the State within one year of the completion of service in these organizations.

[1989, c. 709, §3 (NEW) .]

4. **Payment to fund.** Members must, before any retirement benefit becomes effective, pay into the Members' Contribution Fund by a single direct payment or annual direct payments to the State Employee and Teacher Retirement Program an amount that, together with regular interest on that amount, is the actuarial equivalent, at the effective date of the retirement benefit, of the portion of the retirement benefit based on the additional creditable service. Payments must be made as provided in section 17701.

[2007, c. 491, §142 (AMD) .]

SECTION HISTORY
1989, c. 709, §3 (NEW). 1999, c. 250, §1 (AMD). 2007, c. 58, §3 (REV).
2007, c. 491, §§141, 142 (AMD).

§17765. TEACHER PREVIOUSLY EMPLOYED AS TEACHER'S AIDE OR EDUCATIONAL TECHNICIAN I

A member who is a teacher who was previously employed by a school administrative unit in this State as a teacher's aide or Education Technician I may purchase service credit for the time so employed, under the following conditions. [1997, c. 161, §1 (NEW).]

1. **Payment to fund.** Before the retirement benefit becomes effective, members must pay into the Members' Contribution Fund by a single direct payment or annual direct payments to the State Employee and Teacher Retirement Program an amount that, together with regular interest on that amount, is the actuarial equivalent, at the effective date of the retirement benefit, of the portion of the retirement benefit based on the additional creditable service. Payments must be made as provided in section 17701, subsection 4.

[2007, c. 491, §143 (AMD) .]

2. **Partial payment and partial service credit.** If any retirement becomes effective before the completion of the payment under this section, the member is entitled to service credit for that portion of the additional creditable service that the total amount of payments actually made, plus regular interest on those payments to the date the retirement benefit becomes effective, bears to the actuarial equivalent of the total portion of the retirement benefit based on the additional creditable service.

[1997, c. 161, §1 (NEW) .]

3. **Limitation on use of purchased service credit.** Notwithstanding any other provision of law, any service credit purchased under this section may be used only for the purpose of increasing the amount of a member's service retirement benefits by inclusion of the purchased service credit and may not be used for any other purpose.

[1997, c. 161, §1 (NEW) .]

4. **Additional conditions of service credit purchase if some or all employment as teacher's aide or Educational Technician I was under a participating local district plan.** If a member was previously employed as a teacher's aide or an Educational Technician I and was a member under the Participating Local District Retirement Program, then the following additional conditions apply:

A. If a member was also previously employed as a teacher's aide or an Educational Technician I by a school administrative unit where the member was not a member under the Participating Local District Retirement Program, and the member is purchasing or purchases less than all of the member's total time as a teacher's aide or an Educational Technician I, all of the time during which the member was employed as a teacher's aide or an Educational Technician I and was a member under the Participating Local District Retirement Program must be purchased before the member may purchase any of the time during which the member was employed as a teacher's aide or Educational Technician I and was not a member under the Participating Local District Retirement Program; and [2007, c. 491, §144 (AMD).]

B. As of the date that the retirement system receives any payment toward the purchase, a member's purchase of any service credit under this section for time during which the member was employed as a teacher's aide or an Educational Technician I and was a member under the Participating Local District Retirement Program is an irrevocable election to use the service credit purchased to increase the member's service retirement benefits under the State Employee and Teacher Retirement Program, in accordance with subsection 3. Any portion of the service credit that is purchased or available for purchase may not after purchase or being made available for purchase be considered to be service credit under the Participating Local District Retirement Program as service with the participating local district by which the member was employed as a teacher's aide or an Educational Technician I, regardless of

whether the member completed the payment for purchase under this section. A member who does not complete the payment for purchase before the member's retirement becomes effective is entitled to service credit as provided in subsection 2. [2007, c. 491, §144 (AMD).]

§17765. Service credit for educational leave

(As enacted by PL 1997, c. 190, §2 is REALLOCATED TO TITLE 5, SECTION 17766)

[2007, c. 491, §144 (AMD) .]

SECTION HISTORY
RR 1997, c. 1, §4 (RAL). 1997, c. 161, §1 (NEW). 1997, c. 190, §2 (NEW). 2007, c. 491, §§143, 144 (AMD).

§17766. SERVICE CREDIT FOR EDUCATIONAL LEAVE

(REALLOCATED FROM TITLE 5, SECTION 17765)

A member may purchase service credit for the period during which the member took an unpaid or partially paid educational leave pursuant to the Maine Educational Leave Act under the following conditions. [1997, c. 1, §4 (RAL).]

1. **Payment.** The member must, before any retirement benefit becomes effective, pay into the Members' Contribution Fund by a single payment or annual direct payments to the State Employee and Teacher Retirement Program an amount that, together with regular interest on that amount, is the actuarial equivalent, at the effective date of the retirement benefit, of the portion of the retirement benefit based on the additional service credit purchased under this section. Payments must be made as provided in section 17701, subsection 4.

If any retirement benefit becomes effective before the completion of the payment under this subsection, the member is entitled to the additional creditable service that the total amount of payments actually made, plus regular interest on those payments to the date the retirement benefit becomes effective, bears to the actuarial equivalent of the total portion of the retirement benefit based on the additional creditable service.

[2007, c. 491, §145 (AMD) .]

2. **Limitation on use of purchased service credit.** Notwithstanding any other provision of law, service credit purchased under this section may be used only for the purpose of increasing the amount of a member's service retirement benefit by inclusion of the purchased service credit and may not be used to establish a member's qualification for a service retirement benefit.

[1997, c. 1, §4 (RAL) .]

3. **Return to employment.** The member must have returned to state employment after completion of the educational leave.

[1997, c. 1, §4 (RAL) .]

SECTION HISTORY
RR 1997, c. 1, §4 (RAL). 2007, c. 491, §145 (AMD).

Subchapter 5: BENEFITS

Article 1: GENERAL PROVISIONS

§17801. COMMITMENT TO MEMBERS AND LIMITATIONS

1. **Commitment as to certain provisions and limitations.** The following provisions govern the commitment as to certain provisions and limitations.

A. The commitment set out in paragraph B is effective October 1, 1999, for members who, on October 1, 1999 or thereafter, meet the creditable service requirement for eligibility to receive a service retirement benefit, at the applicable age if so required, under section 17851 or section 17851-A, subsection 2. [1999, c. 489, §3 (NEW).]

B. The protections established under the provisions listed in subparagraph (1) constitute solemn contractual commitments of the State protected under the contract clauses of the Constitution of Maine, Article I, Section 11 and the United States Constitution, Article I, Section 10, under the terms and conditions set out in subparagraph (2).

(1) The commitment provided by this section applies to the protections established under the specific following provisions:

(a) Section 17001, subsection 4; and subsection 13, paragraph B, subparagraph (1) and paragraph C, subparagraph (2);

(b) Section 17806, subsection 4;

(c) The subsection of section 17851, that is applicable to each member;

(d) The paragraph of subsection 2 of section 17851-A, that is applicable to each member;

(e) The paragraph of subsection 4 of section 17851-A, that is applicable to each member; and

(f) The subsection of section 17852, that is applicable to each member.

(2) The commitment established in this paragraph attaches to a given provision of those specified in subparagraph (1) when the member in question has met the creditable service requirement set out in the given provision, on the basis of which the protection established by the provision becomes effective. [1999, c. 489, §3 (NEW).]

[1999, c. 489, §3 (NEW) .]

2. **Provisions not covered by subsection 1.** Subsection 1 does not apply to any provision of this Part not specifically identified in subsection 1. Any provision not specifically identified in subsection 1 may be increased, decreased, otherwise changed or eliminated by the Legislature as to any member regardless of whether the member has or has not met any creditable service requirement for eligibility to receive a service retirement benefit.

[1999, c. 489, §3 (NEW) .]

3. **Employee contribution rate.** Effective October 1, 1999, for members who, on October 1, 1999 or thereafter, meet the creditable service requirement for eligibility to receive a service retirement benefit under section 17851 or section 17851-A, subsection 2, the employee contribution rate required to be paid at the time the service was rendered under the provision of section 17851 or 17851-A that is applicable to each member may be increased for members who have met the requirements only to:

A. Pay the cost, in whole or in part, of an improvement to a benefit that exists at the time the increase becomes effective and that is then or may in the future be applicable to members to whom the increase applies or provide a new benefit that is then or may in the future be applicable to members to whom the increase applies, and only to the extent of the cost of the improved or new benefit, provided that nothing in this paragraph may be construed to require that the employee contribution rate must be increased to pay the cost, in whole or part, of the improved or new benefit; or [1999, c. 489, §3 (NEW).]

B. Maintain actuarial soundness as required by the Constitution of Maine, Article IX, Section 18-A and this Part, as determined to be necessary by the board on recommendation of the system's actuary. [1999, c. 489, §3 (NEW).]

For members to whom section 17851-A applies, the phrase "the employee contribution rate required to be paid" includes contribution rates as made applicable under section 17851-A, subsections 5 and 6.

[1999, c. 489, §3 (NEW) .]

4. **Limitations on subsections 1 and 3.** Subsections 1 and 3 do not apply to any member until the member has met the creditable service requirement for eligibility to receive a service retirement benefit under section 17851 or 17851-A, subsection 2. For members to whom subsections 1 and 3 do not apply as provided in this subsection, the Legislature may increase, decrease, otherwise change or eliminate any provisions of this Part.

[1999, c. 489, §3 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§25,48 (AMD). 1999, c. 489, §3 (RPR).

§17802. ELIGIBILITY FOR BENEFITS

Only members of the State Employee and Teacher Retirement Program, their spouses, surviving spouses, children, dependent children, parents or beneficiaries are eligible to receive benefits from the State Employee and Teacher Retirement Program. [2007, c. 491, §146 (AMD).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 491, §146 (AMD).

§17803. ELECTION OF METHODS OF PAYMENT

1. **Definition.** As used in this article, unless the context otherwise indicates, "qualifying member" means:

A. A member; or [1985, c. 801, §§ 5, 7 (NEW).]

B. A former member who is receiving a disability retirement benefit. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Election.** In order to receive a benefit, a qualifying member must elect to have his service retirement benefit payable under any of the methods in section 17804.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Time and manner of election.** A qualifying member must elect a method of payment before the beginning of payment of a service retirement benefit. This election must be by written notice to the executive director stating the date on which he desires to retire.

[1987, c. 256, §7 (AMD) .]

4. **Change of election.** A qualifying member may revoke his election of benefits and may elect another method of payment by giving written notice to the executive director at any time before the first payment of the service retirement benefit.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §7 (AMD).

§17804. METHODS OF PAYMENT

Except as provided in subsection 6, payment of a service retirement benefit shall begin on the first day of the month following the month in which the qualifying member becomes eligible to receive payment of the member's service retirement benefit under section 17851 or 17907. A full month's benefit shall be paid to the beneficiary or estate of the recipient for the month in which the member dies. A qualifying member may select payment in one of the following methods. [1989, c. 95, §9 (AMD).]

1. **Full benefits.** All retirement benefits shall be payable for life in equal monthly installments with no further payment made after the month in which the retiree dies.

[1987, c. 256, §9 (AMD) .]

2. **Option 1.** The qualifying member may elect to have a reduced retirement benefit paid to himself while alive and at the qualifying member's death to have the excess, if any, of his accumulated contributions at the time of retirement over the portion of the total retirement benefit payments actually made to the qualifying member while alive, which is the actuarial equivalent of the accumulated contributions, paid in a lump sum to the beneficiary he has nominated by written designation duly acknowledged and filed with the executive director or, if no one has been nominated as beneficiary, to his estate.

[1985, c. 801, §§5, 7 (NEW) .]

3. **Option 2.** The qualifying member may elect to have a reduced retirement benefit payable to himself while alive and at the qualifying member's death to have the benefit continued in the same amount for the life of the beneficiary he has nominated by written designation duly acknowledged and filed with the executive director at the time of retirement, if the beneficiary survives the qualifying member.

[1985, c. 801, §§5, 7 (NEW) .]

4. **Option 3.** The qualifying member may elect to have a reduced retirement benefit payable to himself while alive and at the qualifying member's death to have the benefit continued at 1/2 the amount for the life of the beneficiary he has nominated by written designation duly acknowledged and filed with the executive director at the time of retirement, if the beneficiary survives the qualifying member.

[1985, c. 801, §§5, 7 (NEW) .]

5. **Option 4.**

[1999, c. 744, §17 (AFF); 1999, c. 744, §7 (RP) .]

5-A. **Option 4.** The qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and at the qualifying member's death to have some benefit other than that available under subsection 3 or 4 payable to the beneficiary that the qualifying member has designated, if the beneficiary survives the qualifying member. The total value of the benefit paid to the qualifying member during the qualifying member's life plus the benefit paid after the qualifying member's death is the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The

method used to determine the benefit must be approved by the board, and the beneficiary must be designated by written designation, duly notarized and filed with the executive director on a form provided or specified by the retirement system.

[1999, c. 744, §8 (NEW); 1999, c. 744, §17 (AFF) .]

5-B. **Option 5.** The qualifying member may elect to have a reduced retirement benefit payable in part to the qualifying member and in part to the beneficiary, who must be the sole beneficiary, while both are alive and, at the death of either, to have the higher benefit paid to the survivor for the survivor's life. The total value of the benefit paid to the qualifying member and beneficiary, during the qualifying member's life, plus the benefit to be paid after the death of either is the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The method used to determine the benefit must be approved by the board, and the beneficiary must be designated by written designation, duly notarized and filed with the executive director on a form provided or specified by the retirement system.

[1999, c. 744, §8 (NEW); 1999, c. 744, §17 (AFF) .]

5-C. **Option 6.** The qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and, at the qualifying member's death, to have the benefit continued in the same amount for the life of the beneficiary, who must be the sole beneficiary, that the qualifying member has designated by written designation, duly notarized and filed with the executive director on a form provided or specified by the retirement system, if the beneficiary survives the qualifying member. If the qualifying member's beneficiary predeceases the qualifying member, the qualifying member's benefit must be changed, effective the first day of the month following the date of the beneficiary's death, to be the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The reduced retirement benefit must be actuarially calculated to reflect the fact that the benefit may be changed to the larger amount should the beneficiary predecease the member.

[1999, c. 744, §8 (NEW); 1999, c. 744, §17 (AFF) .]

5-D. **Option 7.** The qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and, at the qualifying member's death, to have the benefit continued at 1/2 that amount for the life of the beneficiary, who must be the sole beneficiary, that the qualifying member has designated by written designation, duly notarized and filed with the executive director on a form provided or specified by the retirement system, if the beneficiary survives the qualifying member. If the qualifying member's beneficiary predeceases the qualifying member, the qualifying member's benefit must be changed, effective the first day of the month following the date of the beneficiary's death, to the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The reduced retirement benefit must be actuarially calculated to reflect the fact that the benefit may be changed to the larger amount should the beneficiary predecease the member.

[1999, c. 744, §8 (NEW); 1999, c. 744, §17 (AFF) .]

5-E. **Option 8.** The qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and at the qualifying member's death to have some benefit other than that available under subsection 3 or 4 payable to the beneficiary, who must be the sole beneficiary, that the member has designated, if the beneficiary survives the qualifying member. The total value of the benefit paid to the qualifying member plus the benefit paid after the qualifying member's death is the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. If the qualifying member's beneficiary predeceases the qualifying member, the qualifying member's benefit must be changed, effective the first day of the month following the date of the beneficiary's death, to be the actuarial equivalent

of the benefit that the qualifying member would have received without optional modification. The reduced retirement benefit must be actuarially calculated to reflect the fact that the benefit may be changed to the larger amount should the beneficiary predecease the member.

[2001, c. 118, §4 (AMD) .]

5-F. **Change of beneficiary.** If the recipient of a service retirement benefit has elected an optional method of payment under subsection 3, 4, 5, 5-A, 5-B, 5-C, 5-D or 5-E, and has designated someone other than a spouse or ex-spouse as sole beneficiary, the recipient is permitted a one-time change in the designated beneficiary except as provided in paragraph D, but may not change the already elected payment option or the amount of the benefits under that option, by filing a written designation of the new beneficiary, duly notarized, with the executive director on a form provided or specified by the retirement system. The change of beneficiary permitted by this subsection may only be made prior to the death of the prior designated beneficiary.

A. The benefit payable to the recipient and the new beneficiary must be paid under the same payment option. The amount of the recipient's benefit may not change, and the amount of the new beneficiary's benefit must be the same as the amount of the prior beneficiary's benefit. [1999, c. 744, §8 (NEW).]

B. The effective date of the designation of the new beneficiary is the date the designation is received by the executive director. As of the first day of the month following the effective date of the designation of the new beneficiary, the prior beneficiary is no longer entitled to any benefit payment and, if concurrent payment under subsection 5-B has been elected, the new beneficiary's benefit must become effective on the same date. [1999, c. 744, §8 (NEW).]

C. The new beneficiary's entitlement to benefits ceases on the earlier of:

(1) The date of the new beneficiary's death; or

(2) The date established when the amount of the prior beneficiary's benefit was established, which is the initial commencement date of benefits to the retiree increased by the life expectancy of the prior beneficiary computed in years and months using actuarial equivalence assumptions recommended by the system's actuary.

Payment of benefits to the new beneficiary must cease as of the first day of the month following the earlier of subparagraph (1) or (2). [1999, c. 744, §8 (NEW).]

D. A recipient who exercises a one-time option under this subsection may revert back to the original designated beneficiary, who will be treated as the new beneficiary for purposes of paragraphs A to C. [2007, c. 523, §2 (NEW).]

[2007, c. 523, §2 (AMD) .]

6. **Monthly payment of $10 or less.** If the monthly benefit payable to a qualifying member or the beneficiary of a qualifying member is $10 or less, there shall be paid, in lieu of those payments, a lump sum which is the actuarial equivalent, on the date the first monthly payment would otherwise be paid, of the benefit to which the qualifying member or beneficiary is entitled. A beneficiary who receives a lump sum payment under this subsection shall not forfeit any other benefit to which the beneficiary would be entitled if the beneficiary were receiving a monthly benefit payment.

[1989, c. 95, §10 (NEW) .]

7. **Notice to spouse.** A qualifying member who is married on the effective date of retirement, who elects the method of payment under subsection 1 or who elects a method of payment other than that provided under subsection 1 and who designates a beneficiary other than the qualifying member's spouse must notify the spouse that the spouse is not the beneficiary. Proof that the spouse has been notified must be provided:

A. By written certification of the spouse, duly notarized, on a form provided or specified by the retirement system indicating that notice has been received from the qualifying member; or [1999, c. 744, §9 (NEW); 1999, c. 744, §17 (AFF).]

B. When notice has been given but certification by the spouse has not been provided, by written certification of the qualifying member, duly notarized, on a form provided or specified by the retirement system indicating that notice has been given to the spouse. [1999, c. 744, §9 (NEW); 1999, c. 744, §17 (AFF).]

Payment of the qualifying member's service benefit may not commence until certification has been received by the executive director.

[1999, c. 744, §9 (NEW); 1999, c. 744, §17 (AFF) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §§8-10 (AMD). 1989, c. 95, §§9,10 (AMD). 1999, c. 744, §§7-9 (AMD). 1999, c. 744, §17 (AFF). 1999, c. 790, §K1 (AMD). 1999, c. 790, §K5 (AFF). 2001, c. 118, §4 (AMD). 2007, c. 523, §2 (AMD).

§17805. REMARRIAGE AFTER RETIREMENT

If the recipient of a reduced service retirement benefit under section 17804, subsection 3, 4, 5-A or 5-B remarries after the recipient's spouse dies the following provisions apply. [2001, c. 118, §5 (AMD).]

1. **Election of benefit for new spouse.** The recipient may elect to have the reduced retirement benefit paid under the same option to the new spouse after the recipient's death instead of continuing the original reduced retirement benefit to the recipient during his lifetime, under the following conditions:

A. The original spouse must have been the sole beneficiary of the reduced retirement benefit under section 17804, subsection 3, 4, 5-A or 5-B; and [1999, c. 744, §10 (AMD); 1999, c. 744, §17 (AFF).]

B. [1987, c. 612, §2 (RP).]

C. [1987, c. 612, §3 (RP).]

D. The recipient must have been married to the new spouse for at least 6 months. [1987, c. 612, §4 (NEW).]

[1999, c. 744, §10 (AMD); 1999, c. 744, §17 (AFF) .]

2. **Time and manner of election.** The recipient may make the election at any time after the death of the original spouse and remarriage to the new spouse by:

A. Sending a written request to the executive director; and [1985, c. 801, §§5, 7 (NEW).]

B. [1987, c. 612, §5 (RP).]

C. Submitting evidence of the death of the former spouse and date of marriage to the new spouse. [1987, c. 612, §5 (NEW).]

[1987, c. 612, §5 (AMD) .]

3. **Amount of benefit.** The amount of the benefit payable under the option elected shall be the actuarial equivalent, at the date of the beginning of payment of benefits under this section, of the amount of reduced retirement benefit the recipient has been receiving.

[1985, c. 801, §§5, 7 (NEW) .]

4. **Effective date of coverage of the new spouse.** The effective date of the designation of the new spouse as the recipient's new beneficiary will be the date the request is received or 6 months after the date of remarriage, whichever comes later. The recipient's retirement benefit shall be adjusted on the first day of the month following the effective date of the new designation of beneficiary.

[1987, c. 612, §6 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 612, §§1-6 (AMD). 1999, c. 744, §10 (AMD). 1999, c. 744, §17 (AFF). 2001, c. 118, §5 (AMD).

§17805-A. DIVORCE

If the recipient of a reduced service retirement benefit under section 17804, subsection 3, 4, 5-A, 5-B, 5-C, 5-D or 5-E is granted a divorce either after retirement or before a retirement beneficiary is named the following provisions apply. [2001, c. 118, §6 (AMD).]

1. **Election of benefit for different beneficiary.** The recipient may elect to have the reduced retirement benefit paid under the same option to a different beneficiary except when the former spouse is named as retirement beneficiary at the time the divorce is granted, in which case the election may be made only under the following conditions:

A. The spouse or former spouse who was originally named as retirement beneficiary must have been the sole beneficiary of the reduced retirement benefit under section 17804, subsection 3, 4, 5-A, 5-B, 5-C, 5-D or 5-E; and [2001, c. 118, §7 (AMD).]

B. The recipient and the spouse or former spouse who was originally named retirement beneficiary must agree to the change of beneficiary. Prior to this agreement, the executive director shall ensure that the spouse or former spouse who was originally named as retirement beneficiary has been counseled by an employee of the retirement system regarding the financial effect of giving up rights as a beneficiary and has signed a statement that the information has been received and understood. [1995, c. 604, §3 (AMD).]

[2005, c. 560, §3 (AMD) .]

2. **Time and manner of election.** The recipient may make the election at any time after the divorce is granted by:

A. Sending a written request to the executive director; and [1991, c. 320, §1 (NEW).]

B. Submitting evidence of the divorce. [1991, c. 320, §1 (NEW).]

[1991, c. 320, §1 (NEW) .]

3. **Amount of benefit.** The amount of the benefit payable under the option elected is the actuarial equivalent, at the date of the beginning of payment of benefits under this section, of the amount of reduced retirement benefit the recipient has been receiving, plus the amount expected to be paid to the original spouse after the recipient's death.

[1991, c. 320, §1 (NEW) .]

4. **Effective date of coverage of new beneficiary.** The effective date of the designation of the recipient's new beneficiary is the date the request is received. The recipient's retirement benefit must be adjusted on the first day of the month following the effective date of the new designation of beneficiary.

[1991, c. 320, §1 (NEW) .]

SECTION HISTORY
1991, c. 320, §1 (NEW). 1995, c. 604, §§1-3 (AMD). 1999, c. 744, §11 (AMD). 1999, c. 744, §17 (AFF). 2001, c. 118, §§6,7 (AMD). 2005, c. 560, §3 (AMD).

§17806. COST-OF-LIVING ADJUSTMENT TO RETIREMENT BENEFITS

Cost-of-living adjustments to the retirement benefits being paid to retired state employees, teachers or beneficiaries of either shall be governed as follows. [1985, c. 801, §§5, 7 (NEW).]

1. **Determination of adjustment.** The cost-of-living adjustment shall be determined as follows.

A. Except as provided in paragraphs A-1 and A-2, whenever there is a percentage increase in the Consumer Price Index from July 1st to June 30th, the board shall automatically make an equal percentage increase in retirement benefits, beginning in September, up to a maximum annual increase of 3%. Effective July 1, 2011, the increase applies to that portion of the retirement benefit up to $20,000, which amount must be indexed in subsequent years by the same percentage adjustments granted under this paragraph and paragraph A-2. [2015, c. 334, §1 (AMD).]

A-1. If there is a percentage decrease in the Consumer Price Index from July 1st to June 30th, the board shall set the percentage change at 0% for that September. The adjustment for the following year must be set based on the actuarially compounded Consumer Price Index for both years in a cost-neutral manner. If the Consumer Price Index in the subsequent year or years is not sufficient to allow for the adjustment to be cost-neutral for the 2 years, then the adjustment needed for cost-neutrality must continue to be applied to following years until such time as the cost-neutrality requirement is met. [2009, c. 473, §4 (AMD).]

A-2. Regardless of the amount of increase in the Consumer Price Index, for cost-of-living adjustments awarded in fiscal year 2015-16 and fiscal year 2016-17 only, the board shall automatically make a percentage increase in retirement benefits of no less than 2.55%. The increase applies to that portion of the retirement benefit that would otherwise be subject to an increase under paragraph A. [2015, c. 2, §4 (COR).]

B. Whenever the annual percentage increase in the Consumer Price Index from July 1st to June 30th exceeds 3%, the board shall make whatever adjustments in the retirement benefits are necessary to reflect an annual increase of 3% and shall submit a supplemental budget request to the Governor for the additional funds that would be required to make adjustments in the retirement benefits to reflect the actual increase in the Consumer Price Index. The request must include a report stating the cost of the 3% increase, the actual percentage increase in the Consumer Price Index and the percentage adjustments granted during the previous 5 years. The board shall make an additional adjustment in the retirement benefits in the month following the appropriation only in that amount. [2011, c. 380, Pt. T, §11 (AMD); 2011, c. 380, Pt. T, §26 (AFF).]

C. Notwithstanding any other provision of this section, the amount of annual retirement benefit otherwise payable under this Part may not be less than the retired member received on the effective date of his retirement or on July 1, 1977, whichever amount is greater. [1985, c. 801, §§5, 7 (NEW).]

[2015, c. 2, §4 (COR) .]

2. **Cost.** The board shall determine the costs of the adjustments under this section and shall include those costs in its budget requests.

[1985, c. 801, §§5, 7 (NEW) .]

3. **Eligibility.** Cost-of-living adjustments under this section must be applied to the retirement benefits of all retirees who have been retired for at least 12 months before the date that the adjustment becomes payable, except that a member who has less than 10 years of creditable service on July 1, 1993 may not receive a cost-of-living adjustment until at least 12 months after reaching normal retirement age. Beneficiaries of deceased retirees and members are eligible for the cost-of-living adjustment at the same time the deceased retiree or member would have become eligible. A member who is eligible to retire as of June 30, 1993 and who actually retires effective no later than July 1, 1994 is eligible for the cost-of-living adjustment if that member has been retired for at least 6 months before the date that the adjustment becomes payable.

[1993, c. 595, §6 (AMD) .]

4. **Limitation on changes in eligibility.** Effective October 1, 1999:

A. The time requirement of subsection 3 that a member be retired for at least 12 months before a cost-of-living adjustment becomes payable may not be increased for a member who, on October 1, 1999 or thereafter, meets the creditable service requirement for eligibility to receive a service retirement benefit, at the applicable age if so required, under section 17851 or section 17851-A, subsection 2; [1999, c. 489, §4 (NEW).]

B. The time requirement that a member who had fewer than 10 years of creditable service on July 1, 1993 may not receive a cost-of-living adjustment until at least 12 months after reaching normal retirement age may not be increased for a member who, on October 1, 1999 or thereafter, meets the creditable service requirement for eligibility to receive a service retirement benefit, at the applicable age if so required, under section 17851, subsection 1-C, paragraph A; section 17851, subsection 1-C, paragraph B; section 17851, subsection 2-C, paragraph A; section 17851, subsection 2-C, paragraph B; or section 17851-A, subsection 2, paragraph A; and [1999, c. 489, §4 (NEW).]

C. The time requirement that a member who had fewer than 10 years of creditable service on July 1, 1993 may not receive a cost-of-living adjustment until at least 12 months after reaching normal retirement age may not be made applicable to a member who had at least 10 years of creditable service on July 1, 1993. [1999, c. 489, §4 (NEW).]

[1999, c. 489, §4 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 557, (AMD). 1993, c. 410, §L31 (AMD). 1993, c. 595, §6 (AMD). 1999, c. 489, §4 (AMD). 2009, c. 433, §§3, 4 (AMD). 2009, c. 473, §§3, 4 (AMD). 2011, c. 380, Pt. T, §§10, 11 (AMD). 2011, c. 380, Pt. T, §26 (AFF). 2013, c. 424, Pt. B, §1 (AMD). RR 2015, c. 2, §4 (COR). 2015, c. 334, §§1, 2 (AMD).

§17807. PERSONS RETIRED UNDER EARLIER LAW

1. **Benefits continued.** All benefits payable to former employees retired under the Public Laws of 1933, chapter 1, sections 227 to 233, as they existed immediately before July 1, 1942, shall be continued and paid in the future from the Retirement Allowance Fund at the full amounts stipulated under those sections before July 1, 1942.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Additional amounts.** Any additional funds required to continue the benefits under subsection 1 shall be provided by an increase in the accrued liability contribution payable to the Retirement Allowance Fund.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§17808. PAYMENT FROM CERTAIN FUNDS

All benefits payable under this chapter must be paid from the Retirement Allowance Fund, except those payable from the Members' Contribution Fund or as specifically provided in this chapter. [2007, c. 249, §26 (AMD).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 249, §26 (AMD).

§17809. INCORRECT RECORDS

If any error in any record of the retirement system results in a member or beneficiary receiving more or less from the system than he would have been entitled to receive had the record been correct, payments shall, as far as practicable, be adjusted so that the actuarial equivalent of the benefit to which he was correctly entitled is paid. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§17810. EARNABLE COMPENSATION CONTINUED

For purposes of determining benefits under this chapter, the earnable compensation of a member retired with a disability retirement allowance under article 3 is assumed to be continued after his date of termination of service: [1985, c. 801, §§ 5, 7 (NEW).]

1. **Rate.** At the same rate as received immediately before the date of termination of service; and

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Percentage adjustments.** Subject to the same percentage adjustments, if any, that may apply to the amount of retirement allowance of the beneficiary under section 17806.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§17811. ELECTION TO REDUCE OR DISCONTINUE BENEFITS

Any retiree or member who is retired or will retire may elect to reduce or discontinue receiving any benefit upon written request, duly certified and acknowledged, to the executive director. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§17812. LIMITATION ON BENEFITS

Benefits are limited as follows. [1987, c. 256, §11 (NEW).]

1. **One benefit only.** A beneficiary may select only one benefit, regardless of how many benefits he qualifies for.

[1987, c. 256, §11 (NEW) .]

2. **Election final.** Except as provided in section 17803, subsection 4, and section 17953, subsection 8, if a beneficiary elects a benefit after receiving reasonable notification of available options from the retirement system, the beneficiary's election of benefit is final and may not be changed or revoked at a later date.

[1991, c. 548, Pt. A, §2 (AMD) .]

SECTION HISTORY
1987, c. 256, §11 (NEW). 1991, c. 548, §A2 (AMD).

Article 2: SERVICE RETIREMENT BENEFITS

§17851. QUALIFICATION FOR BENEFITS

1. **Member in service; 10 years of creditable service on July 1, 1993.**

[1999, c. 489, §5 (RP) .]

1-A. **Member in service; less than 10 years creditable service on July 1, 1993.**

[1999, c. 489, §6 (RP) .]

1-B. **Member in service at retirement; 10 years of creditable service on July 1, 1993.** A member who on July 1, 1993, had 10 years of creditable service and who is in service at retirement, or a member who on July 1, 1993 had reached 60 years of age and had been in service for a minimum of one year immediately before July 1, 1993 and has been in service for a minimum of one year immediately before retirement, qualifies for a service retirement benefit if the member retires upon or after reaching 60 years of age. For the purpose of determining completion of the 10-year requirement, the 10 years of creditable service may include creditable service as a member of the Legislative Retirement Program under Title 3, section 701, subsection 8.

A. Effective October 1, 1999, the creditable service and age requirements of this subsection may not be increased for a member who on or before October 1, 1999 met either of the requirements for eligibility for service retirement benefits under this subsection, whether or not the member is in service on October 1, 1999. [1999, c. 489, §7 (NEW).]

B. For the purpose of calculating creditable service under this subsection only, creditable service includes time during which a member participated in the voluntary cost savings plan or the voluntary employee incentive program, authorized by Public Law 1989, chapter 702, Part F, section 6 and Public Law 1991, chapter 591, Part BB and chapter 780, Part VV, or 10 years of combined creditable service under this Part and Title 3, chapter 29, or creditable service available to a member that the member was eligible to purchase on June 30, 1993 and that the member does purchase in accordance with rules adopted by the board. [1999, c. 489, §7 (NEW).]

[2007, c. 491, §147 (AMD) .]

1-C. **Member in service at retirement; fewer than 10 years creditable service on July 1, 1993.** A member who on July 1, 1993, had neither 10 years of creditable service nor had reached 60 years of age with one year of creditable service immediately before July 1, 1993 who is in service at retirement, qualifies for a service retirement benefit if the member retires upon or after reaching 62 years of age and:

A. Has been in service for a minimum of one year immediately before retirement or has at least 10 years of creditable service, which, for the purpose of determining completion of the 10-year requirement, may include creditable service as a member of the Legislative Retirement Program under Title 3, section 701, subsection 8; or [2007, c. 491, §148 (AMD).]

B. Effective October 1, 1999, is in service on October 1, 1999 and had fewer than 10 years of creditable service on July 1, 1993, including any person who was not in service on July 1, 1993, and:

(1) Is in service upon or after reaching 62 years of age;

(2) Has been in service for a minimum of one year immediately before retirement or has at least 5 years of creditable service, which, for the purpose of determining completion of the 5-year requirement, may include creditable service as a member of the Legislative Retirement Program under Title 3, section 701, subsection 8; and

(3) Meets the applicability requirements of subsection 3-A. [2007, c. 491, §149 (AMD).]

When a member has met either of the creditable service requirements set out in either paragraph A or paragraph B, subparagraph (2) for eligibility to receive a service retirement benefit under this subsection, the creditable service and age requirements of this subsection may not be increased for that member.

[2007, c. 491, §§148, 149 (AMD) .]

1-D. **Member in service at retirement; at least 5 years creditable service on July 1, 2011.** Eligibility for retirement for a member who on July 1, 2011 had at least 5 years of creditable service is governed by subsection 1-B if the member had 10 years of creditable service on July 1, 1993 or was 60 years of age and had been in service for a minimum of one year immediately before July 1, 1993 or by subsection 1-C if the member had less than 10 years of creditable service on July 1, 1993 and had not reached 60 years of age with one year of creditable service immediately before July 1, 1993. For the purpose of calculating creditable service under this subsection only, creditable service includes:

A. Creditable service available to a member that the member was eligible to purchase on June 30, 2011 and that the member does purchase in accordance with rules adopted by the board; and [2011, c. 380, Pt. T, §12 (NEW).]

B. Creditable service for which the member makes payment for certain days off without pay during fiscal year 2009-10 or fiscal year 2010-11. The amount of the required payment must be made in accordance with section 17704-B and payment may be made at any time prior to retirement. [2011, c. 380, Pt. T, §12 (NEW).]

[2011, c. 380, Pt. T, §12 (NEW) .]

1-E. **Member in service at retirement; fewer than 5 years creditable service on July 1, 2011.** A member who on July 1, 2011 had neither 5 years of creditable service nor had reached 62 years of age with one year of creditable service immediately before July 1, 2011 who is in service at retirement qualifies for a service retirement benefit if the member retires upon or after reaching 65 years of age.

The creditable service and age requirements of this subsection may not be increased for a member who:

A. Has been in service for a minimum of one year immediately before retirement or has at least 5 years of creditable service, which, for the purpose of determining completion of the 5-year requirement, may include creditable service as a member of the Legislative Retirement Program under Title 3, section 701, subsection 8; or [2011, c. 380, Pt. T, §13 (NEW).]

B. Meets the applicability requirements of subsection 3-A. [2011, c. 380, Pt. T, §13 (NEW).]

[2011, c. 380, Pt. T, §13 (NEW) .]

2. **Member not in service; 10 years of creditable service on July 1, 1993.**

[1999, c. 489, §8 (RP) .]

2-A. **Member not in service; less than 10 years creditable service on July 1, 1993.**

[1999, c. 489, §9 (RP) .]

2-B. **Member not in service at retirement; 10 years of creditable service on July 1, 1993.** A member who on July 1, 1993 had 10 years of creditable service and who is not in service at retirement qualifies for a service retirement benefit upon or after reaching 60 years of age. For the purpose of determining completion of the 10-year requirement, the 10 years of creditable service may include creditable service as a member of the Legislative Retirement Program under Title 3, section 701, subsection 8.

A. Effective October 1, 1999, the creditable service and age requirements of this subsection may not be increased for a member who on or before October 1, 1999 met the creditable service requirements for eligibility for service retirement benefits under this subsection, whether or not the member is in service on October 1, 1999. [1999, c. 489, §10 (NEW).]

B. For the purpose of calculating creditable service under this subsection only, creditable service includes time during which a member participated in the voluntary cost savings plan or the voluntary employee incentive program, authorized by Public Law 1989, chapter 702, Part F, section 6 and Public Law 1991, chapter 591, Part BB and chapter 780, Part VV, or 10 years of combined creditable service under this Part and Title 3, chapter 29 or creditable service available to a member that the member was eligible to purchase on June 30, 1993 and that the member does purchase in accordance with rules adopted by the board. [1999, c. 489, §10 (NEW).]

[2007, c. 491, §150 (AMD) .]

2-C. **Member not in service at retirement; fewer than 10 years creditable service on July 1, 1993.** A member who on July 1, 1993, did not have 10 years of creditable service and who is not in service at retirement qualifies for a service retirement benefit if the member retires upon or after reaching 62 years of age and:

A. Has at least 10 years of creditable service, which, for the purpose of determining completion of the 10-year requirement, may include creditable service as a member of the Legislative Retirement Program under Title 3, section 701, subsection 8; or [2007, c. 491, §151 (AMD).]

B. Effective October 1, 1999, is in service on October 1, 1999, had left service prior to October 1, 1999 with or without withdrawing that member's contributions and on or after October 1, 1999 returns to service or is first in service on or after October 1, 1999 and:

(1) Has reached 62 years of age; and

(2) Has at least 5 years of creditable service, which, for the purpose of determining completion of the 5-year requirement, may include creditable service as a member of the Legislative Retirement Program under Title 3, section 701, subsection 8. [2007, c. 491, §152 (AMD).]

When a member has met the creditable service requirement set out in paragraph A or paragraph B, subparagraph (2) for eligibility to receive a service retirement benefit under this subsection, the creditable service and age requirements of this subsection may not be increased for that member.

[2007, c. 491, §§151, 152 (AMD) .]

2-D. **Member not in service at retirement; at least 5 years creditable service on July 1, 2011.** Eligibility for retirement for a member who is not in service at retirement and who on July 1, 2011 had at least 5 years of creditable service is governed by subsection 2-B if the member had 10 years of creditable service on July 1, 1993 or by subsection 2-C if the member had less than 10 years of creditable service on July 1, 1993. For the purpose of calculating creditable service under this subsection only, creditable service includes:

A. Creditable service available to a member that the member was eligible to purchase on June 30, 2011 and that the member does purchase in accordance with rules adopted by the board; and [2011, c. 380, Pt. T, §14 (NEW).]

B. Creditable service for which the member makes payment for certain days off without pay during fiscal year 2009-10 or fiscal year 2010-11. The amount of the required payment must be made in accordance with section 17704-B and payment may be made at any time prior to retirement. [2011, c. 380, Pt. T, §14 (NEW).]

[2011, c. 380, Pt. T, §14 (NEW) .]

2-E. **Member not in service at retirement; fewer than 5 years creditable service on July 1, 2011.** A member who on July 1, 2011 did not have 5 years of creditable service and who is not in service at retirement qualifies for a service retirement benefit if the member retires upon or after reaching 65 years of age.

The creditable service and age requirements of this subsection may not be increased for a member who:

A. Has at least 5 years of creditable service, which, for the purpose of determining completion of the 5-year requirement, may include creditable service as a member of the Legislative Retirement Program under Title 3, section 701, subsection 8; or [2011, c. 380, Pt. T, §15 (NEW).]

B. Meets the applicability requirements of subsection 3-A. [2011, c. 380, Pt. T, §15 (NEW).]

[2011, c. 1, §8 (COR) .]

3. **Member with creditable service of 25 years or more whether or not in service at retirement.** A member, whether or not in service at retirement, who has completed 25 or more years of creditable service qualifies for a service retirement benefit if the member retires at any time after completing 25 years of service, which may include, for the purpose of determining completion of the 25-year requirement, creditable service as a member of the Legislative Retirement Program under Title 3, section 701, subsection 8.

A. [1987, c. 256, §14 (RP).]

B. [1987, c. 256, §14 (RP).]

C. Effective October 1, 1999, the number of years required to qualify for a service retirement benefit under this subsection may not be increased for members who on October 1, 1999 have met the creditable service requirement for eligibility to receive a service retirement benefit under subsection 1-B; subsection 2-B; subsection 1-C, paragraph A; subsection 1-C, paragraph B; subsection 2-C, paragraph A; or subsection 2-C, paragraph B, or who, after October 1, 1999, meet the creditable service requirement for eligibility to receive a service retirement benefit under subsection 1-C, paragraph B or subsection 2-C, paragraph B. [1999, c. 489, §11 (NEW).]

[2007, c. 491, §153 (AMD) .]

3-A. **Five-year minimum creditable service requirement for eligibility to receive a service retirement benefit at the applicable age; applicability.** The minimum requirement of 5 years of creditable service for eligibility to receive service retirement benefits under subsection 1-C, paragraph B, subsection 2-C, paragraph B and subsections 2-D and 2-E applies only to:

A. A member who is in service on October 1, 1999; [1999, c. 489, §12 (NEW).]

B. Upon return to service, a member who had left service prior to October 1, 1999 with or without withdrawing that member's contributions and on or after October 1, 1999 returns to service; or [1999, c. 756, §15 (AMD).]

C. A member who is first in service on or after October 1, 1999. [1999, c. 756, §15 (AMD).]

For other members to whom subsections 1-C, 2-C, 2-D and 2-E apply, the 10 years of creditable service requirement for eligibility to receive a service retirement benefit at the applicable age remains in effect on and after October 1, 1999.

[2011, c. 380, Pt. T, §16 (AMD) .]

4. **State police.** A state police officer or other employee of the Bureau of State Police qualifies for a service retirement benefit if that state police officer or employee:

A. Became a state police officer after July 9, 1943, but before September 16, 1984, and retires after completing 20 years of creditable service as a state police officer, which may include creditable service under section 17760, subsection 1, but may not include creditable service under section 17760, subsection 3; or [2003, c. 693, §4 (AMD).]

B. Became a state police officer after September 15, 1984 or a special agent investigator before June 21, 1982 and completed 25 years of creditable service as a state police officer or special agent investigator, which may include creditable service under section 17760. [2001, c. 181, §7 (AMD).]

[2003, c. 693, §4 (AMD) .]

5. **Inland Fisheries and Wildlife officers.** Except as provided in section 17851-A, a law enforcement officer in the Department of Inland Fisheries and Wildlife qualifies for a service retirement benefit if the officer:

A. Was employed in that capacity before September 1, 1984; and [1985, c. 801, §§5,7 (NEW).]

B. Retires after completing 20 years of creditable service in that capacity, which may include creditable service under section 17760, subsection 1, but may not include creditable service under section 17760, subsection 3. [2003, c. 693, §5 (AMD).]

[2003, c. 693, §5 (AMD) .]

5-A. **Inland Fisheries and Wildlife officers after August 31, 1984; option.** Except as provided in section 17851-A, a law enforcement officer in the Department of Inland Fisheries and Wildlife who was first employed in that capacity after August 31, 1984 or who, if employed in that capacity before August 31, 1984, ceased to be employed in that capacity on or before that date and who subsequently became reemployed in that capacity after that date qualifies for a service retirement benefit upon reaching 55 years of age after completing at least 25 years of creditable service in that capacity if notice of election of the option and payment of employee contributions and actuarial costs are made as provided in section 17852, subsection 5-A.

[1997, c. 769, §4 (AMD) .]

5-B. **Inland fisheries and wildlife officers after August 31, 1984.** Beginning September 1, 2002 and subject to subsection 5-C, a law enforcement officer in the Department of Inland Fisheries and Wildlife who was first employed in that capacity after August 31, 1984 or who, if employed in that capacity before August 31, 1984, ceased to be employed in that capacity on or before that date and who subsequently became reemployed in that capacity after that date qualifies for a service retirement benefit after completing at least 25 years of creditable service in that capacity.

[2001, c. 559, Pt. RR, §3 (NEW); 2001, c. 559, Pt. RR, §17 (AFF) .]

5-C. **Inland fisheries and wildlife officers; contingent qualification for benefits.** Notwithstanding subsection 5-A and section 17851-A, subsection 1, paragraph B, the qualification for a service retirement benefit for a law enforcement officer in the Department of Inland Fisheries and Wildlife who was first employed after August 31, 1984 is governed by the provisions of subsection 5-B for all service earned in a covered capacity upon certification by the Executive Director of the retirement system to the Governor and the Commissioner of Inland Fisheries and Wildlife that all liabilities associated with that service have been paid in full by the State to the system.

[2007, c. 491, §154 (AMD) .]

6. **Marine Resources officers.** Except as provided in section 17851-A, a law enforcement officer in the Department of Marine Resources qualifies for a service retirement benefit if the officer:

A. Was employed in that capacity before September 1, 1984; and [1985, c. 801, §§5,7 (NEW).]

B. Retires after completing 20 years of creditable service in that capacity, which may include creditable service under section 17760, subsection 1, but may not include creditable service under section 17760, subsection 3. [2003, c. 693, §6 (AMD).]

[2003, c. 693, §6 (AMD) .]

6-A. **Marine resources officers after August 31, 1984; option.** Except as provided in section 17851-A, a law enforcement officer in the Department of Marine Resources who was first employed in that capacity after August 31, 1984 or who, if employed in that capacity before August 31, 1984, ceased to be employed in that capacity on or before that date and who subsequently became reemployed in that capacity after that date qualifies for a service retirement benefit upon reaching 55 years of age after completing at least 25 years of creditable service in that capacity if notice of election of the option and payment of employee contributions and actuarial costs are made as provided in section 17852, subsection 6-A.

[1997, c. 769, §6 (AMD) .]

6-B. **Marine resources officers after August 31, 1984.** Beginning September 1, 2002 and subject to subsection 6-C, a law enforcement officer in the Department of Marine Resources who was first employed in that capacity after August 31, 1984 or who, if employed in that capacity before August 31, 1984, ceased to be employed in that capacity on or before that date and who subsequently became reemployed in that capacity after that date qualifies for a service retirement benefit after completing at least 25 years of creditable service in that capacity.

[2001, c. 559, Pt. RR, §4 (NEW); 2001, c. 559, Pt. RR, §17 (AFF) .]

6-C. **Marine resources officers; contingent qualification for benefits.** Notwithstanding subsection 6-A and section 17851-A, subsection 1, paragraph A, the qualification for a service retirement benefit for a law enforcement officer in the Department of Marine Resources who was first employed after August 31, 1984 is governed by the provisions of subsection 6-B for all service earned in a covered capacity upon certification by the Executive Director of the retirement system to the Governor and the Commissioner of Marine Resources that all liabilities associated with that service have been paid in full by the State to the system.

[2007, c. 491, §155 (AMD) .]

7. **Marine Resources commissioner or deputy.** A commissioner or deputy commissioner of the Department of Marine Resources qualifies for a service retirement benefit if he:

A. Qualifies under subsection 6; and [1985, c. 801, §§5, 7 (NEW).]

B. Contributed or had pick-up contributions made by the employer as a law enforcement officer under section 17710, subsection 1. [1987, c. 739, §§26,48 (AMD).]

[1987, c. 739, §§26,48 (AMD) .]

8. **Forest rangers.** Except as provided in section 17851-A, a forest ranger in the Department of Agriculture, Conservation and Forestry qualifies for a service retirement benefit if the forest ranger:

A. Was employed in that capacity before September 1, 1984; and [1985, c. 801, §§5,7 (NEW).]

B. Retires upon reaching 50 years of age or upon completion of 25 years of creditable service in that capacity, whichever is later. [1985, c. 801, §§5,7 (NEW).]

[1997, c. 769, §7 (AMD); 2011, c. 657, Pt. W, §5 (REV) .]

8-A. **Forest rangers after August 31, 1984; option.** Except as provided in section 17851-A, a forest ranger in the Department of Agriculture, Conservation and Forestry who was first employed in that capacity after August 31, 1984 or who, if employed in that capacity before August 31, 1984, ceased to be employed in that capacity on or before that date and who subsequently became reemployed in that capacity after that date qualifies for a service retirement benefit upon reaching 55 years of age after completing at least 25 years of creditable service in that capacity if notice of election of the option and payment of employee contributions and actuarial costs are made as provided in section 17852, subsection 7-A.

[1997, c. 769, §8 (AMD); 2011, c. 657, Pt. W, §5 (REV) .]

9. **Airplane pilots.** Except as provided in section 17851-A, an airplane pilot employed by the State qualifies for a service retirement benefit if that pilot:

A. Was employed in that capacity before September 1, 1984; [1985, c. 801, §§5,7 (NEW).]

B. Completes at least 25 years of creditable service in that capacity; and [1985, c. 801, §§5,7 (NEW).]

C. Retires upon or after reaching age 55. [1985, c. 801, §§5,7 (NEW).]

[1997, c. 769, §9 (AMD) .]

10. **Liquor inspectors.** Except as provided in subsection 10-A and in section 17851-A, a liquor inspector, including the chief inspector, qualifies for a service retirement benefit if that inspector:

A. Was employed in that capacity before September 1, 1984; [1985, c. 801, §§5,7 (NEW).]

B. Completes at least 25 years of creditable service in that capacity; and [1985, c. 801, §§5,7 (NEW).]

C. Retires upon or after reaching age 55. [1985, c. 801, §§5,7 (NEW).]

[2003, c. 451, Pt. GG, §1 (AMD) .]

10-A. **Liquor inspectors laid off pursuant to public law.** This subsection applies to any liquor inspector, including the chief inspector, who:

A. Began employment as a liquor inspector or chief inspector prior to September 1, 1984; [2003, c. 451, Pt. GG, §2 (NEW).]

B. Was serving in that capacity on September 1, 1984; and [2003, c. 451, Pt. GG, §2 (NEW).]

C. Was laid off as a liquor inspector or chief inspector pursuant to Public Law 2003, chapter 20. [2003, c. 451, Pt. GG, §2 (NEW).]

Notwithstanding any other law, a liquor inspector or chief inspector covered by this subsection who did not complete the age or service requirements for retirement under section 17851, subsection 10 prior to being laid off and who subsequently earns service in any special or regular plan covered by the State Employee and Teacher Retirement Program qualifies for a service retirement benefit upon completing at least 25 years of service and attaining 55 years of age.

[2007, c. 491, §156 (AMD) .]

11. **Maine State Prison employees.** Except as provided in section 17851-A, the warden or deputy warden of the Maine State Prison, any officer or employee of the Maine State Prison employed as a guard or in the management of prisoners or any person employed as the supervising officer of those officers or employees or as an advocate at the Maine State Prison qualifies for a service retirement benefit if that person:

A. Was employed in one of those capacities before September 1, 1984 and:

(1) Completes 20 years of creditable service in one or more of those capacities; and

(2) Retires upon or after reaching the age of 50 years; or [1991, c. 857, §2 (AMD).]

B. Was employed in one of those capacities after August 31, 1984 and before January 1, 2000 and completed 25 years of creditable service in one or more of those capacities. [1999, c. 493, §1 (AMD).]

Notwithstanding any other provision in this section, no person in the employ of the Bangor Pre-Release Center on August 4, 1988 who would have qualified for a service retirement benefit if the Bangor Pre-Release Center had remained the administrative responsibility of the Maine State Prison may be denied such a benefit by virtue of the transfer of that responsibility to the Charleston Correctional Facility.

A person in the employ of the Bangor Pre-Release Center to whom paragraph A applies and who is employed at the Bangor Pre-Release Center on June 30, 2000 remains covered under paragraph A notwithstanding the closing of the Bangor Pre-Release Center if the person is thereafter and without a break in service employed in a capacity to which this subsection or section 17851-A, subsection 1, paragraph I applies or if not thereafter employed in such a capacity but having qualified at the time of the closing of the Bangor Pre-Release Center for retirement under paragraph A, retires then or at a later time.

[1999, c. 731, Pt. CCC, §1 (AMD) .]

12. **Baxter State Park Authority rangers; option.** Except as provided in section 17851-A, a law enforcement officer in the employment of the Baxter State Park Authority qualifies for a service retirement benefit upon reaching 55 years of age after completing at least 25 years of creditable service in that capacity if notice of election of the option and payment of employee contributions and actuarial costs are made as provided in section 17852, subsection 11.

[1999, c. 493, §2 (AMD) .]

13. **Fire marshals; option.** Except as provided in section 17851-A, a state fire marshal, state fire marshal investigator or state fire marshal inspector qualifies for a service retirement benefit upon reaching 55 years of age after completing at least 25 years of creditable service in that capacity if notice of election of the option and payment of employee contributions and actuarial costs are made as provided in section 17852, subsection 13.

[1999, c. 493, §3 (AMD) .]

14. **Motor vehicle investigators; option.** A motor vehicle investigator, senior motor vehicle investigator, principal motor vehicle investigator or chief motor vehicle investigator qualifies for a service retirement benefit upon reaching 55 years of age after completing at least 25 years of creditable service in that capacity if notice of election of the option and payment of employee contributions and actuarial costs are made as provided in section 17852, subsection 15.

[1997, c. 402, §2 (NEW) .]

15. **Limitation to increases in creditable service or age requirements.** Effective October 1, 1999, whether or not the member is in service on October 1, 1999, the creditable service requirement, or combined age and creditable service requirement, for eligibility to receive a service retirement benefit under subsections 4 to 14 may not be increased for a member who on October 1, 1999 or thereafter meets the creditable service requirements under subsections 4 to 14, respectively.

[1999, c. 489, §13 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §§12-14 (AMD). 1987, c. 670, (AMD). 1987, c. 739, §§26,48 (AMD). 1989, c. 78, §§1,2 (AMD). 1991, c. 528, §§EEE5-8 (AMD). 1991, c. 528, §§EEE18,RRR (AFF). 1991, c. 591, §§EEE5-8 (AMD). 1991, c. 591, §EEE18 (AFF). 1991, c. 857, §2 (AMD). 1993, c. 410, §§L32-35 (AMD). 1995, c. 466, §§A2,B3,C2 (AMD). 1995, c. 624, §§2-4 (AMD). 1997, c. 401, §2 (AMD). 1997, c. 740, §3 (AMD). 1997, c. 740, §6 (AFF). 1997, c. 769, §10 (AMD). 1997, c. 769, §§2-9 (AMD). 1999, c. 127, §§A12,B1 (AMD). 1999, c. 489, §§5-13 (AMD). 1999, c. 493, §§1-3 (AMD). 1999, c. 731, §§CC3,CCC1 (AMD). 1999, c. 756, §§10-15 (AMD). 2001, c. 181, §7 (AMD). 2001, c. 559, §§RR3,4 (AMD). 2001, c. 559, §RR17 (AFF). 2003, c. 451, §§GG1,2 (AMD). 2003, c. 693, §§4-6 (AMD). 2007, c. 58, §3 (REV). 2007, c. 491, §§147-156 (AMD). RR 2011, c. 1, §8 (COR). 2011, c. 380, Pt. T, §§12-16 (AMD). 2011, c. 657, Pt. W, §5 (REV).

§17851-A. 1998 SPECIAL PLAN ESTABLISHED

1. **Establishment and applicability.** Effective July 1, 1998, there is established a special retirement plan to be known as the 1998 Special Plan. The 1998 Special Plan applies to members in the following capacities:

A. Until September 1, 2002, law enforcement officers in the employment of the Department of Marine Resources on July 1, 1998, or hired thereafter; [2001, c. 559, Pt. RR, §5 (AMD); 2001, c. 559, Pt. RR, §17 (AFF).]

B. Until September 1, 2002, law enforcement officers in the employment of the Department of Inland Fisheries and Wildlife on July 1, 1998, or hired thereafter; [2001, c. 559, Pt. RR, §5 (AMD); 2001, c. 559, Pt. RR, §17 (AFF).]

C. Forest rangers in the employment of the former Department of Conservation on July 1, 1998, or hired thereafter by the former Department of Conservation or the Department of Agriculture, Conservation and Forestry; [2013, c. 405, Pt. D, §2 (AMD).]

D. [1999, c. 731, Pt. CC, §4 (RP).]

E. Maine State Prison employees to whom section 17851, subsection 11, paragraph B applies and who were employed after August 31, 1984 and before January 1, 2000; [1999, c. 493, §4 (AMD).]

F. Airplane pilots in the employment of the State on July 1, 1998, or hired thereafter; [1997, c. 769, §11 (NEW).]

G. Liquor inspectors, including the Chief Inspector, in the employment of the Department of Public Safety, Bureau of Liquor Enforcement on July 1, 1998, or hired thereafter by the Department of Public Safety, Bureau of Liquor Enforcement or the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations; [2013, c. 368, Pt. V, §4 (AMD).]

H. Firefighters in the employment of the Department of Defense, Veterans and Emergency Management at Bangor International Airport on July 1, 1998, or hired thereafter, provided the Federal Government pays annually to the retirement system the full employer cost of the participation of these employees; [1999, c. 493, §5 (AMD).]

I. Employees of the Department of Corrections or the Department of Administrative and Financial Services on January 1, 2000 or hired thereafter, other than those described in paragraph E, who are employed in a correctional facility, as defined in Title 34-A, section 1001; or those whose duties involve contact with prisoners, probationers, parolees or juvenile offenders or any person employed as the supervisor of those employees. Those employees of the Department of Corrections on January 3, 2006 whose positions were transferred to the Department of Administrative and Financial Services remain eligible for the 1998 Special Retirement Plan as long as they are assigned to work in a correctional facility, as defined in Title 34-A, section 1001, or their duties involve contact with prisoners, probationers, parolees or juvenile offenders. An employee of the Department of Administrative and Financial Services hired after January 3, 2006 to replace an employee whose position was transferred and who remained eligible for the 1998 Special Retirement Plan is also eligible for the plan as long as that employee is assigned to work in a correctional facility, as defined in Title 34-A, section 1001, and that employee's duties involve contact with prisoners, probationers, parolees or juvenile offenders; [2005, c. 519, Pt. FF, §1 (AMD).]

J. Law enforcement officers in the employment of the Baxter State Park Authority on January 1, 2000 or hired thereafter; [2001, c. 409, §1 (AMD).]

K. The State Fire Marshal or a state fire marshal investigator or state fire marshal inspector in the employment of the Department of Public Safety on January 1, 2000 or hired thereafter; and [2001, c. 409, §1 (AMD).]

L. Oil and hazardous materials emergency response workers in the employment of the Department of Environmental Protection, Division of Response Services who participate in a standby rotation on January 1, 2002 or are hired thereafter; and [2001, c. 646, §1 (AMD).]

M. Capitol Police officers in the employment of the Department of Public Safety, Bureau of Capitol Police on July 1, 2002 or hired thereafter. [2001, c. 646, §2 (NEW); 2009, c. 317, Pt. E, §§15, 16 (REV).]

[2013, c. 368, Pt. V, §4 (AMD); 2013, c. 405, Pt. D, §2 (AMD) .]

2. **Qualification for benefits.** A member employed in any one or a combination of the capacities specified in subsection 1 after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after June 30, 2002 for employees identified in subsection 1, paragraph M; and any employee identified in subsection 1, paragraph L, qualifies for a service retirement benefit if that member either:

A. Is at least 55 years of age and has completed at least 10 years of creditable service under the 1998 Special Plan in any one or a combination of the capacities; or [2003, c. 510, Pt. D, §§6,7 (AFF); 2003, c. 510, Pt. D, §1 (RPR).]

B. Has completed at least 25 years of creditable service in any one or a combination of the capacities specified in subsection 1, whether or not the creditable service included in determining that the 25-year requirement has been met was earned under the 1998 Special Plan or prior to its establishment. [2003, c. 510, Pt. D, §§6,7 (AFF); 2003, c. 510, Pt. D, §1 (RPR).]

[2003, c. 510, Pt. D, §§6,7 (AFF); 2003, c. 510, Pt. D, §1 (RPR) .]

3. **Purchase of service credit to be used for qualification for benefits.** This subsection governs the use of purchased service credit in order to qualify for benefits.

A. For the purpose of meeting the qualification requirement of subsection 2, paragraph A:

(1) Service credit purchased by repayment of an earlier refund of accumulated contributions following termination of service is included only to the extent that time to which the refund relates was served after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; and after June 30, 2002 for employees identified in subsection 1, paragraph M, in any one or a combination of the capacities specified in subsection 1. Service credit may be purchased for service by an employee identified in subsection 1, paragraph L regardless of when performed; and

(2) Service credit purchased other than as provided under subparagraph (1), including but not limited to service credit for military service, is not included. [2003, c. 510, Pt. D, §§6,7 (AFF); 2003, c. 510, Pt. D, §2 (RPR).]

B. For the purpose of meeting the qualification requirement of subsection 2, paragraph B:

(1) Service credit purchased by repayment of an earlier refund of accumulated contributions following termination of service is included if the time to which the refund relates was served in any one or a combination of the capacities specified in subsection 1, regardless of whether the time was served before or after the establishment of the 1998 Special Plan; and

(2) Service credit purchased other than as provided under subparagraph (1) is not included, except that service credit purchased for military service is included. [1997, c. 769, §11 (NEW).]

[2003, c. 510, Pt. D, §2 (AMD); 2003, c. 510, Pt. D, §§6,7 (AFF) .]

4. **Computation of benefits.** The amount of the service retirement benefit for members qualified under subsection 2 must be computed as follows.

A. If all of the member's creditable service in any one or a combination of the capacities specified in subsection 1 was earned after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M; if service credit was purchased by repayment of an earlier refund of accumulated contributions for service in any one or a combination of the capacities specified in subsection 1 after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M; or if service credit was purchased by other than the repayment of an earlier refund and eligibility to make the purchase of the service credit, including, but not limited to, service credit for military service, was achieved after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M, the benefit must be computed as provided in section 17852, subsection 1, paragraph A.

(1) If the member had 10 years of creditable service on July 1, 1993, the benefit under subsection 2, paragraph B must be reduced as provided in section 17852, subsection 3, paragraphs A and B.

(2) If the member had fewer than 10 years of creditable service on July 1, 1993, the benefit under subsection 2, paragraph B must be reduced by 6% for each year that the member's age precedes 55 years of age. [2003, c. 510, Pt. D, §§6,7 (AFF); 2003, c. 510, Pt. D, §3 (RPR).]

B. Except as provided in paragraphs D and E, if some part of the member's creditable service in any one or a combination of the capacities specified in subsection 1 was earned before July 1, 1998 for employees identified in subsection 1, paragraphs A to H; before January 1, 2000 for employees identified in subsection 1, paragraphs I to K; before January 1, 2002 for employees identified in subsection 1, paragraph L; and before July 1, 2002 for employees identified in subsection 1, paragraph M and some part of the member's creditable service in any one or a combination of the capacities specified in subsection 1 was earned after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M, then the member's service retirement benefit must be computed in segments and the amount of the member's service retirement benefit is the sum of the segments. The segments must be computed as follows:

(1) The segment or, if the member served in more than one of the capacities specified in subsection 1 and the benefits related to the capacities are not interchangeable under section 17856, segments that reflect creditable service earned before July 1, 1998 for employees identified in subsection 1, paragraphs A to H; before January 1, 2000 for employees identified in subsection 1, paragraphs I to K; before January 1, 2002 for employees identified in subsection 1, paragraph L; and before July 1, 2002 for employees identified in subsection 1, paragraph M or purchased by repayment of an earlier refund of accumulated contributions for service before July 1, 1998, for employees identified in subsection 1, paragraphs A to H; before January 1, 2000 for employees identified in subsection 1, paragraphs I to K; before January 1, 2002 for employees identified in subsection 1, paragraph L; and before July 1, 2002 for employees identified in subsection 1, paragraph M in a capacity or capacities specified in subsection 1 or purchased by other than the repayment of a refund and eligibility to make the purchase of the service credit, including, but not limited to, service credit for military service, was achieved before July 1, 1998 for employees identified in subsection 1, paragraphs A to H; before January 1, 2000 for employees identified in subsection 1, paragraphs I to K; before January 1, 2002 for employees identified in subsection 1, paragraph L; and before July 1, 2002 for employees identified in subsection 1, paragraph M, must be computed under section 17852, subsection 1, paragraph A. If the member is qualified under subsection 2, paragraph B and:

(a) Had 10 years of creditable service on July 1, 1993, the amount of the segment or segments must be reduced as provided in section 17852, subsection 3, paragraphs A and B; or

(b) Had fewer than 10 years of creditable service on July 1, 1993, the amount of the segment or segments must be reduced as provided in section 17852, subsection 3-A; and

(2) The segment that reflects creditable service earned after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M or purchased by repayment of an earlier refund of accumulated contributions for service after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M in any one or a combination of the capacities specified in subsection 1, or purchased by other than the repayment of a refund and eligibility to make the purchase of the service credit, including, but not limited to, service credit for military service, was achieved after June 30, 1998 and before September 1, 2002 for employees identified

in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M must be computed under section 17852, subsection 1, paragraph A. If the member is qualified under subsection 2, paragraph B and:

(a) Had 10 years of creditable service on July 1, 1993, the segment amount must be reduced in the manner provided in section 17852, subsection 3, paragraphs A and B for each year that the member's age precedes 55 years of age; or

(b) Had fewer than 10 years of creditable service on July 1, 1993, the segment amount must be reduced by 6% for each year that the member's age precedes 55 years of age. [2003, c. 510, Pt. D, §§6,7 (AFF); 2003, c. 510, Pt. D, §4 (RPR).]

C. [1999, c. 731, Pt. CC, §6 (RP).]

D. The service retirement benefit of a member who is a Maine State Prison employee to whom subsection 1, paragraph E applies, and who qualifies for service retirement benefits under subsection 2, paragraph B, must be computed under section 17852, subsection 1, paragraph A on the basis of all of the member's creditable service in the capacity specified in subsection 1, paragraph E regardless of whether the creditable service was earned before, on or after July 1, 1998, except that:

(1) If the member had 10 years of service on July 1, 1993, the benefit must be reduced as provided in section 17852, subsection 10, paragraph C, subparagraphs (1) and (2); or

(2) If the member had fewer than 10 years of creditable service on July 1, 1993, the benefit must be reduced as provided in section 17852, subsection 10, paragraph C-1. [2001, c. 409, §5 (RPR).]

E. The service retirement benefit of a member to whom subsection 1, paragraph L applies and who qualifies for service retirement benefits under subsection 2 must be computed under section 17852, subsection 1, paragraph A on the basis of all of the member's creditable service in the capacity specified in subsection 1, paragraph L, regardless of when that creditable service was earned, except that for a member qualifying under subsection 2, paragraph B:

(1) If the member had 10 years of service on July 1, 1993, the benefit must be reduced as provided in section 17852, subsection 3, paragraphs A and B for each year the member's age precedes 55 years of age; or

(2) If the member had fewer than 10 years of creditable service on July 1, 1993, the benefit must be reduced by 6% for each year that the member's age precedes 55 years of age. [2001, c. 409, §5 (NEW).]

[2003, c. 510, Pt. D, §§3, 4 (AMD); 2003, c. 510, Pt. D, §§6,7 (AFF) .]

5. Contributions. Notwithstanding any other provision of subchapter 3, after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M, a member in the capacities specified in subsection 1 must contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made at the rate of 8.65% of earnable compensation until the member has completed 25 years of creditable service as provided in this section and at the rate of 7.65% thereafter.

[2007, c. 491, §157 (AMD) .]

6. **Consequences of participation in retirement plan under section 17851, subsection 5-A, 6-A or 8-A.** Notwithstanding any other provision of law, a member in the capacities specified in subsection 1 who, prior to July 1, 1998 elected the retirement option provided in section 17851, subsection 5-A, 6-A or 8-A is treated as follows under the 1998 Special Plan.

A. A member who made the election at the time of first employment in a position covered under section 17851, subsection 5-A, 6-A and 8-A is considered to be a member under the 1998 Special Plan as of the date of hire. Beginning July 1, 1998, a member covered by this paragraph shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made at a rate of 8.65% of earnable compensation until completion of 25 years of creditable service and shall contribute at a rate of 7.65% thereafter. [2007, c. 491, §158 (AMD).]

B. A member who was serving in a position covered under section 17851, subsection 5-A, 6-A or 8-A at the time of the election and who elected to participate in the retirement option prospectively from the time of election is considered to be a member under the 1998 Special Plan as of the effective date of the election. Beginning July 1, 1998, a member covered by this paragraph shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made at a rate of 8.65% of earnable compensation until completion of 25 years of creditable service and shall contribute at a rate of 7.65% thereafter. [2007, c. 491, §158 (AMD).]

C. A member who was serving in a position covered under section 17851, subsection 5-A, 6-A or 8-A at the time of the election and who elected to participate in the retirement option prospectively from the time of election and also elected to purchase credit for service earned while serving in the same capacity before exercising the election is considered to be a member under the 1998 Special Plan as of the beginning date of the service for which credit is purchased, provided that all of the payments required under section 17852, subsection 5-A, 6-A or 7-A are made before retirement. If all the required payments are not made before retirement, that member is considered to be a member under the 1998 Special Plan as of the effective date of the election. Beginning July 1, 1998, a member covered by this paragraph shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made at a rate of 8.65% of earnable compensation until completion of 25 years of creditable service and shall contribute at a rate of 7.65% thereafter. [2007, c. 491, §158 (AMD).]

Employee contributions and actuarial and administrative costs paid to the State Employee and Teacher Retirement Program by a member covered by this subsection may not be returned to that member, except that these employee contributions may be refunded to a member who terminates service and requests a refund under section 17705-A.

[2007, c. 491, §158 (AMD) .]

6-A. **Consequences of participation in retirement plan under section 17851, subsection 12 or 13.** A member in the capacities specified in subsection 1, paragraphs J and K who, prior to January 1, 2000, elected the retirement option provided in section 17851, subsection 12 or 13 is treated as follows under the 1998 Special Plan.

A. A member who made the election at the time of first employment in a position covered under section 17851, subsection 12 or 13 is considered to be a member under the 1998 Special Plan as of the date of hire. Beginning January 1, 2000, a member covered by this paragraph shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made at a rate of 8.65% of earnable compensation until completion of 25 years of creditable service and shall contribute at a rate of 7.65% thereafter. [2007, c. 491, §159 (AMD).]

B. A member who was serving in a position covered under section 17851, subsection 12 or 13 at the time of the election and who elected to participate in the retirement option prospectively from the time of election is considered to be a member under the 1998 Special Plan as of the effective date of the election. Beginning January 1, 2000, a member covered by this paragraph shall contribute to the State Employee

and Teacher Retirement Program or have pick-up contributions made at a rate of 8.65% of earnable compensation until completion of 25 years of creditable service and shall contribute at a rate of 7.65% thereafter. [2007, c. 491, §159 (AMD).]

C. A member who was serving in a position covered under section 17851, subsection 12 or 13 at the time of the election and who elected to participate in the retirement option prospectively from the time of election and also elected to purchase credit for service earned while serving in the same capacity before exercising the election is considered to be a member under the 1998 Special Plan as of the beginning date of the service for which credit is purchased, as long as all of the payments required under section 17852, subsection 12 or 13 are made before retirement. If all the required payments are not made before retirement, that member is considered to be a member under the 1998 Special Plan as of the effective date of the election. Beginning January 1, 2000, for employees identified in subsection 1, paragraphs J and K, a member covered by this paragraph shall contribute to the State Employee and Teacher Retirement Program or have pick-up contributions made at a rate of 8.65% of earnable compensation until completion of 25 years of creditable service and shall contribute at a rate of 7.65% thereafter. [2007, c. 491, §159 (AMD).]

Employee contributions and actuarial and administrative costs paid to the State Employee and Teacher Retirement Program by a member covered by this subsection may not be returned to that member, except that these employee contributions may be refunded to a member who terminates service and requests a refund under section 17705-A.

[2007, c. 491, §159 (AMD) .]

SECTION HISTORY
1997, c. 769, §11 (NEW). 1999, c. 489, §14 (AMD). 1999, c. 493, §§4-10 (AMD). 1999, c. 731, §§CC4-6 (AMD). 2001, c. 409, §§1-6 (AMD). 2001, c. 559, §§RR5-9 (AMD). 2001, c. 559, §RR17 (AFF). 2001, c. 646, §§1-12 (AMD). 2003, c. 510, §§D1-5 (AMD). 2003, c. 510, §§D6,7 (AFF). 2005, c. 519, §FF1 (AMD). 2007, c. 137, §§14, 15 (AMD). 2007, c. 491, §§157-159 (AMD). 2009, c. 317, Pt. E, §§15, 16 (REV). 2013, c. 368, Pt. V, §4 (AMD). 2013, c. 405, Pt. D, §2 (AMD).

§17852. COMPUTATION OF BENEFIT

1. **Member in service at retirement.** The amount of the service retirement benefit for members qualified under section 17851, subsection 1-B, 1-C, 1-D or 1-E must be computed as follows:

A. One-fiftieth of the member's average final compensation multiplied by the number of years of membership service and up to 25 years of prior service. Membership service under this paragraph does not include creditable service under the Legislative Retirement Program; [2007, c. 491, §160 (AMD).]

B. The total amount of the service retirement benefit of any member qualifying under section 17851, subsection 1-B, 1-C, 1-D or 1-E who became a member before July 1, 1947, and for whom the date of establishment of the retirement system is July 1, 1942, must be at least equal to 1/2 of the member's average final compensation, if the member has at least 20 years of total creditable service, including at least 13 years of prior service if the member retires upon or after reaching age 70; or [2011, c. 380, Pt. T, §17 (AMD).]

C. Effective October 1, 1999, for a member who, on October 1, 1999 or thereafter, meets the creditable service requirement for eligibility to receive a service retirement benefit, at the applicable age if so required, under section 17851, subsection 1-B; section 17851, subsection 1-C, paragraph A; section 17851, subsection 1-C, paragraph B; section 17851, subsection 1-D; section 17851, subsection 1-E; section 17851, subsection 2-B; section 17851, subsection 2-C, paragraph A; section 17851, subsection 2-

C, paragraph B; section 17851, subsection 2-D; or section 17851, subsection 2-E, the factors specified in paragraphs A and B may not be changed, alone or in combination. [2011, c. 380, Pt. T, §17 (AMD).]

[2011, c. 380, Pt. T, §17 (AMD) .]

2. **Member not in service at retirement.** The amount of the service retirement benefit for members qualified under section 17851, subsection 2-B, 2-C, 2-D or 2-E must be computed in accordance with subsection 1.

[2011, c. 380, Pt. T, §18 (AMD) .]

3. **Member with creditable service of 25 years or more; 10 years of creditable service on July 1, 1993.** The amount of the service retirement benefit for members qualified under section 17851, subsection 3, is computed in accordance with subsection 1, except that:

A. The amount arrived at under subsection 1 is reduced by applying to that amount the percentage that a life annuity due at age 60 bears to the life annuity due at the age of retirement; [1999, c. 489, §16 (AMD).]

B. For the purpose of making the computation under paragraph A, the board-approved tables of annuities in effect at the date of the member's retirement are used; and [1999, c. 489, §16 (AMD).]

C. Effective October 1, 1999, the reduction to be applied to the service retirement benefit of a member to whom this subsection applies may not be greater than that in effect on October 1, 1999 under paragraphs A and B for a member who, on October 1, 1999 or thereafter, meets the creditable service requirement for eligibility to receive a service retirement benefit under section 17851, subsection 1-B; section 17851, subsection 1-C, paragraph A; section 17851, subsection 1-C, paragraph B; section 17851, subsection 2-A, paragraph A; section 17851, subsection 2-B; section 17851, subsection 2-C, paragraph B; or who after October 1, 1999, meets the creditable service requirement for eligibility to receive a service retirement benefit under section 17851, subsection 1-C, paragraph B or section 17851, subsection 2-C, paragraph B. For members to whom section 17851-A applies, this paragraph must be applied in accordance with the requirements of section 17851-A, subsection 4. [1999, c. 489, §16 (NEW).]

This subsection applies to members who, on July 1, 1993, have 10 years of creditable service. For the purpose of calculating creditable service under this subsection only, creditable service includes time during which a member participated in the voluntary cost savings plan or the voluntary employee incentive program, authorized by Public Law 1989, chapter 702, section F-6 and Public Law 1991, chapter 591, Part BB and chapter 780, Part VV, or 10 years of combined creditable service under this Part and Title 3, chapter 29, or creditable service available to a member that the member was eligible to purchase on June 30, 1993 and that the member does purchase in accordance with rules adopted by the board.

[1999, c. 489, §16 (AMD) .]

3-A. **Member with creditable service of 25 years or more whether or not in service at retirement; fewer than 10 years of creditable service on July 1, 1993.** The amount of the service retirement benefit for members qualified under section 17851, subsection 3, is computed in accordance with subsection 1, except that:

A. [1993, c. 410, Pt. L, §37 (RP).]

B. [1993, c. 410, Pt. L, §37 (RP).]

C. The benefit is reduced by 6% for each year that the member's age precedes 62 years of age; and [1999, c. 489, §17 (NEW).]

D. Effective October 1, 1999, the reduction to be applied to the service retirement benefit of a member to whom this subsection applies may not be greater than that in effect on October 1, 1999 under paragraph C for a member who, on October 1, 1999 or thereafter, meets the creditable service requirement for

eligibility to receive a service retirement benefit under section 17851, subsection 1-C, paragraph A; section 17851, subsection 1-C, paragraph B; section 17851, subsection 2-C, paragraph A; section 17851, subsection 2-C, paragraph B; or section 17851-A, subsection 2, paragraph A. For a member to whom section 17851-A applies, this paragraph must be applied in accordance with the requirements of section 17851-A, subsection 4. [1999, c. 489, §17 (NEW).]

This subsection applies to members who, on July 1, 1993, do not have 10 years of creditable service.

[1999, c. 489, §17 (AMD) .]

3-B. **Member with creditable service of 25 years or more whether or not in service at retirement; fewer than 5 years of creditable service on July 1, 2011.** The amount of the service retirement benefit for members qualified under section 17851, subsection 3 is computed in accordance with subsection 1, except that the benefit is reduced by 6% for each year that the member's age precedes 65 years of age.

[2011, c. 380, Pt. T, §19 (NEW) .]

4. **State police.** The amount of the service retirement benefit for members qualified under section 17851, subsection 4, shall be computed as follows.

A. For a person qualifying under section 17851, subsection 4, paragraph A:

(1) The total amount of the service retirement benefit is:

(a) Except as provided in division (b), 1/2 of the person's average final compensation and an additional 2% of the person's average final compensation for each year of membership service not included in determining qualification under section 17851, subsection 4, paragraph A; or

(b) If the benefit would be greater, the part of the person's service retirement benefit based upon membership service before July 1, 1976, determined, on a pro rata basis, on the person's current annual salary on the date of retirement and the part of the person's service retirement benefit based upon membership service after June 30, 1976, determined in accordance with division (a); and

(2) Upon the death of a state police officer who is receiving a retirement benefit after qualifying under section 17851, subsection 4, paragraph A, without optional modification, or is retired under article 3 or article 3-A, the surviving spouse is entitled to a retirement benefit that is 1/2 of the amount being paid at the time of the officer's death. The payment must continue for the remainder of the surviving spouse's lifetime.

For the purpose of this subparagraph, "surviving spouse" means the person the retired officer was married to at the time of retirement. If the retired officer was not married at the time of retirement or subsequent to retirement was divorced or widowed, the term means the person legally married to the officer at the time of the officer's death.

(3) Notwithstanding subparagraph (2), the benefit to which a surviving spouse is entitled under subparagraph (2) may be awarded in whole or in part to another person or persons under a domestic relations order that is determined to be a qualified domestic relations order under section 17059 and, when so awarded, the benefit must be distributed in accordance with the qualified domestic relations order. [1997, c. 396, §1 (AMD); 1997, c. 396, §4 (AFF).]

B. For persons qualifying under section 17851, subsection 4, paragraph B, the retirement benefit must be computed in accordance with subsection 1. [1999, c. 731, Pt. CC, §7 (AMD).]

C. [1999, c. 731, Pt. CC, §8 (RP).]

C-1. [1999, c. 731, Pt. CC, §9 (RP).]

C-2. [1999, c. 731, Pt. CC, §10 (RP).]

[1999, c. 731, Pt. CC, §§7-10 (AMD) .]

5. **Inland Fisheries and Wildlife officers.** The amount of service retirement benefit for persons qualified under section 17851, subsection 5, shall be computed as follows.

A. The total amount of the service retirement benefit is:

(1) Except as provided in subparagraph (2), 1/2 of his average final compensation and an additional 2% of his average final compensation for each year of membership service not included in determining qualifications under section 17851, subsection 5; or

(2) If his benefit would be greater, the part of his service retirement benefit based upon membership service before July 1, 1976, shall be determined, on a pro rata basis, on his current annual salary on the date of retirement and the part of his service retirement benefit based upon membership service after June 30, 1976, shall be determined in accordance with subparagraph (1). [1985, c. 801, §§5, 7 (NEW).]

B. Upon the death of a law enforcement officer of the Department of Inland Fisheries and Wildlife who is receiving a retirement benefit after qualifying under section 17851, subsection 5, without optional modification, or is retired under article 3 or article 3-A, the surviving spouse is entitled to a retirement benefit that is 1/2 of the amount being paid at the time of the officer's death. The payment must continue for the remainder of the surviving spouse's lifetime.

For the purpose of this paragraph, "surviving spouse" means the person the retired officer was married to at the time of retirement. If the retired officer was not married at the time of retirement or subsequent to retirement was divorced or widowed, the term means the person legally married to the officer at the time of the officer's death. [1993, c. 387, Pt. A, §12 (AMD).]

C. Notwithstanding paragraph B, the benefit to which a surviving spouse is entitled under paragraph B may be awarded in whole or in part to another person or persons under a domestic relations order that is determined to be a qualified domestic relations order under section 17059 and, when so awarded, the benefit must be distributed in accordance with the qualified domestic relations order. [1997, c. 396, §2 (NEW); 1997, c. 396, §4 (AFF).]

[1997, c. 396, §2 (AMD); 1997, c. 396, §4 (AFF) .]

5-A. **Inland Fisheries and Wildlife officers after August 31, 1984; option.** Except as provided in section 17851-A, the retirement benefit of a person who qualifies under section 17851, subsection 5-A and who retires upon or after reaching 55 years of age is computed in accordance with subsection 1 if:

A. The person was first employed as a law enforcement officer in the Department of Inland Fisheries and Wildlife on or after November 1, 1995, elects the option provided in section 17851, subsection 5-A and pays to the State Employee and Teacher Retirement Program an increased employee payroll contribution in an amount that equals the full actuarial cost of electing that option; or [2007, c. 491, §161 (AMD).]

B. The person was first employed as a law enforcement officer in the Department of Inland Fisheries and Wildlife before November 1, 1995, elects the option provided in section 17851, subsection 5-A and pays to the State Employee and Teacher Retirement Program single or periodic payment of a lump sum or by a combination of single and periodic payments of the amount that equals the full actuarial cost of electing that option for service before that date. A person who requests calculation of the full actuarial cost, regardless of whether the person elects the option, must pay to the retirement system by single lump sum payment the reasonable administrative costs of determining the full actuarial costs. Payment of the full actuarial cost related to service on or after November 1, 1995 is made as part of the employee payroll contribution. [2007, c. 491, §162 (AMD).]

For the purposes of this subsection, "full actuarial cost" means that the person's payment or payments must fully offset any unfunded liability that would or does result from retirement under the option provided in section 17851, subsection 5-A and must fully fund the cost of the person's retirement prior to normal retirement age so that an additional employer contribution is not required.

A person who makes the election provided in section 17851, subsection 5-A at any time after the date on which the person is first employed as a law enforcement officer in the Department of Inland Fisheries and Wildlife must include interest at a rate to be set by the board not to exceed regular interest by 5 or more percentage points, applied as of the date on which the person was first employed in that capacity to the contributions the person would have paid or had picked up by the employer had the person elected that option at the date of first employment.

This subsection is effective November 1, 1995. Election to retire under this subsection is a one-time irrevocable election. A person who was first employed as a law enforcement officer in the Department of Inland Fisheries and Wildlife on or after November 1, 1995 must make the election no later than 90 days after the date of first employment. A person who was first employed in that capacity before November 1, 1995 must make the election no later than January 1, 1997.

[2007, c. 491, §§161, 162 (AMD) .]

5-B. **Inland Fisheries and Wildlife officers exercising option; retirement before 55 years of age.** Except as provided in section 17851-A, for a person exercising the option provided in section 17851, subsection 5-A, who makes the payments required in subsection 5-A, and who retires before reaching 55 years of age, the retirement benefit is determined as follows.

A. For members with 10 years of creditable service on July 1, 1993, the retirement benefit is determined in accordance with subsection 1, except that:

(1) The amount arrived at under subsection 1 is reduced by applying to that amount the percentage that a life annuity due at 55 years of age bears to the life annuity due at the age of retirement; and

(2) For the purpose of making the computation under subparagraph (1), the board-approved tables of annuities in effect at the date of the member's retirement are used.

For the purpose of calculating creditable service under this subsection only, "creditable service" includes time during which a member participated in the voluntary cost-savings plan or the voluntary employee incentive program, authorized by Public Law 1989, chapter 702, Part F, section 6 and Public Law 1991, chapter 591, Part BB and chapter 780, Part VV; or 10 years of combined creditable service under this Part and Title 3, chapter 29; or creditable service available to a member that the member was eligible to purchase on June 30, 1993 and that the member does purchase in accordance with rules adopted by the board. [1995, c. 624, §6 (NEW).]

B. For members who do not have 10 years of creditable service on July 1, 1993, the retirement benefit is determined in accordance with subsection 1, except that the benefit is reduced by 6% for each year that the person's age precedes 55 years of age. [1995, c. 624, §6 (NEW).]

[1997, c. 769, §13 (AMD) .]

5-C. **Inland fisheries and wildlife officers; benefit computation after September 1, 2002.** On and after September 1, 2002, the retirement benefit of a law enforcement officer in the Department of Inland Fisheries and Wildlife who is qualified under section 17851, subsection 5-B is calculated as follows:

A. The portion of the retirement benefit that is based on service earned in the covered capacity prior to September 1, 2002 is computed in accordance with section 17851-A, subsection 4; and [2001, c. 559, Pt. RR, §10 (NEW); 2001, c. 559, Pt. RR, §17 (AFF).]

B. The portion of the retirement benefit that is based on service earned in the covered capacity on and after September 1, 2002 is computed in accordance with subsection 1. [2001, c. 559, Pt. RR, §10 (NEW); 2001, c. 559, Pt. RR, §17 (AFF).]

[2001, c. 559, Pt. RR, §10 (NEW); 2001, c. 559, Pt. RR, §17 (AFF) .]

5-D. **Inland fisheries and wildlife officers; contingent benefit computation.** Notwithstanding subsection 5-C, paragraph A, the retirement benefit of a law enforcement officer in the Department of Inland Fisheries and Wildlife who is qualified under section 17851, subsection 5-C is computed in accordance with subsection 5-C, paragraph B for all service in the covered capacity.

[2001, c. 559, Pt. RR, §10 (NEW); 2001, c. 559, Pt. RR, §17 (AFF) .]

6. **Marine Resources officers.** The amount of service retirement benefit for persons qualified under section 17851, subsection 6, shall be computed as follows.

A. The total amount of the service retirement benefit is:

(1) Except as provided in subparagraph (2), 1/2 of his average final compensation and an additional 2% of his average final compensation for each year of membership service not included in determining qualification under section 17851, subsection 6 or 7; or

(2) If his benefit would be greater, the part of his service retirement benefit based upon membership service before July 1, 1976, shall be determined, on a pro rata basis, on his current annual salary on the date of retirement and the part of his service retirement benefit based upon membership service after June 30, 1976, shall be determined in accordance with subparagraph (1). [1985, c. 801, §§5, 7 (NEW).]

B. Upon the death of a law enforcement officer of the Department of Marine Resources who is receiving a retirement benefit after qualifying under section 17851, subsection 6, without optional modification, or is retired under article 3 or article 3-A, the surviving spouse is entitled to a retirement benefit that is 1/2 of the amount being paid at the time of the officer's death. The payment must continue for the remainder of the surviving spouse's lifetime.

For the purpose of this paragraph, "surviving spouse" means the person the retired officer was married to at the time of retirement. If the retired officer was not married at the time of retirement or subsequent to retirement was divorced or widowed, the term means the person legally married to the officer at the time of the officer's death. [1993, c. 387, Pt. A, §13 (AMD).]

C. Notwithstanding paragraph B, the benefit to which a surviving spouse is entitled under paragraph B may be awarded in whole or in part to another person or persons under a domestic relations order that is determined to be a qualified domestic relations order under section 17059 and, when so awarded, the benefit must be distributed in accordance with the qualified domestic relations order. [1997, c. 396, §3 (NEW); 1997, c. 396, §4 (AFF).]

[1997, c. 396, §3 (AMD); 1997, c. 396, §4 (AFF) .]

6-A. **Marine resources officers after August 31, 1984; option.** Except as provided in section 17851-A, the retirement benefit of a person qualifying under section 17851, subsection 6-A who retires upon or after reaching 55 years of age is computed in accordance with subsection 1 if:

A. The person was first employed as a law enforcement officer in the Department of Marine Resources on or after November 1, 1995, elects the option provided in section 17851, subsection 6-A and pays to the State Employee and Teacher Retirement Program an increased employee payroll contribution in an amount that equals the full actuarial cost of electing that option; or [2007, c. 491, §163 (AMD).]

B. The person was first employed in that capacity before November 1, 1995, elects the option provided in section 17851, subsection 6-A and pays to the State Employee and Teacher Retirement Program by single or periodic payment of a lump sum or by a combination of single and periodic payments the amount that equals the full actuarial cost of electing that option for service before that date. A person who requests calculation of the full actuarial cost, regardless of whether the person elects the option, must pay to the retirement system by single lump sum payment the reasonable administrative costs

of determining the full actuarial costs. Payment of the full actuarial cost related to service on or after November 1, 1995 is made as part of the employee payroll contribution. [2007, c. 491, §164 (AMD).]

For the purpose of this subsection, "full actuarial cost" means that the person's payment or payments must fully offset any unfunded liability that would or does result from retirement under the option provided in section 17851, subsection 6-A and must fully fund the cost of the person's retirement prior to normal retirement age so that an additional employer contribution is not required.

A person who makes the election provided in section 17851, subsection 6-A at any time after the date on which the person is first employed as a law enforcement officer in the Department of Marine Resources must include interest at a rate to be set by the board not to exceed regular interest by 5 or more percentage points, applied as of the date on which the person was first employed in that capacity to the contributions the person would have paid or had picked up by the employer had the person elected that option at the date of first employment.

This subsection is effective November 1, 1995. Election to retire under this subsection is a one-time irrevocable election. A person who was first employed as a law enforcement officer in the Department of Marine Resources on or after November 1, 1995 must make the election no later than 90 days after the date of first employment. A person who was first employed in that capacity before November 1, 1995 must make the election no later than January 1, 1997.

[2007, c. 491, §§163, 164 (AMD) .]

6-B. **Marine resources officers exercising option; retirement before 55 years of age.** Except as provided in section 17851-A, for a person exercising the option provided in section 17851, subsection 6-A, who makes the payments required in subsection 6-A and who retires before reaching 55 years of age, the retirement benefit is determined as follows.

A. For members with 10 years of creditable service on July 1, 1993, the retirement benefit is determined in accordance with subsection 1, except that:

(1) The amount arrived at under subsection 1 is reduced by applying to that amount the percentage that a life annuity due at 55 years of age bears to the life annuity due at the age of retirement; and

(2) For the purpose of making the computation under subparagraph (1), the board-approved tables of annuities in effect at the date of the member's retirement are used.

For the purpose of calculating creditable service under this subsection only, "creditable service" includes time during which a member participated in the voluntary cost-savings plan or the voluntary employee incentive program, authorized by Public Law 1989, chapter 702, Part F, section 6 and Public Law 1991, chapter 591, Part BB and chapter 780, Part VV; or 10 years of combined creditable service under this Part and Title 3, chapter 29; or creditable service available to a member that the member was eligible to purchase on June 30, 1993 and that the member does purchase in accordance with rules adopted by the board. [2001, c. 559, Pt. RR, §17 (AFF); 2001, c. 559, Pt. RR, §11 (REEN).]

B. For members who do not have 10 years of creditable service on July 1, 1993, the retirement benefit is determined in accordance with subsection 1, except that the benefit is reduced by 6% for each year that the person's age precedes 55 years of age. [2001, c. 559, Pt. RR, §17 (AFF); 2001, c. 559, Pt. RR, §11 (REEN).]

[2001, c. 559, Pt. RR, §17 (AFF); 2001, c. 559, Pt. RR, §11 (REEN) .]

6-C. **Marine resources officers; benefit computation after September 1, 2002.** On and after September 1, 2002, the retirement benefit of a law enforcement officer in the Department of Marine Resources who is qualified under section 17851, subsection 6-B, is calculated as follows:

A. The portion of the retirement benefit that is based on service earned in the covered capacity prior to September 1, 2002 is computed in accordance with section 17851-A, subsection 4; and [2001, c. 559, Pt. RR, §12 (NEW); 2001, c. 559, Pt. RR, §17 (AFF).]

B. The portion of the retirement benefit that is based on service earned in the covered capacity on and after September 1, 2002 is computed in accordance with subsection 1. [2001, c. 559, Pt. RR, §12 (NEW); 2001, c. 559, Pt. RR, §17 (AFF).]

[2001, c. 559, Pt. RR, §12 (NEW); 2001, c. 559, Pt. RR, §17 (AFF) .]

6-D. **Marine resources officers; contingent benefit computation.** Notwithstanding subsection 6-C, paragraph A, the retirement benefit of a law enforcement officer in the Department of Marine Resources who is qualified under section 17851, subsection 6-C is computed in accordance with subsection 6-C, paragraph B for all service in the covered capacity.

[2001, c. 559, Pt. RR, §12 (NEW); 2001, c. 559, Pt. RR, §17 (AFF) .]

7. **Forest rangers.** The total amount of the service retirement benefit for persons qualified under section 17851, subsection 8, shall be computed as follows:

A. Except as provided in paragraph B, 1/2 of his average final compensation and an additional 2% of his average final compensation for each year of membership service not included in determining qualifications under section 17851, subsection 8; or [1985, c. 801, §§5, 7 (NEW).]

B. If his benefit would be greater, the part of his service retirement benefit based upon membership service before July 1, 1976, shall be determined, on a pro rata basis, on his current annual salary on the date of retirement and the part of his service retirement benefit based upon membership service after June 30, 1976, shall be determined in accordance with paragraph A. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

7-A. **Forest rangers after August 31, 1984; option.** Except as provided in section 17851-A, the retirement benefit of a person qualifying under section 17851, subsection 8-A who retires upon or after reaching 55 years of age is computed in accordance with subsection 1 if:

A. The person was first employed as a forest ranger in the former Department of Conservation or the Department of Agriculture, Conservation and Forestry on or after May 1, 1996, elects the option provided in section 17851, subsection 8-A and pays to the State Employee and Teacher Retirement Program an increased employee payroll contribution in an amount that equals the full actuarial cost of electing that option; or [2013, c. 405, Pt. D, §3 (AMD).]

B. The person was first employed as a forest ranger in the former Department of Conservation or the Department of Agriculture, Conservation and Forestry before May 1, 1996, elects the option provided in section 17851, subsection 8-A and pays to the State Employee and Teacher Retirement Program by single or periodic payment of a lump sum or by a combination of single and periodic payments the amount that equals the full actuarial cost of electing that option for service before that date. A person who requests calculation of the full actuarial cost, regardless of whether the person elects the option, must pay to the retirement system by single lump sum payment the reasonable administrative costs of determining the full actuarial costs. Payment of the full actuarial cost related to service on or after May 1, 1996 is made as part of the employee payroll contribution. [2013, c. 405, Pt. D, §3 (AMD).]

For the purpose of this subsection, "full actuarial cost" means that the person's payment or payments must fully offset any unfunded liability that would or does result from retirement under the option provided in section 17851, subsection 8-A and must fully fund the cost of the person's retirement prior to normal retirement age so that an additional employer contribution is not required.

A person who makes the election provided in section 17851, subsection 8-A at any time after the date on which the person is first employed as a forest ranger in the former Department of Conservation or the Department of Agriculture, Conservation and Forestry must include interest at a rate to be set by the board not to exceed regular interest by 5 or more percentage points, applied as of the date on which the person was first employed in that capacity to the contributions the person would have paid or had picked up by the employer had the person elected that option at the date of first employment.

This subsection is effective May 1, 1996. Election to retire under this subsection is a one-time irrevocable election. A person who was first employed as a forest ranger in the former Department of Conservation or the Department of Agriculture, Conservation and Forestry on or after May 1, 1996 must make the election no later than 90 days after the date of first employment. A person who was first employed in that capacity before May 1, 1996 must make the election no later than January 1, 1997.

[2013, c. 405, Pt. D, §3 (AMD) .]

7-B. **Forest rangers exercising option; retirement before 55 years of age.** Except as provided in section 17851-A, for a person exercising the option provided in section 17851, subsection 8-A, who makes the payments required in subsection 7-A and who retires before reaching 55 years of age, the retirement benefit is determined as follows.

A. For members with 10 years of creditable service on July 1, 1993, the retirement benefit is determined in accordance with subsection 1, except that:

(1) The amount arrived at under subsection 1 is reduced by applying to that amount the percentage that a life annuity due at 55 years of age bears to the life annuity due at the age of retirement; and

(2) For the purpose of making the computation under subparagraph (1), the board-approved tables of annuities in effect at the date of the member's retirement are used.

For the purpose of calculating creditable service under this subsection only, "creditable service" includes time during which a member participated in the voluntary cost-savings plan or the voluntary employee incentive program, authorized by Public Law 1989, chapter 702, Part F, section 6 and Public Law 1991, chapter 591, Part BB and chapter 780, Part VV; or 10 years of combined creditable service under this Part and Title 3, chapter 29; or creditable service available to a member that the member was eligible to purchase on June 30, 1993 and that the member does purchase in accordance with rules adopted by the board. [1995, c. 624, §10 (NEW).]

B. For members who do not have 10 years of creditable service on July 1, 1993, the retirement benefit is determined in accordance with subsection 1, except that the benefit is reduced by 6% for each year that the person's age precedes 55 years of age. [1995, c. 624, §10 (NEW).]

[1997, c. 769, §17 (AMD) .]

8. **Airplane pilots.** The total amount of the service retirement benefit for members qualified under section 17851, subsection 9, is:

A. 1/2 of his average final compensation and an additional 2% of his average final compensation for each year of membership service not included in determining qualification under section 17851, subsection 9; or [1985, c. 801, §§5, 7 (NEW).]

B. If the member retires upon or after reaching the age of 60, an amount equal to the total service retirement benefit as determined under subsection 1, if that amount is greater than the amount computed under paragraph A. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

9. **Liquor inspectors.** The total amount of the service retirement benefit for a member qualifying under section 17851, subsection 10 is computed as follows:

A. Except as provided in paragraph B, the total amount of the service retirement benefit is 1/2 of the member's average final compensation and an additional 2% of the member's average final compensation for each year of membership service not included in determining qualification under section 17851, subsection 10; or [1993, c. 387, Pt. A, §14 (NEW).]

B. If the member's service retirement benefit would be greater than the amount provided in paragraph A, the part of the service retirement benefit based on membership service before July 1, 1976 is determined, on a pro rata basis, on the member's current final compensation and the part of the service retirement benefit based on membership service after June 30, 1976 is determined in accordance with paragraph A. [1993, c. 387, Pt. A, §14 (NEW).]

[1993, c. 387, Pt. A, §14 (RPR) .]

9-A. **Liquor inspectors; benefit calculation exception.** Notwithstanding any other law, the total amount of the service retirement benefit for a member qualifying under section 17851, subsection 10-A is computed as follows:

A. The part of the member's service retirement benefit based upon the service earned in a liquor inspector or chief inspector position covered by section 17851, subsection 10-A is computed as 1/50th of the member's average final compensation multiplied by the number of years of creditable service in the capacity of liquor inspector or chief inspector; and [2003, c. 451, Pt. GG, §3 (NEW).]

B. The part of the member's benefit based upon membership service earned in a position not covered by section 17851, subsection 10-A must be computed in accordance with the formula for computing benefits for the plan by which the member is then covered. [2003, c. 451, Pt. GG, §3 (NEW).]

[2003, c. 451, Pt. GG, §3 (NEW) .]

10. **Maine State Prison employees.** The amount of the service retirement benefit for members qualified under section 17851, subsection 11, shall be computed as follows.

A. For members qualifying under section 17851, subsection 11, paragraph A, 1/2 of his average final compensation and an additional 2% of his average final compensation for each year of membership service not included in determining qualification under section 17851, subsection 11, paragraph A. [1985, c. 801, §§5, 7 (NEW).]

B. For members who qualify under section 17851, subsection 11, paragraph B, and who retire upon or after reaching the age of 55, the retirement benefit shall be computed in accordance with subsection 1. [1987, c. 769, Pt. A, §30 (AMD).]

C. For members who qualify under section 17851, subsection 11, paragraph B, and who retire before reaching the age of 55, the retirement benefit is determined in accordance with subsection 1, except that:

(1) The amount arrived at under subsection 1 is reduced by applying to that amount the percentage that a life annuity due at age 55 bears to the life annuity due at the age of retirement; and

(2) For the purpose of making the computation under subparagraph (1), the board-approved tables of annuities in effect at the date of the member's retirement is used.

This paragraph applies to members who, on July 1, 1993, have 10 years of creditable service. For the purpose of calculating creditable service under this subsection only, creditable service includes time during which a member participated in the voluntary cost savings plan or the voluntary employee incentive program, authorized by Public Law 1989, chapter 702, section F-6 and Public Law 1991, chapter 591, Part BB and chapter 780, Part VV, or 10 years of combined creditable service under this Part and Title 3, chapter 29, or creditable service available to a member that the member was eligible to purchase on June 30, 1993 and that the member does purchase in accordance with rules adopted by the board. [1993, c. 410, Pt. L, §40 (AMD).]

C-1. For persons qualifying under section 17851, subsection 11, paragraph B, and who retire before reaching the age of 55, the retirement benefit is determined in accordance with subsection 1, except that the benefit is reduced by 6% for each year that the member's age precedes age 55.

This paragraph applies to members who, on July 1, 1993, do not have 10 years of creditable service. [1993, c. 410, Pt. L, §41 (RPR).]

[1993, c. 410, Pt. L, §§40, 41 (AMD) .]

11. **Baxter State Park Authority rangers; option.** Except as provided in section 17851-A, the retirement benefit of a person who qualifies under section 17851, subsection 12 and who retires upon or after reaching 55 years of age is computed in accordance with subsection 1 if:

A. The person was first employed as a law enforcement officer at the Baxter State Park Authority on or after November 1, 1995, elects the option provided in section 17851, subsection 12 and pays to the State Employee and Teacher Retirement Program an increased employee payroll contribution in an amount that equals the full actuarial cost of electing that option; or [2007, c. 491, §167 (AMD).]

B. The person was first employed as a law enforcement officer at the Baxter State Park Authority before November 1, 1995, elects the option provided in section 17851, subsection 12 and pays to the State Employee and Teacher Retirement Program single or periodic payment of a lump sum or by a combination of single and periodic payments of the amount that equals the full actuarial cost of electing that option for service before that date. A person who requests calculation of the full actuarial cost, regardless of whether the person elects the option, must pay to the retirement system by single lump sum payment the reasonable administrative costs of determining the full actuarial costs. Payment of the full actuarial cost related to service on or after November 1, 1995 is made as part of the employee payroll contribution. [2007, c. 491, §168 (AMD).]

For the purposes of this subsection, "full actuarial cost" means that the person's payment or payments must fully offset any unfunded liability that would or does result from retirement under the option provided in section 17851, subsection 12 and must fully fund the cost of the person's retirement prior to normal retirement age so that an additional employer contribution is not required.

A person who makes the election provided in section 17851, subsection 12 at any time after the date on which the person is first employed as a law enforcement officer at the Baxter State Park Authority must include interest at a rate to be set by the board not to exceed regular interest by 5 or more percentage points, applied as of the date on which the person was first employed in that capacity to the contributions the person would have paid or had picked up by the employer had the person elected that option at the date of first employment.

This subsection is effective November 1, 1995. Election to retire under this subsection is a one-time irrevocable election. A person who was first employed as a law enforcement officer at the Baxter State Park Authority on or after November 1, 1995 must make the election no later than 90 days after the date of first employment. A person who was first employed in that capacity before November 1, 1995 must make the election no later than January 1, 1997.

[2007, c. 491, §§167, 168 (AMD) .]

12. **Baxter State Park Authority rangers exercising option; retirement before 55 years of age.** Except as provided in section 17851-A, for a person exercising the option provided in section 17851, subsection 12, who makes the payments required in subsection 11, and who retires before reaching 55 years of age, the retirement benefit is determined as follows.

A. For members with 10 years of creditable service on July 1, 1993, the retirement benefit is determined in accordance with subsection 1, except that:

(1) The amount arrived at under subsection 1 is reduced by applying to that amount the percentage that a life annuity due at 55 years of age bears to the life annuity due at the age of retirement; and

(2) For the purpose of making the computation under subparagraph (1), the board-approved tables of annuities in effect at the date of the member's retirement are used.

For the purpose of calculating creditable service under this subsection only, "creditable service" includes time during which a member participated in the voluntary cost-savings plan or the voluntary employee incentive program, authorized by Public Law 1989, chapter 702, Part F, section 6 and Public Law 1991, chapter 591, Part BB and chapter 780, Part VV; or 10 years of combined creditable service under this Part and Title 3, chapter 29; or creditable service available to a member that the member was eligible to purchase on June 30, 1993 and that the member does purchase in accordance with rules adopted by the board. [1995, c. 624, §12 (NEW).]

B. For members who do not have 10 years of creditable service on July 1, 1993, the retirement benefit is determined in accordance with subsection 1, except that the benefit is reduced by 6% for each year that the person's age precedes 55 years of age. [1995, c. 624, §12 (NEW).]

[1999, c. 493, §12 (AMD) .]

13. **Fire marshals; option.** Except as provided in section 17851-A, the retirement benefit of a person who qualifies under section 17851, subsection 13 and who retires upon or after reaching 55 years of age is computed in accordance with subsection 1 if:

A. The person was first employed as a fire marshal on or after October 1, 1997, elects the option provided in section 17851, subsection 13 and pays to the State Employee and Teacher Retirement Program an increased employee payroll contribution in an amount that equals the full actuarial cost of electing that option; or [2007, c. 491, §169 (AMD).]

B. The person was first employed as a fire marshal before October 1, 1997, elects the option provided in section 17851, subsection 13 and pays to the State Employee and Teacher Retirement Program a single payment or periodic payments of a lump sum or a combination of single and periodic payments of that amount that equals the full actuarial cost of electing that option for service before that date. [2007, c. 491, §170 (AMD).]

A person who requests calculation of the full actuarial cost, regardless of whether the person elects the option, must pay to the retirement system by a single lump sum payment the reasonable administrative costs of determining the full actuarial costs. Payment of the full actuarial cost related to service on or after October 1, 1997 is made as part of the employee payroll contribution.

For the purposes of this subsection, "full actuarial cost" means that the person's payment or payments must fully offset any unfunded liability that would or does result from retirement under the option provided in section 17851, subsection 13 and must fully fund the cost of the person's retirement prior to normal retirement age so that an additional employer contribution is not required.

A person who makes the election provided in section 17851, subsection 13 at any time after the date on which the person is first employed as a fire marshal must include interest, at a rate to be set by the board not to exceed regular interest by 5 or more percentage points, applied as of the date on which the person was first employed in that capacity to the contributions the person would have paid or had picked up by the employer had the person elected that option at the date of first employment.

This subsection takes effect October 1, 1997. Election to retire under this subsection is a one-time irrevocable election. A person who was first employed as a fire marshal on or after October 1, 1997 must make the election no later than 90 days after the date of first employment. A person who was first employed in that capacity before October 1, 1997 must make the election no later than January 1, 1998.

[2007, c. 491, §§169, 170 (AMD) .]

14. **Fire marshals exercising option; retirement before 55 years of age.** Except as provided in section 17851-A, for a person exercising the option provided in section 17851, subsection 13 who makes the payments required in subsection 13 and who retires before reaching 55 years of age, the retirement benefit is determined as follows.

A. For members with 10 years of creditable service on July 1, 1993, the retirement benefit is determined in accordance with subsection 1, except that:

(1) The amount arrived at under subsection 1 is reduced by applying to that amount the percentage that a life annuity due at 55 years of age bears to the life annuity due at the age of retirement; and

(2) For the purpose of making the computation under subparagraph (1), the board-approved tables of annuities in effect at the date of the member's retirement are used.

For the purpose of calculating creditable service under this subsection only, "creditable service" includes time during which a member participated in the voluntary cost-savings plan or the voluntary employee incentive program, authorized by Public Law 1989, chapter 702, Part F, section 6 and Public Law 1991, chapter 591, Part BB and chapter 780, Part VV; 10 years of combined creditable service under this Part and Title 3, chapter 29; or creditable service available to a member that the member was eligible to purchase on June 30, 1993 and that the member does purchase in accordance with rules adopted by the board. [1997, c. 401, §3 (NEW).]

B. For members who do not have 10 years of creditable service on July 1, 1993, the retirement benefit is determined in accordance with subsection 1, except that the benefit is reduced by 6% for each year that the person's age precedes 55 years of age. [1997, c. 401, §3 (NEW).]

[1999, c. 493, §14 (AMD) .]

15. **Motor vehicle investigators; option.** The retirement benefit of a person who qualifies under section 17851, subsection 14 and who retires upon or after reaching 55 years of age is computed in accordance with subsection 1 if:

A. The person was first employed as a motor vehicle investigator on or after October 1, 1997, elects the option provided in section 17851, subsection 14 and pays to the State Employee and Teacher Retirement Program an increased employee payroll contribution in an amount that equals the full actuarial cost of electing that option; or [2007, c. 491, §171 (AMD).]

B. The person was first employed as a motor vehicle investigator before October 1, 1997, elects the option provided in section 17851, subsection 14 and pays to the State Employee and Teacher Retirement Program a single payment or periodic payments of a lump sum or a combination of single and periodic payments of that amount that equals the full actuarial cost of electing that option for service before that date. [2007, c. 491, §172 (AMD).]

A person who requests calculation of the full actuarial cost, regardless of whether the person elects the option, must pay to the retirement system by a single lump sum payment the reasonable administrative costs of determining the full actuarial costs. Payment of the full actuarial cost related to service on or after October 1, 1997 is made as part of the employee payroll contribution.

For the purposes of this subsection, "full actuarial cost" means that the person's payment or payments must fully offset any unfunded liability that would or does result from retirement under the option provided in section 17851, subsection 14 and must fully fund the cost of the person's retirement prior to normal retirement age so that an additional employer contribution is not required.

A person who makes the election provided in section 17851, subsection 14 at any time after the date on which the person is first employed as a motor vehicle investigator must include interest, at a rate to be set by the board not to exceed regular interest by 5 or more percentage points, applied as of the date on which the person was first employed in that capacity to the contributions the person would have paid or had picked up by the employer had the person elected that option at the date of first employment.

This subsection takes effect October 1, 1997. Election to retire under this subsection is a one-time irrevocable election. A person who was first employed as a motor vehicle investigator on or after October 1, 1997 must make the election no later than 90 days after the date of first employment. A person who was first employed in that capacity before October 1, 1997 must make the election no later than January 1, 1998.

[2007, c. 491, §§171, 172 (AMD) .]

16. **Motor vehicle investigators exercising option; retirement before 55 years of age.** For a person exercising the option provided in section 17851, subsection 14 who makes the payments required in subsection 15 and who retires before reaching 55 years of age, the retirement benefit is determined as follows.

A. For members with 10 years of creditable service on July 1, 1993, the retirement benefit is determined in accordance with subsection 1, except that:

(1) The amount arrived at under subsection 1 is reduced by applying to that amount the percentage that a life annuity due at 55 years of age bears to the life annuity due at the age of retirement; and

(2) For the purpose of making the computation under subparagraph (1), the board-approved tables of annuities in effect at the date of the member's retirement are used.

For the purpose of calculating creditable service under this subsection only, "creditable service" includes time during which a member participated in the voluntary cost-savings plan or the voluntary employee incentive program, authorized by Public Law 1989, chapter 702, Part F, section 6 and Public Law 1991, chapter 591, Part BB and chapter 780, Part VV; 10 years of combined creditable service under this Part and Title 3, chapter 29; or creditable service available to a member that the member was eligible to purchase on June 30, 1993 and that the member does purchase in accordance with rules adopted by the board. [1997, c. 401, §3 (NEW).]

B. For members who do not have 10 years of creditable service on July 1, 1993, the retirement benefit is determined in accordance with subsection 1, except that the benefit is reduced by 6% for each year that the person's age precedes 55 years of age. [1997, c. 401, §3 (NEW).]

[1997, c. 401, §3 (NEW) .]

17. **Limitation to changes in computation of service retirement benefits.** Effective October 1, 1999, for a member who, on October 1, 1999 or thereafter, meets the creditable service requirement for eligibility for service retirement benefits under section 17851, subsections 4 to 14; or under section 17851-A, subsection 2, paragraph A or B, whether or not a member is in service on October 1, 1999, the factors specified for the computation of service retirement benefits under subsections 4 to 16 as in effect on October 1, 1999; or under section 17851-A, subsection 4 as in effect on October 1, 1999, as applicable to each member, may not be changed, alone or in combination under each separate subsection.

[1999, c. 489, §18 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 652, §§1-3 (AMD). 1987, c. 769, §A30 (AMD). RR 1991, c. 1, §15 (COR). 1991, c. 528, §§EEE9-14 (AMD). 1991, c. 528, §§EEE18,RRR (AFF). 1991, c. 580, §§6-8 (AMD). 1991, c. 591, §§EEE9-14 (AMD). 1991, c. 591, §EEE18 (AFF). 1993, c. 387, §§A11-14 (AMD). 1993, c. 410, §§L36-41 (AMD). 1993, c. 626, §1 (AMD). 1995, c. 367, §1 (AMD). 1995, c. 466, §§A3,B4,C3 (AMD). 1995, c. 624, §§5-12 (AMD). 1997, c. 396, §§1-3 (AMD). 1997, c. 396, §4 (AFF). 1997, c. 401, §3 (AMD). 1997, c. 683, §C1 (AMD). 1997, c. 683, §C2 (AFF). 1997, c. 769, §§12-17 (AMD). 1999, c. 489, §§15-18 (AMD). 1999, c. 493, §§11-14 (AMD). 1999, c. 731, §§CC7-10 (AMD). 2001, c. 559, §§RR10-12 (AMD). 2001, c. 559, §RR17 (AFF). 2003, c. 451, §GG3 (AMD). 2007, c. 491, §§160-172 (AMD). 2011, c. 380, Pt. T, §§17-19 (AMD). 2013, c. 405, Pt. D, §3 (AMD).

§17853. LAW GOVERNING BENEFIT DETERMINATION

1. **Termination on or after January 1, 1976.** If a member's final termination of service occurred on or after January 1, 1976, the retirement system law in effect on the date of termination shall govern the member's service retirement benefit.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Termination before January 1, 1976.** If a member's final termination of service occurred before January 1, 1976, the retirement system law in effect on January 1, 1976 shall govern the member's service retirement benefit.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§17854. MINIMUM BENEFIT

Any member who has 10 or more years of creditable service at retirement is entitled to a minimum service retirement benefit of $100 per month. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§17855. RESTORATION TO SERVICE

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§27,48 (AMD). 1997, c. 769, §18 (AMD). 2001, c. 442, §1 (RP).

§17856. INTERCHANGEABLE BENEFITS FOR LAW ENFORCEMENT OFFICERS

Any service retirement benefits earned by a law enforcement officer under this article which are substantially similar or equal are interchangeable. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§17857. TRANSFER FROM SPECIAL PLAN

1. **Special plan defined.** As used in this section, unless the context otherwise indicates, "special plan" means any of the retirement programs in section 17851, subsection 4, 5, 6, 7, 8, 9, 10 or 11 and section 17851-A.

[1997, c. 769, §19 (AMD) .]

2. **Additional creditable service.** Additional creditable service is earned by a former participant in a special plan as follows.

A. A member who has completed the service requirements for retirement under a special plan, including a member who completes the requirements of section 17851-A, subsection 2, paragraph A, may transfer to a position not under a special plan and earn service credit for additional service retirement benefits.

(1) The part of the member's service retirement benefit based upon membership service before being transferred must be computed according to the formula for computing benefits under the special plan that the member was under previously.

(2) The part of the member's benefit based upon membership service after being transferred must be computed in accordance with section 17852, subsection 1. [1997, c. 769, §19 (AMD).]

B. [2001, c. 442, §2 (RP).]

C. A member who has not completed the service requirements for retirement under a special plan may transfer to a position not under a special plan and receive service retirement benefits as follows. This paragraph does not apply to section 17851-A, subsection 2, paragraph A.

(1) If the benefit is greater, the part of the member's service retirement benefit based upon membership service before being transferred must be computed according to the formula for computing benefits under the special plan that the member was under previously.

(2) The part of the member's benefit based upon membership service after being transferred must be computed in accordance with section 17852, subsection 1. [1997, c. 769, §19 (AMD).]

D. A member who has not completed the service requirements for retirement under a special plan, including a member who completes the requirements of section 17851-A, subsection 2, paragraph A, on becoming disabled as defined in section 17901, or, after September 30, 1989, section 17921, and on becoming reemployed in a position not under a special plan on retirement receives retirement benefits as follows.

(1) The part of the member's service retirement based on membership service before becoming disabled must be computed according to the formula for computing benefits under the member's previous special plan.

(2) The part of the member's service retirement based on membership service after becoming reemployed in a position not under a special plan must be computed according to the formula for computing benefits under the member's previous special plan.

(3) If the member is found to be no longer disabled, as defined in section 17901, or, after September 30, 1989, section 17921, the member may:

(a) Return to a position under the member's previous special plan; or

(b) Remain in the position that is not under a special plan and have the part of the member's service retirement benefit based on post-disability service computed in accordance with section 17852, subsection 1.

(4) The executive director may require that a member subject to this paragraph undergo medical examinations or tests once each year to determine the member's disability in accordance with section 17903 or, after September 30, 1989, section 17926.

(a) If the member refuses to submit to the examination or tests under this subparagraph, the member's retirement benefit must be based on section 17852, subsection 1, until the member withdraws the refusal.

(b) If the member's refusal under division (a) continues for one year, all the member's rights to any further benefits under this paragraph shall cease. [1997, c. 769, §19 (AMD).]

[2001, c. 442, §2 (AMD) .]

3. **Reduction of benefits; 10 years of creditable service on July 1, 1993.** Upon retirement before reaching age 60, the service retirement benefit of a member who transferred or who was restored to service subject to subsection 2 must be reduced as follows.

A. If the member transferred under the provisions of subsection 2, paragraph A:

(1) If applicable, the portion of the retirement benefit based upon creditable service earned before being transferred must be reduced in accordance with section 17852, subsection 10, paragraph C or, if the member was covered under section 17851-A, the portion of the retirement benefit based upon creditable service earned before being transferred must be reduced as provided in that section; and

(2) The portion of the retirement benefit based upon creditable service earned after being transferred must be reduced in accordance with section 17852, subsection 3. [1999, c. 731, Pt. CC, §11 (AMD).]

B. [2001, c. 699, §2 (RP).]

C. If the member was transferred subject to subsection 2, paragraph C, the retirement benefit must be reduced in accordance with section 17852, subsection 3. [1997, c. 769, §19 (AMD).]

D. If the member was transferred subject to subsection 2, paragraph D, and:

(1) If the member completes the service or service and age requirements for retirement under the special plan that the member was under previously, if applicable, the retirement benefit must be reduced in accordance with section 17852, subsection 10, paragraph C or, if the member was covered under section 17851-A, the retirement benefit must be reduced as provided in that section; or

(2) If the member does not complete the service or service and age requirements for retirement under the special plan that the member was under previously, the retirement benefit must be reduced in accordance with section 17852, subsection 3. [1999, c. 731, Pt. CC, §11 (AMD).]

[2001, c. 699, §2 (AMD) .]

3-A. Reduction of benefits; less than 10 years of creditable service on July 1, 1993. On and after July 1, 1993, upon retirement before reaching the age of 62, the service retirement benefit of a member who transferred or who was restored to service subject to subsection 2 must be reduced as follows.

A. If the member transferred under the provisions of subsection 2, paragraph A:

(1) If applicable, the portion of the retirement benefit based upon creditable service earned before being transferred must be reduced in accordance with section 17852, subsection 10, paragraph C-1 or, if the member was covered under section 17851-A, the portion of the retirement benefit based upon creditable service earned before being transferred must be reduced as provided in that section; and

(2) The portion of the retirement benefit based upon creditable service earned after being transferred must be reduced in accordance with section 17852, subsection 3-A. [1999, c. 731, Pt. CC, §12 (AMD).]

B. If the member was a retiree restored to service subject to subsection 2, former paragraph B:

(1) If applicable, the portion of the retirement benefit based upon creditable service earned before the member's initial retirement must be reduced in accordance with section 17852, subsection 10, paragraph C-1 or, if the member was covered under section 17851-A, the portion of the retirement benefit based upon creditable service earned before the member's initial retirement must be reduced as provided in that section; and

(2) The portion of the retirement benefit based upon creditable service earned after being restored to service must be reduced in accordance with section 17852, subsection 3-A. [2001, c. 667, Pt. A, §4 (AMD).]

C. If the member was transferred subject to subsection 2, paragraph C, the retirement benefit must be reduced in accordance with section 17852, subsection 3-A. [1993, c. 410, Pt. L, §42 (NEW).]

D. If the member was transferred subject to subsection 2, paragraph D and:

(1) If the member completes the service or service and age requirements for retirement under the special plan that the member was under previously, if applicable, the retirement benefit must be reduced in accordance with section 17852, subsection 10, paragraph C-1 or, if the member was covered under section 17851-A, the retirement benefit must be reduced as provided in that section; or

(2) If the member does not complete the service or service and age requirements for retirement under the special plan that the member was under previously, the retirement benefit must be reduced in accordance with section 17852, subsection 3-A. [1999, c. 731, Pt. CC, §12 (AMD).]

This subsection applies to members who on July 1, 1993 have less than 10 years of creditable service under this Part. For the purpose of calculating creditable service under this subsection only, creditable service includes time during which a member participated in the voluntary cost savings plan or the voluntary employee incentive program, authorized by Public Law 1989, chapter 702, Part F, section 6 and Public Law 1991, chapter 591, Part BB and chapter 780, Part VV, or 10 years of combined creditable service under this Part and Title 3, chapter 29, or creditable service available to a member that the member was eligible to purchase on June 30, 1993 and that the member does purchase in accordance with rules adopted by the board.

[2001, c. 667, Pt. A, §4 (AMD) .]

3-B. **Reduction of benefits; less than 5 years of creditable service on July 1, 2011.** On and after July 1, 2011, upon retirement before reaching the 65 years of age, the service retirement benefit of a member who transferred or who was restored to service subject to subsection 2 must be reduced as follows:

A. If the member transferred under the provisions of subsection 2, paragraph A:

(1) If applicable, the portion of the retirement benefit based upon creditable service earned before being transferred must be reduced in accordance with section 17852, subsection 10, paragraph C-1 or, if the member was covered under section 17851-A, the portion of the retirement benefit based upon creditable service earned before being transferred must be reduced as provided in that section; and

(2) The portion of the retirement benefit based upon creditable service earned after being transferred must be reduced in accordance with section 17852, subsection 3-B. [2011, c. 380, Pt. T, §20 (NEW).]

B. If the member was a retiree restored to service subject to subsection 2, former paragraph B:

(1) If applicable, the portion of the retirement benefit based upon creditable service earned before the member's initial retirement must be reduced in accordance with section 17852, subsection 10, paragraph C-1 or, if the member was covered under section 17851-A, the portion of the retirement benefit based upon creditable service earned before the member's initial retirement must be reduced as provided in that section; and

(2) The portion of the retirement benefit based upon creditable service earned after being restored to service must be reduced in accordance with section 17852, subsection 3-B. [2011, c. 380, Pt. T, §20 (NEW).]

C. If the member was transferred subject to subsection 2, paragraph C, the retirement benefit must be reduced in accordance with section 17852, subsection 3-B. [2011, c. 380, Pt. T, §20 (NEW).]

D. If the member was transferred subject to subsection 2, paragraph D and:

(1) If the member completes the service or service and age requirements for retirement under the special plan that the member was under previously, if applicable, the retirement benefit must be reduced in accordance with section 17852, subsection 10, paragraph C-1 or, if the member was covered under section 17851-A, the retirement benefit must be reduced as provided in that section; or

(2) If the member does not complete the service or service and age requirements for retirement under the special plan that the member was under previously, the retirement benefit must be reduced in accordance with section 17852, subsection 3-B.

This subsection applies to members who on July 1, 2011 have less than 5 years of creditable service under this Part. For the purpose of calculating creditable service under this subsection, creditable service includes: creditable service under this Part; creditable service as a member of the Legislative Retirement Program under Title 3, section 701, subsection 8; creditable service available to a member that the member was eligible to purchase on June 30, 2011 and that the member does purchase in accordance with rules adopted by the board; and creditable service for which the member makes payment for certain days off without pay during fiscal year 2009-10 or fiscal year 2010-11. The amount of the required payment must be made in accordance with section 17704-B and payment may be made at any time prior to retirement. [2011, c. 380, Pt. T, §20 (NEW).]

[2011, c. 380, Pt. T, §20 (NEW) .]

4. **Computation of benefit.** The computation of the retirement benefit must be based upon the member's average final compensation, as defined in section 17001, subsection 4.

[1997, c. 769, §19 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 79, §§1,2 (AMD). 1993, c. 410, §L42 (AMD). 1997, c. 769, §19 (AMD). 1999, c. 731, §§CC11,12 (AMD). 2001, c. 442, §2 (AMD). 2001, c. 667, §A4 (AMD). 2001, c. 699, §2 (AMD). 2011, c. 380, Pt. T, §20 (AMD).

§17858. RETIREMENT INCENTIVE OPTION

(REPEALED)

SECTION HISTORY
1991, c. 528, §EEE15 (NEW). 1991, c. 528, §RRR (AFF). 1991, c. 591, §EEE15 (NEW). 1991, c. 618, §3 (AMD). 1991, c. 618, §7 (AFF). 1993, c. 159, §1 (AMD). 1993, c. 159, §2 (AFF). 1993, c. 415, §L1 (RP).

§17858-A. RETIREMENT INCENTIVE OPTION

(REPEALED)

SECTION HISTORY
1993, c. 415, §L2 (NEW). 1993, c. 415, §L4 (AFF). RR 1997, c. 2, §21 (COR). 2001, c. 442, §3 (RP).

§17858-B. RETIREMENT; CREDITABLE SERVICE

1. **Retirement incentive.** Any state employee, as defined in section 17001, subsection 40, except employees of the Maine Community College System, who, by April 1, 1996, has reached normal retirement age and has 10 or more years of creditable service and who gives notice to the Maine Public Employees Retirement System no later than February 1, 1996 and who retires effective no later than April 1, 1996 is

entitled to receive, at the employee's option, either 3 months' base salary paid as a lump sum to be paid on July 1, 1996 or the equivalent amount in monthly cash payments toward retiree dependent medical insurance equal to the current percentage contribution rate for dependent coverage for state employees.

Payment of the retirement incentive under this subsection must be made by the employing agencies and may not be made from the funds of the Maine Public Employees Retirement System.

Payment of the retirement incentive under this subsection may not be used in the calculation of the employee's average final compensation or creditable service.

[1995, c. 502, Pt. R, §1 (NEW); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF); 2007, c. 58, §3 (REV) .]

2. **Vacant position.** The department or agency from which any state employee retires under subsection 1 either may not fill the resulting vacant position or, if that position is filled, shall maintain a vacant position elsewhere within the department or agency until the State's costs associated with the retirement have been recovered. Alternatively, the Governor may recover these costs by maintaining an offsetting vacancy in another department or agency or by utilizing other salary savings.

[1995, c. 502, Pt. R, §1 (NEW) .]

3. **Payment of fixed costs.** With respect to each employee who retires under subsection 1, the State shall pay the amount of the State Employee and Teacher Retirement Program's unfunded liability payment, the Maine Public Employees Retirement System's administrative cost payment and the retiree health care payment associated with the employee.

[2007, c. 491, §173 (AMD) .]

4. **Policies and procedures.** The Executive Director of the Maine Public Employees Retirement System shall establish policies and procedures for the implementation of this section, including notice and payment requirements, that ensure that no unfunded liability results to the State Employee and Teacher Retirement Program.

[2007, c. 491, §174 (AMD) .]

SECTION HISTORY
1995, c. 502, §R1 (NEW). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF). 2007, c. 58, §3 (REV). 2007, c. 491, §§173, 174 (AMD).

§17859. RETIRING AND RETURNING TO WORK

1. **Restoration to service.** Any state employee or teacher who has reached normal retirement age and who retires after September 1, 2011 may be restored to service for up to 5 years. The decision to hire a retired state employee or retired teacher under this section is at the discretion of the appointing authority. The retired state employee or retired teacher must have had a bona fide termination of employment in accordance with state and federal laws and rules, may not return to employment after retirement with the same employer for at least 30 calendar days after the termination of employment and may not return to employment before the effective date of the person's retirement.

[2011, c. 420, Pt. L, §1 (AMD) .]

1-A. **Restoration to work of classroom-based employees.** Effective August 1, 2014, a classroom-based employee who has reached normal retirement age and who retires after September 1, 2011 may be restored to service as a classroom-based employee in a school in the unorganized territory or with a school administrative unit as defined in Title 20-A, section 1, subsection 26:

A. In one-year contracts, which may be nonconsecutive. The maximum time that a classroom-based employee may be restored to service with an individual school administrative unit pursuant to this paragraph is 5 years; [2013, c. 486, Pt. A, §1 (NEW).]

B. Subject to the 5-year restriction specified in subsection 1 and the 75% compensation limitation for retired state employees and retired teachers specified in subsection 2, paragraph A; or [2013, c. 486, Pt. A, §1 (NEW).]

C. In any combination of paragraphs A and B, as long as the total time the classroom-based employee is restored to service does not exceed 10 years with an individual school administrative unit. [2013, c. 486, Pt. A, §1 (NEW).]

The retired classroom-based employee must have had a bona fide termination of employment in accordance with state and federal laws and rules, may not return to employment after retirement with the same employer for at least 30 calendar days after the termination of employment and may not return to employment before the effective date of the person's retirement.

For purposes of this section, "classroom-based employee" means a teacher whose principal function is to introduce new learning to students in the classroom or to provide support in the classroom during the introduction of new learning to students.

[2015, c. 321, §1 (AMD) .]

2. **Compensation and benefits.** The compensation and benefits of the retired state employee or retired teacher who returns to service after retirement as set out in subsection 1 is governed by this subsection.

A. The compensation of the retired state employee or retired teacher who returns to service must be set at 75% of the compensation established for the position to be filled, at a step determined by the appointing authority. The compensation of the retired classroom-based employee who returns to service as a classroom-based employee pursuant to subsection 1-A, paragraph A must be set at 100% of the compensation established for the position to be filled, at a step determined by the school administrative unit, for up to the maximum 5-year period that a classroom-based employee may contract with an individual school administrative unit. [2013, c. 486, Pt. A, §2 (AMD).]

B. The retired state employee or retired teacher who returns to service under this section is not a member and therefore may not accrue additional creditable service or change the retired state employee's or retired teacher's earnable compensation for benefit calculation purposes. [2011, c. 380, Pt. MMM, §1 (NEW).]

C. During the period of reemployment, the retired state employee or retired teacher is not entitled to health insurance, dental insurance or life insurance benefits. The retired state employee or retired teacher is entitled to all other benefits for the reemployment position under collective bargaining agreements or civil service laws and rules. Health insurance benefits must be provided under the provisions of section 285, subsection 1-A for retired state employees or Title 20-A, section 13451 for retired teachers and life insurance benefits must be provided under the provisions of section 18055. [2011, c. 380, Pt. MMM, §1 (NEW).]

[2013, c. 486, Pt. A, §2 (AMD) .]

3. **Contributions to the Maine Public Employees Retirement System and state group health plan.** The portion of the employer contribution that goes to pay the retirement system for the unfunded liability and the state group health plan for retiree health care must be continued and based on the retired state employee's or retired teacher's compensation as provided under subsection 2 during the reemployment period.

[2011, c. 380, Pt. MMM, §1 (NEW) .]

4. **Notification requirements.** Employers under this section are required to identify and report to the retirement system, in the manner specified by the retirement system, each individual who is a retiree who becomes an employee of the employer under the option provided in this section. Departments shall also report each retiree who becomes an employee to the Bureau of the Budget in a manner specified by the bureau. The employer shall report each such employee whenever and so long as the employee is the employer's employee.

[2011, c. 380, Pt. MMM, §1 (NEW) .]

5. **Exclusion.** A retired state employee or retired teacher who is hired as a substitute teacher is not subject to the restoration to service 5-year limitation in subsection 1 or the compensation limitation in subsection 2, paragraph A.

[2011, c. 380, Pt. MMM, §1 (NEW) .]

SECTION HISTORY
2011, c. 380, Pt. MMM, §1 (NEW). 2011, c. 420, Pt. L, §1 (AMD). 2013, c. 486, Pt. A, §§1, 2 (AMD). 2015, c. 321, §1 (AMD).

Article 3: DISABILITY RETIREMENT BENEFITS

§17901. DEFINITION

As used in this article, unless the context otherwise indicates, "disabled" means mentally or physically incapacitated: [1985, c. 801, §§ 5, 7 (NEW).]

1. **Permanent.** To the extent that it is impossible to perform the duties of his employment position and the incapacity can be expected to be permanent; and

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Revealed by examination.** So that the incapacity will be revealed by medical examination or tests conducted in accordance with section 17903.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§17901-A. APPLICABILITY

This article applies to all disabilities for which written applications are received by the executive director before October 1, 1989. All disabilities for which written applications are received by the executive director after September 30, 1989, are subject to article 3-A. [1989, c. 409, §§7, 12 (NEW).]

SECTION HISTORY
1989, c. 409, §§7,12 (NEW).

§17902. APPLICATION

1. **Written application.** In order to receive a benefit under this article, the person must apply in writing to the executive director in the format specified by the executive director.

A. The executive director shall obtain medical consultation on each applicant for disability retirement benefits in accordance with related rules established by the board, which must include provisions indicating when a case must be reviewed by a medical board and when alternative means of medical consultation are acceptable. Rules adopted pursuant to this paragraph are routine technical rules as

defined in chapter 375, subchapter II-A. Whether provided by the medical board or by an alternative means, medical consultation obtained by the executive director must be objective and be provided by a physician or physicians qualified to review the case by specialty or experience and to whom the applicant is not known. [1995, c. 643, §5 (NEW).]

[1995, c. 643, §5 (AMD) .]

2. **Approval.** The written application must be approved by the executive director.

[1985, c. 801, §§5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1995, c. 643, §5 (AMD).

§17903. EXAMINATION OR TESTS

The examination or tests to determine whether a member is disabled under section 17901 are governed as follows. [1985, c. 801, §§ 5, 7 (NEW).]

1. **Agreed upon physician.** The examination or tests shall be conducted by a qualified physician mutually agreed upon by the executive director and member claiming to be disabled.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Agreed upon place.** The examination or tests shall be conducted at a place mutually agreed upon by the executive director and member claiming to be disabled.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Costs.** The costs incurred under subsections 1 and 2 shall be paid by the retirement system.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§17904. QUALIFICATION FOR BENEFIT

1. **Qualification.** Except as provided in subsection 2, a member qualifies for a disability retirement benefit if the member becomes disabled while in service and before reaching normal retirement age.

A. [1991, c. 887, §4 (RP).]

B. [1991, c. 887, §4 (RP).]

[1997, c. 384, §4 (AMD) .]

2. **Exception.** A member with fewer than 5 years of continuous creditable service immediately preceding that member's application for a disability retirement benefit is not eligible for that benefit if the disability is the result of a physical or mental condition that existed before the member's latest membership in

any retirement program of the Maine Public Employees Retirement System, unless the disability is a result of, or has been substantially aggravated by, an injury or accident received in the line of duty but from events or circumstances not usually encountered within the scope of the member's employment.

[2007, c. 491, §175 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1991, c. 434, §1 (AMD). 1991, c. 887, §4 (AMD). 1997, c. 384, §4 (AMD). 2007, c. 491, §175 (AMD).

§17905. COMPUTATION OF BENEFIT

When a member qualified under section 17904 retires, the member is entitled to receive a disability retirement benefit equal to 66 2/3% of the member's average final compensation. [1997, c. 384, §5 (RPR).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1991, c. 887, §5 (AMD). 1993, c. 595, §7 (AMD). 1995, c. 643, §6 (AMD). 1997, c. 384, §5 (RPR).

§17906. REDUCTION IN AMOUNT OF BENEFIT

1. **Excess compensation.** If the compensation received from engaging in any gainful occupation by a beneficiary of a disability retirement benefit exceeds $20,000 in calendar year 2000 or in any subsequent calendar year exceeds that amount as cumulatively increased or decreased by the same percentage adjustments granted under section 17806, subsection 1, paragraphs A and B:

A. The excess must be deducted from the disability or service retirement benefits during the next calendar year, the deductions to be prorated on a monthly basis in an equitable manner prescribed by the board over the year or part of the year for which the benefits are received; and [2001, c. 443, §1 (AMD); 2001, c. 443, §7 (AFF).]

B. The beneficiary shall reimburse the retirement system for any excess payments not deducted under paragraph A. [1985, c. 801, §§5, 7 (NEW).]

[2001, c. 443, §1 (AMD); 2001, c. 443, §7 (AFF) .]

2. **Disability payments under other laws.** The reduction of disability retirement benefits because of disability benefits received under other laws is governed as follows.

A. The amount of any disability retirement benefit payable under this article must be reduced by any amount received by the beneficiary for the same disability under either or both of the following:

(1) The worker's compensation or similar law, except amounts that may be paid or payable under former Title 39, section 56-B or Title 39-A, section 212, subsection 3; or

(2) The United States Social Security Act, if the employment for which creditable service with the employer is allowed was also covered under that Act at the date of disability retirement. [1991, c. 885, Pt. E, §8 (AMD); 1991, c. 885, Pt. E, §47 (AFF).]

B. Disability retirement benefits shall be calculated as follows:

(1) The initial disability retirement benefit shall be reduced if necessary so that the benefit plus any benefits under paragraph A do not exceed 80% of the beneficiary's average final compensation;

(2) Subsequent cost-of-living adjustments applied to any benefit listed under paragraph A shall be excluded from the calculations under subparagraph (1);

(3) Adjustments under section 17806 shall be applied to that portion of disability retirement benefits calculated under subparagraph (1); and

(4) If a beneficiary receives a benefit under paragraph C, the 80% limit under subparagraph (1) shall not include adjustments under section 17806. [1987, c. 458, §1 (RPR).]

C. The disability retirement benefit may not be reduced below the amount of the retirement benefit which is the actuarial equivalent of the member's accumulated contributions at the time of his retirement. [1985, c. 801, §§5, 7 (NEW).]

D. Lump-sum settlements of benefits that would reduce the disability retirement benefit under this subsection must be prorated on a monthly basis in an equitable manner prescribed by the board.

(1) These prorated lump-sum settlements may not include any part of the lump-sum settlement attributable to vocational rehabilitation, attorneys' fees, physicians, nurses, hospital, medical, surgical or related fees or charges or any amount paid or payable under former Title 39, section 56-B or Title 39-A, section 212, subsection 3.

(2) These prorated lump-sum settlements must reduce the disability retirement benefit in the same manner and amount as monthly benefits under this subsection. [1991, c. 885, Pt. E, §9 (AMD); 1991, c. 885, Pt. E, §47 (AFF).]

E. Any dispute about amounts paid or payable under workers' compensation, or about the amount of the lump-sum settlement and its attributions must be determined on petition, by a single member of the Workers' Compensation Board, in accordance with Title 39-A. These determinations may be appealed under Title 39-A, section 322. [1991, c. 885, Pt. E, §10 (AMD); 1991, c. 885, Pt. E, §47 (AFF).]

[1991, c. 885, Pt. E, §§8-10 (AMD); 1991, c. 885, Pt. E, §47 (AFF) .]

3. Restoration to service. If any recipient of a disability retirement benefit is restored to service and if the total of the recipient's monthly retirement benefit for any year and the recipient's total earnable compensation for that year exceeds his average final compensation at retirement, increased or decreased by the same percentage adjustments as have been received under section 17806, the excess shall be deducted from the disability retirement benefit payments during the next calendar year.

A. The deductions shall be prorated on a monthly basis over the year or part of the year for which benefits are received in an equitable manner prescribed by the board. [1985, c. 801, §§5, 7 (NEW).]

B. The recipient of the disability retirement benefit shall reimburse the retirement system for any excess payments not deducted under this section. [1985, c. 801, §§5, 7 (NEW).]

C. If the retirement benefit payments are eliminated by operation of this subsection:

(1) The person again becomes a member of the State Employee and Teacher Retirement Program and begins contributing at the current rate; and

(2) When the person again retires, the person shall receive benefits computed on the person's entire creditable service and in accordance with the law in effect at that time. [2007, c. 491, §176 (AMD).]

[2007, c. 491, §176 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 458, §1 (AMD). 1987, c. 560, §1 (AMD). 1989, c. 78, §3 (AMD). 1991, c. 885, §§E8-10 (AMD). 1991, c. 885, §E47 (AFF). 2001, c. 443, §1 (AMD). 2001, c. 443, §7 (AFF). 2007, c. 491, §176 (AMD).

§17907. PAYMENT OF BENEFIT

1. **Beginning.** If the executive director receives the written application for disability retirement benefits within 6 months after the date of termination of active service of the member, payment of benefits shall begin on the first day of the month following the date of termination of active service of the member. If the executive director receives the written application for disability retirement benefits more than 6 months after the date of termination of active service of the member, payment of benefits shall begin on the first day of the month following the date 6 months prior to the date of receipt by the executive director of the written application, by or on behalf of the member, for disability retirement, provided that payment of benefits shall begin on the first day of the month following the date of termination of active service of the member if it is shown that:

A. It was not reasonably possible to file the application for disability retirement benefits within the 6-month period; and [1987, c. 256, §15 (RPR).]

B. The application was made as soon as reasonably possible. [1987, c. 256, §15 (RPR).]

[1987, c. 256, §15 (RPR) .]

2. **Cessation.** Payment of disability retirement benefits shall continue so long as a person is disabled, except that:

A. The disability retirement benefit ceases and eligibility for a service retirement benefit begins:

(1) On the last day of the month in which the 10th anniversary of the beneficiary's normal retirement age, as defined in section 17001, subsection 23, occurs; or

(2) On the last day of the month in which the service retirement benefit of the beneficiary would equal or exceed the amount of the beneficiary's disability retirement benefit, if that occurs before the 10th anniversary of the beneficiary's normal retirement age. [1997, c. 384, §6 (RPR).]

B. After the disability has continued for 5 years, the disability of the beneficiary must render the beneficiary unable to engage in any substantially gainful activity for which the beneficiary is qualified by training, education or experience. For purposes of this paragraph, the ability to engage in substantially gainful activity is demonstrated by the ability to perform work resulting in annual earnings that exceed $20,000 or 80% of the recipient's average final compensation at retirement, whichever is greater, adjusted by the same percentage adjustments granted under section 17806.

(1) The executive director may require, once each year, a recipient of a disability retirement benefit to undergo medical examinations or tests, conducted in accordance with section 17903, to determine the disability of the beneficiary.

(2) If the beneficiary refuses to submit to the examination or tests under subparagraph (1), the beneficiary's disability retirement benefit is discontinued until the beneficiary withdraws the refusal.

(3) If the beneficiary's refusal under subparagraph (2) continues for one year, all the beneficiary's rights to any further benefits under this article cease.

(4) If it is determined, on the basis of the examination or tests under subparagraph (1), that the disability of a beneficiary no longer exists, the payment of the beneficiary's disability retirement benefit ceases; [2003, c. 675, §1 (AMD).]

C. The person's average final compensation at retirement shall include the same percentage adjustments, if any, that would apply to the amount of retirement benefit of the beneficiary under section 17806; and [1987, c. 256, §17 (AMD).]

D. A full month's benefit shall be paid to the beneficiary or estate of the disability retirement recipient for the month in which he dies. [1987, c. 256, §18 (NEW).]

[2003, c. 675, §1 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §§15-18 (AMD). 1991, c. 887, §6 (AMD). 1997, c. 384, §6 (AMD). 2003, c. 675, §1 (AMD).

§17908. STATEMENT OF HEALTH

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1995, c. 643, §7 (RP).

§17909. STATEMENT OF COMPENSATION

1. **Requirement.** The executive director shall require each beneficiary of a disability retirement benefit to submit, each calendar year, a statement of his compensation received from engaging in any gainful occupation during that year.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Failure to submit statement.** Failure to submit the statement under subsection 1, shall result in the following:

A. If the beneficiary fails to submit the statement required under subsection 1 within 30 days of receipt of the executive director's request for the statement, the beneficiary's disability retirement benefit shall be discontinued until the statement is submitted; or [1985, c. 801, §§ 5, 7 (NEW).]

B. If the beneficiary fails to submit the statement required under subsection 1, within one year of receipt of the executive director's request for the statement, all the beneficiary's rights to further benefits shall cease. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§17910. VOLUNTARY RETURN TO SERVICE

1. **Right to reinstatement.** If the beneficiary of a disability retirement benefit decides that he is no longer incapacitated and is able to perform the duties of his employment position, the employer for whom he last worked prior to becoming disabled shall reinstate the person to the first available position for which the beneficiary is qualified and is consistent with the beneficiary's prior work experience. If a collective bargaining agreement applies to such a position, the employer may offer only a position which the beneficiary could claim by virtue of the seniority accumulated at the time of the disability.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Dispute over mental or physical capacity.** In the event there is a dispute between the beneficiary and the former employer over the beneficiary's mental or physical capacity to perform a specific job, at the option of the beneficiary that dispute shall be resolved by the majority decision of 3 physicians, one appointed and reimbursed by the beneficiary, one appointed and reimbursed by the employer and one appointed by the executive director and reimbursed by the Maine Public Employees Retirement System.

[1985, c. 801, §§ 5, 7 (NEW); 2007, c. 58, §3 (REV) .]

3. **Termination or reduction in benefits.** At the option of the former beneficiary who has returned to an employment position, the disability retirement benefit may be terminated as of the end of the first month he is reinstated to a position or may be subject to section 17906, subsection 3.

[1985, c. 801, §§ 5, 7 (NEW) .]

4. **Reinstatement of benefits.** If, during the first 5 years of reinstatement, the former beneficiary again becomes disabled as a result of the medical condition for which the initial disability retirement allowance was granted and terminates employment, the Maine Public Employees Retirement System shall resume paying the disability retirement benefit payable prior to the reinstatement with all applicable cost-of-living adjustments. The Maine Public Employees Retirement System may require examinations or tests to determine whether a member's medical condition is the same as that for which disability retirement was initially granted.

This provision shall apply only to state employees and teachers.

[1985, c. 801, §§ 5, 7 (NEW); 2007, c. 58, §3 (REV) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 58, §3 (REV).

§17911. REHABILITATION

Upon agreement of the executive director and the person, rehabilitation services may be provided to any person who is the recipient of a disability retirement benefit under this article as a means to the person being able to return to substantially gainful activity. As a condition of entering into an agreement to provide rehabilitation services, the executive director must determine that rehabilitation is feasible, that rehabilitation is consistent with the purposes of this article, that the recipient is suitable for rehabilitation services and that rehabilitation services are likely to lead to substantially gainful activity. When appropriate, determination of suitability must include consultation with the medical board to determine any medical indications that the recipient should not engage in a rehabilitation program or to identify a recipient too severely disabled to benefit from rehabilitation services in accordance with the purposes of this article. Services must be provided by private and public rehabilitation counselors, government agencies and others approved by the executive director as qualified to provide rehabilitation services. The executive director shall consider a rehabilitation counselor's rate of successfully placing rehabilitated employees in jobs relative to the placement rates of other counselors in the State as fundamental in deciding whether to approve the counselor as qualified. This section does not affect the ongoing requirement that a person remain disabled in order to continue to receive disability benefits. [2003, c. 387, §4 (NEW).]

For the purposes of this section, "person" means any person who is the recipient of a disability retirement benefit. [2003, c. 387, §4 (NEW).]

1. **Rehabilitation plan.** If the executive director makes the determinations necessary to provide rehabilitation services under this section and rehabilitation agreed to by the parties, the retirement system shall designate a rehabilitation provider to evaluate the person and develop a rehabilitation plan.

[2003, c. 387, §4 (NEW) .]

2. **Costs.** The executive director may contract with rehabilitation providers to develop and carry out approved rehabilitation plans.

A. Except as provided in paragraph B, the executive director shall pay these providers from funds accumulated in the Retirement Allowance Fund, established under section 17251. [2003, c. 387, §4 (NEW).]

B. If the person is entitled to other benefits to meet the cost of rehabilitation services, that person must first apply for and use those benefits to the extent available to pay for the goods and services provided. [2003, c. 387, §4 (NEW).]

[2003, c. 387, §4 (NEW) .]

3. **Approval of rehabilitation plan.** The executive director and the person shall approve any rehabilitation plan developed under subsection 1 and shall indicate in writing their approval of and agreement to the rehabilitation plan. The person shall approve the plan within 30 days or, within that time period, submit to the executive director the name of an alternate provider for the executive director's consideration. If the rehabilitation plan includes return to employment with the employer for whom the person worked before becoming disabled, the employer also shall indicate in writing approval of the plan.

[2003, c. 387, §4 (NEW) .]

4. **Monitoring of rehabilitation plan.** Each rehabilitation plan approved by the executive director must contain a provision for periodic review of progress being made by the person toward achieving the goal of the plan and substantially gainful activity. The provision relating to review must include authority for the executive director to terminate the plan or to amend the plan with the same provider or with a change of provider, based upon results of the review or at the request of the person or the provider. Subsections 1, 2 and 3 apply to any amended plans under this subsection. A person is entitled to a single rehabilitation plan during the course of the person's incapacity except when the person demonstrates that a termination of the plan was reasonable and for good cause. Any entitlement to amend a rehabilitation plan or establish a new plan ends with a determination by the executive director that the person is no longer disabled.

[2003, c. 387, §4 (NEW) .]

5. **Return to service.** If the rehabilitation plan includes return to employment with the person's former employer, that person must be reemployed in accordance with the plan. The executive director shall notify the former employer, in writing, that the person has completed the rehabilitation plan and is ready to return to employment. The former employer shall reemploy the person in the first available position for which that person is qualified, taking into consideration that person's prior compensation and benefits, training, education and experience, including training and education received under that person's rehabilitation plan.

[2003, c. 387, §4 (NEW) .]

6. **Employment exception.** A person is not required to accept employment that reasonably necessitates relocation or for which the person is not qualified, taking into consideration that person's prior compensation and benefits, training, education and experience, including training and education received under that person's rehabilitation plan. The disability retirement benefit may not be discontinued except as provided by section 17929 or until the person is reemployed consistent with this section.

[2003, c. 387, §4 (NEW) .]

SECTION HISTORY
2003, c. 387, §4 (NEW).

Article 3-A: DISABILITY RETIREMENT BENEFITS AFTER SEPTEMBER 30, 1989

§17921. DEFINITIONS

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [1989, c. 409, §§8, 12 (NEW).]

1. **Disabled.** "Disabled" means that the member is mentally or physically incapacitated under the following conditions:

A. The incapacity is expected to be permanent; [1989, c. 409, §§8, 12 (NEW).]

B. That it is impossible to perform the duties of the member's employment position; [1989, c. 409, §§8, 12 (NEW).]

C. After the incapacity has continued for 2 years, the incapacity must render the member unable to engage in any substantially gainful activity for which the member is qualified by training, education or experience; and [1989, c. 409, §§8, 12 (NEW).]

D. The incapacity may be revealed by examinations or tests conducted in accordance with section 17926. [1989, c. 409, §§8, 12 (NEW).]

[1989, c. 409, §§8, 12 (NEW) .]

2. **Employment position.** "Employment position" means:

A. The position in which the member is employed at the time the member becomes incapacitated; or [1989, c. 409, §§8, 12 (NEW).]

B. A position of comparable stature and equal or greater compensation and benefits which is made available to the member by the member's employer. [1989, c. 409, §§8, 12 (NEW).]

[1989, c. 409, §§8, 12 (NEW) .]

SECTION HISTORY
1989, c. 409, §§8,12 (NEW).

§17922. APPLICABILITY

This article applies to all disabilities for which written applications are received by the executive director after September 30, 1989. [1989, c. 409, §§8, 12 (NEW).]

SECTION HISTORY
1989, c. 409, §§8,12 (NEW).

§17923. STATEMENT OF HEALTH

(REPEALED)

SECTION HISTORY
1989, c. 409, §§8,12 (NEW). 1995, c. 643, §8 (RP).

§17924. QUALIFICATION FOR BENEFIT

1. **Qualification.** Except as provided in subsection 2, a member qualifies for a disability retirement benefit if disabled while in service and, for a member who by election remains covered under this section as written prior to its amendment by Public Law 1991, chapter 887, section 7, before normal retirement age.

A. [1991, c. 887, §7 (RP).]

B. [1991, c. 887, §7 (RP).]

[1997, c. 384, §7 (AMD) .]

2. **Exception.** A member with fewer than 5 years of continuous creditable service preceding that member's last date in service is not eligible for a disability retirement benefit if the disability is the result of a physical or mental condition that existed before the member's membership in a retirement program of the Maine Public Employees Retirement System, unless the disability is a result of, or has been substantially aggravated by, an injury or accident received in the line of duty but from events or circumstances not usually encountered within the scope of the member's employment.

[2009, c. 322, §8 (AMD) .]

SECTION HISTORY
1989, c. 409, §§8,12 (NEW). 1991, c. 434, §2 (AMD). 1991, c. 887, §7 (AMD). 1997, c. 384, §7 (AMD). 2007, c. 491, §177 (AMD). 2009, c. 322, §8 (AMD).

§17925. APPLICATION

1. **Written application.** In order to receive a benefit under this article, a person must apply in writing to the executive director in the format specified by the executive director.

A. The executive director shall obtain medical consultation on each applicant for disability in accordance with related rules established by the board, which must include provisions indicating when a case must be reviewed by a medical board and when alternative means of medical consultation are acceptable. Rules adopted pursuant to this paragraph are routine technical rules as defined in chapter 375, subchapter 2-A. Whether provided by the medical board or by an alternative means, medical consultation obtained by the executive director must be objective and be provided by a physician or physicians qualified to review the case by specialty or experience and to whom the applicant is not known. [2015, c. 392, §1 (AMD).]

B. [1995, c. 643, §10 (RP).]

[2015, c. 392, §1 (AMD) .]

2. **Workers' compensation.** If the incapacity upon which the application is based is a result of an injury or accident received in the line of duty, the application must include proof that the member has made application for benefits under the workers' compensation laws.

[2015, c. 392, §1 (AMD) .]

3. **Social security.** If the employment for which creditable service with the employer is allowed was also covered under the United States Social Security Act, the application must include proof that the member has made application for benefits under this Act.

[2015, c. 392, §1 (AMD) .]

4. **Approval.** The written application must be approved by the executive director upon finding that the member has met the requirements of section 17924.

[2015, c. 392, §1 (AMD) .]

5. **Reapplication.** A member who has had a disability retirement benefit application denied may file a new application based on the same medical conditions only if that member has had a bona fide return to service with an employer whose employees are covered by this article or chapter 425, subchapter 5, article 3-A. If the executive director finds that the member has met the requirements of section 17924, the new application must be approved notwithstanding the earlier denial.

[2015, c. 392, §1 (NEW) .]

SECTION HISTORY
1989, c. 409, §§8,12 (NEW). 1995, c. 643, §§9,10 (AMD). 2015, c. 392, §1 (AMD).

§17926. EXAMINATIONS OR TESTS

Any examinations or tests recommended by the medical board in accordance with section 17106 or required by the executive director under section 17921, subsection 1, paragraph D; section 17924; section 17929, subsection 2, paragraph B; or section 17933, subsection 3, paragraph A, are governed as follows. [1995, c. 643, §11 (AMD).]

1. **Agreed upon physician.** The examinations or tests shall be conducted by a qualified physician and, when appropriate, a qualified psychologist mutually agreed upon by the executive director and the member claiming to be disabled.

[1989, c. 409, §§8, 12 (NEW) .]

2. **Agreed upon place.** The examinations or tests shall be conducted at a place mutually agreed upon by the executive director and the member claiming to be disabled.

[1989, c. 409, §§8, 12 (NEW) .]

3. **Costs.** The costs incurred under subsections 1 and 2 shall be paid by the retirement system.

[1989, c. 409, §§8, 12 (NEW) .]

SECTION HISTORY
1989, c. 409, §§8,12 (NEW). 1995, c. 643, §11 (AMD).

§17927. REHABILITATION

Upon agreement of the executive director and the person, rehabilitation services may be provided to any person who is the recipient of a disability retirement benefit under this article as a means to the person being able to return to substantially gainful activity. As a condition of entering into an agreement to provide rehabilitation services, the executive director must determine that rehabilitation is feasible, that rehabilitation is consistent with the purposes of this article, that the recipient is suitable for rehabilitation services and that rehabilitation services are likely to lead to substantially gainful activity. When appropriate, determination of suitability must include consultation with the medical board to determine any medical indications that the recipient should not engage in a rehabilitation program or to identify a recipient too severely disabled to benefit from rehabilitation services in accordance with the purposes of this article. Services must be provided by private and public rehabilitation counselors, government agencies and others approved by the executive director as qualified to provide rehabilitation services. The executive director shall consider a rehabilitation counselor's rate of successfully placing rehabilitated employees in jobs relative to the placement rates of other counselors in the State as fundamental in deciding whether to approve the counselor as qualified. This section does not affect the ongoing requirement that a person remain disabled in order to continue to receive disability benefits. [2003, c. 387, §5 (AMD).]

For the purposes of this section, "person" means any person who is the recipient of a disability retirement benefit. [2003, c. 387, §5 (NEW).]

1. **Rehabilitation plan.** If the executive director makes the determinations necessary to provide rehabilitation services under this section and rehabilitation is agreed to by the parties, the retirement system shall designate a rehabilitation provider to evaluate the person and develop a rehabilitation plan.

[2003, c. 387, §5 (AMD) .]

2. **Costs.** The executive director may contract with rehabilitation providers to develop and carry out approved rehabilitation plans.

A. Except as provided in paragraph B, the executive director shall pay these providers from funds accumulated in the Retirement Allowance Fund, established under section 17251. [2003, c. 387, §5 (AMD).]

B. If the person is entitled to other benefits to meet the cost of rehabilitation services, that person must first apply for and use those benefits to the extent available to pay for the goods and services provided. [1989, c. 409, §§8, 12 (NEW).]

[2003, c. 387, §5 (AMD) .]

3. **Approval of rehabilitation plan.** The executive director and the person shall approve any rehabilitation plan developed under subsection 1 and shall indicate in writing their approval of and agreement to the rehabilitation plan. The person shall approve the plan within 30 days or, within that time period, submit to the executive director the name of an alternate provider for the executive director's consideration. If the rehabilitation plan includes return to employment with the employer for whom the person worked before becoming disabled, the employer shall also indicate in writing approval of the plan.

[2003, c. 387, §5 (AMD) .]

4. **Decline of rehabilitation.**

[2003, c. 387, §5 (RP) .]

5. **Monitoring of rehabilitation plan.** Each rehabilitation plan approved by the executive director shall contain a provision for periodic review of progress being made by the person toward achieving the goal of the plan and substantially gainful activity. The provision relating to review must include authority for the executive director to terminate the plan or to amend the plan with the same provider or with a change of provider, based upon results of the review or at the request of the person or the provider. Subsections 1, 2 and 3 apply to any amended plans under this subsection. A person is entitled to a single rehabilitation plan during the course of the person's incapacity, except when the person demonstrates that a termination of the plan was reasonable and for good cause. Any entitlement to amend a rehabilitation plan or establish a new plan ends with a determination by the executive director that the person is no longer disabled.

[2003, c. 387, §5 (AMD) .]

6. **Return to service.** If the rehabilitation plan includes return to employment with the person's former employer, that person must be reemployed in accordance with the plan. The executive director shall notify the former employer, in writing, that the person has completed the rehabilitation plan and is ready to return to employment. The former employer shall reemploy the person in the first available position for which that person is qualified, taking into consideration that person's prior compensation and benefits, training, education and experience, including training and education received under that person's rehabilitation plan.

[2003, c. 387, §5 (AMD) .]

7. **Other employment under system.** A person is not required to accept employment that reasonably necessitates relocation or for which the person is not qualified, taking into consideration that person's prior compensation and benefits, training, education and experience, including training and education received under that person's rehabilitation plan. The disability retirement benefit may not be discontinued except as provided by section 17929 or until the person is reemployed consistent with this section.

[2003, c. 387, §5 (AMD) .]

SECTION HISTORY
1989, c. 409, §§8,12 (NEW). 1991, c. 580, §§9,10 (AMD). 1995, c. 643, §§12,13 (AMD). 2003, c. 387, §5 (AMD).

§17928. COMPUTATION OF BENEFIT

Until July 1, 1996, when a member qualified under section 17924 retires, after approval for disability retirement by the executive director in accordance with section 17925, the member is entitled to receive a disability retirement benefit equal to 59% of that member's average final compensation. The 59% level must be reviewed for cost-neutral comparability as a part of the actuarial investigation provided under section 17107, subsection 2, paragraph E, beginning with the investigation made January 1, 1997 and every 6 years thereafter. The review that takes place every 6 years must compare actual experience under the disability plans with actuarial assumptions regarding election and costs of benefits under the new options elected and identify possible options for compliance with the federal Older Workers Benefit Protection Act that protect benefits for employees without additional cost to the State and participating local districts. [1997, c. 384, §8 (AMD).]

A member who by election remains covered, as to qualification for benefits, under section 17924 as written prior to its amendment by Public Law 1991, chapter 887, section 7, qualifies for a disability retirement benefit on meeting the requirements of section 17924, subsection 1, paragraphs C and D. When a member so qualified retires after approval for disability retirement by the executive director in accordance with this Article, the member is entitled to receive a disability retirement benefit equal to 66 2/3% of the member's average final compensation. [1997, c. 384, §8 (NEW).]

SECTION HISTORY
1989, c. 409, §§8,12 (NEW). 1991, c. 887, §8 (AMD). 1993, c. 595, §8 (AMD). 1995, c. 643, §14 (AMD). 1997, c. 384, §8 (AMD).

§17929. PAYMENT OF BENEFIT

1. **Beginning.** Payment of disability retirement benefits shall begin on the first day of the month following the date of termination of active service of the member, but not more than 6 months before the date of receipt by the executive director of the written application, by or on behalf of the member, for disability retirement, unless it is shown that:

A. It was not reasonably possible to file the application for disability retirement benefits within the 6-month period; and [1989, c. 409, §§8, 12 (NEW).]

B. The application was made as soon as reasonably possible. [1989, c. 409, §§8, 12 (NEW).]

[1989, c. 409, §§8, 12 (NEW) .]

2. **Cessation.** Payment of disability retirement benefits shall continue as long as a person is disabled, except that:

A. The disability retirement benefit ceases and a service retirement benefit begins when the service retirement benefit of a person equals or exceeds the amount of the disability retirement benefit.

(1) When calculating the person's service retirement benefit, the average final compensation is the average final compensation at the time that person terminated active service before receiving disability retirement benefits adjusted by the same percentage adjustments, if any, that were applied to the disability retirement benefits under section 17806.

(2) The person is entitled to receive service credit for the purpose of determining benefits under this Part for the period following termination of service for which that person receives disability retirement benefits under this article. [1991, c. 887, §9 (AMD).]

A-1. For a person who by election or by having retired on disability retirement prior to October 16, 1992, remains covered under this section as written prior to its amendment by Public Law 1991, chapter 887, section 9, the disability retirement benefit ceases:

(1) On the last day of the month in which the 10th anniversary of the beneficiary's normal retirement age, as defined in section 17001, subsection 23, occurs; or

(2) When the service retirement benefit of a person equals or exceeds the amount of the disability retirement benefit, if that occurs before the beneficiary's normal retirement age. [1997, c. 384, §9 (NEW).]

B. The executive director may require, once each year, that the person undergo examinations or tests, conducted in accordance with section 17926, to determine the person's disability. The executive director may refer the records documenting the results of the examinations or tests and the person's file to the medical board for medical consultation regarding rehabilitation in accordance with section 17106, subsection 3, paragraph E.

(1) After the disability has continued for 2 years, the disability must render the person unable to engage in any substantially gainful activity that is consistent with the person's training, education or experience and average final compensation adjusted by the same percentage adjustment as has been received under section 17806. The disability retirement benefit continues if the person can effectively demonstrate to the executive director that the person is actively seeking work. For the purposes of this subparagraph, the ability to engage in substantially gainful activity is demonstrated by the ability to perform work resulting in annual earnings that exceed $20,000 or 80% of the recipient's average final compensation at retirement, whichever is greater, adjusted by the same percentage adjustments granted under section 17806.

(2) If the person refuses to submit to the examinations or tests under this paragraph, the disability retirement benefit is discontinued until that person withdraws the refusal.

(3) If the person's refusal under subparagraph (2) continues for one year, all rights to any further benefits under this article cease.

(4) If it is determined, on the basis of the examinations or tests under this paragraph, that the disability of a person no longer exists, the payment of the disability retirement benefit ceases.

(5) The executive director shall notify the person in writing of the decision to discontinue the disability retirement allowance under subparagraph (2) or (4).

(a) The decision is subject to appeal under section 17451.

(b) If the person appeals the executive director's decision, the disability retirement allowance may not be discontinued until all appeals have been exhausted. [2003, c. 675, §2 (AMD).]

[2003, c. 675, §2 (AMD) .]

SECTION HISTORY
1989, c. 409, §§8,12 (NEW). 1991, c. 887, §9 (AMD). 1995, c. 643, §15 (AMD). 1997, c. 384, §9 (AMD). 2003, c. 675, §2 (AMD).

§17930. REDUCTION IN AMOUNT OF BENEFIT

1. **Definition.** As used in this section, unless the context otherwise indicates, "adjusted final compensation" means the rate of pay of the person immediately before termination and becoming the recipient of a disability retirement benefit adjusted by the same percentage adjustment as has been received under section 17806.

[1989, c. 409, §§8, 12 (NEW) .]

2. **Compensation from employment not covered by this article.** If any person who is the recipient of a disability retirement benefit receives compensation in any year from engaging in any gainful activity or from employment with an employer whose employees are not covered by this article or chapter 425, subchapter V, article 3-A, which exceeds the greater of $20,000 in calendar year 2000 or in any subsequent year that amount as cumulatively increased or decreased by the same percentage adjustments granted under section 17806, subsection 1, paragraphs A and B, or the difference between the person's disability retirement benefit for that year and the person's average final compensation at the time that the person became a recipient of a disability retirement benefit, increased or decreased by the same percentage adjustments as have been granted by section 17806:

A. The excess must be deducted from the disability or service retirement benefits during the next calendar year; the deductions to be prorated on a monthly basis in an equitable manner prescribed by the board over the year or part of the year for which the benefits are received; [2001, c. 443, §2 (AMD); 2001, c. 443, §7 (AFF).]

B. The person shall reimburse the retirement system for any excess payments not deducted under paragraph A. If the retirement benefit payments are eliminated by this subsection, the disability is deemed to no longer exist, the payment of the disability retirement benefit must be discontinued and, except as provided in paragraph C, all of the person's rights to benefits under this article cease; [2001, c. 443, §2 (AMD); 2001, c. 443, §7 (AFF).]

C. If, during the first 5 years of reemployment, the person again becomes disabled, terminates employment and is not covered by any other disability program, the retirement system shall resume paying the disability retirement benefit payable prior to the reemployment with all applicable cost-of-living adjustments and shall provide rehabilitation services under section 17927 if recommended by the medical board. If the benefit payable under the other disability program is not equal to or greater than the benefit under this article, the retirement system shall pay the difference between the amount of the benefit payable under the other disability program and the amount of the benefit payable under this article. The executive director shall require examinations or tests to determine whether the person is disabled as described in section 17921; and [1989, c. 409, §§8, 12 (NEW).]

D. At any time before the elimination of disability retirement benefit payments by this subsection, the person may request that benefit payments be terminated and the executive director shall terminate benefit payments at the end of the month in which the request is received. [1989, c. 409, §§8, 12 (NEW).]

[2001, c. 443, §2 (AMD); 2001, c. 443, §7 (AFF) .]

3. **Compensation from employment covered by this article.** If any person who is the recipient of a disability retirement benefit is reemployed by that person's prior employer or any other employer whose employees are covered by this article or chapter 425, subchapter V, article 3-A, and if the total of the person's disability benefit for any year and the person's total earnable compensation for that year exceeds the adjusted final compensation:

A. The disability or service retirement benefits will be reduced during the next calendar year by the amount that the total compensation exceeds the adjusted final compensation; [1989, c. 409, §§8, 12 (NEW).]

B. The deductions shall be prorated on a monthly basis in an equitable manner prescribed by the board over the year or part of the year during which the benefits are received; [1989, c. 409, §§8, 12 (NEW).]

C. The person shall reimburse the retirement system for any excess payments not deducted under paragraph A; [1989, c. 409, §§8, 12 (NEW).]

D. The retirement benefit payments are eliminated by this subsection if:

(1) The person again becomes a member of the State Employee and Teacher Retirement Program and begins contributing at the current rate; and

(2) When the person again retires, the person shall receive benefits computed on the basis of that person's entire creditable service and in accordance with the law in effect at that time; [2007, c. 491, §178 (AMD).]

E. If, during the first 5 years of reemployment, the person again becomes disabled and terminates employment, the retirement system shall resume paying the disability retirement benefit payable prior to the reemployment with all applicable cost-of-living adjustments, or if greater, a disability retirement benefit based upon the person's current average final compensation and shall provide rehabilitation services under section 17927 if recommended by the medical board. The executive director shall require examinations or tests to determine whether the person is disabled as defined in section 17921; and [1989, c. 409, §§8, 12 (NEW).]

F. At any time before the elimination of disability retirement benefit payments by this subsection, the person may request that benefit payments be terminated and the executive director shall terminate benefit payments at the end of the month in which the request is received. [1989, c. 409, §§8, 12 (NEW).]

[2007, c. 491, §178 (AMD) .]

4. **Disability payments under other laws.** The reduction of disability retirement benefits because of disability benefits received under other laws is governed as follows.

A. The amount of any disability retirement benefit payable under this article must be reduced by any amount received by the person for the same disability under either or both of the following:

(1) The workers' compensation or similar laws, except amounts that may be paid or payable under former Title 39, section 56-B or Title 39-A, section 212, subsection 3; or

(2) The United States Social Security Act, if the employment for which creditable service with the employer is allowed was also covered under that Act at the date of disability retirement. [1991, c. 885, Pt. E, §11 (AMD); 1991, c. 885, Pt. E, §47 (AFF).]

B. The reduction in the disability retirement benefit is governed as follows:

(1) The initial disability retirement benefit shall be reduced if necessary so that the benefit plus any benefits under paragraph A do not exceed 80% of the person's average final compensation;

(2) The amount determined by the calculation under subparagraph (1) shall not be adjusted when cost-of-living adjustments are applied to the benefits listed under paragraph A; and

(3) Adjustments under section 17806 shall be applied to the reduced disability retirement benefit calculated under subparagraph (1) or paragraph C. [1989, c. 409, §§8, 12 (NEW).]

C. The disability retirement benefit may not be reduced below the amount of the retirement benefit which is the actuarial equivalent of the member's accumulated contributions at the time of retirement. [1989, c. 409, §§8, 12 (NEW).]

D. Lump-sum settlements of benefits that reduce the disability retirement benefit under this subsection must be prorated on a monthly basis in an equitable manner prescribed by the board.

(1) These prorated lump-sum settlements may not include any part of the lump-sum settlement attributable to rehabilitation, attorneys', physicians', nurses', hospital, medical, surgical or related fees or charges or any amount paid or payable under former Title 39, section 56-B or Title 39-A, section 212, subsection 3.

(2) These prorated lump-sum settlements must reduce the disability retirement benefit in the same manner and amount as monthly benefits under this subsection. [1991, c. 885, Pt. E, §11 (AMD); 1991, c. 885, Pt. E, §47 (AFF).]

E. Any dispute about amounts paid or payable under workers' compensation or the amount of the lump-sum settlement and its attributions must be determined on petition by a single member of the Workers' Compensation Board in accordance with Title 39-A. These determinations may be appealed under Title 39-A, section 322. [1991, c. 885, Pt. E, §11 (AMD); 1991, c. 885, Pt. E, §47 (AFF).]

[1991, c. 885, Pt. E, §11 (AMD); 1991, c. 885, Pt. E, §47 (AFF) .]

SECTION HISTORY
1989, c. 409, §§8,12 (NEW). 1991, c. 885, §E11 (AMD). 1991, c. 885, §E47 (AFF). 2001, c. 443, §2 (AMD). 2001, c. 443, §7 (AFF). 2007, c. 491, §178 (AMD).

§17931. STATEMENT OF COMPENSATION

1. **Requirement.** The executive director shall require each person who is the recipient of a disability retirement benefit to submit, each calendar year, a statement of compensation received from any gainful occupation during that year.

[1989, c. 409, §§8, 12 (NEW) .]

2. **Failure to submit statement.** Failure to submit the statement under subsection 1 shall result in the following:

A. If the person fails to submit the statement required under subsection 1 within 30 days of receipt of the executive director's request for the statement, the disability retirement benefit shall be withheld until the statement is submitted; or [1989, c. 409, §§8, 12 (NEW).]

B. If the person fails to submit the statement required under subsection 1 within one year of receipt of the executive director's request for the statement, all rights to further benefits shall cease.

(1) The executive director shall notify the person in writing of the decision to discontinue the disability retirement benefit.

(2) The decision shall be subject to appeal under section 17451.

(3) If the person appeals the executive director's decision, the disability retirement allowance shall not be discontinued until all appeals have been exhausted. [1989, c. 409, §§8, 12 (NEW).]

[1989, c. 409, §§8, 12 (NEW) .]

SECTION HISTORY
1989, c. 409, §§8,12 (NEW).

§17932. VOLUNTARY RETURN TO SERVICE

1. **Right to reinstatement.** If a person who is the recipient of a disability retirement benefit decides that the person is no longer incapacitated and is able to perform the duties of that person's employment position, the employer for whom the person last worked before becoming disabled shall reinstate the person to the first available position for which the person is qualified and which is consistent with the person's prior work experience. If a collective bargaining agreement applies to such a position, the employer may offer only a position which the person may claim by virtue of seniority accumulated at the time of the disability, unless otherwise specified in the collective bargaining agreement.

[1989, c. 409, §§8, 12 (NEW) .]

2. **Dispute over mental or physical capacity.** If there is a dispute between the person and the former employer over the person's mental or physical capacity to perform a specific job, at the option of the person that dispute shall be resolved by a majority of 3 physicians, one appointed and reimbursed by the person, one appointed and reimbursed by the employer and one appointed and reimbursed by the retirement system. If the 3 physicians resolve the dispute in favor of the person, the former employer shall reimburse the physician appointed by the person.

[1989, c. 409, §§8, 12 (NEW) .]

3. **Termination or reduction in benefits.** At any time before the elimination of disability retirement benefit payments under section 17930, subsection 3, the person may request that benefit payments be terminated and the executive director shall terminate benefit payments at the end of the month in which the request is received.

[1989, c. 409, §§8, 12 (NEW) .]

4. **Reinstatement of benefits.** If, during the first 5 years of reinstatement, the person again becomes disabled and terminates employment, the retirement system shall resume paying the disability retirement benefit payable before the reinstatement with all applicable cost-of-living adjustments, or if greater, a disability retirement benefit based upon the person's current average final compensation. The executive director may require examinations or tests to determine whether the person is disabled under section 17921.

[1989, c. 409, §§8, 12 (NEW) .]

SECTION HISTORY
1989, c. 409, §§8,12 (NEW).

§17933. SERVICE RETIREMENT

1. **Average final compensation.** The service retirement benefit of a person who returns to employment with that person's former employer or any other employer whose employees are covered by this article or chapter 425, subchapter V, article 3-A, after having been the recipient of a disability retirement benefit, shall be computed in its entirety using the average final compensation as defined by section 17001, subsection 4, on the date of that person's termination from service immediately before becoming the recipient of a service retirement benefit.

[1989, c. 409, §§8, 12 (NEW) .]

2. **Cost of benefits.** The cost of benefits based upon service credits earned before and during disability must be charged to the Retirement Allowance Fund. The cost of benefits based upon service credits earned after becoming reemployed must be charged to the account of the employer through whom the service credits were earned.

[2007, c. 249, §27 (AMD) .]

3. **Special plans.** The service credits earned after return to employment by a person who was employed under a special plan before becoming the recipient of a disability retirement benefit shall be credited toward completing the service requirements for retirement under that special plan. As used in this section, unless the context otherwise indicates, "special plan" means any of the retirement programs in section 17851, subsections 4 to 11 or section 18453, subsections 2 to 9.

A. The executive director may require, once each year, that the member undergo examinations or tests, conducted in accordance with section 17926, to determine that the member is still disabled to the extent that it is impossible to perform the duties of that member's former employment position. [1989, c. 409, §§8, 12 (NEW).]

B. If the member refuses to submit to the examinations or tests under paragraph A, the service credits earned after that date shall be based upon the plan applicable to the position in which the member is currently employed. [1989, c. 409, §§8, 12 (NEW).]

C. If it is determined on the basis of the examinations or tests under paragraph A that the member is no longer disabled to the extent that it is impossible to perform the duties of the former employment position, the member shall:

(1) Return to employment in a position covered by the same special plan or a comparable special plan that covered the former employment position; or

(2) Remain in the current employment position and have the service credits earned thereafter based upon the plan applicable to the position in which the member is currently employed. [1989, c. 409, §§8, 12 (NEW).]

[1989, c. 409, §§8, 12 (NEW) .]

SECTION HISTORY
1989, c. 409, §§8,12 (NEW). 2007, c. 249, §27 (AMD).

§17934. OPTIONAL ELECTION

Any person entitled to receive a disability retirement benefit under article 3, as in effect immediately before October 1, 1989, may elect to be governed by this article instead of article 3 by making written application to the executive director within 6 months of October 1, 1989. [1997, c. 2, §22 (COR).]

SECTION HISTORY
1989, c. 409, §§8,12 (NEW). RR 1997, c. 2, §22 (COR).

Article 3-B: MEMBER ELECTION OF DISABILITY PLAN

§17941. MEMBER ELECTION OF DISABILITY PLAN

(REPEALED)

SECTION HISTORY
1991, c. 887, §10 (NEW). 1995, c. 643, §16 (RP).

Article 4: ORDINARY DEATH BENEFITS

§17951. DEFINITIONS

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [1985, c. 801, §§ 5, 7 (NEW).]

1. **Designated beneficiary.** "Designated beneficiary" means the beneficiary designated under section 17952.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Qualifying member.** "Qualifying member" means a member in service or a former member who is receiving a disability retirement benefit. Beginning July 1, 1993, for purposes of section 17953, subsection 1, "qualifying member" also means a member not in service. For purposes of section 17953, subsection 5-B, "qualifying member" also means a member not in service who has qualified for a service retirement benefit.

[1991, c. 469, §1 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1991, c. 469, §1 (AMD).

§17952. DESIGNATED BENEFICIARY

A qualifying member may designate a beneficiary to receive benefits upon the qualifying member's death by filing a written designation of beneficiary with the executive director. The last designation of any beneficiary revokes all previous designations. In order to be in effect, the written designation must be received by the retirement system office or be postmarked before the qualifying member's death. [2011, c. 449, §9 (AMD).]

1. **Designation of more than one beneficiary.** A member may designate more than one person as a beneficiary subject to the following limitations.

A. If more than one person is designated as a beneficiary and:

(1) If one of the persons designated is eligible to receive benefits under section 17953, subsection 3 and the other persons designated are eligible to receive benefits under section 17953, subsection 4, there is no limit to the number of persons eligible to receive benefits under section 17953, subsection 4 who may be designated;

(2) If all of the persons designated are eligible to receive benefits under section 17953, subsection 4, there is no limit to the number of persons who may be designated; or

(3) If all of the persons designated are eligible to receive benefits under section 17953, subsection 5, no more than 2 persons may be designated. [1989, c. 658, §1 (NEW).]

B. If the person designated as a beneficiary is the member's spouse, that designation includes all of the member's dependent children so long as the person designated meets the definition of spouse in section 17001, subsection 39. [1989, c. 658, §1 (NEW).]

[1989, c. 658, §1 (NEW) .]

2. **Limitations.** If a member designates as beneficiaries 2 or more persons, all must meet the requirements of one, and only one, of the subparagraphs of subsection 1, paragraph A, otherwise their eligibility to receive a benefit under this article shall be limited to section 17953, subsection 1 or section 17954.

[1989, c. 658, §1 (NEW) .]

SECTION HISTORY

1985, c. 801, §§5,7 (NEW). 1989, c. 658, §1 (AMD). 2011, c. 449, §9 (AMD).

§17953. DEATH BEFORE SERVICE RETIREMENT

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

Before July 1, 1993, if a qualifying member dies at any time before completing the age and service requirements for service retirement, the payment of ordinary death benefits is governed as follows. Beginning July 1, 1993, if a qualifying member dies before the member's service retirement benefit becomes effective, the payment of ordinary death benefits is governed as follows. In either case, the member's beneficiary may select only one of the death benefits. [1991, c. 469, §2 (AMD).]

1. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 1991, c. 619, §18) **Refund of contributions.** The amount of the qualifying member's accumulated contributions, as determined under section 17705-A, is paid:

A. To the qualifying member's designated beneficiary, if any; [1991, c. 469, §2 (AMD).]

B. If the qualifying member is not survived by a designated beneficiary, to the first listed of the following relatives alive at the qualifying member's death:

(1) Surviving spouse;

(2) Child or children, regardless of age, sharing equally among themselves; or

(3) The older parent; or [1985, c. 801, §§5, 7 (NEW).]

C. To the qualifying member's estate. [1991, c. 469, §2 (AMD).]

[2007, c. 137, §16 (AMD) .]

1. (TEXT EFFECTIVE ON CONTINGENCY: See PL 1991, c. 619, §18) **Refund of contributions.** The amount of the qualifying member's accumulated contributions is paid:

A. To the qualifying member's designated beneficiary, if any; [1991, c. 469, §2 (AMD).]

B. If the qualifying member is not survived by a designated beneficiary, to the first listed of the following relatives alive at the qualifying member's death:

(1) Surviving spouse;

(2) Child or children, regardless of age, sharing equally among themselves; or

(3) The older parent; or [1985, c. 801, §§5, 7 (NEW).]

C. To the qualifying member's estate. [1991, c. 469, §2 (AMD).]

[1991, c. 469, §2 (AMD) .]

2. **Survivor benefits.** Survivor benefits are governed as follows.

A. Instead of accepting the payment provided in subsection 1, the first listed of the following who are living at the death of the qualifying member may elect the benefits described in subsections 3 to 5-B:

(1) The designated beneficiary, if any; or

(2) If no beneficiary is designated, the surviving spouse, the dependent child or dependent children, or the parent or parents. [1991, c. 469, §2 (AMD).]

B. If the surviving spouse elects a benefit under this subsection, the dependent child or dependent children are entitled to receive the benefit under subsection 4. [1991, c. 469, §2 (AMD).]

C. A person entitled to receive benefits under this section may, before the beginning of benefit payments, elect to receive benefits under section 17852, subsection 4, paragraph A; under section 17852, subsection 5, paragraph A; under section 17852, subsection 6, paragraph A; or under article 5 instead of benefits under this section.

(1) In order to elect these survivor benefits, both the qualifying member and the beneficiary must comply with each requirement of those provisions.

(2) If no election is made under this paragraph, benefits payable under this section are in lieu of any benefits payable under section 17852, subsection 4, paragraph A; under section 17852, subsection 5; under section 17852, subsection 6; or under article 5. [1991, c. 469, §2 (AMD).]

[1991, c. 469, §2 (AMD) .]

3. **Amount of survivor benefit payment to surviving spouse.** If the surviving spouse of the qualifying member elects a benefit under subsection 2, paragraph A, only one of the following options may be paid at one time.

A. A surviving spouse of the qualifying member is paid a $150 benefit each month beginning the first month after the death occurs and continuing during the surviving spouse's lifetime, if:

(1) The deceased qualifying member had 10 years of creditable service at the time of death; or

(2) The surviving spouse is certified by the medical board to be permanently mentally incompetent or permanently physically incapacitated and is determined by the executive director to be unable to engage in any substantially gainful employment.

A full month's benefit is paid to the estate of the surviving spouse for the month in which the surviving spouse dies. [1991, c. 469, §2 (AMD).]

B. A surviving spouse of the qualifying member who has the care of the dependent child or children of the deceased qualifying member and who is not eligible to receive a benefit under paragraph A is paid a $150 benefit each month, beginning the first month after the death of the qualifying member and continuing during the surviving spouse's lifetime until the end of the month in which the dependent child or children are no longer in the surviving spouse's care. [1991, c. 469, §2 (AMD).]

C. A surviving spouse of the qualifying member who is not eligible to receive a benefit under paragraph A or B is paid a $150 benefit each month, beginning the first month after the surviving spouse reaches 60 years of age and continuing during the surviving spouse's lifetime.

A full month's benefit is paid to the estate of the surviving spouse for the month in which the surviving spouse dies. [1991, c. 469, §2 (AMD).]

D. The $150 benefit specified under paragraphs A, B and C is increased to $225 on July 1, 1989, and $300 on July 1, 1990. Starting July 1, 1991, the $300 benefit must be adjusted annually at the same time and by the same percentage as adjustments under section 17806. [1991, c. 469, §2 (AMD).]

E. Only one beneficiary of a qualifying member is entitled to receive the benefit under this subsection. [1991, c. 469, §2 (AMD).]

[1991, c. 469, §2 (AMD) .]

4. **Amount of survivor benefit to dependent children.** If the dependent child or children or surviving spouse of the deceased qualifying member elects a benefit under subsection 2, paragraph A, the payment of benefits to the dependent child or children is governed as follows.

A. The amount of survivor benefit is determined as follows.

(1) Until January 1, 1989:

(a) One dependent child is paid $150 each month;

(b) Two dependent children are paid $225 each month which must be divided equally between them; and

(c) Three or more dependent children are paid $300 each month which must be divided equally among them.

(2) Starting January 1, 1989, each dependent child receives a benefit of $150 a month.

(3) Starting July 1, 1989, each dependent child receives a benefit of $175 a month.

(4) Starting July 1, 1990, each dependent child receives a benefit of $200 a month.

(5) Starting July 1, 1991, each dependent child receives a benefit of $225 a month.

(6) Starting July 1, 1992, each dependent child receives a benefit of $250 a month.

(7) Starting July 1, 1993, the benefit specified under subparagraph (6) must be adjusted annually at the same time and by the same percentage as adjustments under section 17806. [1991, c. 469, §2 (AMD).]

B. The benefits begin the first month after the death of the qualifying member and are payable to each dependent child, in accordance with Title 18-A, article V, until the end of the month in which the child no longer meets the definition of "dependent child" in section 17001, subsection 12. [1991, c. 469, §2 (AMD).]

C. When any dependent child becomes ineligible to receive benefits under this subsection, the other dependent children, if any, continue to receive benefits in accordance with this subsection. [1991, c. 469, §2 (AMD).]

D. The combined benefits under subsection 3 and this subsection may not exceed 80% of the deceased qualifying member's average final compensation adjusted annually at the same time and at the same percentage as adjustments under subsection 10. [1987, c. 529, §1 (NEW).]

[1991, c. 469, §2 (AMD) .]

5. **Amount of survivor benefit to parents.** If the parent of the deceased qualifying member elects a benefit under subsection 2, paragraph A, the payment of benefits is governed as follows.

A. The amount of the benefit is determined as follows.

(1) A parent who is alive at the time of the death of the qualifying member is paid $150 per month if the parent is at least 60 years of age or, if not, when the parent reaches that age.

(2) If both parents are eligible for benefits under this article, and the older parent elects benefits under this subsection, the older parent is paid $150 per month and the younger parent is paid $105 per month upon reaching 60 years of age.

(3) Upon the death of either parent, the surviving parent receives $150 per month. [1991, c. 469, §2 (AMD).]

B. The payment of benefits to any parent begins the first month after the death of the qualifying member and continues until the death of the parent. [1991, c. 469, §2 (AMD).]

C. Benefits are payable under this subsection only if no other benefits have been paid under subsection 3 or 4. [1985, c. 801, §§5, 7 (NEW).]

D. Starting July 1, 1989, the benefits specified under paragraph A must be adjusted annually at the same time and at the same percentage as adjustments under subsection 10. [1991, c. 469, §2 (AMD).]

E. No more than 2 beneficiaries of a qualifying member may be entitled to receive the benefit under this subsection. [1989, c. 658, §3 (NEW).]

[1991, c. 469, §2 (AMD) .]

5-A. **Amount of survivor benefit to designated beneficiary.** If a designated beneficiary, other than the surviving spouse, dependent child, dependent children or the parent or parents of a deceased qualifying member, elects a benefit under subsection 2, paragraph A, the payment of benefits is governed as follows.

A. A designated beneficiary who is alive at the time of the death of the qualifying member is paid $150 per month beginning the first month after the death occurs and continuing until the date of the designated beneficiary's death, if the designated beneficiary is certified by the medical board to be permanently mentally incompetent or permanently physically incapacitated and is determined by the executive director to be unable to engage in any substantially gainful employment. [1991, c. 469, §2 (AMD).]

B. A designated beneficiary who is alive at the time of the death of the qualifying member and is a person under 18 years of age, or under 22 years of age if the person is a full-time student, is paid $150 per month beginning the first month after the death occurs and continuing until the person no longer meets the age criteria of this paragraph. [1991, c. 469, §2 (AMD).]

C. A designated beneficiary of the qualifying member who has the care of the dependent child or children of the deceased qualifying member, and who is not eligible to receive a benefit under paragraph A, has the option:

(1) To be paid $150 per month, beginning the first month after the death of the qualifying member and continuing during the designated beneficiary's lifetime for as long as the dependent child or children are in the designated beneficiary's care;

(2) To transfer the right to receive a benefit to the children of the deceased qualifying member under subsection 4; or

(3) To elect a benefit under paragraph D. [1991, c. 469, §2 (AMD).]

D. A designated beneficiary who is not eligible to receive a benefit under paragraph A, B or C is paid $150 per month, beginning the first month after the designated beneficiary reaches 60 years of age and continuing until the date of death. [1991, c. 469, §2 (AMD).]

E. Only one beneficiary of a qualifying member is entitled to receive the benefit under this subsection. [1991, c. 469, §2 (AMD).]

[1991, c. 469, §2 (AMD) .]

5-B. **Reduced retirement benefits.** Beginning July 1, 1993, instead of accepting the benefits under subsection 1 or 2, the first listed person under paragraph A living at the time of death of the qualifying member may elect the benefits in this subsection.

A. The persons eligible to make the election under this subsection are the qualifying member's:

(1) Designated beneficiary;

(2) Surviving spouse;

(3) Child or children; or

(4) Parent or parents. [1991, c. 469, §2 (NEW).]

B. Benefits under this subsection are paid as follows.

(1) The benefit is computed in accordance with section 17852, subsection 3, if applicable, as if the service retirement of the qualifying member had taken place on the date of the member's death.

(2) The beneficiary is paid beginning on the first day of the month after the death of the qualifying member and continuing until the last day of the month in which the beneficiary's death occurs.

(3) Benefits under this subsection are paid in accordance with section 17804, subsection 3. [1991, c. 469, §2 (NEW).]

C. If the monthly benefit payable under this subsection is $10 or less, in lieu of those payments a lump sum that is the actuarial equivalent of the benefit to which the beneficiary is entitled must be paid on the date the first monthly payment would otherwise be paid. A beneficiary who receives a lump sum payment under this subsection does not forfeit any other benefit to which the member would be entitled if the member were receiving a monthly benefit payment. [1991, c. 469, §2 (NEW).]

[1991, c. 469, §2 (NEW) .]

6. **Transfer of funds.** If benefits are paid under subsections 3 to 5-B, the amount of the deceased qualifying member's accumulated contributions in the Members' Contribution Fund is transferred to the Retirement Allowance Fund.

[2007, c. 249, §28 (AMD) .]

7. **Death of beneficiary before payment.** If any person becomes entitled to the payment of benefits under this article and dies before either the refund check or the initial survivor benefit check is endorsed and presented to a holder in due course, the person is considered to have predeceased the qualifying member.

[1985, c. 801, §§5, 7 (NEW) .]

8. **Change of choice of payment option.** Any beneficiary under this article may change the choice of payment at any time up to the point of endorsement and presentation to a holder in due course of either the refund check or the initial survivor benefit payment.

[1991, c. 469, §2 (AMD) .]

9. **Defeat of survivor's option.** A qualifying member may specify that the refund of the member's accumulated contributions be paid to a designated beneficiary or to the qualifying member's estate in lieu of any payment to survivors under subsections 3 to 5-B by filing an affidavit expressing that intent with the executive director.

[1991, c. 469, §2 (AMD) .]

10. **Cost-of-living adjustment.** If a retirement benefit adjustment is made for retired state employees and teachers, the same percentage increase must be applied to the payments made under subsections 3 to 5-B. The adjustment to payments made under subsections 3 to 5-B becomes effective on the same day as the adjustment for state employees and teachers.

[1991, c. 469, §2 (AMD) .]

11. **Special options.** Instead of accepting the payment provided in subsection 1, 2, 5-A or 5-B, a beneficiary may elect to receive benefits under section 17852, subsection 4, paragraph A; section 17852, subsection 5 or 6; or article 5.

A. To elect these benefits, both the qualifying member and the beneficiary must comply with each requirement of those provisions. [1991, c. 469, §2 (NEW).]

B. If an election is not made under this subsection, benefits payable under this section are in lieu of any benefits payable under section 17852, subsection 4, paragraph A; section 17852, subsection 5 or 6; or article 5. [1991, c. 469, §2 (NEW).]

[1991, c. 469, §2 (NEW) .]

SECTION HISTORY

1985, c. 801, §§5,7 (NEW). 1987, c. 529, §§1,2 (AMD). 1987, c. 823, §§1-3 (AMD). 1989, c. 658, §§2-4 (AMD). 1991, c. 469, §2 (AMD). 1991, c. 619, §10 (AMD). 2007, c. 137, §16 (AMD). 2007, c. 249, §28 (AMD).

§17954. DEATH AFTER ELIGIBILITY FOR RETIREMENT

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1991, c. 469, §3 (AMD).

§17955. TRANSFER OF FUNDS

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §19 (RP).

Article 5: ACCIDENTAL DEATH BENEFITS

§18001. DEFINITIONS

As used in this article, unless the context otherwise indicates, "qualifying member" means a member who dies as a result of an injury arising out of and in the course of employment as an employee, or a former member receiving a disability retirement benefit who dies as a result of an injury arising out of and in the course of employment as an employee. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18002. QUALIFICATION FOR BENEFIT

The beneficiary of a qualifying member shall receive a benefit in accordance with section 18003. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18003. COMPUTATION OF BENEFIT

1. **Surviving spouse; no dependent children.** If the qualifying member is survived by a spouse and no dependent child, the surviving spouse shall be paid 2/3 of the average final compensation of the qualifying member.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Surviving spouse having care of dependent children.** If the qualifying member is survived by a spouse who has the care of the dependent child or dependent children of the qualifying member, the surviving spouse shall be paid an annual sum equal to the average final compensation of the qualifying member.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Surviving spouse not having care of dependent children.** If the qualifying member is survived by a spouse who does not have the care of the dependent child or dependent children of the qualifying member, the surviving spouse shall share with the dependent child or dependent children an annual sum equal to the average final compensation of the qualifying member, the benefit to be divided equally among the surviving spouse and the dependent child or dependent children.

[1985, c. 801, §§ 5, 7 (NEW) .]

4. **No surviving spouse.** If no spouse survives the qualifying member, the dependent child or dependent children shall be paid an annual sum equal to the average final compensation of the qualifying member.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18004. METHOD OF PAYMENT

All benefits paid under this article shall be paid in equal monthly installments beginning the first month after the death of the qualifying member. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18005. ADJUSTMENT OF BENEFITS

1. **Beneficiaries becoming ineligible.** When a person sharing benefits under section 18003 ceases to be eligible to receive benefits, the subsequent benefits of the remaining beneficiaries shall be recalculated as if the remaining beneficiaries had been the only beneficiaries to survive the qualifying member.

[1985, c. 801, §§5, 7 (NEW) .]

2. **Workers' compensation or similar law.** The amount payable under this article must be reduced by any amount received by the surviving spouse and dependent child or dependent children under former Title 39, the Workers' Compensation Act or Title 39-A, Part 1, the Maine Workers' Compensation Act of 1992, or a similar law. For purposes of this article, a death benefit paid to a law enforcement officer, firefighter or emergency medical services person under Title 25, chapter 195-A is not considered a benefit paid under a "similar law" and may not be used to reduce the amount payable under this article.

A. Lump-sum settlements of benefits that would reduce the accidental death benefits under this subsection must be prorated on a monthly basis in an equitable manner prescribed by the board. [1991, c. 885, Pt. E, §12 (AMD); 1991, c. 885, Pt. E, §47 (AFF).]

B. The prorated lump-sum settlement amounts must reduce the accidental death benefits payable monthly under this article. [1991, c. 885, Pt. E, §12 (AMD); 1991, c. 885, Pt. E, §47 (AFF).]

[2001, c. 439, Pt. CCCCC, §2 (AMD) .]

3. **Cost-of-living adjustments.** Benefits under this article are subject to adjustment as provided in section 17806.

[1993, c. 595, §9 (NEW) .]

SECTION HISTORY

1985, c. 801, §§5,7 (NEW). 1991, c. 885, §E12 (AMD). 1991, c. 885, §E47 (AFF). 1993, c. 595, §9 (AMD). 2001, c. 439, §CCCCC2 (AMD).

§18006. TERMINATION OF BENEFITS

The benefits under this article shall be paid to: [1985, c. 801, §§ 5, 7 (NEW).]

1. **Surviving spouse.** The surviving spouse until he dies; and

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Dependent children.** The dependent child or dependent children until they die or until they no longer meet the definition of "dependent child" under section 17001, subsection 12.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18007. BENEFITS IN LIEU OF ARTICLE 4

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §20 (RP).

Subchapter 6: GROUP LIFE INSURANCE

§18051. AUTHORIZATION

The board, and only the board, may purchase for the retirement system, from one or more life insurance companies, a policy or policies of life insurance, as defined by Title 24-A, section 702. [1985, c. 801, §§ 5, 7 (NEW).]

1. **Procedure.** Proposals for the purchase of insurance may be solicited from one or more insurance companies on a competitive basis or an existing policy or policies may be renegotiated.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Licensed company.** Any policy or policies purchased shall be purchased from a company or companies licensed under the laws of this State.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18052. NATURE OF POLICY

1. **Limitation.** All provisions of a policy or policies purchased under section 18051 shall be subject to the limitations of Title 24-A, sections 2601 to 2628.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **No reduction of benefits.** No provisions of a policy or policies purchased under section 18051 may reduce the benefits granted under this subchapter.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18053. RULES

The board may promulgate and publish, in accordance with chapter 375, subchapter II, whatever rules are necessary and proper to give effect to the intent, purposes and provisions of this subchapter. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18054. ADMINISTRATION

1. **Expenses.** All expenses of a group life insurance program shall be reimbursed from premium rate adjustments, dividends or interest earnings on reserves.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Report.** A report of the activities of the group life insurance program shall be published annually.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18055. PARTICIPATION

1. **Availability.** Except as provided in subsection 2 or 4, insurance purchased under section 18051 must be made available to the following persons:

A. Elective and appointive officers and employees of the State eligible for membership in the State Employee and Teacher Retirement Program or the Legislative Retirement Program; [2007, c. 491, §179 (AMD).]

B. Teachers eligible for membership in the State Employee and Teacher Retirement Program; [2007, c. 491, §180 (AMD).]

C. Justices of the Supreme Judicial Court and the Superior Court and Judges of the District Court and the Administrative Court; and [2001, c. 12, §4 (AMD).]

D. Workers' compensation commissioners. [1985, c. 801, §§5, 7 (NEW).]

[2007, c. 491, §§179, 180 (AMD) .]

2. **Exception.** The board may, by rule, provide standards for inclusion or exclusion of employees on the basis of nature and type of employment or conditions. No employee or group of employees may be excluded solely on the basis of the hazardous nature of employment.

[1985, c. 801, §§5, 7 (NEW) .]

3. **Employment with 2 employers.** Except as provided in section 18056, subsection 3, paragraph D and section 18656, subsection 3, paragraph D, a participant to whom coverage is available under subsection 1 or section 18655, subsection 1 may participate through employment with 2 or more employers.

[2003, c. 485, §2 (NEW) .]

4. **Retirees who return to service.** A retiree who is insured pursuant to section 18061, subsection 2 or 18661, subsection 2 and who returns to employment in a position in which the person would be eligible for coverage under subsection 1 is eligible for coverage under subsection 1 only if that person pays the cost of the coverage. This limitation applies regardless of whether similarly employed persons who are not retirees would be required to pay the cost. The board shall establish a method by which such persons may pay the costs of insurance coverage elected under this subsection, which may include basic and supplemental insurance.

[2003, c. 485, §2 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 42, (AMD). RR 1999, c. 2, §5 (AFF). RR 1999, c. 2, §4 (COR). 2001, c. 12, §4 (AMD). 2003, c. 485, §§1,2 (AMD). 2007, c. 491, §§179, 180 (AMD).

§18056. COVERAGE

1. **Basic insurance.** Life insurance and accidental death and dismemberment insurance, referred to as "basic insurance," must be available to all eligible participants.

A. Except as provided in paragraph A-1, the amount of life insurance to be paid upon death is equal to the participant's annual base compensation rounded up to the next $1,000.

(1) A participant insured under a basic insurance policy is automatically covered for any change in the maximum due to a change in annual base compensation.

(2) The date of change in coverage under subparagraph (1) is the first day of the month of April following the effective date of the change in annual base compensation. [2009, c. 213, Pt. LL, §2 (AMD).]

A-1. For a Legislator, the amount of life insurance to be paid upon death is equal to the participant's average annual legislative salary over the 2-year term of office rounded up to the next $1,000. For the purposes of this section, "Legislator" includes the representatives of the Penobscot Nation and the Passamaquoddy Tribe at the Legislature. [2009, c. 213, Pt. LL, §2 (NEW).]

B. The accidental death and dismemberment insurance must provide payments as follows.

(1) Losses and amounts payable are determined according to the following table.

LOSS	AMOUNT PAYABLE
Loss of life by Accident	An additional amount equal to that provided under this subsection
Loss of one hand or foot or sight of one eye	One-half the amount provided under this subsection
Loss of 2 or more limbs or loss of both eyes or loss of one limb and loss of sight of one eye	The amount provided under this subsection

(2) For any one accident the aggregate amount of group accidental death and dismemberment insurance that may be paid may not exceed the amount provided under this subsection. [2009, c. 213, Pt. LL, §2 (AMD).]

[2009, c. 213, Pt. LL, §2 (AMD) .]

2. **Supplemental insurance.** Additional insurance coverage of equal amounts to those described in subsection 1, to be known as "supplemental insurance," shall be available to each participant purchasing insurance under subsection 1.

[1985, c. 801, §§5, 7 (NEW) .]

3. **Dependent insurance.** Each participant may elect to insure the life of a dependent not insured in the group covered under subsections 1 and 2.

A. A participant may elect either Plan A or Plan B, but not both.

	Plan A	Plan B
Spouse	$5,000	$10,000
Full-time unmarried students to age 22	$5,000	$5,000
Children, 6 months to age 19	$5,000	$5,000
Children, 0 to 6 months	$1,000	$2,500

[1985, c. 801, §§5, 7 (NEW).]

B. Insurance purchased under this subsection is subject to the limitations of Title 24-A, section 2611-A. [1985, c. 801, §§5, 7 (NEW).]

C. The number of dependents may not affect the premium rate for insurance purchased under this subsection. [1993, c. 387, Pt. A, §15 (AMD).]

D. Any participant who is a participant through employment with 2 or more employers may not insure that participant's dependents more than once. [1991, c. 480, §4 (NEW).]

[1993, c. 387, Pt. A, §15 (AFF) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 710, §12 (AMD). 1991, c. 480, §§3,4 (AMD). 1993, c. 387, §A15 (AMD). 1993, c. 387, Pt. A, §15 (AMD). 2009, c. 213, Pt. LL, §2 (AMD).

§18057. PAYMENTS ON DEATH

Any amount of group life insurance and group accidental death insurance in force on any employee at the date of the employee's death must be paid, upon the establishment of a valid claim, in the following order of precedence. [2009, c. 515, §1 (AMD); 2009, c. 515, §3 (AFF).]

1. **Designated beneficiary.** First, to the beneficiary or beneficiaries whom the employee designated in writing, if the written designation was received in the retirement system office or postmarked before the employee's death.

[1991, c. 480, §5 (AMD) .]

2. **Widow or widower.** Second, if no beneficiary qualifies under subsection 1, to the widow or widower of the employee.

[1985, c. 801, §§ 5, 7 (NEW) .]

2-A. **Executor or personal representative.** Third, if no one qualifies under subsection 1 or 2, to the employee's duly appointed executor or personal representative for distribution according to the provisions of a lawfully executed will. This subsection is applicable only if the retirement system is notified of the appointment of the executor or personal representative within 6 months of the date of death of the employee.

[2009, c. 515, §1 (NEW); 2009, c. 515, §3 (AFF) .]

3. **Children.** Fourth, if no one qualifies under subsection 1 , 2 or 2-A, to the child or children of the employee and descendants of deceased children by representation.

[2009, c. 515, §1 (AMD); 2009, c. 515, §3 (AFF) .]

4. **Parents.** Fifth, if no one qualifies under subsection 1, 2, 2-A or 3, to the surviving parent or parents of the employee.

[2009, c. 515, §1 (AMD); 2009, c. 515, §3 (AFF) .]

5. **Executor or conservator.**

[2009, c. 515, §3 (AFF); 2009, c. 515, §1 (RP) .]

6. **Next of kin.** Sixth, if no one qualifies under subsection 1, 2, 2-A, 3 or 4, to other next of kin of the employee entitled under the laws of domicile of that employee at the time of the employee's death.

[2009, c. 515, §1 (AMD); 2009, c. 515, §3 (AFF) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1991, c. 480, §5 (AMD). 2009, c. 515, §1 (AMD). 2009, c. 515, §3 (AFF).

§18058. INSURANCE; AUTOMATIC APPLICATION

1. **Employees insured.** Each employee shall complete an application for insurance coverage within 31 days of becoming eligible. Each employee who completes an application and is found eligible for basic insurance under this subchapter is insured for the amount of basic coverage applicable under this subchapter, beginning on the first day of the month following one month of employment after the employee becomes eligible.

A. The employee shall indicate the types of coverage elected. [1991, c. 480, §6 (NEW).]

B. If the employee elects coverage within 31 days of the employee's first becoming eligible and elects coverage in addition to basic, that additional coverage becomes effective on the first day of the month following one month of employment after the employee becomes eligible. [2011, c. 449, §10 (AMD).]

C. If the employee does not elect coverage within 31 days of the employee's first becoming eligible, the employee may subsequently apply for insurance coverage but must produce evidence of insurability at the employee's own expense and in accordance with the requirements of the insurance underwriter. [2011, c. 449, §10 (AMD).]

D. The employee may designate in writing the name and address of a 3rd party to whom notice must be provided as required in subsection 6. [2015, c. 61, §1 (NEW).]

[2015, c. 61, §1 (AMD) .]

2. **Employees not wanting to be insured.** Any employee not wanting to be insured under this subchapter, at the time the employee first becomes eligible, shall, on the application form, give written notice to the employee's employing officer and to the retirement system that the employee does not want to be insured.

A. If after being insured, the employee wishes to cancel or reduce coverage, written notice must be given by the employee to the employee's employing officer and to the retirement system. [1991, c. 480, §6 (AMD).]

B. The employee's insurance coverage must cease or be reduced at the end of the month in which the notice is received by the employing office. [1991, c. 480, §6 (AMD).]

C. Any employee who does not want to be insured or who cancels insurance coverage may subsequently apply for insurance, but must produce evidence of insurability at the employee's own expense and in accordance with the requirements of the insurance underwriter. [1991, c. 480, §6 (AMD).]

D. [2011, c. 449, §11 (RP).]

[2011, c. 449, §11 (AMD) .]

3. **Dependent coverage.** An employee may apply for coverage for a dependent in the application provided in subsection 1. If an employee has no dependents at the time the application provided in subsection 1 is completed and if application is made for coverage within 31 days of acquiring a dependent, coverage becomes effective the first day of the month following the month in which the application is received by the employing office. An employee who does not apply for dependent coverage within 31 days may subsequently apply for dependent coverage but must produce evidence of insurability at the employee's own expense. Coverage for subsequently acquired dependents is effective immediately.

[1991, c. 480, §6 (NEW) .]

4. **Evidence of insurability.** When the insurance underwriter approves an application for coverage or increase in coverage with which evidence of insurability has been filed as provided under subsection 1, paragraph C or subsection 2, paragraph C, the coverage or increased coverage becomes effective as of the first day of the first month following completion of one month of employment after the date of approval.

[1991, c. 480, §6 (NEW) .]

5. **Employee on leave of absence.** Insurance coverage for an employee on an authorized leave of absence is governed as follows.

A. An employee who, during a period of an unpaid leave of absence, continues to pay premiums due for the period of the leave continues to be covered. Coverage for an employee who, during the period of the leave, does not pay the premiums due ceases at the end of the period covered by the last premium paid. [2011, c. 449, §12 (NEW).]

B. Notwithstanding paragraph A, an employee who, during a period of unpaid military leave of absence, does not continue coverage while on unpaid military leave must be reinstated to the levels of coverage in effect immediately prior to the unpaid military leave. A request for reinstatement by the employee must be made within 31 days of the employee's return to work following unpaid military leave. An employee who wants to be reinstated and who does not apply for reinstatement within 31 days of the employee's return to work from unpaid military leave must produce evidence of insurability at the employee's own expense and in accordance with the requirements of the insurance underwriter. [2011, c. 449, §12 (NEW).]

[2011, c. 449, §12 (NEW) .]

6. **Notice to employee and 3rd party prior to lapse or termination.** Coverage for an employee may not be terminated for nonpayment of premium unless, at least 14 days prior to the lapse or termination of coverage, the board has mailed a notice of cancellation to the employee and any 3rd party designated by the employee by name and address in writing pursuant to subsection 1, paragraph D.

[2015, c. 61, §2 (NEW) .]

SECTION HISTORY

1985, c. 801, §§5,7 (NEW). 1991, c. 480, §6 (AMD). 1993, c. 386, §3 (AMD). 2007, c. 17, §1 (AMD). 2007, c. 17, §3 (AFF). 2009, c. 236, §§1, 2 (AMD). 2009, c. 474, §§ 24, 25 (AMD). 2011, c. 449, §§10-12 (AMD). 2015, c. 61, §§1, 2 (AMD).

§18059. PAYMENT OF PREMIUMS

Payment of premiums for group life insurance shall be on the basis determined by the board to be actuarially sufficient to pay anticipated claims. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18060. REVIEW OF INSURANCE PROGRAM

Each year, upon receipt of the annual report submitted by the underwriter, the board shall review all phases of the group life insurance program and shall, within 90 days of receipt of the annual report, determine the reserves necessary to pay anticipated claims and the method of distribution of any accumulations above those reserves. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18061. TERMINATION OF COVERAGE

1. **Separation from service.** The insurance on any employee shall terminate upon his separation from service, except as extended by:

A. Provisions contained in the policy for waiver of premiums upon total and permanent disability; and [1985, c. 801, §§ 5, 7 (NEW).]

B. Provisions for temporary extension of coverage and conversion to an individual policy of life insurance. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Retirement.** If, on the date the insurance would otherwise terminate, the employee retires, in accordance with Title 3, chapter 29, Title 4, chapter 27 or 29 or this Part, the employee's basic life insurance only must be continued without cost to the employee and in the amounts provided in this subsection.

A. On retirement for reasons other than disability, an amount of basic life insurance equal to the employee's average final compensation must be continued in force at no cost to the participant, if the employee has participated in the group life insurance program for a minimum of 10 years.

(1) Except as provided in paragraph B, the initial amount of basic life insurance that continued into retirement must be reduced at the rate of 15% per year to a minimum of 40% of the initial amount of basic life insurance that continued into retirement or $2,500, whichever is greater.

(2) In determining benefits under this subchapter, the reductions become effective at 12:01 a.m. of the day following the first year anniversary of the date of retirement and each succeeding retirement anniversary thereafter until the minimum has been reached. [1993, c. 386, §4 (AMD).]

B. The reduction set out in paragraph A, subparagraph (1) does not apply to any Justice of the Supreme Judicial Court or Superior Court, to any Judge of the District Court or Administrative Court, nor to any retired justice or judge who was insured and who was living on September 14, 1979.

(1) The initial amount of basic life insurance that continued into retirement for any justice or judge must be continued in force at no cost to the justice or judge until the justice or judge reaches 70 years of age.

(2) When a justice or judge reaches 70 years of age, the amount of insurance in force must be reduced to 25% of the initial amount of basic life insurance that continued into retirement. This reduction becomes effective at 12:01 a.m. of the day following the date on which the justice or judge reaches 70 years of age. [2001, c. 12, §5 (AMD).]

C. On retirement for disability, the amount of basic insurance in force at the time of retirement must be continued in force until normal retirement age, after which the amount must be reduced, as provided in paragraphs A and B, at no cost to the recipient. The 10-year participation requirement does not apply to recipients of disability retirement benefits. [1991, c. 480, §7 (AMD).]

D. The premiums for the coverage provided by this subsection must be paid from reserves established for that purpose. [1991, c. 480, §7 (NEW).]

[2001, c. 12, §5 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §21 (AMD). 1989, c. 710, §13 (AMD). 1991, c. 480, §7 (AMD). 1993, c. 386, §4 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 2001, c. 12, §5 (AMD).

Chapter 425: PARTICIPATING LOCAL DISTRICTS

Subchapter 1: GENERAL PROVISIONS

§18200. NAME, ESTABLISHMENT AND PURPOSE

There is established the Participating Local District Retirement Program as a governmental qualified defined benefit plan pursuant to Sections 401(a) and 414(d) of the Internal Revenue Code and such other provisions of the Internal Revenue Code and United States Treasury regulations and other guidance as are applicable, which has the powers and privileges of a corporation. [2009, c. 474, §26 (AMD).]

The purpose of the Participating Local District Retirement Program is to provide retirement allowances and other benefits under this chapter for employees of participating local districts. [2007, c. 491, §181 (NEW).]

SECTION HISTORY
2007, c. 491, §181 (NEW). 2009, c. 474, §26 (AMD).

§18201. LOCAL DISTRICT PARTICIPATION

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

A local district may contract for the participation of its employees in the Participating Local District Retirement Program under this chapter any time before the date the board puts into operation the consolidated retirement plan for participating local districts under chapter 427. After the date on which the consolidated plan described in chapter 427 is put into operation, a local district may contract for participation only under the consolidated plan. [2007, c. 491, §182 (AMD).]

1. **Local districts that are not municipalities.** For a local district that is not a municipality, as that term is defined in Title 1, section 72, subsection 13, the executive body of the district must approve participation and must file with the board a duly certified copy of the resolution approving the participation and the extent of the benefits which are to apply and setting the date of establishment as provided under subsection 4.

[1985, c. 801, §§5, 7 (NEW) .]

2. **Local districts that are municipalities.** For a local district that is a municipality, as that term is defined in Title 1, section 72, subsection 13, the legislative body of the municipality must approve participation and must file with the board a record of the vote of the legislative body, certified by the clerk of the municipality, approving the participation and the extent of the benefits which are to apply and setting the date of establishment as provided under subsection 4.

[1985, c. 801, §§5, 7 (NEW) .]

3. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 1991, c. 619, §18) **Exempt employees.** The local district shall designate in its approval any class of employees that the district determines to be exempt from this Part.

[1991, c. 619, §11 (AMD); 1991, c. 619, §18 (AFF) .]

3. (TEXT EFFECTIVE ON CONTINGENCY: See PL 1991, c. 619, §18) **Exempt employees.** The local district shall designate in its approval any class of employees, otherwise provided for by local pension provisions, who are exempt from this Part.

[1985, c. 801, §§5, 7 (NEW) .]

3-A. **Compliance with federal law.** The local district is responsible for compliance with 26 Code of Federal Regulations, Part 31, with Section 401 of the United States Internal Revenue Code and with other relevant federal law and rules with respect to its employees, including employees to whom section 18252-A applies.

[1997, c. 709, §1 (NEW) .]

4. **Date of establishment.** The date when the participation of the employees of a participating local district begins shall be set by the district. This date, which shall be no later than 6 months after the date of approval, shall be considered as the date of establishment for a participating local district under section 17101, subsection 3.

[1985, c. 801, §§5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 811, §2 (AMD). 1991, c. 619, §11 (AMD). 1993, c. 250, §2 (AMD). 1997, c. 709, §1 (AMD). 2007, c. 491, §182 (AMD).

§18202. ADOPTION OF AMENDMENTS TO LAWS

1. **Adoption optional.** A participating local district may adopt any or all of the amendments to this Part by filing with the board a duly certified copy of the vote of the body which would be entitled to approve participation under section 18201, setting forth the amendments to this Part which are to be adopted by that district.

A. A participating local district may elect to retain any or all of the provisions of the retirement law that the district adopted at the time of the original contract and including any changes adopted or selected by the district after that time. [1985, c. 801, §§5, 7 (NEW).]

B. The participating local district may request a valuation to determine the cost of any amendments. The cost of the valuation shall be assessed to and paid by the participating local district. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

2. **Effectiveness of amendments.** Any amendments to this Part enacted by the Legislature, which could grant benefits to employees of participating local districts, shall be effective only if the district elects to adopt the benefits and agrees to pay into the retirement system required costs as developed by the actuary.

[1985, c. 801, §§5, 7 (NEW) .]

3. **Application.** Notwithstanding the provisions of subsections 1 and 2, the amendments made to the Participating Local District Retirement Program disability plans to meet the requirements of the federal Older Workers Benefit Protection Act apply to each participating local district without adoption by the district.

[2007, c. 491, §183 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1991, c. 887, §11 (AMD). 2007, c. 491, §183 (AMD).

§18203. WITHDRAWAL OF DISTRICT FROM PARTICIPATION

A participating local district may withdraw from further participation in the Participating Local District Retirement Program under the terms and conditions of this section. [2007, c. 491, §184 (AMD).]

1. **Procedure.** Withdrawal from participation is accomplished by filing with the board a duly certified copy of the vote of the body which would be entitled to approve participation under section 18201.

[1985, c. 801, §§5, 7 (NEW) .]

2. **Effective date.** The withdrawal shall become effective on the last day of the month following the month in which the certified notice is received by the board.

[1985, c. 801, §§5, 7 (NEW) .]

3. **Amendments.** A participating local district that has withdrawn from participation in the Participating Local District Retirement Program may adopt any provision of this Part and amend its plan to reflect adoption of that provision, whether the provision took effect before or after the effective date of the district's withdrawal. A participating local district withdrawing under this section may not amend its retirement plan except in accordance with this subsection, and any such amendment is effective only with respect to employees of the district who remained in the Participating Local District Retirement Program at the time of the district's withdrawal.

[2007, c. 491, §185 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §22 (AMD). 2003, c. 273, §1 (AMD). 2007, c. 491, §§184, 185 (AMD).

§18203-A. RESUMPTION OF PARTICIPATION AFTER WITHDRAWAL

The board may establish by rule the conditions under which a local district that has withdrawn from participation in the Participating Local District Retirement Program may again contract for participation of its employees in that program under this chapter or under chapter 427. [2007, c. 491, §186 (AMD).]

SECTION HISTORY
1991, c. 580, §11 (NEW). 2007, c. 491, §186 (AMD).

§18204. CHIEF FISCAL OFFICER

The chief fiscal officer of a participating local district shall, in order to assist in the administration of the Participating Local District Retirement Program: [2007, c. 491, §187 (AMD).]

1. **Information.** Submit to the board whatever information about the employees of the participating local district the board prescribes; and

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Duties.** Cause to be performed whatever duties, with respect to the employees of the participating local district, that the board prescribes.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 491, §187 (AMD).

§18205. INTERNAL REVENUE CODE QUALIFIED PLAN COMPLIANCE

The Participating Local District Retirement Program established in this chapter is subject to the following requirements. [2009, c. 474, §27 (NEW).]

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

[2009, c. 474, §27 (NEW) .]

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

[2009, c. 474, §27 (NEW) .]

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

[2009, c. 474, §27 (NEW) .]

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

[2009, c. 474, §27 (NEW) .]

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

[2009, c. 474, §27 (NEW) .]

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

[2009, c. 474, §27 (NEW) .]

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

[2009, c. 474, §27 (NEW) .]

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

[2009, c. 474, §27 (NEW) .]

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

[2009, c. 474, §27 (NEW) .]

SECTION HISTORY
2009, c. 474, §27 (NEW).

Subchapter 2: MEMBERSHIP

§18251. COMPULSORY AND OPTIONAL MEMBERSHIP

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 1991, c. 619, §18) **Compulsory membership.** Membership is compulsory for all persons entering the service of a participating local district after the date of establishment for the participating local district, except as otherwise provided by subsection 3; section 18201, subsection 3; or section 18256.

[2003, c. 630, Pt. A, §1 (AMD) .]

1. (TEXT EFFECTIVE ON CONTINGENCY: See PL 1991, c. 619, §18) **Compulsory membership.** Membership is compulsory for all employees entering the service of a participating local district after the date of establishment for the participating local district, but not for employees exempted under subsection 2; under section 18201, subsection 3; or under section 18252.

[1985, c. 801, §§5, 7 (NEW) .]

2. **Optional membership.**

[2003, c. 630, Pt. A, §2 (RP) .]

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

A. A person in the service of a participating local district on the date of establishment for that participating local district. Once such a person joins the Participating Local District Retirement Program, membership ceases to be optional for that person under this paragraph; [2007, c. 491, §188 (AMD).]

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

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

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

(3) Membership of trustees of a sewer district is governed by Title 38, section 1036, subsections 7 and 8; [2013, c. 555, §1 (AMD).]

C. A chief administrative officer of a participating local district, whether appointed for a fixed term or appointed with tenure; and [2003, c. 630, Pt. A, §3 (NEW).]

D. A person whose membership is optional under section 18252, 18252-A or 18801. [2003, c. 630, Pt. A, §3 (NEW).]

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

[2013, c. 555, §1 (AMD) .]

4. **Delayed election of membership.**

[2009, c. 474, §29 (RP) .]

5. **Reentry.**

[2009, c. 474, §30 (RP) .]

6. **Limitations on claims for participation.** If an employee claims that the employee was not offered participation in the program at the commencement of or during the course of employment with the participating local district, that claim must be commenced within 6 years of the date upon which the employee was first eligible for participation in the program.

[2015, c. 384, §2 (NEW) .]

7. **Participation in other retirement plans.** If an employee requests and is allowed retroactive participation in the program, and during the time for which these retroactive retirement benefits are sought the participating local district offered and the employee participated in another retirement plan, all contributions made to the alternative plan by the employer and all earnings made on employer and employee contributions must be paid to the retirement system, up to the amount that the employer is required by the retirement system to pay to fund retroactive benefits under the program. In the event the funds available in the employee's

alternative retirement plan account are not sufficient to fund the employer's required contributions to the retirement system, the employer shall pay any remaining employer contributions required by the retirement system to fund retroactive benefits under the program.

[2015, c. 384, §2 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §23 (AMD). 1987, c. 739, §§28,48 (AMD). 1991, c. 619, §12 (AMD). 1991, c. 619, §18 (AFF). 1997, c. 709, §2 (AMD). 2003, c. 630, §§A1-3 (AMD). 2007, c. 491, §§188-190 (AMD). 2009, c. 474, §§28-30 (AMD). 2011, c. 449, §13 (AMD). 2013, c. 555, §1 (AMD). 2015, c. 384, §2 (AMD).

§18252. MEMBERSHIP IN DISTRICTS WITH SOCIAL SECURITY COVERAGE

A person who is or would be covered by the United States Social Security Act as a result of employment by a participating local district with Social Security coverage may elect to be a member in the Participating Local District Retirement Program. A person must make an election at the time of initial hire or on the date of first eligibility to participate, whichever occurs earlier, whether to be a member of the program. Once an election is made under this section, the election is irrevocable with respect to all subsequent employment with the same employer when membership in the program is not mandatory. [2011, c. 449, §14 (AMD).]

1. **Membership.**

[2009, c. 474, §31 (RP) .]

2. **Employee who is participating member.**

[2009, c. 474, §31 (RP) .]

3. **Person who has previously ceased contributions.**

[2009, c. 474, §31 (RP) .]

4. **Employee who has previously withdrawn rejoins after 3 years.**

[2003, c. 387, §6 (RP) .]

5. **Limit on right to rejoin.**

[2009, c. 474, §31 (RP) .]

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

A. The person may elect to have the service retirement benefit continued during the period of time the person is restored to service and the person may not accumulate any additional service credits. [2009, c. 415, Pt. A, §5 (RPR).]

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

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

(2) When the person again retires, the person is entitled to receive benefits computed on the person's entire creditable service and in accordance with the law in effect at the time. [2009, c. 415, Pt. A, §5 (RPR).]

C. Upon being restored to service, the person must elect to have benefits either continued or terminated. If written notification of the person's election is not received by the executive director within 60 days of restoration to service, the person is deemed to have elected the provisions of paragraph A. The election, regardless of how it is made, is irrevocable during the period of restoration to service. [2009, c. 415, Pt. A, §5 (RPR).]

[2009, c. 415, Pt. A, §5 (RPR) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§29,48 (AMD). 1987, c. 823, §§4-6 (AMD). 1989, c. 677, §§2,3 (AMD). 1993, c. 349, §20 (AMD). 1997, c. 709, §3 (AMD). 2001, c. 699, §3 (AMD). 2003, c. 387, §6 (AMD). 2003, c. 630, §A4 (AMD). 2005, c. 76, §1 (AMD). 2007, c. 137, §17 (AMD). 2007, c. 490, §1 (AMD). 2007, c. 491, §191 (AMD). 2009, c. 415, Pt. A, §5 (RPR). 2009, c. 474, §31 (AMD). 2011, c. 449, §14 (AMD).

§18252-A. MEMBERSHIP IN DISTRICT WITHOUT SOCIAL SECURITY COVERAGE AND WITH PLAN PROVIDED BY THE EMPLOYER UNDER SECTION 18252-B

1. **Membership.** An employee of a participating local district that does not have Social Security coverage and that has a plan provided by the employer under section 18252-B may elect to be a member under the Participating Local District Retirement Program or to be covered under the plan provided by the employer in accordance with the following.

A. A person hired by a participating local district, or rehired following a break in service, after the date on which the employer provides a plan under section 18252-B must elect at the time of initial hiring or rehiring whether to be a member under the Participating Local District Retirement Program or to be covered under a plan provided by the employer under section 18252-B. Once an election is made under this paragraph, the election is irrevocable with respect to all subsequent employment with the same employer when membership in the program is not mandatory. [2011, c. 449, §15 (AMD).]

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

(1) If that person elects not to remain a member, the election is effective as of the first day of the month in which no contributions or pick-up contributions are made to the Participating Local District Retirement Program by that person. A person who elects not to remain a member may, at that person's discretion, withdraw accumulated contributions in accordance with section 18306-A. [2009, c. 474, §33 (AMD).]

C. [2003, c. 630, Pt. A, §5 (RP).]

D. If the participating local district does not have a plan provided under section 18252-B, the employees do not have the elections provided under paragraphs A and B. [2009, c. 415, Pt. A, §6 (RPR).]

[2011, c. 449, §15 (AMD) .]

2. **District employer responsibilities.** Responsibilities of the participating local district employer are as follows.

A. The participating local district employer is responsible for ensuring that the plan provided by the employer under section 18252-B meets the requirements of that section. [1997, c. 709, §4 (NEW).]

B. The participating local district employer is responsible for providing employees with information as to membership under the Participating Local District Retirement Program and as to coverage under the plan provided by the employer under section 18252-B to assist the employee in making election decisions. The retirement system shall provide the employer with information as to the Participating Local District Retirement Program. [2007, c. 491, §193 (AMD).]

C. The participating local district employer is responsible for providing procedures by which employees make elections under this section, for maintaining all records relevant to the election process and each employee's elections, for informing the retirement system as to employee elections in accordance with procedures established by the executive director and for making all administrative decisions, including the final administrative decision, in any dispute related to an employee's elections or administrative decision, in any dispute related to an employee's elections or to any issue as to the plan provided by the employer under section 18252-B. Neither the retirement system nor the system's board of trustees has responsibility or jurisdiction to make the final administrative decision with respect to any of these matters. The retirement system is responsible only to ensure that its records accurately reflect the information provided by the employer, the employer's decision as to any of these matters, and the legally cognizable outcome of any dispute related to any of these matters. [1997, c. 709, §4 (NEW).]

D. With respect to matters related to participation and membership other than those specified in paragraph C, the retirement system and the board retain responsibility and authority according to applicable retirement system law and rules as to the participating local districts and their employees to whom this section applies, including the authority to make final administrative decisions. [1997, c. 709, §4 (NEW).]

[2007, c. 491, §193 (AMD) .]

3. **Exclusions.** This section does not apply to employees of participating local districts:

A. Who are employed in part-time, seasonal or temporary positions; [2003, c. 630, Pt. A, §6 (NEW).]

B. Whose membership in the Participating Local District Retirement Program is optional under section 18252, section 18801, subsection 1 or section 18251, subsection 3, paragraph A, B or C; [2007, c. 491, §194 (AMD).]

C. For whom membership in the Participating Local District Retirement Program is denied under section 18256; or [2007, c. 491, §195 (AMD).]

D. Who are excluded from membership under section 18201, subsection 3. [2003, c. 630, Pt. A, §6 (NEW).]

[2007, c. 491, §§194, 195 (AMD) .]

SECTION HISTORY
1997, c. 709, §4 (NEW). 2003, c. 387, §7 (AMD). 2003, c. 630, §§A5,6 (AMD). 2007, c. 137, §§18, 19 (AMD). 2007, c. 490, §2 (AMD). 2007, c. 491, §§192-195 (AMD). 2009, c. 415, Pt. A, §6 (AMD). 2009, c. 474, §§32, 33 (AMD). 2011, c. 449, §15 (AMD).

§18252-B. REQUIREMENTS FOR PLAN PROVIDED BY DISTRICT EMPLOYER FOR EMPLOYEES TO WHOM SECTION 18252-A APPLIES

The plan provided by the participating local district employer for employees to whom section 18252-A applies must meet the following requirements. [1997, c. 709, §4 (NEW).]

1. **Internal Revenue Code.** The plan must meet the requirements of United States Internal Revenue Code, Section 401(a) for defined contribution plans or United States Internal Revenue Code, Section 457 for deferred compensation plans, or both.

[1997, c. 709, §4 (NEW) .]

2. **Employer contribution.** The employer must contribute as a percentage of compensation on behalf of each employee in each pay period an amount not less than the amount the employer would be required to pay if the employee were covered under the United States Social Security Act, not including the Medicare portion of the payment, consistent with applicable contribution limits of federal law.

[2015, c. 2, §5 (COR) .]

3. **Employee contribution.** The employee must contribute as a percentage of compensation in each pay period an amount not less than the employee would have been required to contribute had the employee been a member under the Participating Local District Retirement Program under the so-called "Regular Plan A" of the consolidated plan for participating local districts, consistent with applicable contribution limits of federal law.

[2007, c. 491, §196 (AMD) .]

4. **Education.** The employer must provide for employees to whom section 18252-A applies an education program that meets the requirements of federal law for such programs for the plan that the employer provides.

[1997, c. 709, §4 (NEW) .]

5. **Disability benefits** . For employees who become covered under the plan, the employer must provide a disability benefit program, the cost of which must be paid by the employer. At a minimum, that program must establish eligibility criteria, provide coverage for physical and mental disabilities and provide a level of benefits at least equal to 60% of the employee's annual compensation.

[1997, c. 709, §4 (NEW) .]

6. **Change or termination of plan.** Except with respect to current employees covered under the plan and with respect to persons receiving benefits under the plan, the employer may change or terminate the plan at any time, to the extent that change or termination is not prohibited by other law. The employer may allow current employees covered under the plan the choice to instead be covered under the changed plan.

A. Section 18252-A, subsection 1, paragraph A applies to an employee hired or rehired by the employer after the employer changes the plan. [1997, c. 709, §4 (NEW).]

B. If, after plan termination, the employer no longer provides a plan under this section, an employee hired or rehired after termination of the plan must be a member under the Participating Local District Retirement Program. [2007, c. 491, §197 (AMD).]

C. [2009, c. 474, §34 (RP).]

[2009, c. 474, §34 (AMD) .]

SECTION HISTORY

1997, c. 709, §4 (NEW). 2007, c. 491, §§196-198 (AMD). 2009, c. 474, §34 (AMD). RR 2015, c. 2, §5 (COR).

§18253. EMPLOYMENT CHANGES AFFECTING MEMBERSHIP

1. **Reemployment with new employer.** Membership of a member who is reemployed with a new employer is governed as follows.

A. Any member of the State Employee and Teacher Retirement Program or the Participating Local District Retirement Program whose service is terminated as a state employee, teacher or participating local district employee and who becomes employed as a state employee, teacher or participating local district employee with a new employer shall, if the member has not previously withdrawn the member's accumulated contributions:

(1) Have the membership transferred to the member's account with the new employer; and

(2) Be entitled to all benefits that:

(a) Are based on creditable service and earnable compensation with the previous employer and the provisions of this Part in effect with respect to the previous employer at the date of termination of service by the member; and

(b) Do not require additional contributions by the new employer. [2007, c. 491, §199 (AMD).]

B. The new employer may elect to include the creditable service and earnable compensation of the member with the previous employer with the creditable service and earnable compensation with the new employer. If that election is made, the new employer shall make, from time to time, whatever contributions are necessary to provide the benefits under the applicable retirement program for the member that have accrued to the member by reason of the member's previous employment and that may accrue to the member by reason of the member's new employment. [2007, c. 491, §200 (AMD).]

C. If the new employer makes the election provided under paragraph B, or the member makes the election provided under paragraph E, all funds in the applicable retirement program contributed by the member's former employer on account of the member's previous employment must be transferred to the account of the new employer and must be used to liquidate the liability incurred by reason of the previous employment. [2007, c. 542, §3 (AMD).]

D. For the purposes of this subsection, an employee of the Maine Public Employees Retirement System who is a member on January 1, 1994 is considered to be reemployed with a new employer. If an employee returns to state service during the period that begins on July 1, 1995 and ends 180 days after the date upon which the initial collective bargaining agreement between the Maine Public Employees Retirement System and the collective bargaining agent that represents the employees of the system becomes effective, all funds transferred to the account of the Maine Public Employees Retirement System as the new employer on behalf of the employee from the State's account must be returned to the State's account. For the purpose of service, breaks in service and benefit accruals, the employee must be treated as if the employee had remained in state service throughout the period in question. For purposes of this paragraph, "becomes effective" means that the collective bargaining agreement has been signed and ratified by both parties. [2015, c. 385, §10 (AMD).]

E. Notwithstanding paragraph A, a member of the Maine Public Employees Retirement System who is a law enforcement officer as defined in Title 25, section 2801-A, subsection 5, or a municipal firefighter as defined in section 286-M, whose previous membership was based upon employment as a law enforcement officer, a state firefighter or a municipal firefighter, and whose service retirement benefits are not otherwise governed by section 18801, subsection 1, paragraph A, subparagraph 2 may elect to make the contribution necessary to include all or part of the member's creditable service and earnable compensation from the prior plan in the new plan. The retirement system shall establish procedures for determining the contribution necessary for such a member to carry forward all or part of the creditable

service and earnable compensation from a prior plan or plans. For purposes of this paragraph, "state firefighter" means a person employed by the State with the primary responsibility of aiding in the extinguishment of fires and includes a member of emergency medical services line personnel as defined in section 286-M, subsection 2, paragraph H. [2007, c. 542, §4 (AMD).]

[2015, c. 385, §10 (AMD) .]

2. **Purchase of previously rendered creditable service.** Notwithstanding any law to the contrary, a member of a participating local district who has served in any participating local district or in any local district, and who did not make an election to decline membership while employed with that district, may purchase, by mutual agreement between the participating local district and the person concerned, service credit for the service previously rendered, upon proper certification that:

A. The service had been rendered; and [1985, c. 801, §§5, 7 (NEW).]

B. The current employer will assume the liability incurred by the granting of the service credit for the previous time served. [1985, c. 801, §§5, 7 (NEW).]

[2011, c. 449, §16 (AMD) .]

3. **Former employee.** Notwithstanding anything to the contrary, a participating local district may grant service credit for creditable service to any former employee who is currently a member of the Participating Local District Retirement Program, as long as the former employee did not make an election to decline membership while employed with that district. The entire actuarial cost of granting the service credit must be fully funded by the district granting the service credit.

[2011, c. 449, §17 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1991, c. 580, §12 (AMD). 1993, c. 410, §L43 (AMD). 1995, c. 363, §1 (AMD). 2005, c. 636, §B2 (AMD). 2007, c. 58, §3 (REV). 2007, c. 491, §§199-202 (AMD). 2007, c. 542, §§3, 4 (AMD). 2011, c. 449, §§16, 17 (AMD). 2015, c. 385, §10 (AMD).

§18254. EFFECT OF DISTRICT'S WITHDRAWAL

The withdrawal of a participating local district from the Participating Local District Retirement Program has the following effects on an employee of the district and on the district itself. [2007, c. 491, §203 (AMD).]

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

[2009, c. 474, §35 (AMD) .]

2. **Person employed after district withdrawal.** A person who begins employment with the district after the effective date of withdrawal of the district from the Participating Local District Retirement Program may not be a member of that program as an employee of that district.

[2007, c. 491, §205 (AMD) .]

3. **Former employee receiving or eligible for retirement benefits.** Except as provided in subsection 5, for a former employee who is receiving retirement benefits or is eligible for retirement benefits, the district continues to be a participating local district and that person is subject to this Part.

[2001, c. 181, §9 (AMD) .]

4. **Former employee who has not withdrawn accumulated contributions.** For a former employee who has not withdrawn accumulated contributions from the Participating Local District Retirement Program, the district continues to be a participating local district and that person is subject to this Part.

[2007, c. 491, §206 (AMD) .]

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

A. The participating local district's status as a participating local district is based solely on the existence of a former employee or employees who are retirees receiving retirement benefits or on the existence of current or potential beneficiaries of such retirees who are receiving or potentially entitled to receive benefits; and [2001, c. 181, §10 (NEW).]

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

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

(2) According to standards and procedures approved by the board as determined by the board to protect the interests of current and potential benefit recipients and any other affected or potentially affected person or entity. Such procedures may include, but are not limited to, the establishment by purchase or otherwise of an annuity or annuities as a means of satisfying the district's liabilities. [2001, c. 181, §10 (NEW).]

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

[2009, c. 474, §36 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§30,48 (AMD). 2001, c. 181, §§8-10 (AMD). 2007, c. 491, §§203-206 (AMD). 2009, c. 474, §§35, 36 (AMD).

§18254-A. EFFECT OF DISTRICT'S RESUMPTION OF PARTICIPATION AFTER WITHDRAWAL

The board may establish by rule the effect on employees of a local district that resumes participation in the Participating Local District Retirement Program after having withdrawn from participation. [2007, c. 491, §207 (AMD).]

SECTION HISTORY
1991, c. 580, §13 (NEW). 2007, c. 491, §207 (AMD).

§18255. DISBANDED OR DISSOLVED LOCAL DISTRICT

If, for any reason, any participating local district ceases to be an employing unit eligible for inclusion in the Participating Local District Retirement Program, the membership of its employees ceases except to the extent of any benefits that may be provided by the funds that have been established under the retirement system for that district. [2007, c. 491, §208 (AMD).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 491, §208 (AMD).

§18256. DENIAL OF MEMBERSHIP RIGHTS

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL CONTINTENCY: See PL 1991, c. 619, §18)

The board may, in its discretion, deny the right to become a member to any class of employees who are serving on a temporary basis or whose compensation is set on any basis other than a per annum basis. [1985, c. 801, §§5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5, 7 (NEW). 1991, c. 619, §18 (AFF). 1991, c. 619, §13 (RPR).

§18256. DENIAL OF MEMBERSHIP RIGHTS

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINTENCY: See PL 1991, c. 619, §18)

1. **Board of trustees.** The board may deny membership to any class of employees whose compensation is set on any basis other than a per annum basis and that is not required by 26 CFR Part 31 to be covered by a public employee retirement system or United States Social Security System.

[1991, c. 619, §13 (NEW); 1991, c. 619, §18 (AFF) .]

2. **Local district.** A participating local district may deny membership to part-time, seasonal and temporary employees to the extent and in the manner provided by board rules.

[1991, c. 619, §13 (NEW); 1991, c. 619, §18 (AFF) .]

SECTION HISTORY
1985, c. 801, §§5, 7 (NEW). 1991, c. 619, §18 (AFF). 1991, c. 619, §13 (RPR).

§18257. CESSATION OF MEMBERSHIP

A member ceases to be a member of the Participating Local District Retirement Program if the member: [2007, c. 491, §209 (AMD).]

1. **Withdrawal.** Withdraws accumulated contributions;

[1987, c. 739, §§31, 48 (AMD) .]

2. **Beneficiary.** Becomes a beneficiary as a result of the member's own retirement; or

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Death.** Dies.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§31,48 (AMD). 2007, c. 491, §209 (AMD).

§18258. SERVICE IN THE ARMED FORCES

1. **Membership continued.** The membership of the following employees is considered to have continued during the period of the employee's service in the Armed Forces of the United States:

A. Any employee entering a class of service in the Armed Forces of the United States approved by resolution of the board, if the employee does not withdraw accumulated contributions; [1991, c. 479, §4 (AMD).]

B. Any employee who enlists in or is inducted or drafted into the service of the Armed Forces of the United States; [2001, c. 181, §11 (AMD).]

C. Any employee who enlists in or is inducted or drafted into the service of the Armed Forces of the United States while the United States Selective Service Act of 1948, Public Law 759, or any of its amendments or extensions is in effect. [1991, c. 479, §4 (NEW).]

[2001, c. 181, §11 (AMD) .]

2. **Other military benefits.** Any employee who satisfies the criteria of subsection 1, paragraph B, is entitled to all the benefits of Title 26, section 811.

[2001, c. 662, §6 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 402, §§A72,A73 (AMD). 1987, c. 739, §§32,48 (AMD). 1991, c. 479, §4 (AMD). 2001, c. 181, §11 (AMD). 2001, c. 662, §6 (AMD).

Subchapter 3: CONTRIBUTIONS

§18301. MEMBER CONTRIBUTION

Each member shall contribute to the Participating Local District Retirement Program or have pick-up contributions made by the employer at a rate of 6.5% of earnable compensation, except as otherwise provided in this Part. [2007, c. 491, §210 (AMD).]

1. **Employer pick-up.** The contributions required to be made on behalf of a member under this section shall, after the effective date of this section, be picked up by the employer in lieu of contributions by the employee with a reduction of the member's salary consistent with section 17001, subsection 28-A.

[1987, c. 739, §§33, 48 (NEW) .]

2. **No employee option.** The employee may not choose to receive pick-up contribution amounts directly instead of having them paid by the employer to the Participating Local District Retirement Program.

[2007, c. 491, §211 (AMD) .]

3. **Treatment of pick-up contributions.** Pick-up contributions shall be treated as follows.

A. Pick-up contributions shall be treated as the employer's contribution in determining tax treatment under the United States Internal Revenue Code for federal tax purposes, pursuant to the United States Code, Title 26, Section 414(h)(2). [1987, c. 739, §§33, 48 (NEW).]

B. For all other purposes, pick-up contributions shall be treated in the same manner and to the same extent as member contributions were treated before the effective date of this section. [1987, c. 739, §§33, 48 (NEW).]

[1987, c. 739, §§33, 48 (NEW) .]

4. **Payment of contributions for back time; repayment of refunds; purchase of service credit.** Wherever under this chapter provision is made for payment of contributions for back time, repayment of refunds or purchase of service credit through annual direct payments, those payments may be made either by a single annual payment or by an increased rate of contribution through payroll deduction. For payments or repayments made by single annual payments, the board shall designate, by rule, a period of not less than 30 days during which annual direct payments or repayments may be made. Regardless of whether payment or repayment is made by a single annual payment or by payroll deduction, the payment or deduction must be sufficient to cover interest costs and effect some reduction in principal.

[1999, c. 537, §3 (AFF); 1999, c. 537, §2 (RPR) .]

5. **Member contributions to Participating Local District Consolidated Retirement Plan.** The board may establish by rule the rate at which members who participate in the consolidated plan described in chapter 427 contribute to that plan. Rules established pursuant to this subsection are routine technical rules pursuant to chapter 375, subchapter 2-A.

[2013, c. 391, §1 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§33,48 (AMD). 1989, c. 710, §14 (AMD). 1999, c. 537, §2 (AMD). 1999, c. 537, §3 (AFF). 2007, c. 491, §§210, 211 (AMD). 2013, c. 391, §1 (AMD).

§18302. EMPLOYER CONTRIBUTION

1. **Computation by actuary.** The actuary shall compute employer contributions payable annually by the participating local district on account of employees who become members under subchapter II in the same manner as if they were state employees in accordance with chapter 421, subchapter IV.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Expense.** The expense of making the initial determination of the contributions under this section shall be assessed against and paid by the participating local district on whose account it is made.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18303. CERTIFICATION AND PAYMENT OF CONTRIBUTIONS

1. **Certification.** The board shall certify to the chief fiscal officer of the participating local district:

A. The contributions and pick-up contributions computed under sections 18301 and 18302; [1987, c. 739, §§34, 48 (AMD).]

B. A pro rata share of the cost of the administration of the retirement system, based upon the payroll of the employees; and [1985, c. 801, §§ 5, 7 (NEW).]

C. The cost of each annual valuation. [1985, c. 801, §§ 5, 7 (NEW).]

[1987, c. 739, §§34, 48 (AMD) .]

2. **Payment and credit.** The chief fiscal officer of the participating local district shall make monthly payments to the retirement system in accordance with the board certification under subsection 1. The amounts paid shall be credited to the appropriate funds and accounts of the retirement system.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Delinquent payments.** Delinquent payments due under this section:

A. May be recovered by action in a court of competent jurisdiction against the participating local district liable for the payments; [1991, c. 185, §2 (AMD).]

B. May, at the request of the retirement system, be deducted from any other money payable to that participating local district by any department of the State; or [1991, c. 185, §2 (AMD).]

C. May be subject to a late fee as directed by the board and interest at a rate, to be set by the board and paid by the participating local district, not to exceed regular interest by 5 or more percentage points. [1993, c. 387, Pt. A, §16 (AMD).]

[1993, c. 387, Pt. A, §16 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§34,48 (AMD). 1991, c. 185, §§2,3 (AMD). 1993, c. 387, §A16 (AMD).

§18304. FORMER MEMBERS

Any former member who withdrew that person's contributions after termination of service or after withdrawing from a retirement program of the retirement system and who again becomes a member may repay earlier contributions to the Members' Contribution Fund under the following conditions. [2007, c. 491, §212 (AMD).]

1. **Time.** The repayment must be made before the date any retirement benefit becomes effective for the member.

[2003, c. 630, Pt. A, §8 (AMD) .]

2. **Manner of repayment.** The repayment must be made to the applicable retirement program by a single direct payment or by annual direct payments made in accordance with section 18301, subsection 4.

[2007, c. 491, §213 (AMD) .]

3. **Amount of repayment.** The amount of repayment must be equal to the accumulated contributions withdrawn by the person plus interest on the amount of those accumulated contributions, beginning on the date of withdrawal to the date the repayment or repayments are made, at a rate, to be set by the board, not to exceed regular interest by 5 or more percentage points.

[1985, c. 801, §§5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 710, §15 (AMD). 1991, c. 580, §14 (AMD). 2003, c. 630, §§A7,8 (AMD). 2007, c. 491, §§212, 213 (AMD).

§18305. BACK CONTRIBUTIONS

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§35,48 (AMD). 1989, c. 710, §16 (AMD). 2003, c. 630, §A9 (AMD). 2007, c. 491, §§214, 215 (AMD). 2009, c. 474, §37 (RP).

§18305-A. BACK CONTRIBUTIONS FOR OPTIONAL MEMBERS

(REPEALED)

SECTION HISTORY
2003, c. 630, §A10 (NEW). 2007, c. 491, §§216, 217 (AMD). 2009, c. 474, §38 (RP).

§18305-B. CONTINUED ELIGIBILITY TO PURCHASE SERVICE CREDIT

A member whose membership date is prior to August 1, 2010, and who was eligible to purchase service credit under former section 18305 or 18305-A prior to August 1, 2010, retains eligibility to purchase that service credit under the conditions of those sections as in effect prior to repeal. [2009, c. 474, §39 (NEW).]

SECTION HISTORY
2009, c. 474, §39 (NEW).

§18305-C. BACK CONTRIBUTIONS FOR CERTAIN DAYS OFF WITHOUT PAY

1. **Election.** If the retirement system determines at the time a member retires that the member's benefit would be increased as a result of the inclusion of compensation that would have been paid for days off without pay in fiscal year 2009-10 or 2010-11, or a combination thereof, as provided in section 17001, subsection 4, paragraph A, the retirement system shall advise the member of that result and shall allow the member to elect to have that compensation included in the calculation of the member's benefit and to make payments as set forth in subsection 2.

[2009, c. 630, §2 (NEW) .]

2. **Payment.** The amount that a member who makes the election permitted in subsection 1 must pay is the amount equal to the employee contribution that member would have made on compensation that would have been paid to that member on the days off without pay during fiscal year 2009-10 or 2010-11, or a combination thereof, as provided in section 17001, subsection 4, paragraph A, plus interest at the same rate as that required for repayment of withdrawn contributions pursuant to section 18304. If the member elects to make the payment, the retirement system shall withhold the required amount from the member's first retirement benefit check.

[2009, c. 630, §2 (NEW) .]

3. **Benefit calculation.** If a member fails to make the election within 31 days of the notification provided under subsection 1, the retirement system shall calculate the member's retirement benefit without inclusion of compensation that would have been paid for days off without pay during fiscal year 2009-10 or 2010-11, or a combination thereof, as provided in section 17001, subsection 4, paragraph A.

[2009, c. 630, §2 (NEW) .]

SECTION HISTORY
2009, c. 630, §2 (NEW).

§18306. REFUND OF ACCUMULATED CONTRIBUTIONS

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §25 (RPR). 1987, c. 739, §§36,48 (AMD). 1991, c. 619, §§14-16 (AMD). 1991, c. 619, §18 (AFF). 1993, c. 387, §§A17,18 (AMD). 1997, c. 651, §6 (AMD). 2003, c. 630, §A11 (AMD). 2007, c. 137, §20 (RP).

§18306-A. REFUND OF ACCUMULATED CONTRIBUTIONS

1. **Conditions for refund.** If the service of any member has terminated, except by death or by retirement under this Part, or if an employee of a district that withdraws from participation under section 18203 wishes to have accumulated contributions refunded, the member or employee must be paid the amount of the member's accumulated contributions under the following conditions:

A. The member must have properly applied for a refund of accumulated contributions; [2007, c. 137, §21 (NEW).]

B. Payment must be made after termination of service and not less than 22 days nor more than 60 days after receipt of the application and receipt of the last payroll upon which the name of the member appears; [2007, c. 137, §21 (NEW).]

C. An application for refund is void if the member filing the application returns to membership in any retirement program administered by the retirement system before issuance of the payment; [2007, c. 491, §218 (AMD).]

D. Except when inclusion of a portion of employer contributions is required by paragraph E, only accumulated contributions made by the member or picked up by the employer may be refunded to that member under this section; and [2007, c. 695, Pt. A, §9 (AMD).]

E. The amount of the refund of accumulated contributions related to a member's compensation for service rendered as a part-time, seasonal or temporary employee after December 31, 1991 must be at least equal to 7.5% of the member's compensation for that service plus interest as provided by section 17156. [2007, c. 137, §21 (NEW).]

[2011, c. 449, §18 (AMD) .]

SECTION HISTORY
2007, c. 137, §21 (NEW). 2007, c. 491, §218 (AMD). 2007, c. 695, Pt. A, §9 (AMD). 2011, c. 449, §18 (AMD).

§18307. INACTIVE ACCOUNTS

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§37,48 (AMD). 2007, c. 137, §22 (RP).

§18307-A. INACTIVE ACCOUNTS

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

A. The member account has been inactive for 3 or more years; [2007, c. 491, §219 (AMD).]

B. Except when inclusion of a portion of employer contributions is required by this subsection, only accumulated contributions made by the member or picked up by the employer may be refunded to that member under this subsection; [2007, c. 137, §23 (NEW).]

C. The amount of the refund of accumulated contributions related to a member’s compensation for service rendered as a part-time, seasonal or temporary employee after December 31, 1991 must be at least equal to 7.5% of the member’s compensation for that service plus interest as provided by section 17156; and [2007, c. 137, §23 (NEW).]

D. A member who receives an automatic refund under this subsection may, within 30 days of the issuance of the refund, return the full refunded amount to the retirement system. Upon receipt, the retirement system shall restore the accumulated contributions to the member’s credit. [2007, c. 137, §23 (NEW).]

Pursuant to the Code, Section 401(a)(31)(B), the amount of an automatic refund under this subsection for a member who has not reached normal retirement age may not exceed $1,000.

[2011, c. 449, §19 (AMD) .]

SECTION HISTORY
2007, c. 137, §23 (NEW). 2007, c. 491, §219 (AMD). 2009, c. 474, §40 (AMD). 2011, c. 449, §19 (AMD).

§18308. CETA SERVICE

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

A. "CETA employee" means an employee enrolled in a program under the United States Comprehensive Employment and Training Act of 1973, as amended. [1985, c. 801, §§5, 7 (NEW).]

B. "Employer" means the State or the participating local district with which the CETA employee is placed for training and employment. [1985, c. 801, §§5, 7 (NEW).]

C. "Prime sponsor" means the CETA prime sponsor, a unit of government responsible for planning and operating all CETA programs within the geographic jurisdiction encompassed by that unit of government. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

2. **Eligibility for membership.** CETA employees are considered eligible for membership in the Participating Local District Retirement Program from the date of their enrollment in a CETA program, whether or not they become members.

[2007, c. 491, §220 (AMD) .]

3. **Employer's contributions.** Employer's contributions are governed as follows.

A. Notwithstanding this chapter and chapter 421, subchapter 4, neither the State nor a participating local district is required to contribute to a retirement program of the Maine Public Employees Retirement System for CETA employees. [2007, c. 491, §220 (AMD).]

B. If an employee elects, under section 18361, to purchase his CETA time for past creditable service, the employee's CETA prime sponsor shall then pay to the applicable retirement program an amount equal to the employer's contribution, plus regular interest, for the employee's CETA time, using only CETA funds. [2007, c. 491, §220 (AMD).]

[2007, c. 491, §220 (AMD) .]

4. **Employee's contributions.** Employee's contributions are governed as follows.

A. Notwithstanding section 18301, a CETA employee is not required to contribute to a retirement program of the Maine Public Employees Retirement System. [2007, c. 491, §220 (AMD).]

B. A CETA employee may contribute during the employee's period of CETA employment or may defer contributions until the employee's post-CETA employment status is known. [2007, c. 491, §220 (AMD).]

C. If an employee who has not contributed during the employee's CETA employment or who has withdrawn the employee's contributions later elects, under section 18361, to purchase the employee's CETA time for past creditable service, the employee shall pay to the applicable retirement program of the Maine Public Employees Retirement System an amount equal to the employee's contributions, plus interest, at a rate, to be set by the board, not to exceed regular interest by 5 or more percentage points. Interest must be computed beginning at the end of the year when those contributions or pick-up contributions would have been made to the date of payment. [2009, c. 474, §41 (AMD).]

D. If an employee or member who has not contributed during that employee's or member's CETA employment or who has withdrawn that employee's or member's contributions later elects, under section 18361, subsection 3, to purchase that employee's or member's CETA time for past creditable service before any retirement benefit becomes effective for that member, that employee or member must pay into the Members' Contribution Fund, by a single direct payment or annual direct payments to the applicable retirement program of the Maine Public Employees Retirement System, an amount that, together with regular interest on that amount, is the actuarial equivalent, at the effective date of the retirement benefit, of the portion of the retirement benefit based on the additional creditable service. Annual payments must be made in accordance with section 18301, subsection 4. Additional amounts paid under this paragraph become a part of the employee's or member's accumulated contributions. If any retirement benefit becomes effective before the completion of the payment under this paragraph,

the employee or member is entitled to service credit for a portion of the additional creditable service in the same proportion that the total amount of payments actually made, plus regular interest on those payments to the date the retirement benefit becomes effective, bears to the actuarial equivalent of the total portion of the retirement benefit based on the additional creditable service. [2007, c. 491, §220 (AMD).]

[2009, c. 474, §41 (AMD) .]

5. **Return of contributions.** Any CETA employee who contributed to a retirement program of the Maine Public Employees Retirement System during that employee's CETA employment and who does not meet the requirements of section 18361 must be refunded that employee's employee contributions, plus regular interest, upon request to the retirement system.

[2007, c. 491, §220 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1999, c. 241, §3 (AMD). 2007, c. 491, §220 (AMD). 2009, c. 474, §41 (AMD).

§18309. FIRE FIGHTERS

1. **Contribution rate.** Except as provided in subsections 2 and 3, each firefighter, including the chief of a fire department, employed by a participating local district that provides a special retirement benefit under section 18453, subsection 4 or 5, shall contribute to the Participating Local District Retirement Program or have pick-up contributions made by the employer at a rate of 8% of earnable compensation as long as employed as a firefighter.

[2013, c. 391, §2 (AMD) .]

2. **Exception.** A participating local district may elect to reduce the rate of contribution set out in subsection 1 to 6.5% of earnable compensation for all fire fighters who continue employment after attaining eligibility for retirement during the remainder of their employment as fire fighters.

[1985, c. 801, §§5, 7 (NEW) .]

3. **Member contributions to Participating Local District Consolidated Retirement Plan.** The board may establish by rule the rate at which firefighters who participate in the consolidated plan described in chapter 427 contribute to that plan. Rules adopted pursuant to this subsection are routine technical rules pursuant to chapter 375, subchapter 2-A.

[2013, c. 391, §3 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §26 (AMD). 1987, c. 739, §§38,48 (AMD). 2007, c. 491, §221 (AMD). 2013, c. 391, §§2, 3 (AMD).

§18310. POLICE OFFICERS

1. **Contribution rate.** Except as provided in subsections 2 and 3, each police officer, including the chief of a police department, employed by a participating local district that provides a special retirement benefit under section 18453, subsection 7 or 8, shall contribute to the Participating Local District Retirement Program or have pick-up contributions made by the employer at a rate of 8% of earnable compensation as long as employed as a police officer.

[2013, c. 391, §4 (AMD) .]

2. **Exception.** A participating local district may elect to reduce the rate of contribution set out in subsection 1 to 6.5% of earnable compensation for all police officers who continue employment after attaining eligibility for retirement during the remainder of their employment as police officers.

[1985, c. 801, §§5, 7 (NEW) .]

3. **Member contributions to Participating Local District Consolidated Retirement Plan.** The board may establish by rule the rate at which police officers who participate in the consolidated plan described in chapter 427 contribute to that plan. Rules adopted pursuant to this subsection are routine technical rules pursuant to chapter 375, subchapter 2-A.

[2013, c. 391, §5 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §27 (AMD). 1987, c. 739, §§39,48 (AMD). 2007, c. 491, §222 (AMD). 2013, c. 391, §§4, 5 (AMD).

§18311. ARMED FORCES

1. **Service after becoming a member.** For employees who qualify to have their membership in the Participating Local District Retirement Program continued under section 18258, subsection 1, because of service in the Armed Forces of the United States, the participating local district shall contribute to the Members' Contribution Fund the same amount that the member would have been required to contribute if the member had been serving the participating local district during the period of service in the armed forces in the same capacity in which the employee was serving at the time the employee joined the armed forces. Any member whose contributions to the Members' Contribution Fund are paid by the participating local district under this subsection, who withdraws or ceases to be a member of the Participating Local District Retirement Program, may not withdraw any of the contributions made by the participating local district under this subsection.

[2007, c. 491, §223 (AMD) .]

2. **Service before becoming a member.** A member who qualifies under section 18360, subsection 2, shall contribute to the Participating Local District Retirement Program for the period after service in the armed forces under the following terms and conditions.

A. If the member qualifies under section 18360, subsection 2, contributions are calculated at the percentage rate required of active members during the period of time covered by the service in the armed forces applied to the member's earnable compensation during the first year as an employee subsequent to service in the armed forces under the following terms and conditions:

(1) If 2 or more percentage rates were in effect during the period of service in the armed forces, the highest percentage rate is used;

(2) The minimum rate is 5%; and

(3) Interest at a rate set by the board not to exceed regular interest by 2 or more percentage points is paid on the unpaid balance beginning January 1, 1976, or the date of attaining 15 years of creditable service, if later, to the date payment is made. [1991, c. 23, §1 (AMD).]

B. [1991, c. 23, §2 (RP).]

C. The payment must be made to the Participating Local District Retirement Program by a single direct payment or annual direct payments made in accordance with section 18301, subsection 4. [2007, c. 491, §224 (AMD).]

[2007, c. 491, §224 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 710, §§17,18 (AMD). 1991, c. 23, §§1,2 (AMD). 2007, c. 491, §§223, 224 (AMD).

§18312. EMERGENCY MEDICAL SERVICES PERSONS

1. **Contribution rate.** Except as provided in subsections 2 and 3, an emergency medical services person as defined in Title 32, section 83, subsection 12, including but not limited to a first responder, emergency medical technician, advanced emergency medical technician and paramedic, employed by a participating local district that provides a special retirement benefit under section 18453, subsection 4 or 5 shall contribute to the Participating Local District Retirement Program or must have pick-up contributions made by the employer at a rate of 8% of earnable compensation as long as the person is employed as an emergency medical services person.

[2013, c. 602, Pt. B, §1 (NEW) .]

2. **Exception.** A participating local district may elect to reduce the rate of contribution set out in subsection 1 to 6.5% of earnable compensation for all emergency medical services persons who continue employment after attaining eligibility for retirement during the remainder of their employment as emergency medical services persons.

[2013, c. 602, Pt. B, §1 (NEW) .]

3. **Member contributions to Participating Local District Consolidated Retirement Plan.** The board may establish by rule the rate at which emergency medical services persons who participate in the consolidated plan described in chapter 427 contribute to that plan. Rules adopted pursuant to this subsection are routine technical rules pursuant to chapter 375, subchapter 2-A.

[2013, c. 602, Pt. B, §1 (NEW) .]

SECTION HISTORY
2013, c. 602, Pt. B, §1 (NEW).

Subchapter 4: CREDITABLE SERVICE

§18351. DETERMINATION OF ONE YEAR'S SERVICE CREDIT

The determination of one year's service credit shall be governed as follows. [1985, c. 801, §§ 5, 7 (NEW).]

1. **All service in one calendar year.** The board may not allow more than one year's service credit for all the service occurring in one calendar year.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Absence without pay.** The board may not allow service credit for a period of absence without pay of more than a month's duration for a full-time position.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Board determination.** The board shall determine by appropriate rules how much service in any year qualifies for one year's service credit. Service rendered for the full normal working time in any year shall be equivalent to one year's service credit.

[1987, c. 256, §28 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §28 (AMD).

§18352. SERVICE CREDIT FOR PRIOR SERVICE

1. **Determination.** Service credit for prior service may be allowed in accordance with section 18358.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Election by district.** A participating local district may elect to include for all employees of the district service credit for prior service in excess of 25 years.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Verification of prior service.** Upon verification of the length of service rendered before the applicable date of establishment of the retirement system for a particular member, the board shall grant service credit for that service.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18353. SERVICE CREDIT FOR BACK CONTRIBUTIONS

Upon complete payment of the back contributions under section 18305-B, the member must be granted service credit for the period of time for which the contributions have been made. Upon making partial payment of the back contributions under section 18305-B, the member must be granted service credit on a pro rata basis in accordance with rules adopted by the board. [2009, c. 474, §42 (AMD).]

1. **Entitlement to service credit.**

[1989, c. 95, §11 (RP) .]

2. **Retirement benefit effective before completion of payment.**

[1989, c. 95, §11 (RP) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 95, §11 (RPR). 2009, c. 474, §42 (AMD).

§18354. OUT-OF-STATE SERVICE

1. **Generally.** For members who began membership before January 1, 1976, additional service credit shall be allowed for out-of-state service, subject to the following conditions.

A. The member must have creditable service in the State of at least 20 years in the aggregate; [1985, c. 801, §§ 5, 7 (NEW).]

B. The member, before any retirement benefit becomes effective, must make contributions into the Members' Contribution Fund for the years of out-of-state service on the same basis as the member would have made contributions had the service been in the State, including interest at a rate, to be set by the board, not to exceed regular interest by 5 or more percentage points. Interest must be computed from the end of the year when those contributions would have been made, if the service had been in the State, to the date of payment. The payment must be made to the Participating Local District Retirement Program by a single direct payment or by annual direct payments made in accordance with section 18301, subsection 4; [2007, c. 491, §225 (AMD).]

C. The member's last 10 years of creditable service before the date of retirement must be in the State and no more than 10 years of service credit may be allowed for out-of-state service; and [1989, c. 95, §12 (AMD).]

D. Upon complete payment of the back contributions under paragraph B, the member shall be granted service credit for the period of time for which the contributions have been made. Upon making partial payment of the back contributions under paragraph B, the member shall be granted service credit on a pro rata basis in accordance with rules adopted by the board. [1989, c. 95, §13 (NEW).]

[2007, c. 491, §225 (AMD) .]

2. **Alternative.** If service credit for out-of-state service is not allowed under subsection 1, additional service credit for out-of-state service must be allowed for any member in the determination of retirement benefit under this Part if the member, before any retirement benefit becomes effective for that member, pays into the Members' Contribution Fund, by a single direct payment or annual direct payments to the Participating Local District Retirement Program, an amount that, together with regular interest on that amount, is the actuarial equivalent, at the effective date of the retirement benefit, of the portion of the retirement benefit based on the additional creditable service. Annual payments must be made in accordance with section 18301, subsection 4.

A. Additional amounts paid under this subsection must become a part of the member's accumulated contributions. [2007, c. 491, §226 (AMD).]

B. If any retirement benefit becomes effective before the completion of the payment under this subsection, the member is entitled to service credit for that portion of the additional creditable service that the total amount of payments actually made, plus regular interest on those payments to the date the retirement benefit becomes effective, bears to the actuarial equivalent of the total portion of the retirement benefit based on the additional creditable service. [1989, c. 710, §20 (AMD).]

[2007, c. 491, §226 (AMD) .]

3. **Service credit not to be used in another state.** Notwithstanding anything to the contrary, any application for a retirement benefit that becomes effective after May 11, 1966, and for which out-of-state service credit is to be granted must be accompanied by a certified statement from the appropriate retirement system that the out-of-state service credit granted has not been or will not be used to obtain benefits in another state.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY

1985, c. 801, §§5,7 (NEW). 1989, c. 95, §§12,13 (AMD). 1989, c. 710, §§19,20 (AMD). 2007, c. 491, §§225, 226 (AMD).

§18355. DISABILITY RETIREMENT SERVICE CREDIT

A beneficiary shall receive service credit for the purpose of determining benefits under this Part for the period following termination of service for which the beneficiary receives disability retirement benefits under subchapter V, articles 3 and 3-A. [1989, c. 409, §§9, 12 (AMD).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 409, §§9,12 (AMD).

§18356. UNUSED ACCRUED OR ACCUMULATED SICK LEAVE OR UNUSED VACATION LEAVE

1. **Election.** A participating local district may elect to provide service credit for unused accrued or accumulated sick leave or unused vacation leave or a combination of both, for which a member is credited on termination of service, but for which the member does not receive payment.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Limitation.** Leave qualifying for service credit under subsection 1 may not exceed a total of 90 days, except as provided in subsection 3.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Exceptions.** Leave beyond 90 days may qualify as service credit, up to the maximum number of days of leave, set by personnel rules or by contract, that a person is allowed to accumulate, if the participating local district pays into the Participating Local District Retirement Program the actuarial equivalent of the benefit.

[2007, c. 491, §227 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 491, §227 (AMD).

§18357. FORMER MEMBERS

Upon complete payment of the back contributions under section 18304, the member shall be granted service credit for the period of time for which the contributions have been made. Upon making partial payment of the back contributions under section 18304, the member shall be granted service credit on a pro rata basis in accordance with rules adopted by the board. [1989, c. 95, §14 (NEW).]

1. **Service credit reinstated.**

[1989, c. 95, §14 (RP) .]

2. **Retirement benefit effective before completion of repayment.**

[1989, c. 95, §14 (RP) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 95, §14 (RPR).

§18358. PRIOR SERVICE; SERVICE PREVIOUS TO MEMBERSHIP

1. **Employee in service when district participation begins.** Any employee who is in service on the date when participation of the local district begins and who elects to join the Participating Local District Retirement Program after that date is entitled to:

A. Service credit for prior service for the periods of previous service certified by the participating local district as creditable prior service rendered to that district for which the participating local district makes contributions; and [1987, c. 256, §29 (AMD).]

B. Service credit for all membership service for which contributions are paid into the Participating Local District Retirement Program by the member or picked up by the employer. [2007, c. 491, §228 (AMD).]

[2007, c. 491, §228 (AMD) .]

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

A. [2009, c. 474, §43 (RP).]

B. [2009, c. 474, §43 (RP).]

[2009, c. 474, §43 (RPR) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §29 (AMD). 1987, c. 739, §§40,41,48 (AMD). 2003, c. 630, §A12 (AMD). 2007, c. 491, §§228, 229 (AMD). 2009, c. 474, §43 (AMD).

§18359. EMPLOYEES COVERED BY THE SOCIAL SECURITY ACT

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 823, §§7,8 (AMD). 2003, c. 630, §A13 (RP).

§18360. SERVICE IN THE ARMED FORCES

Service credit for service in the Armed Forces of the United States is governed as follows. Except as provided in subsection 1, paragraph B, subparagraph (1), service credit under this section is limited to 5 years. [2003, c. 387, §8 (AMD).]

1. **Service after becoming a member.** A member is entitled to service credit for the period of time during which the member's membership is continued under section 18258, subsection 1, under the following terms and conditions.

A. A member who is otherwise entitled to service credit for military leave may not be deprived of these credits if the member's return to membership service is delayed beyond 90 days after the member's separation from the service in the Armed Forces of the United States, under conditions other than dishonorable, if the delay is caused by an illness or disability incurred in the service in the armed forces. [2003, c. 387, §9 (AMD).]

B. A member may not receive service credit for military leave beyond the end of the period of first enlistment or induction or beyond 5 years from the date of original call to active duty in the armed forces, whichever is less, unless:

(1) The member's return to active duty in the armed forces or the extension of the period of service beyond 5 years is required by some mandatory provision; and

(2) The member presents proof of the return to or extension of service satisfactory to the board. [2003, c. 387, §9 (AMD).]

[2003, c. 387, §9 (AMD) .]

2. **Service before becoming a member.** If a participating local district elects to provide service credit for service in the Armed Forces of the United States under this subsection, a member who served as a full-time active duty member of the Armed Forces of the United States before becoming a member of the Participating Local District Retirement Program is entitled to service credit for the period of time the member served in the armed forces, under the following terms and conditions.

A. Except as provided in paragraph I, on the date of retirement, the member must have at least 15 years of creditable service. [2001, c. 114, §4 (AMD).]

B. [1991, c. 479, §6 (RP).]

C. The member must have separated from the armed forces under conditions other than dishonorable. [1985, c. 801, §§5, 7 (NEW).]

D. Except as provided in paragraph E, the member must have begun membership before January 1, 1976. [1985, c. 801, §§5, 7 (NEW).]

E. Except as provided in paragraph I, a member who served in the armed forces during any federally recognized period of conflict, is entitled to service credit under this subsection. For purposes of this paragraph, "federally recognized period of conflict" means World War I, April 6, 1917 to November 11, 1918 or to March 31, 1920 if service was in Russia; World War II, December 7, 1941 to December 31, 1946; the Korean Conflict, June 27, 1950 to January 31, 1955; the Vietnam War, August 5, 1964 to May 7, 1975 and the period beginning on February 28, 1961 and ending on May 7, 1975 in the case of a veteran who served in the Republic of Vietnam during that period; and the Persian Gulf War, August 7, 1990 to the date that the United States Government recognizes as the end of the Persian Gulf War. [2007, c. 249, §29 (AMD).]

F. Except for members qualifying under paragraph E, this subsection:

(1) Applies to all persons, active or retired, but, for those already retired, the effective date of any adjustment must be not earlier than the date on which the time or credit is certified to the retirement system; and

(2) Does not apply to any member who begins membership on or after January 1, 1976. [2007, c. 491, §230 (AMD).]

G. Upon complete payment of the back contributions under section 18311, the member must be granted service credit for the period of time for which the contributions have been made. Upon making partial payment of the back contributions under section 18311, the member must be granted service credit on a pro rata basis in accordance with rules adopted by the board. [2007, c. 491, §230 (AMD).]

H. A participating local district may elect, with regard to special plans under section 18453, subsections 2 to 9, that service credits under this subsection apply only to additional retirement benefits under section 18453, subsections 10 and 11, and that the service credits not apply to age or service requirements of retirement. Nothing in this paragraph may be construed to affect in any way the rights of public employees to collectively bargain for terms and conditions of employment. [1985, c. 801, §§5, 7 (NEW).]

I. A member who fails to meet one or more of the terms and conditions required under paragraphs A, D and E may purchase service credit as provided in this paragraph. The member must have at least 5 years of creditable service and, before any retirement benefit becomes effective for that member, must pay into the Members' Contribution Fund, by a single direct payment or annual direct payments to the Participating Local District Retirement Program, an amount that, together with regular interest on that amount, is the actuarial equivalent, at the effective date of the retirement benefit, of the portion of the retirement benefit based on the additional creditable service. Annual direct payments must be made in accordance with section 17701, subsection 4. Any member who purchases service credit under this paragraph who subsequently, without inclusion of the purchased service credit and prior to retirement, meets the terms and conditions of paragraphs A, D and E is entitled to purchase the service credit under section 18311, subsection 2 and to receive a refund of the amount paid under this paragraph that exceeds the cost to purchase the service credit under section 18311. [2007, c. 491, §230 (AMD).]

[2007, c. 491, §230 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 95, §15 (AMD). 1991, c. 23, §3 (AMD). 1991, c. 479, §§5,6 (AMD). 2001, c. 114, §§4-6 (AMD). 2003, c. 387, §§8,9 (AMD). 2007, c. 249, §29 (AMD). 2007, c. 491, §230 (AMD).

§18361. CETA SERVICE

1. **Service credit allowed.** Service credit for the period of CETA employment occurring after June 30, 1979, shall be granted to any person who, after June 30, 1979, satisfies the following conditions.

A. The person was a CETA employee; [1985, c. 801, §§5, 7 (NEW).]

B. The person, within 90 days of termination of CETA employment, became a non-CETA employee of the employer; [1985, c. 801, §§5, 7 (NEW).]

C. The person, within 90 days of becoming a non-CETA employee, signified in writing to the retirement system his intention to purchase time credit under section 18308, subsection 4; [1985, c. 801, §§5, 7 (NEW).]

D. The person has not received a return of any contributions made under section 18308, subsection 4 or has deposited his contributions within 18 months of obtaining non-CETA employment with the employer under section 18308, subsection 4; and [1985, c. 801, §§5, 7 (NEW).]

E. The employer contribution required by section 18308, subsection 3, has been paid. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

2. **Retirement benefit effective before completion of payment.** If any retirement benefit becomes effective before the completion of the deposit under section 18308, subsection 4, the person is entitled to credit for that portion of his CETA time which the amount of the deposit actually made bears to the total amount which would have been required to purchase the person's entire CETA time.

[1985, c. 801, §§5, 7 (NEW) .]

3. **Service credit allowed.** Service credit for the period of CETA employment occurring before July 1, 1979 must be granted to any person who satisfies the following conditions:

A. The person was a CETA employee; [1999, c. 241, §4 (NEW).]

B. The person within 90 days of termination of CETA employment became a non-CETA employee of the employer; and [1999, c. 241, §4 (NEW).]

C. The employee contribution required by section 18308, subsection 4, paragraph D has been paid. [1999, c. 241, §4 (NEW).]

[1999, c. 241, §4 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1999, c. 241, §4 (AMD).

§18362. TEACHERS IN PRIVATE, PAROCHIAL AND OTHER SCHOOLS

1. **Parochial school or public or private academy.** A member who taught in a parochial school or in a public or private academy may purchase up to 10 years of service credit for that service under the following conditions.

A. The member must have taught in a school approved by the Department of Education or the education department of another state while holding an appropriate teaching certificate. [1989, c. 78, §4 (NEW); 1989, c. 700, Pt. A, §27 (AMD).]

B. The member must have 20 years of creditable service as a member of the participating local district. [1991, c. 558, §2 (AMD).]

C. The member must, before any retirement benefit becomes effective for the member, make contributions into the Members' Contribution Fund, for the years of private or parochial school teaching on the same basis as the member would have made contributions had the service been as a state employee or teacher in this State, including interest at a rate to be set by the board not to exceed regular interest by 5 or more percentage points. The member's earnings for the years of private or parochial school teaching must be assumed to have been the same as the average salary for teachers in this State as determined by the Department of Education for each of the years when the private or parochial school teaching took place. Interest must be computed beginning at the end of the year when those contributions would have been made, if the service had been as a state employee or teacher in this State, to the date of payment. Payment must be made by a single direct payment or annual direct payments to the Participating Local District Retirement Program in accordance with section 18301, subsection 4. [2007, c. 491, §231 (AMD).]

D. The member must have begun membership before January 1, 1976. [1991, c. 558, §2 (NEW).]

E. The member's last 10 years of creditable service before the date of retirement must be as a member of the participating local district. [1991, c. 558, §2 (NEW).]

F. Upon complete payment of the contributions under paragraph C, the member must be granted service credit for the period of time for which the contributions have been made. Upon making partial payment of the contributions under paragraph C, the member must be granted service credit on a pro rata basis in accordance with rules adopted by the board. [1991, c. 558, §2 (NEW).]

[2007, c. 491, §231 (AMD) .]

1-A. **Alternative.** In the determination of the retirement benefit under this Part, if service credit for private or parochial school teaching is not allowed under subsection 1 based upon the member not meeting the requirements of subsection 1, paragraph B or D, additional service credit for private or parochial school teaching is allowed for any member who meets the requirements of subsection 1, paragraphs A and E, if the member, before any retirement benefit becomes effective for that member, pays into the Members' Contribution Fund by a single direct payment or annual direct payments to the Participating Local District Retirement Program an amount that, together with regular interest on that amount, is the actuarial equivalent at the effective date of the retirement benefit of the portion of the retirement benefit based on the additional creditable service.

Annual payments must be made in accordance with section 18301, subsection 4.

A. Additional amounts paid under this subsection become a part of the member's accumulated contributions. [1993, c. 387, Pt. A, §19 (NEW).]

B. If any retirement benefit becomes effective before the completion of the payment under this subsection, the member is entitled to service credit for that portion of the additional creditable service that the total amount of payments actually made, plus regular interest on those payments to the date the retirement benefit becomes effective, bears to the actuarial equivalent of the total portion of the retirement benefit based on the additional creditable service. [1993, c. 387, Pt. A, §19 (NEW).]

[2007, c. 491, §232 (AMD) .]

2. Other schools and programs. A member who terminates service in the State and teaches under the Volunteers in Service to America Program, the Fulbright Exchange Program or the Peace Corps, foreign or domestic, or teaches children of United States Foreign Corps personnel outside the continental limits of the United States is entitled to service credit for that service under the following conditions.

A. The service credit may not exceed 2 years. [1989, c. 78, §4 (NEW).]

B. The member must return to active service as a member of the Participating Local District Retirement Program within one year of the completion of the teaching outside of the State described in this section. [2007, c. 491, §233 (AMD).]

C. The member must, before any retirement benefit becomes effective for the member, pay into the Members' Contribution Fund, by a single direct payment or annual direct payments to the Participating Local District Retirement Program, an amount that, together with regular interest on that amount, is the actuarial equivalent, at the effective date of the member's retirement benefit, of the portion of the member's retirement benefit based on the additional creditable service. Annual payments must be made in accordance with section 18301, subsection 4. [2007, c. 491, §234 (AMD).]

[2007, c. 491, §§233, 234 (AMD) .]

SECTION HISTORY
1989, c. 78, §4 (NEW). 1989, c. 700, §A27 (AMD). 1989, c. 710, §§21,22 (AMD). 1991, c. 558, §2 (AMD). 1993, c. 387, §A19 (AMD). 2007, c. 491, §§231-234 (AMD).

Subchapter 5: BENEFITS

Article 1: GENERAL PROVISIONS

§18401. AMENDMENT NOT TO CAUSE REDUCTION IN BENEFIT

No amendment to this Part may cause any reduction in the amount of benefits which would be due to a member based on creditable service, earnable compensation, employee contributions, pick-up contributions and the provisions of this Part on the date immediately preceding the effective date of the amendment. [1987, c. 739, §§42, 48 (AMD).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§42,48 (AMD).

§18402. ELIGIBILITY FOR BENEFITS

Only members of the Participating Local District Retirement Program or their spouses, surviving spouses, children, dependent children, parents or beneficiaries are eligible to receive benefits from the Participating Local District Retirement Program. [2007, c. 491, §235 (AMD).]

SECTION HISTORY

1985, c. 801, §§5,7 (NEW). 2007, c. 491, §235 (AMD).

§18403. ELECTION OF METHODS OF PAYMENT

1. **Definition.** As used in this article, unless the context otherwise indicates, the term "qualifying member" means:

A. A member; or [1985, c. 801, §§ 5, 7 (NEW).]

B. A former member who is receiving a disability retirement benefit. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Election.** In order to receive a benefit, a qualifying member must elect to have his service retirement benefit payable under any of the methods in section 18404.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Time and manner of election.** A qualifying member must elect a method of payment before the beginning of payment of a service retirement benefit. This election must be by written notice to the executive director stating the date on which he desires to retire.

[1987, c. 256, §30 (AMD) .]

4. **Change of election.** A qualifying member may revoke his election of benefits and may elect another method of payment by giving written notice to the executive director at any time before the first payment of the service retirement benefit.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §30 (AMD).

§18404. METHODS OF PAYMENT

Except as provided in subsection 6, payment of a service retirement benefit shall begin on the first day of the month following the month in which the qualifying member becomes eligible to receive payment of the member's service retirement benefit under section 18451 or 18507. A full month's benefit shall be paid to the beneficiary or estate of the recipient for the month in which the member dies. A qualifying member may select payments in one of the following methods. [1989, c. 95, §16 (AMD).]

1. **Full benefits.** All retirement benefits shall be payable for life in equal monthly installments with no further payment made after the month in which the retiree dies. If a participating local district adopts section 18454, the benefits set forth in section 18454 will be considered full benefits for purposes of this section.

[1987, c. 256, §32 (AMD) .]

2. **Option 1.** The qualifying member may elect to have a reduced retirement benefit payable to himself while alive and at the qualifying member's death to have the excess, if any, of his accumulated contributions at the time of retirement over the portion of the total retirement benefit payments actually made to the qualifying member while alive, which is the actuarial equivalent amount to the accumulated contributions, paid in a lump sum to the beneficiary he has nominated by written designation duly acknowledged and filed

with the executive director or, if no one has been nominated as beneficiary, to his estate. No contributions deducted from the compensation of a teacher before July 1, 1947, or required of a teacher for service credit before July 1, 1947, may be included in the accumulated contributions.

[1985, c. 801, §§5, 7 (NEW) .]

3. **Option 2.** The qualifying member may elect to have a reduced retirement benefit payable to himself while alive and at the qualifying member's death to have the benefit continued in the same amount for the life of the beneficiary he has nominated by written designation duly acknowledged and filed with the executive director at the time of retirement, if the beneficiary survives the qualifying member.

[1985, c. 801, §§5, 7 (NEW) .]

4. **Option 3.** The qualifying member may elect to have a reduced retirement benefit payable to himself while alive and at the qualifying member's death to have the benefit continued at 1/2 the amount for the life of the beneficiary he has nominated by written designation duly acknowledged and filed with the executive director at the time of retirement, if the beneficiary survives the qualifying member.

[1985, c. 801, §§5, 7 (NEW) .]

5. **Option 4.**

[1999, c. 744, §17 (AFF); 1999, c. 744, §12 (RP) .]

5-A. **Option 4.** The qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and at the qualifying member's death to have some benefit other than that available under subsection 3 or 4 payable to the beneficiary that the qualifying member has designated, if the beneficiary survives the qualifying member. The total value of the benefit paid to the qualifying member during the qualifying member's life plus the benefit paid after the qualifying member's death is the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The method used to determine the benefit must be approved by the board, and the beneficiary must be designated by written designation, duly notarized and filed with the executive director on a form provided or specified by the retirement system.

[1999, c. 744, §13 (NEW); 1999, c. 744, §17 (AFF) .]

5-B. **Option 5.** The qualifying member may elect to have a reduced retirement benefit payable in part to the qualifying member and in part to the beneficiary, who must be the sole beneficiary, while both are alive and, at the death of either, to have the higher benefit paid to the survivor for the survivor's life. The total value of the benefit paid to the qualifying member and beneficiary, during the qualifying member's life, plus the benefit to be paid after the death of either is the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The method used to determine the benefit must be approved by the board, and the beneficiary must be designated by written designation, duly notarized and filed with the executive director on a form provided or specified by the retirement system.

[1999, c. 744, §13 (NEW); 1999, c. 744, §17 (AFF) .]

5-C. **Option 6.** The qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and, at the qualifying member's death, to have the benefit continued in the same amount for the life of the beneficiary, who must be the sole beneficiary, that the qualifying member has designated by written designation, duly notarized and filed with the executive director on a form provided or specified by the retirement system, if the beneficiary survives the qualifying member. If the qualifying member's beneficiary predeceases the qualifying member, the qualifying member's benefit shall be changed, effective the first day of the month following the date of the beneficiary's death, to be the actuarial equivalent

of the benefit that the qualifying member would have received without optional modification. The reduced retirement benefit must be actuarially calculated to reflect the fact that the benefit may be changed to the larger amount should the beneficiary predecease the member.

[1999, c. 744, §13 (NEW); 1999, c. 744, §17 (AFF) .]

5-D. **Option 7.** The qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and, at the qualifying member's death, to have the benefit continued at 1/2 that amount for the life of the beneficiary, who must be the sole beneficiary, that the qualifying member has designated by written designation, duly notarized and filed with the executive director on a form provided or specified by the retirement system, if the beneficiary survives the qualifying member. If the qualifying member's beneficiary predeceases the qualifying member, the qualifying member's benefit must be changed, effective the first day of the month following the date of the beneficiary's death, to the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The reduced retirement benefit must be actuarially calculated to reflect the fact that the benefit may be changed to the larger amount should the beneficiary predecease the member.

[1999, c. 744, §13 (NEW); 1999, c. 744, §17 (AFF) .]

5-E. **Option 8.** The qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and at the qualifying member's death to have some benefit other than that available under subsection 3 or 4 payable to the beneficiary, who must be the sole beneficiary, that the member has designated, if the beneficiary survives the qualifying member. The total value of the benefit paid to the qualifying member plus the benefit paid after the qualifying member's death is the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. If the qualifying member's beneficiary predeceases the qualifying member, the qualifying member's benefit must be changed, effective the first day of the month following the date of the beneficiary's death, to be the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The reduced retirement benefit must be actuarially calculated to reflect the fact that the benefit may be changed to the larger amount should the beneficiary predecease the member.

[2001, c. 118, §8 (AMD) .]

5-F. **Change of beneficiary.** If the recipient of a service retirement benefit has elected an optional method of payment under subsection 3, 4, 5, 5-A, 5-B, 5-C, 5-D or 5-E, and has designated someone other than a spouse or ex-spouse as sole beneficiary, the recipient is permitted a one-time change in the designated beneficiary except as provided in paragraph D, but may not change the already elected payment option or the amount of the benefits under that option, by filing a written designation of the new beneficiary, duly notarized, with the executive director on a form provided or specified by the retirement system. The change of beneficiary permitted by this subsection may only be made prior to the death of the prior designated beneficiary.

A. The benefit payable to the recipient and the new beneficiary must be paid under the same payment option. The amount of the recipient's benefit may not change, and the amount of the new beneficiary's benefit must be the same as the amount of the prior beneficiary's benefit. [1999, c. 744, §13 (NEW); 1999, c. 744, §17 (AFF).]

B. The effective date of the designation of the new beneficiary is the date the designation is received by the executive director. As of the first day of the month following the effective date of the designation of the new beneficiary, the prior beneficiary is no longer entitled to any benefit payment and, if concurrent payment under subsection 5-B has been elected, the new beneficiary's benefit must become effective on the same date. [1999, c. 744, §13 (NEW); 1999, c. 744, §17 (AFF).]

C. The new beneficiary's entitlement to benefits ceases on the earlier of:

(1) The date of the new beneficiary's death; or

(2) The date established when the amount of the prior beneficiary's benefit was established, which is the initial commencement date of benefits to the retiree increased by the life expectancy of the prior beneficiary computed in years and months using actuarial equivalence assumptions recommended by the system's actuary.

Payment of benefits to the new beneficiary must cease as of the first day of the month following the earlier of subparagraph (1) or (2). [1999, c. 744, §13 (NEW); 1999, c. 744, §17 (AFF).]

D. A recipient who exercises a one-time option under this subsection may revert back to the original designated beneficiary, who will be treated as the new beneficiary for purposes of paragraphs A to C. [2007, c. 523, §3 (NEW).]

[2007, c. 523, §3 (AMD) .]

6. **Monthly payment of $10 or less.** If the monthly benefit payable to a qualifying member or the beneficiary of a qualifying member is $10 or less, there shall be paid, in lieu of those payments, a lump sum which is the actuarial equivalent, on the date the first monthly payment would otherwise be paid, of the benefit to which the qualifying member or beneficiary is entitled. A beneficiary who receives a lump sum payment under this subsection shall not forfeit any other benefit to which the beneficiary would be entitled if the beneficiary were receiving a monthly benefit payment.

[1989, c. 95, §17 (NEW) .]

7. **Notice to spouse.** A qualifying member who is married on the effective date of retirement, who elects the method of payment under subsection 1, or who elects a method of payment other than that provided under subsection 1 and who designates a beneficiary other than the qualifying member's spouse must notify the spouse that the spouse is not the beneficiary. Proof that the spouse has been notified must be provided:

A. By written certification of the spouse, duly notarized, on a form provided or specified by the retirement system indicating that notice has been received from the qualifying member; or [1999, c. 744, §14 (NEW); 1999, c. 744, §17 (AFF).]

B. When notice has been given but certification by the spouse has not been provided, by written certification of the qualifying member, duly notarized, on a form provided or specified by the retirement system indicating that notice has been given to the spouse. [1999, c. 744, §14 (NEW); 1999, c. 744, §17 (AFF).]

Payment of the qualifying member's service benefit may not commence until certification has been received by the executive director.

[1999, c. 744, §14 (NEW); 1999, c. 744, §17 (AFF) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §§31-33 (AMD). 1989, c. 95, §§16,17 (AMD). 1999, c. 744, §§12-14 (AMD). 1999, c. 744, §17 (AFF). 1999, c. 790, §K2 (AMD). 1999, c. 790, §K5 (AFF). 2001, c. 118, §8 (AMD). 2007, c. 523, §3 (AMD).

§18405. REMARRIAGE AFTER RETIREMENT

If the recipient of a reduced service retirement benefit under section 18404, subsection 3, 4, 5-A or 5-B remarries after the recipient's spouse dies, the following provisions apply. [1999, c. 744, §15 (AMD); 1999, c. 744, §17 (AFF).]

1. **Election of benefit for new spouse.** The recipient may elect to have the reduced retirement benefit paid under the same option to the new spouse after the recipient's death instead of continuing the original reduced retirement benefit to the recipient during his lifetime, under the following conditions.

A. The original spouse must have been the sole beneficiary of the reduced retirement benefit under section 18404, subsection 3, 4, 5-A or 5-B; and [2001, c. 118, §9 (AMD).]

B. [1987, c. 612, §8 (RP).]

C. [1987, c. 612, §8 (RP).]

D. The recipient shall have been married to the new spouse for at least 6 months. [1987, c. 612, §9 (NEW).]

[2001, c. 118, §9 (AMD) .]

2. **Time and manner of election.** The recipient may make the election under subsection 1 at any time after the death of the original spouse and remarriage to the new spouse by:

A. Sending a written request to the executive director; and [1985, c. 801, §§5, 7 (NEW).]

B. [1987, c. 612, §10 (RP).]

C. Submitting evidence of the death of the former spouse and date of marriage to the new spouse. [1987, c. 612, §10 (NEW).]

[1987, c. 612, §10 (AMD) .]

3. **Amount of benefit.** The amount of the benefit payable under the option elected shall be the actuarial equivalent, at the date of the beginning of payment of benefits under this section, of the amount of reduced retirement benefits the qualifying member has been receiving.

[1985, c. 801, §§5, 7 (NEW) .]

4. **Effective date of coverage of new spouse.** The effective date of the designation of the new spouse as the recipient's new beneficiary will be the date the request is received or 6 months after the date of remarriage, whichever comes later. The recipient's retirement benefit shall be adjusted on the first day of the month following the effective date of the new designation of beneficiary.

[1987, c. 612, §11 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 612, §§7-11 (AMD). 1999, c. 744, §15 (AMD). 1999, c. 744, §17 (AFF). 2001, c. 118, §9 (AMD).

§18405-A. DIVORCE

If the recipient of a reduced service retirement benefit under section 18404, subsection 3, 4, 5-A, 5-B, 5-C, 5-D or 5-E is granted a divorce either after retirement or before a retirement beneficiary is named, the following provisions apply. [2001, c. 118, §10 (AMD).]

1. **Election of benefit for different beneficiary.** The recipient may elect to have the reduced retirement benefit paid under the same option to a different beneficiary except when the former spouse is named as retirement beneficiary at the time the divorce is granted, in which case the election may be made only under the following conditions:

A. The spouse or former spouse who was originally named as retirement beneficiary must have been the sole beneficiary of the reduced retirement benefit under section 18404, subsection 3, 4, 5-A, 5-B, 5-C, 5-D or 5-E; and [2001, c. 118, §11 (AMD).]

B. The recipient and the spouse or former spouse who was originally named retirement beneficiary must agree to the change of beneficiary. Prior to this agreement, the executive director shall ensure that the spouse or former spouse who was originally named as retirement beneficiary has been counseled by an employee of the retirement system regarding the financial effect of giving up rights as a beneficiary and has signed a statement that the information has been received and understood. [1995, c. 604, §6 (AMD).]

[2005, c. 560, §4 (AMD) .]

2. **Time and manner of election.** The recipient may make the election at any time after the divorce is granted by:

A. Sending a written request to the executive director; and [1991, c. 302, §2 (NEW).]

B. Submitting evidence of the divorce. [1991, c. 302, §2 (NEW).]

[1991, c. 302, §2 (NEW) .]

3. **Amount of benefit.** The amount of the benefit payable under the option elected is the actuarial equivalent, at the date of the beginning of payment of benefits under this section, of the amount of reduced retirement benefit the recipient has been receiving, plus the amount expected to be paid to the original spouse after the recipient's death.

[1991, c. 320, §2 (NEW) .]

4. **Effective date of coverage of new beneficiary.** The effective date of the designation of the recipient's new beneficiary is the date the request is received. The recipient's retirement benefit must be adjusted on the first day of the month following the effective date of the new designation of beneficiary.

[1991, c. 320, §2 (NEW) .]

SECTION HISTORY
1991, c. 320, §2 (NEW). 1995, c. 604, §§4-6 (AMD). 1999, c. 744, §16 (AMD). 1999, c. 744, §17 (AFF). 2001, c. 118, §§10,11 (AMD). 2005, c. 560, §4 (AMD).

§18406. LIABILITY FOR PAYMENT OF BENEFITS

1. **Retirement system.** The retirement system's liability for payment of benefits is governed as follows.

A. The retirement system is not liable for the payment of any benefits to employees or retirees of any participating local district for which reserves have not been previously created from funds contributed by the participating local district or its employees for those benefits. [1985, c. 801, §§ 5, 7 (NEW).]

B. The retirement system is liable for payment of survivor benefits to beneficiaries of a participating local district member if the participating local district has elected survivor benefits. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Participating local districts.** If, when the contributions of a participating local district are computed for any fiscal year in accordance with sections 18302 and 18303, any of the reserve funds of the participating local district are less than the liabilities of the reserve fund, then the amount of the contributions to be paid shall be increased either:

A. By the amount the liabilities exceed the reserve funds; or [1985, c. 801, §§ 5, 7 (NEW).]

B. At the option of the participating local district, by the total amount of benefits payable during the fiscal year from the reserve funds that have a deficit. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18407. COST-OF-LIVING ADJUSTMENT TO RETIREMENT BENEFIT

Cost-of-living adjustments to the retirement benefits being paid to retired participating local district employees shall be governed as follows. [1985, c. 801, §§5, 7 (NEW).]

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

A. "Covered district" means a participating local district that provides coverage under the United States Social Security Act for its employees. [1985, c. 801, §§5, 7 (NEW).]

B. "Noncovered district" means a participating local district that does not provide coverage by the United States Social Security System for its employees. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

2. **Noncovered districts.** Notwithstanding section 18202 and except as provided in this subsection, subsections 3 to 5 apply to all retired employees of noncovered districts and to beneficiaries of those retired employees.

A. A noncovered district that has withdrawn from participation in the Participating Local District Retirement Program on or before June 30, 1987, under section 18203 is not required to provide cost-of-living adjustments for its retired employees or their beneficiaries. [2007, c. 491, §236 (AMD).]

B. A noncovered district which, on or after September 19, 1985, engages in collective bargaining or has in force a collective bargaining agreement under Title 26, chapter 9-A, with some or all of the district's members is not required by this section to provide cost-of-living adjustments for its retired employees or their beneficiaries. When the district subsequently agrees through the collective bargaining process to provide the cost-of-living adjustment under this section, the adjustment shall apply to all the district's retired employees or their beneficiaries receiving retirement allowances. [1985, c. 801, §§5, 7 (NEW).]

[2007, c. 491, §236 (AMD) .]

3. **Covered districts.** A covered district may provide cost-of-living adjustments for its retired employees or their beneficiaries by application to the board of trustees supplying the necessary information. Upon acceptance of such a plan, the district shall supply a certified copy of its action and a statement of agreement of payment and costs.

[1985, c. 801, §§5, 7 (NEW) .]

4. **Determination of adjustment for participating local districts not covered by chapter 427.** The cost-of-living adjustment is determined as follows.

A. Except as provided in paragraph A-1, whenever there is a percentage increase in the Consumer Price Index from July 1st to June 30th, the board shall automatically make an equal percentage increase in retirement benefits, beginning in September, up to a maximum annual increase of 4%. [2009, c. 473, §5 (AMD).]

A-1. If there is a percentage decrease in the Consumer Price Index from July 1st to June 30th, the board shall set the percentage change at 0% for that September. The adjustment for the following year must be set based on the actuarially compounded Consumer Price Index for both years in a cost-neutral manner. If the Consumer Price Index in the subsequent year or years is not sufficient to allow for the adjustment to be cost-neutral for the 2 years, then the adjustment needed for cost-neutrality must continue to be applied to following years until such time as the cost-neutrality requirement is met. [2009, c. 473, §6 (AMD).]

B. Whenever the annual percentage change in the Consumer Price Index from July 1st to June 30th exceeds 4%, the board shall make whatever adjustments in the retirement benefits are necessary to reflect an annual increase of 4% and shall report that adjustment and the actual increase in the Consumer Price Index to the Legislature by February 1st of the following year. [2013, c. 391, §6 (AMD).]

C. Notwithstanding any other provision of this section, the amount of annual retirement benefit otherwise payable under this Part may not be less than the retired member received on the effective date of his retirement or on July 1, 1977, whichever amount is greater. [1985, c. 801, §§5, 7 (NEW).]

[2013, c. 391, §6 (AMD) .]

5. **Cost.** The board shall determine the costs of the adjustments under this section and shall include those costs in the annual valuation.

[1985, c. 801, §§5, 7 (NEW) .]

6. **Eligibility.** Cost-of-living adjustments under subsection 4 must be applied to the retirement benefits of all retirees who have been retired for at least 6 months before the date that the adjustment becomes payable. Beneficiaries of deceased retirees and members are eligible for the cost-of-living adjustment at the same time the deceased retiree would have become eligible.

[2013, c. 391, §7 (AMD) .]

7. **Determination of adjustment for participating local districts covered by chapter 427.** The cost-of-living adjustment is determined as follows.

A. Prior to July 1, 2014, the determination of cost-of-living adjustments for retirees from participating local districts covered by chapter 427 is governed by subsection 4. [2013, c. 391, §8 (NEW).]

B. Except as provided in paragraph C, whenever there is a percentage increase in the Consumer Price Index from July 1st to June 30th, the board shall automatically make an equal percentage increase in retirement benefits, beginning in September, up to a maximum annual increase of 3%. [2013, c. 391, §8 (NEW).]

C. If there is a percentage decrease in the Consumer Price Index from July 1st to June 30th, the board shall set the percentage change at 0% for that September. The adjustment for the following year must be set based on the actuarially compounded Consumer Price Index for both years in a cost-neutral manner. If the Consumer Price Index in the subsequent year or years is not sufficient to allow for the adjustment to be cost-neutral for the 2 years, the adjustment needed for the cost-neutrality must continue to be applied to following years until such time as the cost-neutrality requirement is met. [2013, c. 391, §8 (NEW).]

D. Whenever the annual percentage change in the Consumer Price Index from July 1st to June 30th exceeds 3%, the board shall make whatever adjustments in the retirement benefits are necessary to reflect an annual increase of 3% and shall report that adjustment and the actual increase in the Consumer Price Index to the Legislature by February 1st of the following year. [2013, c. 391, §8 (NEW).]

E. Notwithstanding any other provision of this section, the amount of annual retirement benefit otherwise payable under this Part may not be less than the retired member received on the effective date of retirement or on July 1, 1977, whichever amount is greater. [2013, c. 588, Pt. E, §3 (AMD).]

[2013, c. 588, Pt. E, §3 (AMD) .]

8. **Eligibility.** Cost-of-living adjustments under subsection 7 must be applied to the retirement benefits of retirees as follows.

A. For retirees who retire prior to September 1, 2015, a cost-of-living adjustment is applied if the retiree has been retired for at least 6 months before the date that the adjustment becomes payable. [2013, c. 391, §8 (NEW).]

B. For retirees who retire on or after September 1, 2015, a cost-of-living adjustment is applied if the retiree has been retired for at least 12 months before the date that the adjustment becomes payable. [2013, c. 391, §8 (NEW).]

C. A beneficiary of a deceased retiree or member is eligible for the cost-of-living adjustment at the same time the deceased retiree or member would have become eligible. [2013, c. 391, §8 (NEW).]

[2013, c. 391, §8 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1993, c. 595, §10 (AMD). 2007, c. 249, §30 (AMD). 2007, c. 491, §236 (AMD). 2009, c. 433, §§5, 6 (AMD). 2009, c. 473, §§5, 6 (AMD). 2013, c. 391, §§6-8 (AMD). 2013, c. 588, Pt. E, §3 (AMD).

§18408. PAYMENT OF BENEFITS WHEN A DISTRICT DISBANDS OR DISSOLVES

If the membership of the employees of a participating local district ceases under section 18255, the funds that have been established under the Participating Local District Retirement Program for that district must be used to provide benefits for members or beneficiaries at the date of the cessation of membership. [2007, c. 491, §237 (AMD).]

1. **Allocation.** The amount of the funds that have been established under the Participating Local District Retirement Program for the district at the date of the cessation of membership must be allocated by the board in an equitable manner to provide benefits for the members or beneficiaries:

A. In accordance with this Part as in effect at the date of the cessation; and [1985, c. 801, §§ 5, 7 (NEW).]

B. Based upon years of creditable service, average final compensation and accumulated contributions as of the date of the cessation, in the following order of priority:

(1) For the benefit of members to the extent of the then value of their accumulated contributions in the Members' Contribution Fund;

(2) If any funds remain after allocation under subparagraph (1), then for the benefit of beneficiaries then receiving payment of benefits after cessation of payments to those beneficiaries, in proportion to the then actuarial value of their respective benefits, but not to exceed the amount of those values;

(3) If any funds remain after allocation under subparagraph (2), then for the benefit of members with at least 10 years of creditable service who are not then receiving benefit payments, to the extent of the actuarial value of their retirement allowances not provided by their accumulated contributions, allocating the funds on the basis of the oldest ages first; and

(4) If any funds remain after allocation under subparagraph (3), then for the benefit of members in service with the district on the date of the cessation with less than 10 years of creditable service, who are not then receiving benefit payments, to the extent of the actuarial value of their retirement allowances not provided by their accumulated contributions, allocating the funds on the basis of the oldest ages first. [1985, c. 801, §§ 5, 7 (NEW).]

[2007, c. 491, §238 (AMD) .]

2. **Manner of payment.** The allocation of the funds under subsection 1, as decided by the board, may be carried out through the continuance of the benefit payments or the funds may be distributed in one lump sum to the persons entitled to the benefits under subsection 1.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Right to benefits.** No member may be deprived of his right to any benefits under this section solely because he later terminates employment with the participating local district before his service retirement date.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 491, §§237, 238 (AMD).

§18409. PAYMENT FROM CERTAIN FUNDS

All benefits payable under this chapter must be paid from the Retirement Allowance Fund, except those payable from the Members' Contribution Fund or as specifically provided in this chapter. [2007, c. 249, §31 (AMD).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 249, §31 (AMD).

§18410. INCORRECT RECORDS

If any error in any record of the retirement system results in a member or beneficiary receiving more or less from the system than he would have been entitled to receive had the record been correct, payments shall, as far as practicable, be adjusted so that the actuarial equivalent of the benefit to which he was correctly entitled is paid. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18411. EARNABLE COMPENSATION CONTINUED

For purposes of determining benefits under this chapter, the earnable compensation of a member retired with a disability retirement allowance under article 3 is assumed to be continued after his date of termination of service: [1985, c. 801, §§ 5, 7 (NEW).]

1. **Rate.** At the same rate as received immediately before the date of termination of service; and

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Percentage adjustments.** Subject to the same percentage adjustments, if any, that may apply to the amount of retirement allowance of the beneficiary under section 18407.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18412. LIMITATION ON BENEFITS

Benefits are limited as follows: [1987, c. 256, §34 (NEW).]

1. **One benefit only.** A beneficiary may select only one benefit, regardless of how many benefits he qualifies for; and

[1987, c. 256, §34 (NEW) .]

2. **Election final.** Except as provided in section 18403, subsection 4, and section 18553, subsection 8, if a beneficiary elects a benefit after receiving reasonable notification of available options from the retirement system, the beneficiary's election of a benefit is final and may not be changed or revoked at a later date.

[1991, c. 548, Pt. A, §3 (AMD) .]

SECTION HISTORY
1987, c. 256, §34 (NEW). 1991, c. 548, §A3 (AMD).

§18413. ELECTION TO REDUCE OR DISCONTINUE BENEFITS

Any retiree or member who is retired or will retire may elect to reduce or discontinue receiving any benefit upon written request, duly certified and acknowledged, to the executive director. [1993, c. 387, Pt. A, §20 (NEW).]

SECTION HISTORY
1993, c. 387, §A20 (NEW).

Article 2: SERVICE RETIREMENT BENEFITS

§18451. QUALIFICATION FOR BENEFITS FOR MEMBERS NOT COVERED UNDER CHAPTER 427

Qualification for service retirement benefits for a member not covered under chapter 427 is governed by subsection 1, 2 or 3, unless the requirements of section 18453 are satisfied, in which case one or more of the subsections of section 18453 governs. [2013, c. 391, §9 (AMD).]

1. **Member in service.** A member who is in service when reaching 60 years of age, or is in service after reaching 60 years of age, qualifies for a service retirement benefit if the member:

A. Retires upon or after reaching 60 years of age and has been in service for a minimum of one year immediately before retirement; [1999, c. 756, §16 (AMD).]

B. [1999, c. 756, §17 (RP).]

C. [1987, c. 256, §36 (RP).]

D. Except as provided in paragraph E, has at least 10 years of creditable service, which, for the purpose of determining completion of the 10-year requirement, may include creditable service as a member of the Legislative Retirement Program; or [2007, c. 491, §239 (AMD).]

E. Has at least 5 years of creditable service, which, for the purposes of determining completion of the 5-year requirement, may include creditable service as a member of the Legislative Retirement Program, and:

(1) Was in service on October 1, 1999;

(2) Had left prior to October 1, 1999 with or without withdrawing contributions and on or after October 1, 1999 returned to service; or

(3) Was first in service on or after October 1, 1999. [2007, c. 491, §240 (AMD).]

[2007, c. 491, §§239, 240 (AMD) .]

2. **Member not in service.** A member who is not in service when reaching 60 years of age qualifies for a service retirement benefit if the member:

A. Retires upon or after reaching 60 years of age and, except as provided in paragraph D, has at least 10 years of creditable service, which, for the purpose of determining completion of the 10-year requirement, may include creditable service as a member of the Legislative Retirement Program; or [2007, c. 491, §241 (AMD).]

B. [1999, c. 756, §20 (RP).]

C. [1987, c. 256, §37 (RP).]

D. Has at least 5 years of creditable service, which, for the purposes of determining completion of the 5-year requirement, may include creditable service as a member of the Legislative Retirement Program, and:

(1) Was in service on October 1, 1999;

(2) Had left service prior to October 1, 1999 with or without withdrawing contributions and on or after October 1, 1999 returned to service; or

(3) Was first in service on or after October 1, 1999. [2007, c. 491, §242 (AMD).]

[2007, c. 491, §§241, 242 (AMD) .]

3. **Member with creditable service of 25 years or more.** A member, whether or not in service at retirement, who has completed 25 or more years of creditable service qualifies for a service retirement benefit if the member retires at any time after completing 25 years of service, which may include, for the purpose of meeting eligibility requirements, creditable service as a member of the Legislative Retirement Program under Title 3, section 701, subsection 8.

A. [1987, c. 256, §38 (RP).]

B. [1987, c. 256, §38 (RP).]

[2007, c. 491, §243 (AMD) .]

3-A. **Five-year minimum creditable service requirement for eligibility to receive service retirement benefit at applicable age; applicability.** The minimum requirement of 5 years of creditable service for eligibility to receive service retirement benefits under subsection 1, paragraph E or subsection 2, paragraph D applies only to:

A. A member who is in service on October 1, 1999; [1999, c. 756, §23 (NEW).]

B. Upon return to service, a member who had left service prior to October 1, 1999 with or without withdrawing that member's contributions and on or after October 1, 1999 returned to service; or [1999, c. 756, §23 (NEW).]

C. A member who was first in service on or after October 1, 1999. [1999, c. 756, §23 (NEW).]

For those members to whom the 5-year minimum creditable service requirement does not apply, the 10-year minimum creditable service requirement for eligibility to receive service retirement benefits remains in effect on and after October 1, 1999.

[1999, c. 756, §23 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §§35-38 (AMD). 1987, c. 402, §A74 (AMD). 1989, c. 78, §§5,6 (AMD). 1999, c. 756, §§16-23 (AMD). 2007, c. 491, §§239-243 (AMD). 2013, c. 391, §9 (AMD).

§18451-A. QUALIFICATION FOR BENEFITS FOR MEMBERS COVERED UNDER CHAPTER 427

Qualification for service retirement benefits for a member covered under chapter 427 is governed by subsection 1 or 2, unless the requirements of a special plan, as established by the board by rule, have been met. [2013, c. 391, §10 (NEW).]

1. **Members prior to July 1, 2014.** Qualification for a service retirement benefit for a member covered under chapter 427 who was a member of a plan provided under chapter 427 prior to July 1, 2014 is governed by section 18451.

[2013, c. 391, §10 (NEW) .]

2. **Members after June 30, 2014.** Qualification for a service retirement benefit for a member who is first covered under chapter 427 after June 30, 2014 is governed as follows.

A. A member who is in service when reaching 65 years of age, or is in service after reaching 65 years of age, qualifies for a service retirement benefit if the member:

(1) Retires upon or after reaching 65 years of age and has been in service for a minimum of one year immediately before retirement; or

(2) Has at least 5 years of creditable service, which, for the purposes of determining completion of the 5-year requirement, may include creditable service as a member of the Legislative Retirement Program. [2013, c. 588, Pt. E, §4 (AMD).]

B. A member who is not in service when reaching 65 years of age qualifies for a service retirement benefit if the member:

(1) Retires upon or after reaching 65 years of age; and

(2) Has at least 5 years of creditable service, which, for the purposes of determining completion of the 5-year requirement, may include creditable service as a member of the Legislative Retirement Program. [2013, c. 391, §10 (NEW).]

C. A member, whether or not in service at retirement, who has completed 25 or more years of creditable service qualifies for a service retirement benefit if the member retires at any time after completing 25 years of service, which may include, for the purpose of meeting eligibility requirements, creditable service as a member of the Legislative Retirement Program. [2013, c. 391, §10 (NEW).]

[2013, c. 588, Pt. E, §4 (AMD) .]

SECTION HISTORY
2013, c. 391, §10 (NEW). 2013, c. 588, Pt. E, §4 (AMD).

§18452. COMPUTATION OF BENEFIT

1. **Member in service.** The total amount of the service retirement benefit for members qualified under section 18451, subsection 1, equals:

A. 1/50 of the member's average final compensation multiplied by the number of years of his membership service; and [1985, c. 801, §§5, 7 (NEW).]

B. If the member has prior service, 1/50 of his average final compensation multiplied by the number of years of prior service provided, that the number of years of prior service used in this computation may not exceed 25 years unless the participating local district has made the election provided under section 18352, subsection 2. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

2. **Member not in service.** The amount of the service retirement benefit for members qualified under section 18451, subsection 2, shall be computed in accordance with subsection 1.

[1985, c. 801, §§5, 7 (NEW) .]

3. **Member with creditable service of 25 years or more.** The amount of the service retirement benefit for members qualified under section 18451, subsection 3 is computed in accordance with subsection 1, except that:

A. The amount arrived at under subsection 1 is reduced by applying to that amount the percentage that a life annuity due at 60 years of age bears to the life annuity due at the age of retirement. [2013, c. 391, §11 (AMD).]

B. For the purpose of making the computation under paragraph A, the board-approved tables of annuities in effect at the date of the member's retirement is used. [2013, c. 391, §11 (AMD).]

The amount of the service retirement benefit for members qualified under section 18451-A, subsection 2, paragraph C is computed in accordance with subsection 1, except that the benefit is reduced by 6% for each year that the member's age precedes 65 years of age.

[2013, c. 391, §11 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2013, c. 391, §11 (AMD).

§18453. SPECIAL RETIREMENT BENEFITS

A participating local district may, by filing with the board a duly certified copy of its action, provide, in lieu of any other retirement benefit in this Part, special retirement benefit plans in this section. If a member retires after becoming qualified to retire under section 18451 or 18451-A, the member's retirement benefit must be computed in accordance with section 18452, if that amount is greater than the amount computed under this section. [2013, c. 391, §12 (AMD).]

1. **Employee Special Plan #1.** A retirement benefit equal to 1/2 average final compensation for members who have reached 60 years of age and who have at least 30 years of creditable service.

[1985, c. 801, §§5, 7 (NEW) .]

2. **Employee Special Plan #2.** A retirement benefit to police officers, firefighters, sheriffs, full-time deputy sheriffs, county corrections employees, emergency medical services persons as defined in Title 32, section 83, subsection 12, including but not limited to first responders, emergency medical technicians, advanced emergency medical technicians and paramedics, or any other participating local district employees who have completed 20 to 25 years of creditable service, the number of years to be selected by

the participating local district. For the purposes of this subsection, "county corrections employees" means employees of the county who are employed at a county jail and whose duties include contact with prisoners or juvenile detainees. The benefits must be computed as follows:

A. Except as provided in paragraph B, 1/2 of the member's average final compensation; or [2001, c. 368, §1 (AMD).]

B. If the member's benefit would be greater, the part of the service retirement benefit based upon membership service before July 1, 1977, is determined, on a pro rata basis, on the member's current annual salary on the date of retirement or current final compensation, whichever is greater, and the part of the service retirement benefit based upon membership service after June 30, 1977, is determined in accordance with paragraph A. [1993, c. 387, Pt. A, §21 (AMD).]

[2013, c. 602, Pt. B, §2 (AMD) .]

3. **Firefighter and Emergency Medical Services Person Special Plan #1.** A retirement benefit equal to 1/2 of the member's average final compensation to a firefighter, including the chief of a fire department, and an emergency medical services person as defined in Title 32, section 83, subsection 12, including but not limited to a first responder, emergency medical technician, advanced emergency medical technician and paramedic, who has completed at least 25 years of creditable service in that capacity and who retires upon or after reaching age 55.

[2013, c. 602, Pt. B, §3 (AMD) .]

4. **Firefighter and Emergency Medical Services Person Special Plan #2.** A retirement benefit to a firefighter, including the chief of a fire department, and an emergency medical services person as defined in Title 32, section 83, subsection 12, including but not limited to a first responder, emergency medical technician, advanced emergency medical technician and paramedic, who has completed at least 25 years of creditable service in that capacity and who retires upon or after reaching age 55. The benefits shall be computed as follows:

A. Except as provided in paragraph B, 2/3 of the member's average final compensation; or [2013, c. 602, Pt. B, §4 (AMD).]

B. If the member's benefit would be greater, the part of the service retirement benefit based upon membership service before July 1, 1977, is determined, on a pro rata basis, on the member's current final compensation and the part of the service retirement benefit based upon membership service after June 30, 1977, is determined in accordance with paragraph A. [1993, c. 387, Pt. A, §22 (AMD).]

[2013, c. 602, Pt. B, §4 (AMD) .]

5. **Firefighter and Emergency Medical Services Person Special Plan #3.** A retirement benefit to a firefighter, including the chief of a fire department, and an emergency medical services person as defined in Title 32, section 83, subsection 12, including but not limited to a first responder, emergency medical technician, advanced emergency medical technician and paramedic, who has completed 20 to 25 years of creditable service in that capacity, the number of years to be selected by the participating local district and who retires at any age. The benefits shall be computed as follows:

A. Except as provided under paragraph B, 2/3 of the member's average final compensation; or [2013, c. 602, Pt. B, §5 (AMD).]

B. If the member's benefit would be greater, the part of the service retirement benefit based upon membership service before July 1, 1977, is determined, on a pro rata basis, on the member's current final compensation and the part of the service retirement benefit based upon membership service after June 30, 1977, is determined in accordance with paragraph A. [1993, c. 387, Pt. A, §23 (AMD).]

[2013, c. 602, Pt. B, §5 (AMD) .]

6. **Police Officer Special Plan #1.** A retirement benefit equal to 1/2 of his average final compensation to a police officer, including the chief of a police department, who has completed at least 25 years of creditable service in that capacity and who retires upon or after reaching age 55.

[1985, c. 801, §§5, 7 (NEW) .]

7. **Police Officer Special Plan #2.** A retirement benefit to a police officer, including the chief of a police department, who has completed at least 25 years of creditable service in that capacity and who retires upon or after reaching age 55. The benefits shall be computed as follows:

A. Except as provided under paragraph B, 2/3 of his average final compensation; or [1985, c. 801, §§5, 7 (NEW).]

B. If the member's benefit would be greater, the part of the service retirement benefit based upon membership service before July 1, 1977, is determined, on a pro rata basis, on the member's current final compensation and the part of the service retirement benefit based upon membership service after June 30, 1977, is determined in accordance with paragraph A. [1993, c. 387, Pt. A, §24 (AMD).]

[1993, c. 387, Pt. A, §24 (AMD) .]

8. **Police Officer and County Corrections Employee Special Plan #3.** A retirement benefit equal to 2/3 of average final compensation to a police officer, including the chief of a police department, or county corrections employee who has completed 20 to 25 years of creditable service in that capacity, the number of years to be selected by the participating local district and who retires at any age. For the purposes of this subsection, "county corrections employee" means an employee of a county who is employed at a county jail and whose duties include contact with prisoners or juvenile detainees. The benefits must be computed as follows:

A. Except as provided under paragraph B, 2/3 of the member's average final compensation; or [2001, c. 368, §2 (AMD).]

B. If the member's benefit would be greater, the part of the service retirement benefit based upon membership service before July 1, 1977, is determined, on a pro rata basis, on the member's current final compensation and the part of the service retirement benefit based upon membership service after June 30, 1977, is determined in accordance with paragraph A. [1993, c. 387, Pt. A, §25 (AMD).]

[2001, c. 368, §2 (AMD) .]

9. **Sheriff, Deputy Sheriff and other county corrections employee special plan.** A retirement benefit equal to 1/2 of the average final compensation to a sheriff, deputy sheriff or county corrections employee who has completed at least 25 years of creditable service in that capacity and who retires upon or after reaching age 55. For the purposes of this subsection, "county corrections employee" means an employee of a county who is employed at a county jail and whose duties include contact with prisoners or juvenile detainees.

[2001, c. 368, §3 (AMD) .]

10. **Additional Benefits #1.** An additional retirement benefit for all employees qualifying under subsections 1 to 9 of 2% of average final compensation for each year of membership service not included in the age and service conditions for retirement under those subsections.

[1987, c. 256, §39 (AMD) .]

11. **Additional Benefits #2.** An additional retirement benefit for any class of employees qualifying under subsections 1 to 9 of 2% of average final compensation for each year of membership service in the qualifying employment served after completion of the age and service conditions under those subsections and after the effective date of the action by the participating local district.

[1985, c. 801, §§5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §39 (AMD). 1993, c. 387, §§A21-25 (AMD). 2001, c. 368, §§1-3 (AMD). 2013, c. 391, §12 (AMD). 2013, c. 602, Pt. B, §§2-5 (AMD).

§18454. SPOUSE OPTION; NO REDUCTION

A participating local district may, by filing with the board a duly certified copy of its action, provide for all of its employees, in lieu of the benefit provided by section 18404, subsection 1, a benefit in accordance with the following terms and conditions. [1989, c. 78, §7 (RPR).]

1. **Limitation on beneficiary.** Beneficiaries eligible to receive the benefit under this section are limited to a surviving spouse or a dependent child or children.

A. [1989, c. 78, §7 (RP).]

B. [1989, c. 78, §7 (RP).]

C. [1989, c. 78, §7 (RP).]

[1989, c. 78, §7 (RPR) .]

2. **Payment to retiree.** A retirement benefit based upon section 18404, subsection 1, shall be paid to the retiree during the retiree's lifetime. Upon the death of the retiree, 1/2 of the amount being paid to the retiree shall be paid to the beneficiary the retiree has nominated by written designation duly acknowledged and filed with the executive director at the time of retirement, if the beneficiary survives the retiree.

[1989, c. 78, §7 (RPR) .]

3. **Surviving spouse.** If the designated beneficiary is a surviving spouse, the benefit shall continue during the lifetime of the beneficiary.

[1989, c. 78, §7 (RPR) .]

4. **Dependent child or children.** If the designated beneficiary is a dependent child or dependent children, the benefit shall be paid to the dependent child, or if 2 or more dependent children are designated beneficiaries, the benefit shall be divided equally among them. When a dependent child ceases to meet the definition of dependent child, the benefit shall be divided among the remaining dependent children or paid to the remaining dependent child. Payment of the benefit shall continue until the remaining dependent child dies or ceases to meet the definition of "dependent child" under section 17001, subsection 12.

[1989, c. 78, §7 (NEW) .]

SECTION HISTORY

1985, c. 801, §§5,7 (NEW). 1989, c. 78, §7 (RPR).

§18455. LAW GOVERNING BENEFIT DETERMINATION

1. **Termination on or after January 1, 1976.** If a member's final termination of service occurred on or after January 1, 1976, the retirement system law in effect on the date of termination shall govern the member's service retirement benefit.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Termination before January 1, 1976.** If a member's final termination of service occurred before January 1, 1976, the retirement system law in effect on January 1, 1976, shall govern the member's service retirement benefit.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18456. MINIMUM BENEFIT

Any member who has 10 or more years of creditable service at retirement is entitled to a minimum service retirement benefit of $100 a month. Any former participating local district employee who had 10 or more years of creditable service and who is receiving a retirement allowance, including adjustments provided by section 18407, which is less than $100 a month, shall have his retirement benefit increased to $100 a month the first day of the month following adoption of this section by the participating local district. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18457. RESTORATION TO SERVICE

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§43,48 (AMD). 2001, c. 699, §4 (RP).

§18458. RECOMPUTATION OF BENEFIT

When a participating local district adopts the benefits provided by the Public Laws of 1973, chapter 542, benefits for former employees receiving a retirement benefit shall be recomputed as follows. [1985, c. 801, §§ 5, 7 (NEW).]

1. **1/50 basis.** Each person receiving a service retirement benefit is entitled to a recomputation of benefits based upon the change in formula to a 1/50 basis.

A. The amount resulting from the recomputation, not including retirement benefit adjustments granted under section 18407, shall be paid to the retirement benefit recipient effective the first day of the month following the effective date of adoption of these benefits by the participating local district. [1985, c. 801, §§ 5, 7 (NEW).]

B. Adjustments granted under section 18407 may not be changed by a recomputation of benefits under this section. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Three-year average basis.** Each person who is receiving a service retirement benefit which had been computed on the basis of a 5-year average highest compensation is entitled to a recomputation of benefits based on a 3-year average highest compensation.

A. If the recomputed benefit represents less than a 2% increase on the basic retirement benefit, not including amounts accrued under section 18407, the recomputed benefit will not be paid. [1985, c. 801, §§ 5, 7 (NEW).]

B. If the recomputed benefit represents more than a 2% increase on the basic retirement benefit, the retirement system shall pay the recomputed benefits, effective the first day of the month following the effective date of adoption of these benefits by the participating local district. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18459. INTERCHANGEABLE BENEFITS FOR LAW ENFORCEMENT OFFICERS

Any service retirement benefits earned by a law enforcement officer under this article which are substantially similar or equal are interchangeable. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18460. DISCONTINUATION AND SUBSTITUTION OF BENEFITS

A participating local district electing retirement programs under section 18453, subsections 1 to 9, may, by filing with the board a duly certified copy of its action: [1985, c. 801, §§ 5, 7 (NEW).]

1. **Discontinue benefits.** Discontinue any benefit under any of those subsections to any person qualifying for the benefit who was hired after the effective date of the district's action; and

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Substitution of benefits.** Substitute for the discontinued benefit any other benefit provided in this Part.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18461. COLLECTIVE BARGAINING RIGHTS

Nothing in section 18453, subsections 1 to 9, may be construed to affect in any way the rights of public employees to engage in collective bargaining for terms and conditions of employment. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18462. TRANSFER FROM SPECIAL PLAN

A participating local district may provide, by filing with the board a duly certified copy of its action, an additional benefit for employees under special plans who transfer to positions not under special plans. The benefits under subsection 2, paragraph A are not applicable to employees of participating local districts which have not adopted the provisions of section 18453, subsection 10 or 11. [2001, c. 2, Pt. A, §12 (COR).]

1. **Special plan defined.** As used in this section, unless the context otherwise indicates, "special plan" means any of the retirement programs in section 18453, subsections 2 to 9.

[1989, c. 79, §3 (NEW) .]

2. **Additional creditable service.** Additional creditable service is earned by a former participant in a special plan as follows.

A. A member who has completed the service requirements for retirement under a special plan may transfer to a position not under a special plan and earn service credit for additional service retirement benefits.

(1) The part of a member's service retirement benefit based upon membership service before being transferred shall be computed according to the formula for computing benefits under the special plan that the member was under previously.

(2) The part of the member's benefit based upon membership service after being transferred shall be computed in accordance with section 18452, subsection 1. [1989, c. 79, §3 (NEW).]

B. [2001, c. 699, §5 (RP).]

C. A member who has not completed the service requirements for retirement under a special plan may transfer to a position not under a special plan and shall receive service retirement benefits as follows.

(1) If the benefit is greater, the part of the member's service retirement benefit based upon membership service before being transferred shall be computed according to the formula for computing benefits under the special plan that the member was under previously.

(2) The part of the member's benefit based upon membership service after being transferred shall be computed in accordance with section 18452, subsection 1. [1989, c. 79, §3 (NEW).]

D. A member who has not completed the service requirements for retirement under a special plan, on becoming disabled as defined in section 18501, and on becoming reemployed in a position not under a special plan must on retirement receive retirement benefits as follows.

(1) The part of the member's service retirement based on membership service before becoming disabled must be computed according to the formula for computing benefits under the member's previous special plan.

(2) The part of the member's service retirement based on membership service after becoming reemployed in a position not under a special plan must be computed according to the formula for computing benefits under the member's previous special plan.

(3) If the member is found to be no longer disabled, as defined in section 18501, the member may:

(a) Return to a position under the member's previous special plan; or

(b) Remain in the position that is not under a special plan and have the part of the member's service retirement benefit based on post-disability service computed in accordance with section 18452, subsection 1.

(4) The executive director may require that a member subject to this paragraph undergo medical examinations or tests once each year to determine the member's disability in accordance with section 18503.

(a) If the member refuses to submit to the examination or tests under this subparagraph, the member's retirement benefit must be based on section 17852, subsection 1, until the member withdraws the refusal.

(b) If the member's refusal under division (a) continues for one year, all the member's rights to any further benefits under this paragraph cease. [2011, c. 2, §4 (COR).]

[2011, c. 2, §4 (COR) .]

3. **Reduction of benefits.** Upon retirement before reaching normal retirement age, the service retirement benefit of a member who transferred or who was restored to service subject to subsection 2 must be reduced as follows.

A. If the member transferred under the provisions of subsection 2, paragraph A, the portion of the retirement benefit based upon creditable service earned after being transferred must be reduced in accordance with section 18452, subsection 3. [2013, c. 391, §13 (AMD).]

B. [2001, c. 699, §6 (RP).]

C. If the member was transferred subject to subsection 2, paragraph C, the retirement benefit must be reduced in accordance with section 18452, subsection 3. [2013, c. 391, §13 (AMD).]

D. If the member was transferred subject to subsection 2, paragraph D, and:

(1) If the member completes the service or service and age requirements for retirement under the special plan the member was under previously, the retirement benefit may not be reduced; or

(2) If the member does not complete the service or service and age requirements for retirement under the special plan the member was under previously, the retirement benefit must be reduced in accordance with section 18452, subsection 3. [2013, c. 391, §13 (AMD).]

[2013, c. 391, §13 (AMD) .]

4. **Computation of benefit.** The computation of the retirement benefit shall be based upon the member's average final compensation, as defined in section 17001, subsection 4.

[1989, c. 79, §3 (NEW) .]

SECTION HISTORY
1989, c. 79, §3 (NEW). RR 2001, c. 2, §A12 (COR). 2001, c. 699, §§5,6 (AMD). RR 2011, c. 2, §4 (COR). 2013, c. 391, §13 (AMD).

Article 3: DISABILITY RETIREMENT BENEFITS

§18501. DEFINITION

As used in this article, unless the context otherwise indicates, "disabled" means mentally or physically incapacitated: [1985, c. 801, §§ 5, 7 (NEW).]

1. **Permanent.** To the extent that it is impossible to perform the duties of his employment position and the incapacity can be expected to be permanent; and

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Revealed by examination.** Such that the incapacity will be revealed by medical examination or tests conducted in accordance with section 18503.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18501-A. APPLICABILITY

This article applies to all disabilities for which written applications are received by the executive director before October 1, 1989. All disabilities for which written applications are received by the executive director after September 30, 1989, are subject to article 3-A. [1989, c. 409, §§10, 12 (NEW).]

SECTION HISTORY
1989, c. 409, §§10,12 (NEW).

§18502. APPLICATION

1. **Written application.** In order to receive a benefit under this article, the person must apply in writing to the executive director in the format specified by the executive director.

A. The executive director shall obtain medical consultation on each applicant for disability retirement benefits in accordance with related rules established by the board, which must include provisions indicating when a case must be reviewed by a medical board and when alternative means of medical consultation are acceptable. Rules adopted pursuant to this paragraph are routine technical rules as defined in chapter 375, subchapter II-A. Whether provided by the medical board or by an alternative means, medical consultation obtained by the executive director must be objective and be provided by a physician or physicians qualified to review the case by specialty or experience and to whom the applicant is not known. [1995, c. 643, §17 (NEW).]

[1995, c. 643, §17 (AMD) .]

2. **Approval.** The written application must be approved by the executive director.

[1985, c. 801, §§5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1995, c. 643, §17 (AMD).

§18503. EXAMINATION OR TESTS

The examination or tests to determine whether a member is disabled under section 18501 are governed as follows. [1985, c. 801, §§ 5, 7 (NEW).]

1. **Agreed upon physician.** The examination or tests shall be conducted by a qualified physician mutually agreed upon by the executive director and member claiming to be disabled.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Agreed upon place.** The examination or tests shall be conducted at a place mutually agreed upon by the executive director and member claiming to be disabled.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Costs.** The costs incurred under subsections 1 and 2 shall be paid by the retirement system.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18504. QUALIFICATION FOR BENEFIT

1. **Qualification.** Except as provided in subsection 2, a member qualifies for a disability retirement benefit if the member becomes disabled while in service and, for a member who by election remains covered under this section as written prior to its amendment by Public Law 1991, chapter 887, section 12, before normal retirement age.

A. [1991, c. 887, §12 (RP).]

B. [1991, c. 887, §12 (RP).]

[1997, c. 384, §10 (AMD) .]

2. **Exception.** A member with fewer than 5 years of continuous creditable service preceding that member's last date of service is not eligible for a disability retirement benefit if the disability is the result of a physical or mental condition that existed before the member's membership in a retirement program of the Maine Public Employees Retirement System, unless the disability is a result of, or has been substantially aggravated by, an injury or accident received in the line of duty but from events or circumstances not usually encountered within the scope of the member's employment.

[2009, c. 322, §9 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1991, c. 434, §3 (AMD). 1991, c. 887, §12 (AMD). 1997, c. 384, §10 (AMD). 2007, c. 491, §244 (AMD). 2009, c. 322, §9 (AMD).

§18505. COMPUTATION OF BENEFIT

When a member qualified under section 18504 retires, the member is entitled to receive a disability retirement benefit equal to 59% of the member's average final compensation. The 59% level must be reviewed for cost-neutral comparability as a part of the actuarial investigation provided under section 17107, subsection 2, paragraph E, beginning with the investigation made January 1, 1997 and every 6 years thereafter. The review that takes place every 6 years must compare actual experience under the disability plans with actuarial assumptions regarding election and costs of benefits under the new options elected and identify possible options for compliance with the federal Older Workers Benefit Protection Act that protect benefits for employees without additional cost to the State and participating local districts. [1995, c. 643, §18 (AMD).]

A member who by election remains covered, as to qualification for benefits, under section 18504 as written prior to its amendment by Public Law 1991, chapter 887, section 12, qualifies for a disability retirement benefit on meeting the requirements of section 18504, subsection 1, paragraphs C and D. When

a member so qualified retires after approval for disability retirement by the executive director in accordance with this Article, the member is entitled to receive a disability retirement benefit equal to 66 2/3% of the member's average final compensation. [1997, c. 384, §11 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1991, c. 887, §13 (AMD). 1993, c. 595, §11 (AMD). 1995, c. 643, §18 (AMD). 1997, c. 384, §11 (AMD).

§18506. REDUCTION IN AMOUNT OF BENEFIT

1. **Excess compensation.** If the compensation received from engaging in any gainful occupation by a beneficiary of a disability retirement benefit exceeds $20,000 in calendar year 2000 or in any subsequent calendar year exceeds that amount cumulatively increased by the same percentage adjustments granted under section 18407:

A. The excess must be deducted from the disability or service retirement benefits during the next calendar year, the deductions to be prorated on a monthly basis in an equitable manner prescribed by the board over the year or part of the year for which the benefits are received; and [2001, c. 443, §3 (AMD); 2001, c. 443, §7 (AFF).]

B. The beneficiary shall reimburse the retirement system for any excess payments not deducted under paragraph A. [1985, c. 801, §§5, 7 (NEW).]

[2013, c. 391, §14 (AMD) .]

2. **Disability payments under other laws.** The reduction of disability retirement benefits because of disability benefits received under other laws is governed as follows.

A. The amount of any disability retirement benefit payable under this article must be reduced by any amount received by the beneficiary for the same disability under either or both of the following:

(1) The workers' compensation or similar law, except amounts that may be paid or payable under former Title 39, section 56-B or Title 39-A, section 212, subsection 3; or

(2) The United States Social Security Act, if the employment for which creditable service with the employer is allowed was also covered under that Act at the date of disability retirement. [1993, c. 680, Pt. A, §17 (AMD).]

B. Disability retirement benefits shall be calculated as follows:

(1) The initial disability retirement benefit shall be reduced if necessary so that the benefit plus any benefits under paragraph A do not exceed 80% of the beneficiary's average final compensation;

(2) Subsequent cost-of-living adjustments applied to any benefit listed under paragraph A shall be excluded from the calculations under subparagraph (1);

(3) Adjustments under section 18407 shall be applied to that portion of disability retirement benefits calculated under subparagraph (1); and

(4) If a beneficiary receives a benefit under paragraph C, the 80% limit under subparagraph (1) shall not include adjustments under section 18407. [1987, c. 458, §2 (RPR).]

C. The disability retirement benefit may not be reduced below the amount of the retirement benefit which is the actuarial equivalent of the member's accumulated contributions at the time of his retirement. [1985, c. 801, §§5, 7 (NEW).]

D. Lump-sum settlements of benefits that would reduce the disability retirement benefit under this subsection must be prorated on a monthly basis in an equitable manner prescribed by the board.

(1) These prorated lump-sum settlements may not include any part of the lump-sum settlement attributable to vocational rehabilitation, attorneys' fees, physicians, nurses, hospital, medical, surgical or related fees or charges or any amount paid or payable under former Title 39, section 56-B or Title 39-A, section 212, subsection 3.

(2) These prorated lump-sum settlements must reduce the disability retirement benefit in the same manner and amount as monthly benefits under this subsection. [1993, c. 680, Pt. A, §18 (AMD).]

E. Any dispute about amounts paid or payable under workers' compensation or about the amount of the lump-sum settlement and its attributions must be determined, on petition, by a single member of the Workers' Compensation Board, in accordance with Title 39-A. These determinations may be appealed under Title 39-A, section 322. [1991, c. 885, Pt. E, §14 (AMD); 1991, c. 885, Pt. E, §47 (AFF).]

[1993, c. 680, Pt. A, §§17, 18 (AMD) .]

3. **Restoration to service.** If any recipient of a disability retirement benefit is restored to service, and if the total of the recipient's monthly retirement benefit for any year and the recipient's total earnable compensation for that year exceed the recipient's average final compensation at retirement, increased by the same percentage adjustments as have been received under section 18407, the excess must be deducted from the disability retirement benefit payments during the next calendar year.

A. The deductions must be prorated on a monthly basis over the year or part of the year for which benefits are received in an equitable manner prescribed by the board. [2007, c. 491, §245 (AMD).]

B. The recipient of the disability retirement benefit shall reimburse the retirement system for any excess payments not deducted under this section. [1985, c. 801, §§5, 7 (NEW).]

C. If the retirement benefit payments are eliminated by operation of this subsection:

(1) The person again becomes a member of the Participating Local District Retirement Program and begins contributing at the current rate; and

(2) When the person again retires, the person must receive benefits computed on the person's entire creditable service and in accordance with the law in effect at that time. [2007, c. 491, §245 (AMD).]

[2013, c. 391, §15 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 458, §2 (AMD). 1989, c. 78, §8 (AMD). 1991, c. 885, §§E13,14 (AMD). 1991, c. 885, §E47 (AFF). 1993, c. 680, §§A17,18 (AMD). 2001, c. 443, §3 (AMD). 2001, c. 443, §7 (AFF). 2007, c. 491, §245 (AMD). 2013, c. 391, §§14, 15 (AMD).

§18507. PAYMENT OF BENEFIT

1. **Beginning.** If the executive director receives the written application for disability retirement benefits within 6 months after the date of termination of active service of the member, payment of benefits shall begin on the first day of the month following the date of termination of active service of the member. If the executive director receives the written application for disability retirement benefits more than 6 months after the date of termination of active service of the member, payment of benefits shall begin on the first day of the month following the date 6 months prior to the date of receipt by the executive director of the written application, by or on behalf of the member, for disability retirement, provided that payment of benefits shall begin on the first day of the month following the date of termination of active service of the member if it is shown that:

A. It was not reasonably possible to file the application for disability retirement benefits within the 6-month period; and [1987, c. 256, §40 (RPR).]

B. The application was made as soon as was reasonably possible. [1987, c. 256, §40 (RPR).]

[1987, c. 256, §40 (RPR) .]

2. Cessation. Payment of disability retirement benefits shall continue as long as a person is disabled, except that:

A. A disability retirement benefit ceases and eligibility for a service retirement benefit begins on the last day of the month in which the service retirement benefit of the beneficiary equals or exceeds the amount of the member's disability retirement benefit. For a member who by election or by having retired on disability retirement prior to October 16, 1992, remains covered under this section as written prior to its amendment by Public Law 1991, chapter 887, section 14, the disability retirement benefit ceases:

(1) On the last day of the month in which the 10th anniversary of the beneficiary's normal retirement age, as defined in section 17001, subsection 23, occurs; or

(2) On the last day of the month in which the service retirement benefit of the beneficiary would equal or exceed the amount of the disability retirement benefit, if that occurs before the 10th anniversary of the beneficiary's normal retirement age. [1997, c. 384, §12 (AMD).]

B. After the disability has continued for 5 years, the disability of the beneficiary must render the beneficiary unable to engage in any substantially gainful activity for which the beneficiary is qualified by training, education or experience. For purposes of this paragraph, the ability to engage in substantially gainful activity is demonstrated by the ability to perform work resulting in annual earnings that exceed $20,000 or 80% of the recipient's average final compensation at retirement, whichever is greater, adjusted by the same percentage adjustments granted under section 18407.

(1) The executive director may require, once each year, a recipient of a disability retirement benefit to undergo medical examinations or tests, conducted in accordance with section 18503, to determine the disability of the beneficiary.

(2) If the beneficiary refuses to submit to the examination or tests under subparagraph (1), the beneficiary's disability retirement benefit is discontinued until the beneficiary withdraws the refusal.

(3) If the beneficiary's refusal under subparagraph (2) continues for one year, all the beneficiary's rights to any further benefits under this article cease.

(4) If it is determined, on the basis of the examination or tests under subparagraph (1), that the disability of a beneficiary no longer exists, the payment of the beneficiary's disability retirement benefit ceases. [2003, c. 675, §3 (AMD).]

C. The person's average final compensation at retirement shall include the same percentage adjustments, if any, that would apply to the amount of retirement benefit of the beneficiary under section 18407. [1985, c. 801, §§5, 7 (NEW).]

D. A full month's benefit shall be paid to the beneficiary or estate of the disability retirement recipient for the month in which he dies. [1987, c. 256, §42 (NEW).]

[2003, c. 675, §3 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §§40-42 (AMD). 1991, c. 887, §14 (AMD). 1997, c. 384, §12 (AMD). 2003, c. 675, §3 (AMD).

§18508. STATEMENT OF HEALTH

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1995, c. 643, §19 (RP).

§18509. STATEMENT OF COMPENSATION

1. **Requirement.** The executive director shall require each beneficiary of a disability retirement benefit to submit, each calendar year, a statement of his compensation received from engaging in any gainful occupation during that year.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Failure to submit statement.** Failure to submit the statement under subsection 1, shall result in the following.

A. If the beneficiary fails to submit the statement required under subsection 1 within 30 days of receipt of the executive director's request for the statement, the beneficiary's disability retirement benefit shall be discontinued until the statement is submitted. [1985, c. 801, §§ 5, 7 (NEW).]

B. If the beneficiary fails to submit the statement required under subsection 1 within one year of receipt of the executive director's request for the statement, all the beneficiary's rights to any further benefits shall cease. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18510. OPTIONAL ELECTION

1. **Election.** Any beneficiary entitled to a disability retirement benefit under section 1122 of the former retirement system law, as in effect immediately before July 1, 1977, may elect to be governed by this article instead of the law applicable to the disability retirement benefit which he is receiving.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Manner of election.** The election under subsection 1 must be made by written application to the executive director within 6 months after adoption of this article by the participating local district.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Effect of election.** If the election under subsection 1 is made, this article shall apply from the date of the beneficiary's original eligibility for disability retirement, but any increases in benefits may only be granted from the date of election.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18511. PRESUMPTION OF DISABILITY FOR ACTIVE FIREFIGHTERS

1. **Definition.** For purposes of this section, a person is considered to be an active member of a municipal fire department or of a volunteer fire department or volunteer firefighters' association if the person aids in the extinguishment of fires, whether or not the person has administrative duties or other duties as a member of the department or association.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Presumption.** It is presumed that a member incurred a disability in the line of duty that occurred while in actual performance of duty at some definite time and place and that was not caused by the willful negligence of the member if:

A. The disability is the result of a cardiovascular injury that occurred, or a cardiovascular or pulmonary disease that developed, within 6 months of having participated in firefighting or in a training or drill that involved firefighting; and [2009, c. 322, §10 (AMD).]

B. The member was an active member of a municipal fire department or of a volunteer fire association, as defined in Title 30-A, section 3151, for at least 2 years before the injury or the onset of the disease. [2009, c. 322, §10 (AMD).]

C. [2009, c. 322, §10 (RP).]

[2009, c. 322, §10 (AMD) .]

3. **Rebuttal.** This presumption is subject to rebuttal in accordance with the Maine Rules of Evidence, Rule 301.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 878, §B6 (AMD). 2009, c. 322, §10 (AMD).

§18512. REHABILITATION

Upon agreement of the executive director and the person, rehabilitation services may be provided to any person who is the recipient of a disability retirement benefit under this article as a means to the person being able to return to substantially gainful activity. As a condition of entering into an agreement to provide rehabilitation services, the executive director must determine that rehabilitation is feasible, that rehabilitation is consistent with the purposes of this article, that the recipient is suitable for rehabilitation services and that rehabilitation services are likely to lead to substantially gainful activity. When appropriate, determination of suitability must include consultation with the medical board to determine any medical indications that the recipient should not engage in a rehabilitation program or to identify a recipient too severely disabled to benefit from rehabilitation services in accordance with the purposes of this article. Services must be provided by private and public rehabilitation counselors, government agencies and others approved by the executive director as qualified to provide rehabilitation services. The executive director shall consider a rehabilitation counselor's rate of successfully placing rehabilitated employees in jobs relative to the placement rates of other counselors in the State as fundamental in deciding whether to approve the counselor as qualified. This section does not affect the ongoing requirement that a person remain disabled in order to continue to receive disability benefits. [2003, c. 387, §10 (NEW).]

For the purposes of this section, "person" means any person who is the recipient of a disability retirement benefit. [2003, c. 387, §10 (NEW).]

1. **Rehabilitation plan.** If the executive director makes the determinations necessary to provide rehabilitation services under this section and rehabilitation agreed to by the parties, the retirement system shall designate a rehabilitation provider to evaluate the person and develop a rehabilitation plan.

[2003, c. 387, §10 (NEW) .]

2. **Costs.** The executive director may contract with rehabilitation providers to develop and carry out approved rehabilitation plans.

A. Except as provided in paragraph B, the executive director shall pay these providers from funds accumulated in the Retirement Allowance Fund, established under section 17251. [2003, c. 387, §10 (NEW).]

B. If the person is entitled to other benefits to meet the cost of rehabilitation services, that person must first apply for and use those benefits to the extent available to pay for the goods and services provided. [2003, c. 387, §10 (NEW).]

[2003, c. 387, §10 (NEW) .]

3. **Approval of rehabilitation plan.** The executive director and the person shall approve any rehabilitation plan developed under subsection 1 and shall indicate in writing their approval of and agreement to the rehabilitation plan. The person shall approve the plan within 30 days or, within that time period, submit to the executive director the name of an alternate provider for the executive director's consideration. If the rehabilitation plan includes return to employment with the employer for whom the person worked before becoming disabled, the employer also shall indicate in writing approval of the plan.

[2003, c. 387, §10 (NEW) .]

4. **Monitoring of rehabilitation plan.** Each rehabilitation plan approved by the executive director must contain a provision for periodic review of progress being made by the person toward achieving the goal of the plan and substantially gainful activity. The provision relating to review must include authority for the executive director to terminate the plan or to amend the plan with the same provider or with a change of provider, based upon results of the review or at the request of the person or the provider. Subsections 1, 2 and 3 apply to any amended plans under this subsection. A person is entitled to a single rehabilitation plan during the course of the person's incapacity except when the person demonstrates that a termination of the plan was reasonable and for good cause. Any entitlement to amend a rehabilitation plan or establish a new plan ends with a determination by the executive director that the person is no longer disabled.

[2003, c. 387, §10 (NEW) .]

5. **Return to service.** If the rehabilitation plan includes return to employment with the person's former employer, that person must be reemployed in accordance with the plan. The executive director shall notify the former employer, in writing, that the person has completed the rehabilitation plan and is ready to return to employment. The former employer shall reemploy the person in the first available position for which that person is qualified, taking into consideration that person's prior compensation and benefits, training, education and experience, including training and education received under that person's rehabilitation plan.

[2003, c. 387, §10 (NEW) .]

6. **Employment exception.** A person is not required to accept employment that reasonably necessitates relocation or for which the person is not qualified, taking into consideration that person's prior compensation and benefits, training, education and experience, including training and education received under that person's rehabilitation plan. The disability retirement benefit may not be discontinued except as provided by section 17929 or until the person is reemployed consistent with this section.

[2003, c. 387, §10 (NEW) .]

SECTION HISTORY
2003, c. 387, §10 (NEW).

Article 3-A: DISABILITY RETIREMENT BENEFITS AFTER SEPTEMBER 30, 1989

§18521. DEFINITIONS

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [1989, c. 409, §§11, 12 (NEW).]

1. **Disabled.** "Disabled" means that the member is mentally or physically incapacitated under the following conditions:

A. The incapacity is expected to be permanent; [1989, c. 409, §§11, 12 (NEW).]

B. That it is impossible to perform the duties of the member's employment position; [1989, c. 409, §§11, 12 (NEW).]

C. After the incapacity has continued for 2 years, the incapacity must render the member unable to engage in any substantially gainful activity for which the member is qualified by training, education or experience; and [1989, c. 409, §§11, 12 (NEW).]

D. The incapacity may be revealed by examinations or tests conducted in accordance with section 18526. [1989, c. 409, §§11, 12 (NEW).]

[1989, c. 409, §§11, 12 (NEW) .]

2. **Employment position.** "Employment position" means:

A. The position in which the member is employed at the time the member becomes incapacitated; or [1989, c. 409, §§11, 12 (NEW).]

B. A position of comparable stature and equal or greater compensation and benefits which is made available to the member by the member's employer. [1989, c. 409, §§11, 12 (NEW).]

[1989, c. 409, §§11, 12 (NEW) .]

SECTION HISTORY
1989, c. 409, §§11,12 (NEW).

§18522. APPLICABILITY

This article applies to all disabilities for which written applications are received by the executive director after September 30, 1989. [1989, c. 409, §§11, 12 (NEW).]

SECTION HISTORY
1989, c. 409, §§11,12 (NEW).

§18523. STATEMENT OF HEALTH

(REPEALED)

SECTION HISTORY
1989, c. 409, §§11,12 (NEW). 1995, c. 643, §20 (RP).

§18524. QUALIFICATION FOR BENEFIT

1. **Qualification.** Except as provided in subsection 2, a member qualifies for a disability retirement benefit if disabled while in service and, for a member who by election remains covered under this section as written prior to its amendment by Public Law 1991, chapter 887, section 15, before normal retirement age.

A. [1991, c. 887, §15 (RP).]

B. [1991, c. 887, §15 (RP).]

[1997, c. 384, §13 (AMD) .]

2. **Exception.** A member with fewer than 5 years of continuous creditable service preceding that member's last date of service is not eligible for a disability retirement benefit if the disability is the result of a physical or mental condition that existed before the member's membership in a retirement program of the Maine Public Employees Retirement System, unless the disability is a result of, or has been substantially aggravated by, an injury or accident received in the line of duty but from events or circumstances not usually encountered within the scope of the member's employment.

[2009, c. 322, §11 (AMD) .]

SECTION HISTORY
1989, c. 409, §§11,12 (NEW). 1991, c. 434, §4 (AMD). 1991, c. 887, §15 (AMD). 1997, c. 384, §13 (AMD). 2007, c. 491, §246 (AMD). 2009, c. 322, §11 (AMD).

§18525. APPLICATION

1. **Written application.** In order to receive a benefit under this article, the person must apply in writing to the executive director in the format specified by the executive director.

A. The executive director shall obtain medical consultation on each applicant for disability in accordance with related rules established by the board, which must include provisions indicating when a case must be reviewed by a medical board and when alternative means of medical consultation are acceptable. Rules adopted pursuant to this paragraph are routine technical rules as defined in chapter 375, subchapter II-A. Whether provided by the medical board or by an alternative means, medical consultation obtained by the executive director must be objective and be provided by a physician or physicians qualified to review the case by specialty or experience and to whom the applicant is not known. [1995, c. 643, §21 (AMD).]

B. [1997, c. 393, Pt. A, §14 (RP).]

[1997, c. 393, Pt. A, §14 (AMD) .]

2. **Workers' compensation.** If the incapacity upon which the application is based is a result of an injury or accident received in the line of duty, the application must include proof that the member has made application for benefits under the workers' compensation laws.

[1995, c. 643, §21 (AMD) .]

3. **Social security.** If the employment for which creditable service with the employer is allowed was also covered under the United States Social Security Act, the application must include proof that the member has made application for benefits under this Act.

[1995, c. 643, §21 (AMD) .]

4. **Approval.** The written application must be approved by the executive director upon finding that the member has met the requirements of section 18524.

[1995, c. 643, §21 (AMD) .]

5. **Reapplication.** A member who has had a disability retirement benefit application denied may file a new application based on the same medical conditions only if that member has had a bona fide return to service with an employer whose employees are covered by this article or chapter 423, subchapter 5, article 3-A. If the executive director finds that the member has met the requirements of section 18524, the new application must be approved notwithstanding the earlier denial.

[2015, c. 392, §2 (NEW) .]

SECTION HISTORY
1989, c. 409, §§11,12 (NEW). 1995, c. 643, §§21,22 (AMD). 1997, c. 393, §A14 (AMD). 2015, c. 392, §2 (AMD).

§18526. EXAMINATIONS OR TESTS

Any examinations or tests recommended by the medical board in accordance with section 17106 or required by the executive director under section 18521, subsection 1, paragraph D; section 18524; section 18529, subsection 2, paragraph B; or section 18533, subsection 3, paragraph A, are governed as follows. [1995, c. 643, §23 (AMD).]

1. **Agreed upon physician.** The examinations or tests shall be conducted by a qualified physician and, when appropriate, a qualified psychologist mutually agreed upon by the executive director and the member claiming to be disabled.

[1989, c. 409, §§11, 12 (NEW) .]

2. **Agreed upon place.** The examinations or tests shall be conducted at a place mutually agreed upon by the executive director and the member claiming to be disabled.

[1989, c. 409, §§11, 12 (NEW) .]

3. **Costs.** The costs incurred under subsections 1 and 2 shall be paid by the retirement system.

[1989, c. 409, §§11, 12 (NEW) .]

SECTION HISTORY
1989, c. 409, §§11,12 (NEW). 1995, c. 643, §23 (AMD).

§18527. REHABILITATION

Upon agreement of the executive director and the person, rehabilitation services may be provided to any person who is the recipient of a disability retirement benefit under this article as a means to the person being able to return to substantially gainful activity. As a condition of entering into an agreement to provide rehabilitation services, the executive director must determine that rehabilitation is feasible, that rehabilitation is consistent with the purposes of this article, that the recipient is suitable for rehabilitation services and that

rehabilitation services are likely to lead to substantially gainful activity. When appropriate, determination of suitability must include consultation with the medical board to determine any medical indications that the recipient should not engage in a rehabilitation program or to identify a recipient too severely disabled to benefit from rehabilitation services in accordance with the purposes of this article. Services must be provided by private and public rehabilitation counselors, government agencies and others approved by the executive director as qualified to provide rehabilitation services. The executive director shall consider a rehabilitation counselor's rate of successfully placing rehabilitated employees in jobs relative to the placement rates of other counselors in the State as fundamental in deciding whether to approve the counselor as qualified. This section does not affect the ongoing requirement that a person remain disabled in order to continue to receive disability benefits. [2003, c. 387, §11 (AMD).]

For the purposes of this section, "person" means any person who is the recipient of a disability retirement benefit. [2003, c. 387, §11 (NEW).]

1. **Rehabilitation plan.** If the executive director makes the determinations necessary to provide rehabilitation services under this section and rehabilitation is agreed to by the parties, the retirement system shall designate a rehabilitation provider to evaluate the person and develop a rehabilitation plan.

[2003, c. 387, §11 (AMD) .]

2. **Costs.** The executive director may contract with rehabilitation providers to develop and carry out approved rehabilitation plans.

A. Except as provided in paragraph B, the executive director shall pay these providers from funds accumulated in the Retirement Allowance Fund, established under section 17251. [2003, c. 387, §11 (AMD).]

B. If the person is entitled to other benefits to meet the cost of rehabilitation services, that person must first apply for and use those benefits to the extent available to pay for the goods and services provided. [1989, c. 409, §§11, 12 (NEW).]

[2003, c. 387, §11 (AMD) .]

3. **Approval of rehabilitation plan.** The executive director and the person shall approve any rehabilitation plan developed under subsection 1 and shall indicate in writing their approval of and agreement to the rehabilitation plan. The person shall approve the plan within 30 days or, within that time period, submit to the executive director the name of an alternate provider for the executive director's consideration. If the rehabilitation plan includes return to employment with the employer for whom the person worked before becoming disabled, the employer shall also indicate in writing approval of the plan.

[2003, c. 387, §11 (AMD) .]

4. **Decline of rehabilitation.**

[2003, c. 387, §11 (RP) .]

5. **Monitoring of rehabilitation plan.** Each rehabilitation plan approved by the executive director shall contain a provision for periodic review of progress being made by the person toward achieving the goal of the plan and substantially gainful activity. The provision relating to review must include authority for the executive director to terminate the plan or to amend the plan with the same provider or with a change of provider, based upon results of the review or at the request of the person or the provider. Subsections 1, 2 and 3 apply to any amended plans under this subsection. A person is entitled to a single rehabilitation plan during

the course of the person's incapacity, except when the person demonstrates that a termination of the plan was reasonable and for good cause. Any entitlement to amend a rehabilitation plan or establish a new plan ends with a determination by the executive director that the person is no longer disabled.

[2003, c. 387, §11 (AMD) .]

6. **Return to service.** If the rehabilitation plan includes return to employment with the person's former employer, that person must be reemployed in accordance with the plan. The executive director shall notify the former employer, in writing, that the person has completed the rehabilitation plan and is ready to return to employment. The former employer shall reemploy the person in the first available position for which that person is qualified, taking into consideration that person's prior compensation and benefits, training, education and experience, including training and education received under that person's rehabilitation plan.

[2003, c. 387, §11 (AMD) .]

7. **Other employment under system.** A person is not required to accept employment that reasonably necessitates relocation or for which the person is not qualified, taking into consideration that person's prior compensation and benefits, training, education and experience, including training and education received under that person's rehabilitation plan. The disability retirement benefit may not be discontinued except as provided by section 18529 or until the person is reemployed consistent with this section.

[2003, c. 387, §11 (AMD) .]

SECTION HISTORY
1989, c. 409, §§11,12 (NEW). 1991, c. 580, §§15,16 (AMD). 1995, c. 643, §§24,25 (AMD). 2003, c. 387, §11 (AMD).

§18528. COMPUTATION OF BENEFIT

When a member qualified under section 18524 retires, after approval for disability retirement by the executive director in accordance with section 18525, the member is entitled to receive a disability retirement benefit equal to 59% of that member's average final compensation. The 59% level must be reviewed for cost-neutral comparability as a part of the actuarial investigation provided under section 17107, subsection 2, paragraph E, beginning with the investigation made January 1, 1997 and every 6 years thereafter. The review that takes place every 6 years must compare actual experience under the disability plans with actuarial assumptions regarding election and costs of benefits under the new options elected and identify possible options for compliance with the federal Older Workers Benefit Protection Act that protect benefits for employees without additional cost to the State and participating local districts. [1995, c. 643, §26 (AMD).]

A member who by election remains covered, as to qualification for benefits, under section 18524 as written prior to its amendment by Public Law 1991, chapter 887, section 15, qualifies for a disability retirement benefit on meeting the requirements of section 18524, subsection 1, paragraphs C and D. When a member so qualified retires after approval for disability retirement by the executive director in accordance with this Article, the member is entitled to receive a disability retirement benefit equal to 66 2/3% of the member's average final compensation. [1997, c. 384, §14 (NEW).]

SECTION HISTORY
1989, c. 409, §§11,12 (NEW). 1991, c. 887, §16 (AMD). 1993, c. 595, §12 (AMD). 1995, c. 643, §26 (AMD). 1997, c. 384, §14 (AMD).

§18529. PAYMENT OF BENEFIT

1. **Beginning.** Payment of disability retirement benefits shall begin on the first day of the month following the date of termination of active service of the member, but not more than 6 months before the date of receipt by the executive director of the written application, by or on behalf of the member, for disability retirement, unless it is shown that:

A. It was not reasonably possible to file the application for disability retirement benefits within the 6-month period; and [1989, c. 409, §§11, 12 (NEW).]

B. The application was made as soon as reasonably possible. [1989, c. 409, §§11, 12 (NEW).]

[1989, c. 409, §§11, 12 (NEW) .]

2. **Cessation.** Payment of disability retirement benefits shall continue as long as a person is disabled, except that:

A. The disability retirement benefit ceases and a service retirement benefit begins when the service retirement benefit of a person equals or exceeds the amount of the disability retirement benefit.

(1) When calculating the person's service retirement benefit, the average final compensation is the average final compensation at the time that person terminated active service before receiving disability retirement benefits adjusted by the same percentage adjustments, if any, that were applied to the disability retirement benefits under section 18407.

(2) The person is entitled to receive service credit for the purpose of determining benefits under this Part for the period following termination of service for which that person receives disability retirement benefits under this article; and [1991, c. 887, §17 (AMD).]

A-1. For a person who by election or by having retired on disability retirement prior to October 16, 1992, remains covered under this section as written prior to its amendment by Public Law 1991, chapter 887, section 17, the disability retirement benefit ceases:

(1) On the 10th anniversary of that person's normal retirement age, as defined in section 17001, subsection 23; or

(2) When the service retirement benefit of that person equals or exceeds the amount of the disability retirement benefit, if that occurs before the beneficiary's normal retirement age. [1997, c. 384, §15 (NEW).]

B. The executive director may require, once each year, that the person undergo examinations or tests, conducted in accordance with section 18526, to determine the person's disability. The executive director may refer the records documenting the results of the examinations or tests and the person's file to the medical board for medical consultation regarding rehabilitation in accordance with section 17106, subsection 3, paragraph E.

(1) After the disability has continued for 2 years, the disability must render the person unable to engage in any substantially gainful activity that is consistent with the person's training, education or experience and average final compensation adjusted by the same percentage adjustment as has been received under section 18407. The disability retirement benefit continues if the person can effectively demonstrate to the executive director that the person is actively seeking work. For purposes of this subparagraph, the ability to engage in substantially gainful activity is demonstrated by the ability to perform work resulting in annual earnings that exceed $20,000 or 80% of the recipient's average final compensation at retirement, whichever is greater, adjusted by the same percentage adjustments granted under section 18407.

(2) If the person refuses to submit to the examinations or tests under this paragraph, the disability retirement benefit is discontinued until that person withdraws the refusal.

(3) If the person's refusal under subparagraph (2) continues for one year, all rights to any further benefits under this article cease.

(4) If it is determined, on the basis of the examinations or tests under this paragraph, that the disability of a person no longer exists, the payment of the disability retirement benefit ceases.

(5) The executive director shall notify the person in writing of the decision to discontinue the disability retirement allowance under subparagraph (2) or (4).

(a) The decision is subject to appeal under section 17451.

(b) If the person appeals the executive director's decision, the disability retirement allowance may not be discontinued until all appeals have been exhausted. [2003, c. 675, §4 (AMD).]

[2003, c. 675, §4 (AMD) .]

SECTION HISTORY
1989, c. 409, §§11,12 (NEW). 1991, c. 887, §17 (AMD). 1995, c. 643, §27 (AMD). 1997, c. 384, §15 (AMD). 2003, c. 675, §4 (AMD).

§18530. REDUCTION IN AMOUNT OF BENEFIT

1. **Definition.** As used in this section, unless the context otherwise indicates, "adjusted final compensation" means the rate of pay of the person immediately before termination and becoming the recipient of a disability retirement benefit adjusted by the same percentage adjustment as has been received under section 18407.

[1989, c. 409, §§11, 12 (NEW) .]

2. **Compensation from employment not covered by this article.** If any person who is the recipient of a disability retirement benefit receives compensation in any year from engaging in any gainful activity or from employment with an employer whose employees are not covered by this article or chapter 423, subchapter 5, article 3-A, which exceeds $20,000, increased by the same percentage adjustments as are granted under section 18407, or the difference between the person's disability retirement benefit for that year and the person's average final compensation at the time that the person became a recipient of a disability retirement benefit, increased by the same percentage adjustments as have been granted by section 18407, whichever is greater:

A. The excess must be deducted from the disability or service retirement benefits during the next calendar year; the deductions to be prorated on a monthly basis in an equitable manner prescribed by the board over the year or part of the year for which the benefits are received; [2001, c. 443, §4 (AMD); 2001, c. 443, §7 (AFF).]

B. The person shall reimburse the retirement system for any excess payments not deducted under paragraph A. If the retirement benefit payments are eliminated by this subsection, the disability is deemed to no longer exist, the payment of the disability retirement benefit must be discontinued and, except as provided in paragraph C, all of the person's rights to benefits under this article cease; [2001, c. 443, §4 (AMD); 2001, c. 443, §7 (AFF).]

C. If, during the first 5 years of reemployment, the person again becomes disabled, terminates employment and is not covered by any other disability program, the retirement system shall resume paying the disability retirement benefit payable prior to the reemployment with all applicable cost-of-living adjustments and shall provide rehabilitation services under section 18527 if recommended by the medical board. If the benefit payable under the other disability program is not equal to or greater than the benefit under this article, the retirement system shall pay the difference between the amount

of the benefit payable under the other disability program and the amount of the benefit payable under this article. The executive director shall require examinations or tests to determine whether the person is disabled as described in section 18521; and [1989, c. 409, §§11, 12 (NEW).]

D. At any time before the elimination of disability retirement benefit payments by this subsection, the person may request that benefit payments be terminated and the executive director shall terminate benefit payments at the end of the month in which the request is received. [1989, c. 409, §§11, 12 (NEW).]

[2013, c. 391, §16 (AMD) .]

3. **Compensation from employment covered by this article.** If any person who is the recipient of a disability retirement benefit is reemployed by that person's prior employer or any other employer whose employees are covered by this article or chapter 423, subchapter V, article 3-A, and if the total of the person's disability benefit for any year and the person's total earnable compensation for that year exceeds the adjusted final compensation:

A. The disability or service retirement benefits will be reduced during the next calendar year by the amount that the total compensation exceeds the adjusted final compensation; [1989, c. 409, §§11, 12 (NEW).]

B. The deductions shall be prorated on a monthly basis in an equitable manner prescribed by the board over the year or part of the year during which the benefits are received; [1989, c. 409, §§11, 12 (NEW).]

C. The person shall reimburse the retirement system for any excess payments not deducted under paragraph A; [1989, c. 409, §§11, 12 (NEW).]

D. If the retirement benefit payments are eliminated by this subsection:

(1) The person again becomes a member of the Participating Local District Retirement Program and begins contributing at the current rate; and

(2) When the person again retires, the person must receive benefits computed on the basis of that person's entire creditable service and in accordance with the law in effect at that time; [2007, c. 491, §247 (AMD).]

E. If, during the first 5 years of reemployment, the person again becomes disabled and terminates employment, the retirement system shall resume paying the disability retirement benefit payable prior to the reemployment with all applicable cost-of-living adjustments, or if greater, a disability retirement benefit based upon the person's current average final compensation and shall provide rehabilitation services under section 18527 if recommended by the medical board. The executive director shall require examinations or tests to determine whether the person is disabled as defined in section 18521; and [1989, c. 409, §§11, 12 (NEW).]

F. At any time before the elimination of disability retirement benefit payments by this subsection, the person may request that benefit payments be terminated and the executive director shall terminate benefit payments at the end of the month in which the request is received. [1989, c. 409, §§11, 12 (NEW).]

[2007, c. 491, §247 (AMD) .]

4. **Disability payments under other laws.** The reduction of disability retirement benefits because of disability benefits received under other laws is governed as follows.

A. The amount of any disability retirement benefit payable under this article must be reduced by any amount received by the person for the same disability under either or both of the following:

(1) The workers' compensation or similar laws, except amounts that may be paid or payable under former Title 39, section 56-B or Title 39-A, section 212, subsection 3; or

(2) The United States Social Security Act, if the employment for which creditable service with the employer is allowed was also covered under that Act at the date of disability retirement. [1991, c. 885, Pt. E, §15 (AMD); 1991, c. 885, Pt. E, §47 (AFF).]

B. The reduction in the disability retirement benefit is governed as follows:

(1) The initial disability retirement benefit must be reduced if necessary so that the benefit plus any benefits under paragraph A do not exceed 80% of the person's average annual earnings. For the purposes of this subparagraph, "average annual earnings" means the total of the person's average final compensation plus other wages and earnings from employment for the calendar year in which the person has the highest total of other wages and earnings from employment during the 5 years immediately preceding the year in which the person became disabled;

(2) The amount determined by the calculation under subparagraph (1) shall not be adjusted when cost-of-living adjustments are applied to the benefits listed under paragraph A; and

(3) Adjustments under section 18407 shall be applied to the reduced disability retirement benefit calculated under subparagraph (1) or paragraph C. [2003, c. 328, §1 (AMD).]

C. The disability retirement benefit may not be reduced below the amount of the retirement benefit which is the actuarial equivalent of the member's accumulated contributions at the time of retirement. [1989, c. 409, §§11, 12 (NEW).]

D. Lump-sum settlements of benefits that reduce the disability retirement benefit under this subsection must be prorated on a monthly basis in an equitable manner prescribed by the board.

(1) These prorated lump-sum settlements may not include any part of the lump-sum settlement attributable to rehabilitation, attorneys', physicians', nurses', hospital, medical, surgical or related fees or charges or any amount paid or payable under former Title 39, section 56-B or Title 39-A, section 212, subsection 3.

(2) These prorated lump-sum settlements must reduce the disability retirement benefit in the same manner and amount as monthly benefits under this subsection. [1991, c. 885, Pt. E, §15 (AMD); 1991, c. 885, Pt. E, §47 (AFF).]

E. Any dispute about amounts paid or payable under workers' compensation or the amount of the lump-sum settlement and its attributions must be determined on petition by a single member of the Workers' Compensation Board in accordance with Title 39-A. These determinations may be appealed under Title 39-A, section 322. [1991, c. 885, Pt. E, §15 (AMD); 1991, c. 885, Pt. E, §47 (AFF).]

[2003, c. 328, §1 (AMD) .]

SECTION HISTORY
1989, c. 409, §§11,12 (NEW). 1991, c. 885, §E15 (AMD). 1991, c. 885, §E47 (AFF). 2001, c. 443, §4 (AMD). 2001, c. 443, §7 (AFF). 2003, c. 328, §1 (AMD). 2007, c. 491, §247 (AMD). 2013, c. 391, §16 (AMD).

§18531. STATEMENT OF COMPENSATION

1. **Requirement.** The executive director shall require each person who is the recipient of a disability retirement benefit to submit, each calendar year, a statement of compensation received from any gainful occupation during that year.

[1989, c. 409, §§11, 12 (NEW) .]

2. **Failure to submit statement.** Failure to submit the statement under subsection 1 shall result in the following:

A. If the person fails to submit the statement required under subsection 1 within 30 days of receipt of the executive director's request for the statement, the disability retirement benefit shall be withheld until the statement is submitted; or [1989, c. 409, §§11, 12 (NEW).]

B. If the person fails to submit the statement required under subsection 1 within one year of receipt of the executive director's request for the statement, all rights to further benefits shall cease.

(1) The executive director shall notify the person in writing of the decision to discontinue the disability retirement benefit.

(2) The decision shall be subject to appeal under section 17451.

(3) If the person appeals the executive director's decision, the disability retirement allowance shall not be discontinued until all appeals have been exhausted. [1989, c. 409, §§11, 12 (NEW).]

[1989, c. 409, §§11, 12 (NEW) .]

SECTION HISTORY
1989, c. 409, §§11,12 (NEW).

§18532. VOLUNTARY RETURN TO SERVICE

1. **Right to reinstatement.** If a person who is the recipient of a disability retirement benefit decides that the person is no longer incapacitated and is able to perform the duties of that person's employment position, the employer for whom the person last worked before becoming disabled shall reinstate the person to the first available position for which the person is qualified and which is consistent with the person's prior work experience. If a collective bargaining agreement applies to such a position, the employer may offer only a position which the person may claim by virtue of seniority accumulated at the time of the disability, unless otherwise specified in the collective bargaining agreement.

[1989, c. 409, §§11, 12 (NEW) .]

2. **Dispute over mental or physical capacity.** If there is a dispute between the person and the former employer over the person's mental or physical capacity to perform a specific job, at the option of the person that dispute shall be resolved by a majority of 3 physicians, one appointed and reimbursed by the person, one appointed and reimbursed by the employer and one appointed and reimbursed by the retirement system. If the 3 physicians resolve the dispute in favor of the person, the former employer shall reimburse the physician appointed by the person.

[1989, c. 409, §§11, 12 (NEW) .]

3. **Termination or reduction in benefits.** At any time before the elimination of disability retirement benefit payments under section 18530, subsection 3, the person may request that benefit payments be terminated and the executive director shall terminate benefit payments at the end of the month in which the request is received.

[1989, c. 409, §§11, 12 (NEW) .]

4. **Reinstatement of benefits.** If, during the first 5 years of reinstatement, the person again becomes disabled and terminates employment, the retirement system shall resume paying the disability retirement benefit payable before the reinstatement with all applicable cost-of-living adjustments, or if greater, a disability retirement benefit based upon the person's current average final compensation. The executive director may require examinations or tests to determine whether the person is disabled under section 18521.

[1989, c. 409, §§11, 12 (NEW) .]

SECTION HISTORY
1989, c. 409, §§11,12 (NEW).

§18533. SERVICE RETIREMENT

1. **Average final compensation.** The service retirement benefit of a person who returns to employment with that person's former employer or any other employer whose employees are covered by this article or chapter 423, subchapter V, article 3-A, after having been the recipient of a disability retirement benefit, shall be computed in its entirety using the average final compensation as defined by section 17001, subsection 4, on the date of that person's termination from service immediately before becoming the recipient of a service retirement benefit.

[1989, c. 409, §§11, 12 (NEW) .]

2. **Cost of benefits.** The cost of benefits based upon service credits earned before and during disability must be charged to the Retirement Allowance Fund. The cost of benefits based upon service credits earned after becoming reemployed must be charged to the account of the employer through whom the service credits were earned.

[2007, c. 249, §32 (AMD) .]

3. **Special plans.** The service credits earned after return to employment by a person who was employed under a special plan before becoming the recipient of a disability retirement benefit shall be credited toward completing the service requirements for retirement under that special plan. As used in this section, unless the context otherwise indicates, "special plan" means any of the retirement programs in section 17851, subsections 4 to 11 or section 18453, subsections 2 to 9.

A. The executive director may require, once each year, that the member undergo examinations or tests, conducted in accordance with section 18526, to determine that the member is still disabled to the extent that it is impossible to perform the duties of that member's former employment position. [1989, c. 409, §§11, 12 (NEW).]

B. If the member refuses to submit to the examinations or tests under paragraph A, the service credits earned after that date shall be based upon the plan applicable to the position in which the member is currently employed. [1989, c. 409, §§11, 12 (NEW).]

C. If it is determined on the basis of the examinations or tests under paragraph A that the member is no longer disabled to the extent that it is impossible to perform the duties of the former employment position, the member shall:

(1) Return to employment in a position covered by the same special plan or a comparable special plan that covered the former employment position; or

(2) Remain in the current employment position and have the service credits earned thereafter based upon the plan applicable to the position in which the member is currently employed. [1989, c. 409, §§11, 12 (NEW).]

[1989, c. 409, §§11, 12 (NEW) .]

SECTION HISTORY
1989, c. 409, §§11,12 (NEW). 2007, c. 249, §32 (AMD).

§18534. OPTIONAL ELECTION

Any person entitled to receive a disability retirement benefit under article 3, as in effect immediately before October 1, 1989, or under section 1122 of the former retirement system law, as in effect immediately before July 1, 1977, may elect to be governed by this article instead of article 3 by making written application to the executive director within 6 months after adoption of this article by the participating local district. If the election is made, this article shall apply from the date of the person's original eligibility for disability retirement, but any increase in benefits may only be granted from the date of election. [1989, c. 409, §§11, 12 (NEW).]

SECTION HISTORY
1989, c. 409, §§11,12 (NEW).

Article 3-B: MEMBER ELECTION OF DISABILITY PLAN

§18541. MEMBER ELECTION OF DISABILITY PLAN

(REPEALED)

SECTION HISTORY
1991, c. 887, §18 (NEW). 1995, c. 643, §28 (RP).

Article 3-C: DISABILITY UNDER FORMERLY AVAILABLE DISABILITY PLANS AFTER OCTOBER 16, 1992

§18542. DISABILITY UNDER FORMERLY AVAILABLE DISABILITY PLANS AFTER OCTOBER 16, 1992

In the case of a participating local district having a Participating Local District Retirement Program disability plan other than that provided by article 3 or 3-A, which plan is in force on October 15, 1992, the following provisions apply on and after October 16, 1992: [2007, c. 491, §248 (AMD).]

1. **Eligibility.** A member who is an employee of the district who applies for a disability retirement benefit after the effective date of the member's election to be covered under the plan as amended to meet the requirements of the federal Older Workers Benefit Protection Act is eligible to apply regardless of the member's age at time of application;

[1991, c. 887, §19 (NEW) .]

2. **Ordinary disability allowance.** In the case of ordinary disability under such a plan, the disability retirement allowance must be calculated as provided under the plan except that until July 1, 1996 the amount of the retirement allowance may not exceed 59% of the member's average final compensation at the time of disability retirement; and

[1993, c. 595, §13 (AMD) .]

3. **Occupational disability allowance.** In the case of occupational disability under such a plan, the disability retirement allowance is, until July 1, 1996, equal to 59% of the member's average final compensation at the time of disability retirement.

[1993, c. 595, §13 (AMD) .]

SECTION HISTORY
1991, c. 887, §19 (NEW). 1993, c. 595, §13 (AMD). 2007, c. 491, §248 (AMD).

Article 4: ORDINARY DEATH BENEFITS

§18551. DEFINITIONS

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [1985, c. 801, §§ 5, 7 (NEW).]

1. **Designated beneficiary.** "Designated beneficiary" means the beneficiary designated under section 18552.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Qualifying member.** "Qualifying member" means a member in service or a former member who is receiving a disability retirement benefit. Beginning July 1, 1993, for purposes of section 18553, subsection 1, "qualifying member" also means a member not in service. For purposes of section 18553, subsection 5-B, "qualifying member" also means a member not in service who has qualified for a service retirement benefit.

[1991, c. 469, §4 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1991, c. 469, §4 (AMD).

§18552. DESIGNATED BENEFICIARY

A qualifying member may designate a beneficiary to receive benefits upon the qualifying member's death by filing a written designation of beneficiary with the executive director. The last designation of any beneficiary revokes all previous designations. In order to be in effect, the written designation must be received by the retirement system office or be postmarked before the qualifying member's death. [2011, c. 449, §20 (AMD).]

1. **Designation of more than one beneficiary.** A member may designate more than one person as a beneficiary subject to the following limitations.

A. If more than one person is designated as a beneficiary and:

(1) If one of the persons designated is eligible to receive benefits under section 18553, subsection 3 and the other persons designated are eligible to receive benefits under section 18553, subsection 4, there is no limit to the number of persons eligible to receive benefits under section 18553, subsection 4 who may be designated;

(2) If all of the persons designated are eligible to receive benefits under section 18553, subsection 4, there is no limit to the number of persons who may be designated; or

(3) If all of the persons designated are eligible to receive benefits under section 18553, subsection 5, no more than 2 persons may be designated. [1989, c. 658, §5 (NEW).]

B. If the person designated as a beneficiary is the member's spouse, that designation includes all of the member's dependent children so long as the person designated meets the definition of spouse in section 17001, subsection 39. [1989, c. 658, §5 (NEW).]

[1989, c. 658, §5 (NEW) .]

2. **Limitations.** If a member designates as beneficiaries 2 or more persons, all must meet the requirements of one, and only one, of the subparagraphs of subsection 1, paragraph A, otherwise their eligibility to receive a benefit under this article shall be limited to section 18553, subsection 1 or section 18554.

[1989, c. 658, §5 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 658, §5 (AMD). 2011, c. 449, §20 (AMD).

§18553. DEATH BEFORE SERVICE RETIREMENT

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

Before July 1, 1993, if a qualifying member dies at any time before completing the age and service requirements for service retirement, the payment of ordinary death benefits is governed as follows. Beginning July 1, 1993, if a qualifying member dies before the member's service retirement benefit becomes effective, the payment of ordinary death benefits is governed as follows. In either case, the member's beneficiary may select only one of the death benefits. [1991, c. 469, §5 (AMD).]

1. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 1991, c. 619, §18) **Refund of contributions.** The amount of the qualifying member's accumulated contributions, as determined under section 18306-A, is paid:

A. To the qualifying member's designated beneficiary, if any; [1991, c. 469, §5 (AMD).]

B. If the qualifying member is not survived by a designated beneficiary, to the first listed of the following relatives, if any are alive at the qualifying member's death:

(1) Surviving spouse;

(2) Child or children, regardless of age, sharing equally among themselves; and

(3) The older parent; or [1985, c. 801, §§5, 7 (NEW).]

C. To the qualifying member's estate. [1991, c. 469, §5 (AMD).]

[2007, c. 137, §24 (AMD) .]

1. (TEXT EFFECTIVE ON CONTINGENCY: See PL 1991, c. 619, §18) **Refund of contributions.** The amount of the qualifying member's accumulated contributions is paid:

A. To the qualifying member's designated beneficiary, if any; [1991, c. 469, §5 (AMD).]

B. If the qualifying member is not survived by a designated beneficiary, to the first listed of the following relatives, if any are alive at the qualifying member's death:

(1) Surviving spouse;

(2) Child or children, regardless of age, sharing equally among themselves; and

(3) The older parent; or [1985, c. 801, §§5, 7 (NEW).]

C. To the qualifying member's estate. [1991, c. 469, §5 (AMD).]

[1991, c. 469, §5 (AMD) .]

2. Survivor benefits. Survivor benefits are governed as follows.

A. Instead of accepting the payment provided in subsection 1, the first listed of the following who are living at the death of the qualifying member may elect the benefits described in subsections 3 to 5-B:

(1) The designated beneficiary, if any; or

(2) If no beneficiary is designated, the surviving spouse, the dependent child or dependent children, or the parent or parents. [1991, c. 469, §5 (AMD).]

B. If the surviving spouse elects a benefit under this subsection, the dependent child or dependent children are entitled to receive the benefit under subsection 4. [1991, c. 469, §5 (AMD).]

C. A person entitled to receive benefits under this section may, before the beginning of benefit payments, elect to receive benefits under article 5.

(1) In order to elect these survivor benefits, both the qualifying member and the beneficiary must comply with each requirement of article 5.

(2) If no election is made under this paragraph, benefits payable under this section are in lieu of any benefits payable under article 5. [1991, c. 469, §5 (AMD).]

[1991, c. 469, §5 (AMD) .]

3. Amount of survivor benefit payment to surviving spouse. If the surviving spouse of the qualifying member elects a benefit under subsection 2, paragraph A, only one of the following options may be paid at one time.

A. A surviving spouse of the qualifying member is paid a $150 benefit each month beginning the first month after the death occurs and continuing during the surviving spouse's lifetime, if:

(1) The deceased qualifying member had 10 years of creditable service at the time of death; or

(2) The surviving spouse is certified by the medical board to be permanently mentally incompetent or permanently physically incapacitated and is determined by the executive director to be unable to engage in any substantially gainful employment.

A full month's benefit is paid to the estate of the surviving spouse for the month in which the surviving spouse dies. [1991, c. 469, §5 (AMD).]

B. A surviving spouse of the qualifying member who has the care of the dependent child or children of the deceased qualifying member and who is not eligible to receive a benefit under paragraph A is paid a $150 minimum benefit each month, beginning the first month after the death of the qualifying member and continuing during the surviving spouse's lifetime until the end of the month in which the dependent child or children are no longer in the surviving spouse's care. [1991, c. 469, §5 (AMD).]

C. A surviving spouse of the qualifying member who is not eligible to receive a benefit under paragraph A or B is paid a $150 minimum benefit each month, beginning the first month after the surviving spouse reaches 60 years of age and continuing during the surviving spouse's lifetime.

A full month's benefit is paid to the estate of the surviving spouse for the month in which the surviving spouse dies. [1991, c. 469, §5 (AMD).]

D. The $150 benefit specified under paragraphs A, B and C is increased to $225 on July 1, 1989 and $300 on July 1, 1990. Starting July 1, 1991, a participating local district may increase the $300 benefit by the cost of living, in accordance with the provisions of subsection 10. [1991, c. 469, §5 (AMD).]

E. Only one beneficiary of a qualifying member is entitled to receive the benefit under this subsection. [1991, c. 469, §5 (AMD).]

[1991, c. 469, §5 (AMD) .]

4. **Amount of survivor benefit to dependent children.** If the dependent child or children or surviving spouse of the deceased qualifying member elects a benefit under subsection 2, paragraph A, the payment of benefits to the dependent child or children is governed as follows.

A. The amount of the survivor benefit is determined as follows.

(1) Until January 1, 1989:

(a) One dependent child is paid $150 each month;

(b) Two dependent children are paid $225 each month which must be divided equally between them; and

(c) Three or more dependent children are paid $300 each month which must be divided equally among them.

(2) Starting January 1, 1989, each dependent child receives a benefit of $150 a month.

(3) Starting July 1, 1989, each dependent child receives a benefit of $175 a month.

(4) Starting July 1, 1990, each dependent child receives a benefit of $200 a month.

(5) Starting July 1, 1991, each dependent child receives a benefit of $225 a month.

(6) Starting July 1, 1992, each dependent child receives a benefit of $250 a month.

(7) Starting July 1, 1993, a participating local district may increase the $250 benefit under subparagraph (6) by the cost of living in accordance with the provisions of subsection 10. [1991, c. 469, §5 (AMD).]

B. The benefits begin the first month after the death of the qualifying member and are payable to each dependent child, in accordance with Title 18-A, article V, until the end of the month in which the child no longer meets the definition of "dependent child" in section 17001, subsection 12. [1991, c. 469, §5 (AMD).]

C. When any dependent child becomes ineligible to receive benefits under this subsection, the other dependent children, if any, continue to receive benefits in accordance with this subsection. [1991, c. 469, §5 (AMD).]

D. The combined benefits under subsection 3 and this subsection may not exceed 80% of the deceased qualifying member's average final compensation adjusted annually at the same time and at the same percentage as adjustments under subsection 10. [1987, c. 529, §3 (NEW).]

[1991, c. 469, §5 (AMD) .]

5. **Amount of survivor benefit to parents.** If the parent of the deceased qualifying member elects a benefit under subsection 2, paragraph A, the payment of benefits is governed as follows.

A. The amount of the benefit is determined as follows.

(1) A parent who is alive at the time of the death of the qualifying member is paid $150 a month if the parent is at least 60 years of age or, if not, upon reaching that age.

(2) If both parents are eligible for benefits under this article and the older parent elects benefits under this subsection, the older parent is paid $150 a month and the younger parent is paid $105 a month upon reaching 60 years of age.

(3) Upon the death of either parent, the surviving parent receives $150 a month. [1991, c. 469, §5 (AMD).]

B. The payment of benefits to any parent begins the first month after the death of the qualifying member and continues until the death of the parent. [1991, c. 469, §5 (AMD).]

C. Benefits are payable under this subsection only if no other benefits have been paid under subsection 3 or 4. [1985, c. 801, §§5, 7 (NEW).]

D. Starting July 1, 1991, a participating local district may increase the $150 benefit under paragraph A by the cost of living in accordance with the provisions of subsection 10. [1991, c. 469, §5 (AMD).]

E. No more than 2 beneficiaries of a qualifying member may be entitled to receive the benefit under this subsection. [1989, c. 658, §7 (NEW).]

[1991, c. 469, §5 (AMD) .]

5-A. **Amount of survivor benefit to designated beneficiary.** If a designated beneficiary, other than the surviving spouse, dependent child, dependent children or the parent or parents of a deceased qualifying member, elects a benefit under subsection 2, paragraph A, the payment of benefits is governed as follows.

A. A designated beneficiary who is alive at the time of the death of the qualifying member is paid $150 per month beginning the first month after the death occurs and continuing until the date of the designated beneficiary's death, if the designated beneficiary is certified by the medical board to be permanently mentally incompetent or permanently physically incapacitated and is determined by the executive director to be unable to engage in any substantially gainful employment. [1991, c. 469, §5 (AMD).]

B. A designated beneficiary who is alive at the time of the death of the qualifying member and is a person under 18 years of age, or under 22 years of age if the person is a full-time student, is paid $150 per month beginning the first month after the death occurs and continuing until the person no longer meets the age criteria of this paragraph. [1991, c. 469, §5 (AMD).]

C. A designated beneficiary of the qualifying member who has the care of the dependent child or children of the deceased qualifying member, and who is not eligible to receive a benefit under paragraph A, has the option:

(1) To be paid $150 per month, beginning the first month after the death of the qualifying member and continuing during the designated beneficiary's lifetime for as long as the dependent child or children are in the designated beneficiary's care;

(2) To transfer the right to receive a benefit to the children of the deceased qualifying member under subsection 4; or

(3) To elect a benefit under paragraph D. [1991, c. 469, §5 (AMD).]

D. A designated beneficiary who is not eligible to receive a benefit under paragraph A, B or C is paid $150 per month, beginning the first month after the designated beneficiary reaches 60 years of age and continuing until the date of the beneficiary's death. [1991, c. 469, §5 (AMD).]

E. Only one beneficiary of a qualifying member is entitled to receive the benefit under this subsection. [1991, c. 469, §5 (AMD).]

[1991, c. 469, §5 (AMD) .]

5-B. **Reduced retirement benefits.** Beginning July 1, 1993, instead of accepting the benefits under subsection 1 or 2, the first listed person under paragraph A living at the time of death of the qualifying member may elect the benefits in this subsection.

A. The persons eligible to make the election under this subsection are the qualifying member's:

(1) Designated beneficiary;

(2) Surviving spouse;

(3) Child or children; or

(4) Parent or parents. [1991, c. 469, §5 (NEW).]

B. Benefits under this subsection are paid as follows, notwithstanding that the qualified member may not be eligible to retire under section 18452, subsection 3.

(1) The benefit is computed in accordance with section 18452, subsection 3, if applicable, as if the service retirement of the qualifying member had taken place on the date of the member's death.

(2) The beneficiary is paid beginning on the first day of the month after the death of the qualifying member and continuing until the last day of the month in which the beneficiary's death occurs.

(3) Benefits under this subsection are paid in accordance with section 18404, subsection 3. [2001, c. 118, §12 (AMD).]

C. If the monthly benefit payable under this subsection is $10 or less, in lieu of those payments a lump sum that is the actuarial equivalent of the benefit to which the beneficiary is entitled must be paid on the date the first monthly payment would otherwise be paid. A beneficiary who receives a lump sum payment under this subsection does not forfeit any other benefit to which the member would be entitled if the member were receiving a monthly benefit payment. [1991, c. 469, §5 (NEW).]

[2001, c. 118, §12 (AMD) .]

6. **Transfer of funds.** If benefits are paid under subsections 3 to 5-B, the amount of the deceased qualifying member's accumulated contributions in the Members' Contribution Fund is transferred to the Retirement Allowance Fund.

[2007, c. 249, §33 (AMD) .]

7. **Death of beneficiary before payment.** If any person becomes entitled to the payment of benefits under this article and dies before either the refund check or the initial survivor benefit check is endorsed and presented to a holder in due course, the person is considered to have predeceased the qualifying member.

[1991, c. 469, §5 (AMD) .]

8. **Change of choice of payment option.** Any beneficiary under this article may change the choice of payment at any time up to the point of endorsement and presentation to a holder in due course of either the refund check or the initial survivor benefit payment.

[1991, c. 469, §5 (AMD) .]

9. **Defeat of survivor's option.** A qualifying member may specify that the refund of the member's accumulated contributions be paid to a designated beneficiary or to the qualifying member's estate in lieu of any payment to survivors under subsections 3 to 5-B by filing an affidavit expressing that intent with the executive director.

[1991, c. 469, §5 (AMD) .]

10. **Cost-of-living adjustment.** A participating local district may provide an adjustment to survivor benefits in accordance with section 18407 by:

A. Applying to the board; and [1985, c. 801, §§5, 7 (NEW).]

B. Supplying to the board a certified copy of its action together with a statement of agreement to pay costs of the adjustments. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

11. **Special options.** Instead of accepting the payment provided in subsection 1, 2, 5-A or 5-B, a beneficiary may elect to receive benefits under article 5.

A. To elect these benefits, both the qualifying member and the beneficiary must comply with each requirement of those provisions. [1991, c. 469, §5 (NEW).]

B. If an election is not made under this subsection, benefits payable under this section are in lieu of any benefits payable under article 5. [1991, c. 469, §5 (NEW).]

[1991, c. 469, §5 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 529, §§3,4 (AMD). 1987, c. 769, §A31 (AMD). 1987, c. 823, §§9-11 (AMD). 1989, c. 658, §§6-8 (AMD). 1991, c. 469, §5 (AMD). 1991, c. 619, §17 (AMD). 2001, c. 118, §12 (AMD). 2007, c. 137, §24 (AMD). 2007, c. 249, §33 (AMD).

§18554. DEATH AFTER ELIGIBILITY FOR RETIREMENT

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1991, c. 469, §6 (AMD).

§18555. APPLICABILITY

Notwithstanding section 18202, the provisions of former section 1124 of the state retirement system law, in effect on June 30, 1982, except former section 1124, subsection 4, are applicable to each participating local district which has adopted section 18553 or former section 1124, as part of its plan, whether or not the district has adopted amendments enacted after it adoption of section 18553 or former section 1124, as part of its plan. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18556. SPECIAL SURVIVOR BENEFIT OPTION

1. **Manner of adoption.** A participating local district may adopt the special survivor benefit option under this section in addition to the benefits provided under section 18553 in the manner set forth in section 18202.

[1991, c. 469, §7 (AMD) .]

2. **Limitation of beneficiaries.** A participating local district which adopts this section may limit the designated beneficiaries eligible for these benefits and may limit the undesignated beneficiaries eligible for benefits if no beneficiary is designated. Any later change in the designation of the beneficiaries must be made in accordance with section 18202.

[1985, c. 801, §§5, 7 (NEW) .]

3. **Effective date.** A participating local district that elects to adopt this section shall designate January 1, 1987 for purposes of determining which persons currently receiving benefits under section 18553, subsections 3 to 5, may elect benefits under this section, if eligible. Benefit recomputation and payment for any person electing benefits under this section become effective on the first day of the month following notification to the board of the adoption of this section.

[1997, c. 2, §23 (COR) .]

4. **Retroactive adoption of this section.** In a participating local district which has adopted this section retroactively, a person currently receiving benefits under section 18553, subsections 3 to 5 may, if eligible, elect to receive benefits under this section in lieu of benefits under section 18553, subsections 3 to 5 under the following conditions.

A. The person must apply in writing to the executive director. [1985, c. 801, §§5, 7 (NEW).]

B. The application must be received by the executive director within 6 months after the notification to the board by the participating local district adopting this section. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

5. **Election of benefit.** In lieu of accepting the benefits under section 18553, the first listed of the beneficiaries under paragraph A or B, whichever applies, may, if living at the death of the qualifying member, elect the benefits in this section, if the deceased qualifying member had 20 years of creditable service at the time of his death.

A. If a beneficiary was designated under section 18552, the following designated beneficiaries of the deceased are eligible to make the election under this subsection:

(1) Surviving spouse;

(2) Dependent child or dependent children; or

(3) Parent or parents. [1985, c. 801, §§5, 7 (NEW).]

B. If no beneficiary was designated under section 18552, the following relatives of the deceased, if any, alive at the qualifying member's death are eligible to make the election under this subsection:

(1) Surviving spouse;

(2) Dependent child or dependent children; or

(3) Parent or parents. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

6. **Payment of benefits.** Benefits under this section shall be paid as follows.

A. The benefit shall be computed in accordance with section 18452, subsection 1, and shall be reduced in accordance with section 18452, subsection 3, as if the service retirement of the qualifying member had taken place on the date of his death. [1985, c. 801, §§5, 7 (NEW).]

B. The beneficiary shall be paid, beginning the first month after the death of the qualifying member and continuing until the date of the beneficiary's death. [1985, c. 801, §§5, 7 (NEW).]

C. Benefits under this section shall be paid in accordance with section 18404, subsection 3. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

SECTION HISTORY

1985, c. 801, §§5,7 (NEW). 1991, c. 469, §7 (AMD). RR 1997, c. 2, §23 (COR).

§18557. SURVIVOR'S BENEFIT CONTRIBUTION

1. **Information from fiscal officer.** Before a participating local district elects survivor benefits under section 18553 or 18556, the chief fiscal officer of the participating local district shall submit to the board that information prescribed by the board to assist the board in determining the cost of the initial survivor benefit contribution of the participating local district.

A. The determination of the initial survivor benefit contribution shall be made on the actuarial basis adopted by the board. [1985, c. 801, §§ 5, 7 (NEW).]

B. The expense of determining the cost of the initial survivor benefit contribution shall be assessed against and paid by the participating local district on whose account it is made. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Annual determination.** Annually, the board shall actuarially determine the survivor benefit contribution of a participating local district which has elected survivor benefits, on the basis of information it may prescribe.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Increase.** The board may increase, by not more than 25% in any year, the survivor benefit contribution of a participating local district, if, in the opinion of the board, the benefits paid on behalf of beneficiaries of members of the participating local district is greater than the benefits expected to be paid on the actuarial basis.

[1985, c. 801, §§ 5, 7 (NEW) .]

4. **Certification.** The board shall certify to the chief fiscal officer of the participating local district:

A. The survivor benefit contribution for the participating local district, computed in accordance with this section; plus [1985, c. 801, §§ 5, 7 (NEW).]

B. A pro rata share of the cost of the administration of the survivor benefit program, based on the gross payroll of employees and the expense of determining the annual survivor benefit contribution. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

5. **Charge.** The amounts certified under subsection 4 shall be a charge against the participating local district.

[1985, c. 801, §§ 5, 7 (NEW) .]

6. **Member contribution.** A participating local district may require each of its members to make a contribution, not to exceed 1/4 of 1% of earnable compensation, as long as the member is employed.

[2007, c. 249, §34 (AMD) .]

7. **Payment.** All survivor benefit contributions by participating local districts that have elected survivor benefits and all contributions by members of those districts must be paid into the Retirement Allowance Fund.

[2007, c. 249, §35 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 249, §§34, 35 (AMD).

§18558. TRANSFER OF FUNDS

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §43 (RP).

Article 5: ACCIDENTAL DEATH BENEFITS

§18601. DEFINITIONS

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [2009, c. 513, §3 (AFF); 2009, c. 513, §1 (RPR).]

1. **Professional firefighter.** "Professional firefighter" means an employee of a municipal fire department who is a member of the Participating Local District Retirement Program or who is a participating member under chapter 425 and who aids in the extinguishment of fires, whether or not the employee has other administrative duties.

[2009, c. 513, §1 (NEW); 2009, c. 513, §3 (AFF) .]

2. **Qualifying member.** "Qualifying member" means:

A. A member who dies as a result of an injury arising out of and in the course of employment as an employee; [2009, c. 513, §1 (NEW); 2009, c. 513, §3 (AFF).]

B. After October 31, 2004, an active member who is a professional firefighter who dies as a result of an injury or disease as described in Title 39-A, section 328 if the injury or disease that causes the death is the result of a condition that develops within 30 days of the active member's participating in firefighting or training or a drill that involves firefighting. If the professional firefighter dies after 30 days but within 6 months of participating in firefighting or training or a drill that involves firefighting, there is a rebuttable presumption that the death is the result of an injury arising out of and in the course of employment as a professional firefighter; or [2009, c. 513, §1 (NEW); 2009, c. 513, §3 (AFF).]

C. A former member receiving a disability retirement benefit who dies as a result of an injury arising out of and in the course of employment as an employee. [2009, c. 513, §1 (NEW); 2009, c. 513, §3 (AFF).]

[2009, c. 513, §1 (NEW); 2009, c. 513, §3 (AFF) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2009, c. 513, §3 (AFF). 2009, c. 513, §1 (RPR).

§18602. QUALIFICATION FOR BENEFIT

The beneficiary of a qualifying member shall receive a benefit in accordance with section 18603. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18603. COMPUTATION OF BENEFIT

1. **Surviving spouse; no dependent children.** If the qualifying member is survived by a spouse and no dependent child, the surviving spouse shall be paid 2/3 of the average final compensation of the qualifying member.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Surviving spouse having care of dependent children.** If the qualifying member is survived by a spouse who has the care of the dependent child or dependent children of the qualifying member, the surviving spouse shall be paid an annual sum equal to the average final compensation of the qualifying member.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Surviving spouse not having care of dependent children.** If the qualifying member is survived by a spouse who does not have the care of the dependent child or dependent children of the qualifying member, the surviving spouse shall share with the dependent child or dependent children an annual sum equal to the average final compensation of the qualifying member, the benefit to be divided equally among the surviving spouse and the dependent child or dependent children.

[1985, c. 801, §§ 5, 7 (NEW) .]

4. **No surviving spouse.** If no spouse survives the qualifying member, the dependent child or dependent children shall be paid an annual sum equal to the average final compensation of the qualifying member.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18604. METHOD OF PAYMENT

All benefits paid under this article shall be paid in equal monthly installments beginning the first month after the death of the qualifying member. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18605. ADJUSTMENT OF BENEFITS

1. **Cessation of eligibility.** When a person sharing benefits under section 18603 ceases to be eligible to receive benefits, the subsequent benefits of the remaining beneficiaries shall be recalculated as if the remaining beneficiaries had been the only beneficiaries to survive the qualifying member.

[1985, c. 801, §§5, 7 (NEW) .]

2. **Workers' compensation or similar law.** The amount payable under this article must be reduced by any amount received by the surviving spouse and dependent child or dependent children under former Title 39, the Workers' Compensation Act or Title 39-A, Part 1, the Maine Workers' Compensation Act of 1992, or a similar law. For purposes of this article, a death benefit paid to a law enforcement officer, firefighter or emergency medical services person under Title 25, chapter 195-A is not considered a benefit paid under a "similar law" and may not be used to reduce the amount payable under this article.

A. Lump-sum settlements of benefits that would reduce the accidental death benefits under this subsection must be prorated on a monthly basis in an equitable manner prescribed by the board. [1991, c. 885, Pt. E, §16 (AMD); 1991, c. 885, Pt. E, §47 (AFF).]

B. The prorated lump-sum settlement amounts must reduce the accidental death benefits payable monthly under this article. [1991, c. 885, Pt. E, §16 (AMD); 1991, c. 885, Pt. E, §47 (AFF).]

[2001, c. 439, Pt. CCCCC, §3 (AMD) .]

3. **Cost-of-living adjustments.** Benefits under this article are subject to adjustment as provided in section 18407.

[1995, c. 462, Pt. A, §15 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1991, c. 885, §E16 (AMD). 1991, c. 885, §E47 (AFF). 1993, c. 595, §14 (AMD). 1995, c. 462, §A15 (AMD). 2001, c. 439, §CCCCC3 (AMD).

§18606. TERMINATION OF BENEFITS

The benefits under this article shall be paid to: [1985, c. 801, §§ 5, 7 (NEW).]

1. **Surviving spouse.** The surviving spouse until he dies; and

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Dependent children.** The dependent child or dependent children until they die or until they no longer meet the definition of "dependent child" under section 17001, subsection 12.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18607. BENEFITS IN LIEU OF ARTICLE 4

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §44 (RP).

Subchapter 6: GROUP LIFE INSURANCE

§18651. AUTHORIZATION

The board, and only the board, may purchase for the retirement system, from one or more life insurance companies, a policy or policies of life insurance, as defined by Title 24-A, section 702. [1985, c. 801, §§ 5, 7 (NEW).]

1. **Procedure.** Proposals for the purchase of insurance may be solicited from one or more insurance companies on a competitive basis or an existing policy or policies may be renegotiated.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Licensed company.** Any policy or policies purchased shall be purchased from a company or companies licensed under the laws of this State.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18652. NATURE OF POLICY

1. **Limitation.** All provisions of a policy or policies purchased under section 18651 shall be subject to the limitations of Title 24-A, chapter 31.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **No reduction of benefits.** No provisions of a policy or policies purchased under section 18651 may reduce the benefits granted under this subchapter.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18653. RULES

The board may promulgate and publish, in accordance with chapter 375, subchapter II, whatever rules are necessary and proper to give effect to the intent, purposes and provisions of this subchapter. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18654. ADMINISTRATION

1. **Expenses.** All expenses of a group life insurance program shall be reimbursed from premium rate adjustments, dividends or interest earnings on reserves.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Report.** A report of the activities of the group life insurance program shall be published annually.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18655. PARTICIPATION

1. **Local district.** A local district may participate in the group life insurance program by filing with the board a duly certified copy of the resolution or record of the vote of the body that would be entitled to approve participation in the Participating Local District Retirement Program under section 18201. The resolution or record of the vote must state which portions of the life insurance program established under this chapter apply to the participating local district.

[2007, c. 491, §249 (AMD) .]

2. **Effective date.** The effective date of participation of a local district may not be more than 6 months following receipt of the certified copy of the vote or resolution.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Employee.** The board may, by rule, provide standards for inclusion or exclusion of employees on the basis of nature and type of employment or conditions. No employee or group of employees may be excluded solely on the basis of the hazardous nature of employment.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 491, §249 (AMD).

§18656. COVERAGE

1. **Basic insurance.** Life insurance and accidental death and dismemberment insurance, to be known as "basic insurance," is available to all eligible participants.

A. The amount of life insurance to be paid upon death is equal to the participant's annual base compensation rounded up to the next $1,000.

(1) A participant insured under a basic insurance policy is automatically covered for any change in the maximum due to a change in annual base compensation.

(2) The date of change in coverage under subparagraph (1) is the first day of the month of April following the effective date of the change in annual base compensation. [1991, c. 480, §8 (AMD).]

B. The accidental death and dismemberment insurance shall provide payments as follows.

(1) Losses and amounts payable shall be determined according to the following table.

LOSS	AMOUNT PAYABLE
Loss of life by Accident	An additional amount equal to that provided under subsection 1, paragraph A
Loss of one hand or foot or sight of one eye	One-half the amount provided under subsection 1, paragraph A
Loss of 2 or more limbs or loss of sight of both eyes or loss of one limb and loss of sight of one eye	The amount provided under subsection 1, paragraph A

(2) For any one accident the aggregate amount of group accidental death and dismemberment insurance that may be paid may not exceed the amount provided under subsection 1, paragraph A. [1985, c. 801, §§ 5, 7 (NEW).]

[1991, c. 480, §8 (AMD) .]

2. **Supplemental insurance.** Additional insurance coverage of equal amounts to those described in subsection 1, to be known as "supplemental insurance," shall be available to each participant purchasing insurance under subsection 1.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Dependent insurance.** Each participant may elect to insure the life of a dependent not insured in the group covered under subsections 1 and 2.

A. A participant may elect either Plan A or Plan B, but not both.

	Plan A	Plan B
Spouse	$5,000	$10,000
Full-time unmarried students to age 22	$5,000	$5,000
Children, 6 months to age 19	$5,000	$5,000
Children, 0 to 6 months	$1,000	$2,500

[1985, c. 801, §§ 5, 7 (NEW).]

B. Insurance purchased under this subsection is subject to the limitations of Title 24-A, section 2611-A. [1985, c. 801, §§ 5, 7 (NEW).]

C. The number of dependents may not affect the premium rate for insurance purchased under this subsection. [1993, c. 387, Pt. A, §26 (AMD).]

D. Any participant who is a participant through employment with 2 or more employers may not insure that participant's dependents more than once. [1991, c. 480, §9 (NEW).]

[1993, c. 387, Pt. A, §26 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 710, §23 (AMD). 1991, c. 480, §§8,9 (AMD). 1993, c. 387, §A26 (AMD).

§18657. PAYMENTS ON DEATH

Any amount of group life insurance and group accidental death insurance in force on any employee at the date of the employee's death must be paid, upon the establishment of a valid claim, in the following order of precedence. [2009, c. 515, §2 (AMD); 2009, c. 515, §3 (AFF).]

1. **Designated beneficiary.** First, to the beneficiary or beneficiaries whom the employee designated in writing, if the written designation was received in the retirement system office or postmarked before the employee's death.

[1991, c. 480, §10 (AMD) .]

2. **Widow or widower.** Second, if no beneficiary qualifies under subsection 1, to the widow or widower of the employee.

[2009, c. 515, §2 (AMD); 2009, c. 515, §3 (AFF) .]

2-A. **Executor or personal representative.** Third, if no one qualifies under subsection 1 or 2, to the employee's duly appointed executor or personal representative for distribution according to the provisions of a lawfully executed will. This subsection is applicable only if the retirement system is notified of the appointment of the executor or personal representative within 6 months of the date of death of the employee.

[2009, c. 515, §2 (NEW); 2009, c. 515, §3 (AFF) .]

3. **Children.** Fourth, if no one qualifies under subsection 1 , 2 or 2-A, to the child or children of the employee and descendants of deceased children by representation.

[2009, c. 515, §2 (AMD); 2009, c. 515, §3 (AFF) .]

4. **Parents.** Fifth, if no one qualifies under subsection 1, 2, 2-A or 3, to the surviving parent or parents of the employee.

[2009, c. 515, §2 (AMD); 2009, c. 515, §3 (AFF) .]

5. **Executor or conservator.**

[2009, c. 515, §3 (AFF); 2009, c. 515, §2 (RP) .]

6. **Next of kin.** Sixth, if no one qualifies under subsection 1, 2, 2-A, 3 or 4, to other next of kin of the employee entitled under the laws of domicile of that employee at the time of the employee's death.

[2009, c. 515, §2 (AMD); 2009, c. 515, §3 (AFF) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1991, c. 480, §10 (AMD). 2009, c. 515, §2 (AMD). 2009, c. 515, §3 (AFF).

§18658. INSURANCE; AUTOMATIC APPLICATION

1. **Employees insured.** Each employee shall complete an application for insurance coverage within 31 days of becoming eligible. Each employee who completes an application and is found eligible for basic insurance under this subchapter is insured for the amount of basic coverage applicable under this subchapter, beginning on the first day of the month following one month of employment after the employee becomes eligible.

A. The employee shall indicate the types of coverage elected. [1991, c. 480, §11 (NEW).]

B. If the employee elects coverage within 31 days of the employee's first becoming eligible, and elects coverage in addition to basic, that additional coverage becomes effective on the first day of the month following one month of employment after the employee becomes eligible. [2011, c. 449, §21 (AMD).]

C. If the employee does not elect coverage within 31 days of the employee's first becoming eligible, the employee may subsequently apply for insurance coverage but must produce evidence of insurability at the employee's own expense and in accordance with the requirements of the insurance underwriter. [2011, c. 449, §21 (AMD).]

[2011, c. 449, §21 (AMD) .]

2. **Employees not wanting to be insured.** Any employee not wanting to be insured under this subchapter, at the time the employee first becomes eligible, shall, on the application form, give written notice to the employee's employing officer and to the retirement system that the employee does not want to be insured.

A. If, after being insured, the employee wishes to cancel or reduce coverage, written notice must be given by the employee to the employee's employing officer and to the retirement system. [1991, c. 480, §11 (AMD).]

B. The employee's insurance coverage must cease, or be reduced at the end of the month in which the notice is received by the employing office. [1991, c. 480, §11 (AMD).]

C. Any employee who does not want to be insured or who cancels insurance coverage may subsequently apply for insurance, but must produce evidence of insurability at the employee's own expense and in accordance with the requirements of the insurance underwriter. [1991, c. 480, §11 (AMD).]

D. [2011, c. 449, §22 (RP).]

[2011, c. 449, §22 (AMD) .]

3. **Dependent coverage.** An employee may apply for coverage for a dependent in the application provided in subsection 1. If an employee has no dependents at the time the application provided in subsection 1 is completed and if application is made for coverage within 31 days of acquiring a dependent, coverage becomes effective the first day of the month following the month in which the application is received by the employing office. An employee who does not apply for dependent coverage within 31 days, may subsequently apply for dependent coverage, but must produce evidence of insurability at the employee's own expense. Coverage for subsequently acquired dependents is effective immediately.

[1991, c. 480, §11 (NEW) .]

4. **Evidence of insurability.** When the insurance underwriter approves an application for coverage or increase in coverage with which evidence of insurability has been filed as provided under subsection 1, paragraph C or subsection 2, paragraph C, the coverage or increased coverage becomes effective as of the first day of the first month following completion of one month of employment after the date of approval.

[1991, c. 480, §11 (NEW) .]

5. **Employee on leave of absence.** Insurance coverage for an employee on an authorized leave of absence is governed as follows.

A. An employee who, during a period of an unpaid leave of absence, continues to pay premiums due for the period of the leave continues to be covered. Coverage for an employee who, during the period of the leave, does not pay the premiums due ceases at the end of the period covered by the last premium paid. [2011, c. 449, §23 (NEW).]

B. Notwithstanding paragraph A, an employee who, during a period of unpaid military leave of absence, does not continue coverage while on unpaid military leave must be reinstated to the levels of coverage in effect immediately prior to the unpaid military leave. A request for reinstatement by the employee must be made within 31 days of the employee's return to work following unpaid military leave. An employee who wants to be reinstated and who does not apply for reinstatement within 31 days of the employee's return to work from unpaid military leave must produce evidence of insurability at the employee's own expense and in accordance with the requirements of the insurance underwriter. [2011, c. 449, §23 (NEW).]

[2011, c. 449, §23 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1991, c. 480, §11 (AMD). 1993, c. 386, §5 (AMD). 2007, c. 17, §2 (AMD). 2007, c. 17, §3 (AFF). 2011, c. 449, §§21-23 (AMD).

§18659. PAYMENT OF PREMIUMS

Payment of premiums for group life insurance shall be on the basis determined by the board to be actuarially sufficient to pay anticipated claims. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18660. REVIEW OF INSURANCE PROGRAM

Each year, upon receipt of the annual report submitted by the underwriter, the board shall review all phases of the group life insurance program and shall, within 90 days of receipt of the annual report, determine the reserves necessary to pay anticipated claims and the method of distribution of any accumulations above those reserves. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18661. TERMINATION OF COVERAGE

1. **Separation from service.** The insurance on any employee shall terminate upon his separation from service, except as extended by:

A. Provisions contained in the policy for waiver of premiums upon total and permanent disability; and [1985, c. 801, §§ 5, 7 (NEW).]

B. Provisions for temporary extension of coverage and conversion to an individual policy of life insurance. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Retirement.** If, on the date the insurance would otherwise terminate, the employee retires, in accordance with this Part, the United States Social Security Act or other local retirement program, the employee's basic life insurance only must be continued without cost to the employee and in the amounts provided in this subsection.

A. On retirement for reasons other than disability, an amount of basic life insurance equal to the employee's average final compensation must be continued in force at no cost to the participant, if the participant has participated in the group life insurance program for a minimum of 10 years.

(1) Except as provided in paragraph B, the initial amount of basic life insurance that continued into retirement must be reduced at the rate of 15% a year to a minimum of 40% of the initial amount of basic life insurance that continued into retirement or $2,500, whichever is greater.

(2) In determining benefits under this subchapter, the reductions become effective at 12:01 a.m. of the day following the first year anniversary of the date of retirement and each succeeding retirement anniversary thereafter until the minimum has been reached. [1993, c. 386, §6 (AMD).]

B. On retirement for disability, the amount of basic insurance in force at the time of retirement must be continued in force until normal retirement age, after which the amount must be reduced, as provided in paragraph A at no cost to the recipient. The 10-year participation requirement does not apply to recipients of disability retirement benefits. [1991, c. 480, §12 (AMD).]

C. The premiums for the coverage provided by this subsection must be paid by the participating local district which employed the participant immediately before the participant's retirement. Delinquent payments under this section may be collected as provided under section 18303, subsection 3. [1991, c. 480, §12 (NEW).]

[1993, c. 386, §6 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 710, §24 (AMD). 1991, c. 480, §12 (AMD). 1993, c. 386, §6 (AMD).

§18662. PARTICIPATION OF LOCAL DISTRICTS

The employees of any local district may participate in the group life insurance program to the full extent of any and all benefits provided for in this subchapter subject to section 18655, subsections 1 and 2. The participation of these employees is governed as follows. [1985, c. 801, §§ 5, 7 (NEW).]

1. **Minimum number.** Initially, the minimum number of persons required for a covered group is 75% of the eligible employees of a local district.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Supplemental and dependent insurance.** Employees of a local district who are covered under the basic group life insurance plan are also eligible for the supplemental insurance under section 18656, subsection 2, and dependent insurance under section 18656, subsection 3, if the local district elects to adopt those benefit plans.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Information required.** The chief fiscal officer of a local district shall submit to the board whatever information about the employees of the district is prescribed by the board as necessary to administer this subchapter.

[1985, c. 801, §§ 5, 7 (NEW) .]

4. **Pro rata cost.** The chief fiscal officer of a local district shall pay whatever pro rata cost of premiums and expenses is levied by the board.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18663. WITHDRAWAL OF LOCAL DISTRICTS

Any local district participating in the group life insurance program under this subchapter may withdraw from further participation by filing with the board a duly certified copy of the results of the vote of the body that would be entitled to approve participation in the Participating Local District Retirement Program under section 18201. This certification must include certification to the board that equivalent coverage has been provided. [2007, c. 491, §250 (AMD).]

1. **Continuous coverage.** In order to provide continuous coverage, withdrawal of a local district under this section is not effective until equivalent coverage is made available to current active and retired employees of the district.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Effective date.** Withdrawal is effective on the last day of the last full pay period before the end of the month following the month in which the certification under subsection 1 is received by the board.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 491, §250 (AMD).

Chapter 427: PARTICIPATING LOCAL DISTRICTS CONSOLIDATED PLAN

§18801. PLAN

There is established the Participating Local District Consolidated Retirement Plan as a governmental qualified defined benefit plan pursuant to Sections 401(a) and 414(d) of the Internal Revenue Code and such other provisions of the Internal Revenue Code and United States Treasury regulations and other guidance as are applicable, which has the powers and privileges of a corporation. The purpose of the Participating Local District Consolidated Retirement Plan is to provide retirement allowances and other benefits under this chapter for employees of participating local districts. The board shall establish by rule the plan provisions of the Participating Local District Consolidated Retirement Plan in accordance with section 18804. [2009, c. 474, §44 (RPR).]

1. **Plan content.** Benefits provided by the plan must be selected from benefits included in chapter 423, chapter 425 or this chapter and must include, but are not limited to:

A. Service retirement benefits, including:

(1) Several plans, with levels of benefits to meet the needs of various classes of employees and employers; and

(2) Portability of benefits when a member changes plans or employers; [1989, c. 811, §3 (NEW).]

B. Death benefits; [1989, c. 811, §3 (NEW).]

C. Disability retirement benefits; [1989, c. 811, §3 (NEW).]

D. Compulsory requirements except:

(1) Optional membership for those employees permitted optional membership under chapter 425; and

(2) Optional membership for those employees who are not subject to the municipal public employees labor relations laws contained in Title 26, chapter 9-A; and [1991, c. 300, §1 (AMD).]

E. A defined contribution plan consistent with the United States Internal Revenue Code. [1989, c. 811, §3 (NEW).]

[1991, c. 300, §1 (AMD) .]

2. **Amendments.** Any benefit provision selected from chapter 423, chapter 425 or this chapter to be included in the plan that is subsequently amended is not considered to have been amended for purposes of the plan until the rule that established the plan is amended to include the amended version of the benefit provision.

[1991, c. 300, §1 (AMD) .]

3. **No reduction of benefits.** The level of service retirement benefits for employees of participating local districts that adopt the plan may not be reduced with relation to either benefits based upon service before adoption of the plan or benefits based upon service after adoption of the plan.

[1989, c. 811, §3 (NEW) .]

4. **Implementation of plan.** The board, as part of its rules, shall set the minimum number of local districts that must contract for participation and the minimum number of members before the plan is put into operation. The rules must contain provisions related to the transition from participation in chapter 425 to participation in this plan by local districts and for setting the date when participation of the employees of a participating local district in this plan begins. All local districts that are participating local districts under

chapter 425 on the date the plan is put into operation must elect to join the consolidated plan, be transferred to the consolidated plan or withdraw from the Participating Local District Retirement Program, in accordance with rules established by the board.

[2007, c. 491, §251 (AMD) .]

5. **Disbanded or dissolved local district.** The board, as part of its rules, shall provide for the procedure to be followed regarding the membership and benefits of employees of a participating local district that disbands or is dissolved.

[1989, c. 811, §3 (NEW) .]

6. **Plan design and amendments.** The rules adopted by the board must be based entirely upon proposals for the consolidated retirement plan and proposed amendments to the consolidated retirement plan received from the Participating Local District Advisory Committee or from the retirement system staff. The board shall adopt as a rule any proposal received from the Participating Local District Advisory Committee or return the proposal to the advisory committee with a statement setting forth the reasons for not adopting the proposal.

[2003, c. 387, §12 (AMD) .]

7. **Rule-making procedure.** The rules and amendments established by the board must be adopted in accordance with and subject to judicial review as set forth in chapter 375, subchapter II, to the extent chapter 375 is applicable.

[1989, c. 811, §3 (NEW) .]

SECTION HISTORY
1989, c. 811, §3 (NEW). 1991, c. 300, §1 (AMD). 1993, c. 250, §§3,4 (AMD). 2003, c. 387, §12 (AMD). 2007, c. 491, §251 (AMD). 2009, c. 474, §44 (AMD).

§18802. PARTICIPATING LOCAL DISTRICT ADVISORY COMMITTEE

(REPEALED)

SECTION HISTORY
1989, c. 811, §3 (NEW). P&SL 1993, c. 67, §1 (AMD). 1993, c. 250, §5 (AMD). MRSA T. 5, §18802, sub-§7 (AMD).

§18802-A. PARTICIPATING LOCAL DISTRICT ADVISORY COMMITTEE

1. **Composition; designation.** The Participating Local District Advisory Committee, referred to in this chapter as "the advisory committee," is composed of the following 12 members:

A. Five voting members who are members of labor organizations that represent participating local district employees, duly designated by their respective labor organizations as follows:

(1) One member duly designated by the Maine Education Association;

(2) One member duly designated by the American Federation of State, County and Municipal Employees;

(3) One member duly designated by the Service Employees International Union;

(4) One member duly designated by the International Association of Fire Fighters; and

(5) One member duly designated by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America; [2007, c. 249, §36 (AMD).]

B. Five voting members who represent participating local districts duly designated as follows:

(1) Three members duly designated by the Maine Municipal Association; and

(2) Two members duly designated by the Maine School Management Association; [2007, c. 249, §36 (AMD).]

C. One nonvoting member duly designated by the Governor; and [2007, c. 249, §36 (AMD).]

D. The executive director or the executive director's designee, to serve as an ex officio nonvoting member. [1997, c. 12, §1 (NEW); 1997, c. 12, §2 (AFF).]

[2007, c. 249, §36 (AMD) .]

2. **Compensation of members.** The members of the advisory committee are not entitled to receive compensation for their participation in the advisory committee's activities.

[1997, c. 12, §1 (NEW); 1997, c. 12, §2 (AFF) .]

3. **Chair.** The executive director, or a designee, shall serve as chair.

[1997, c. 12, §1 (NEW); 1997, c. 12, §2 (AFF) .]

4. **Term.** The terms of the members are as follows.

A. Each member serves a term of 5 years. [2007, c. 249, §37 (AMD).]

B. A member shall continue to serve after the expiration of that member's term until a qualified successor is designated. The member's continuation as a member does not change the expiration of that member's term. [2007, c. 249, §37 (AMD).]

C. The term of a member designated to succeed a member whose term has expired expires 5 years after the expiration date of the term of the previous member, regardless of the effective date of the new designation. There is no limit to the number of terms to which a member may be designated. [2007, c. 249, §37 (AMD).]

D. The designating authority shall designate a person to fill a vacancy caused by death, resignation or ineligibility within 60 days. This designation is for the unexpired portion of the term and must be made from a designation provided by the organization the former member represented, as provided by subsection 1. With the agreement of the member being replaced and of the designating authority, the member being replaced serves until a replacement is designated. Otherwise, a vacancy exists until a replacement is designated. [2007, c. 249, §37 (AMD).]

E. The terms of the initial appointments are as follows.

(1) Members who represent participating local district employees are appointed by the Governor, one each, to terms of 1, 2, 3, 4 and 5 years.

(2) Members who represent participating local districts are appointed by the Governor, one each, to terms of 1, 2, 3, 4 and 5 years. [1997, c. 12, §1 (NEW); 1997, c. 12, §2 (AFF).]

F. A member is considered to have resigned if:

(1) The member severs the affiliation with the organization that designated the member in accordance with subsection 1; or

(2) The member is absent from 3 consecutive meetings of the advisory committee without good cause as determined by the advisory committee. [2007, c. 249, §37 (AMD).]

[2007, c. 249, §37 (AMD) .]

5. **Transaction of business.** The transaction of business by the advisory committee is governed as follows.

A. Seven voting members constitute a quorum for the transaction of any business. [2003, c. 387, §13 (AMD).]

B. Each member is entitled to one vote. [1997, c. 12, §1 (NEW); 1997, c. 12, §2 (AFF).]

C. Affirmative votes of a simple majority of the quorum or, if greater, of the voting members present are necessary for the passage of any resolution or any other action by the advisory committee. [2003, c. 387, §13 (AMD).]

[2003, c. 387, §13 (AMD) .]

6. **Proposal for plan design or amendment.** The advisory committee or the retirement system staff may present to the board proposals for the consolidated retirement plan and amendments to the plan. Passage of any resolution or any other action by the advisory committee relating to proposals for the consolidated retirement plan or proposed amendments to the consolidated retirement plan requires affirmative votes of a simple majority of the quorum or, if greater, of the voting members present.

[2003, c. 387, §13 (AMD) .]

SECTION HISTORY
1997, c. 12, §1 (NEW). 1997, c. 12, §2 (AFF). 2003, c. 387, §13 (AMD). 2007, c. 249, §§36, 37 (AMD).

§18803. ASSISTANCE BY BOARD

1. **Staff assistance.** The board may authorize the retirement system staff to give assistance to the advisory committee.

[1989, c. 811, §3 (NEW) .]

2. **Expenses.** The board may authorize the payment of necessary expenses incurred in the operation of the advisory committee from the funds allocated for that purpose based upon a budget submitted by the advisory committee.

[1989, c. 811, §3 (NEW) .]

3. **Duties of the board.** Nothing in this chapter alters the duties of the board to administer the retirement plan of participating local districts.

[1989, c. 811, §3 (NEW) .]

SECTION HISTORY
1989, c. 811, §3 (NEW).

§18804. LOCAL DISTRICT PARTICIPATION

All local districts that are participating local districts under chapter 425 on the date the plan is put into operation may contract for participation in the plan in the manner provided in subsection 1 or 2 for other local districts. A participating local district that elects to be transferred into the consolidated plan must contract for participation according to the terms of its transfer, in accordance with rules established by the board.

Other local districts may contract for the participation of their employees in the Participating Local District Retirement Program under this chapter in the manner provided by subsection 1 or 2. [2007, c. 491, §252 (AMD).]

1. **Local districts that are not municipalities.** For a local district that is not a municipality, as defined in Title 1, section 72, subsection 13, the executive body of the district must approve participation and must file with the board a duly certified copy of a resolution or order, with a record of the vote of the executive body, which must include:

A. Approval of the participation; [1989, c. 811, §3 (NEW).]

B. The benefit plans that are to apply; [1989, c. 811, §3 (NEW).]

C. Excluded employees, as required by subsection 3; and [1989, c. 811, §3 (NEW).]

D. The name or title of the person authorized to sign the contract on behalf of the local district. [1989, c. 811, §3 (NEW).]

[1989, c. 811, §3 (NEW) .]

2. **Local districts that are municipalities.** For a local district that is a municipality, as defined in Title 1, section 72, subsection 13, the legislative body of the municipality must approve participation and must file with the board a resolution or order, certified by the clerk of the municipality, with a record of the vote of the legislative body, which must include:

A. Approval of the participation; [1989, c. 811, §3 (NEW).]

B. The benefit plans that are to apply; [1989, c. 811, §3 (NEW).]

C. Excluded employees, as required by subsection 3; and [1989, c. 811, §3 (NEW).]

D. The name or title of the person authorized to sign the contract on behalf of the local district. [1989, c. 811, §3 (NEW).]

[1989, c. 811, §3 (NEW) .]

3. **Excluded employees.** The local district shall designate in its approval any class of employees otherwise provided for by local pension provisions who are excluded from membership in the plan established under this chapter.

[1989, c. 811, §3 (NEW) .]

4. **Date participation begins.** The retirement system establishes the schedule for enrolling participating local districts and for the effective date of establishment of a participating local district. The date when the participation of the employees of a participating local district begins is as of the date of first contributions or pick-up contributions to the retirement system.

[2007, c. 490, §3 (AMD) .]

5. **Limitations on claims for participation.** If an employee claims that the employee was not offered membership at the commencement of or during the course of employment with the local district, that claim must be commenced within 6 years of the date upon which the employee was first eligible for membership.

[2015, c. 384, §3 (NEW) .]

6. **Participation in other retirement plans.** If an employee requests and is allowed retroactive membership, and during the time for which these retroactive retirement benefits are sought the local district offered and the employee participated in another retirement plan, all contributions made to the alternative plan by the employer and all earnings made on employer and employee contributions must be paid to the

retirement system, up to the amount that the employer is required by the retirement system to pay to fund retroactive benefits under the plan. In the event the funds available in the employee's alternative retirement plan account are not sufficient to fund the employer's required contributions to the retirement system, the employer shall pay any remaining employer contributions required by the retirement system to fund retroactive benefits under the plan.

[2015, c. 384, §3 (NEW) .]

SECTION HISTORY
1989, c. 811, §3 (NEW). 1993, c. 250, §6 (AMD). 2007, c. 490, §3 (AMD). 2007, c. 491, §252 (AMD). 2015, c. 384, §3 (AMD).

§18805. CHIEF FISCAL OFFICER

The chief fiscal officer of a participating local district, in order to assist in the administration of the retirement system shall: [1989, c. 811, §3 (NEW).]

1. **Information.** Submit to the board whatever information the board prescribes about the employees of the participating local district relating to participation in the plan; and

[1989, c. 811, §3 (NEW) .]

2. **Duties.** Cause to be performed whatever duties the board prescribes, with respect to the employees of the participating local district.

[1989, c. 811, §3 (NEW) .]

SECTION HISTORY
1989, c. 811, §3 (NEW).

§18806. ALTERNATIVE BENEFITS

The plan adopted under section 18801 may include benefits provided by this section. [1989, c. 811, §3 (NEW).]

1. **Districts with employees covered by the Social Security Act.** A participating local district with employees covered by the United States Social Security Act may provide service retirement benefits for employees not covered by a special plan that equal 1% of the member's average final compensation multiplied by the number of years of membership service. The board shall establish by rule the rate at which members covered by this benefit shall contribute to the Participating Local District Retirement Program.

[2015, c. 385, §11 (AMD) .]

2. **Defined contribution plan.** A participating local district may provide for the participation of its employees who are members of the Participating Local District Retirement Program under this chapter, in a defined contribution plan that is part of the consolidated plan provided by section 18801. Employees who choose not to become members under section 18801, subsection 1, paragraph D may also participate in the defined contribution plan.

[2007, c. 491, §254 (AMD) .]

3. **Ancillary benefits.** The plan must include disability benefits and death benefits for those employees who choose not to be members under section 18801, subsection 1, paragraph D and who participate in the defined contribution plan.

[1991, c. 300, §2 (NEW) .]

SECTION HISTORY
1989, c. 811, §3 (NEW). 1991, c. 300, §2 (AMD). 2007, c. 491, §§253, 254 (AMD). 2015, c. 385, §11 (AMD).

Part 21: SOCIAL SECURITY FOR STATE AND MUNICIPAL EMPLOYEES

Chapter 431: SOCIAL SECURITY FOR STATE AND MUNICIPAL EMPLOYEES

§19001. DECLARATION OF POLICY

In order to extend to employees of the political subdivisions of the State of Maine, and to the civilian employees of the Maine National Guard who are employed pursuant to section 90 of the National Defense Act of June 3, 1916 (32 U.S.C., sec. 42), whether members of existing retirement or pension systems or not, the benefits of social security, provided under the Federal Social Security Act enacted by the Congress of the United States, it is declared to be the policy of the Legislature, subject to the limitations of this chapter, that such steps be taken as to provide such protection to such employees on as broad a basis as is permitted under the Social Security Act. This chapter shall apply to employees of Maine Maritime Academy who are members of an existing retirement or pension system. This chapter shall not apply to teachers who are under a state or local government pension or retirement plan, except teachers at the Maine Maritime Academy. For the purposes of bringing sheriffs and their deputies under social security, these law enforcement officers shall be deemed policemen. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§19002. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings. [1985, c. 801, §§ 5, 7 (NEW).]

1. **Civilian employees of the Maine National Guard.** The phrase "the civilian employees of the Maine National Guard who are employed pursuant to section 90 of the National Defense Act of June 3, 1916 (32 U.S.C., Sec. 42)" means the civilian employees of the Maine National Guard who are employed pursuant to section 90 of the National Defense Act of June 3, 1916 (32 U.S.C., Sec. 42) and paid from funds allotted to the Maine National Guard by the Department of Defense and such employees shall, for the purpose of this chapter, be deemed to be employees of the State of Maine; provided that this chapter shall apply to the Maine National Guard, with respect to such employees, as if it constituted a "political subdivision" within the meaning of this section.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Employee.** The term "employee" includes an officer of a political subdivision of the State.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Employment.** The term "employment" means any service performed by an employee in the employ of any political subdivision of the State, for such employer, except service which in the absence of an agreement entered into under this chapter would constitute "employment" as defined in the Social Security Act; or service which under the Social Security Act may not be included in an agreement between the State and the Federal Security Administrator entered into under this chapter. Employment in positions covered by any retirement system supported wholly or in part by the State or any of its subdivisions may not be included in such agreement.

[1985, c. 801, §§ 5, 7 (NEW) .]

4. **Federal Insurance Contributions Act.** The term "Federal Insurance Contributions Act" means the Federal Internal Revenue Code, chapter 9, subchapter A, as such Code has been and may from time to time be amended.

[1985, c. 801, §§ 5, 7 (NEW) .]

5. **Federal Security Administrator.** The term "Federal Security Administrator" includes any individual to whom the Federal Security Administrator has delegated any of his functions under the Social Security Act with respect to coverage under such Act of employees of states and their political subdivisions.

[1985, c. 801, §§ 5, 7 (NEW) .]

6. **Political subdivision.** The term "political subdivision" includes an instrumentality of the State of Maine, of one or more of its political subdivisions, the University of Maine System, academies, water, sewer and school districts and associations of municipalities, or an instrumentality of the State and one or more of its political subdivisions, but only if such instrumentality is a juristic entity which is legally separate and distinct from the State or subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the State or subdivision.

[1987, c. 402, Pt. A, §75 (AMD) .]

7. **Social Security Act.** The term "Social Security Act" means the Act of Congress approved August 14, 1935, chapter 531, 49 Stat. 620 officially cited as the "Social Security Act," including regulations and requirements issued pursuant thereto, as such Act has been and may from time to time be amended.

[1985, c. 801, §§ 5, 7 (NEW) .]

8. **State agency.** The term "state agency" means the Maine Public Employees Retirement System.

[1985, c. 801, §§ 5, 7 (NEW); 2007, c. 58, §3 (REV) .]

9. **Wages.** The term "wages" means all remuneration for employment as defined, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of such remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that Act.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 402, §A75 (AMD). 2007, c. 58, §3 (REV).

§19003. FEDERAL-STATE AGREEMENT

The state agency, with the approval of the Governor, is authorized to enter on behalf of the State into an agreement with the Federal Security Administrator, consistent with the terms and provisions of this chapter, for the purpose of extending the benefits of the Federal Old Age and Survivors Insurance System to employees of any political subdivision of the State and to the civilian employees of the Maine National Guard who are employed pursuant to section 90 of the National Defense Act of June 3, 1916 (32 U.S.C., Sec. 42), with respect to services specified in such agreement which constitute "employment" as defined in section 19002. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration and other appropriate provisions as the state agency and Federal Security Administrator shall agree upon, but, except as may be otherwise required by or under the Social Security Act as to the services to be covered, such agreement shall provide in effect that: [1985, c. 801, §§ 5, 7 (NEW).]

1. **Benefits.** Benefits shall be provided for employees whose services are covered by the agreement, and their dependents and survivors, on the same basis as though such services constituted employment within the meaning of the Social Security Act, Title II;

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Contributions.** The State shall pay to the Secretary of the Treasury, at such time or times as may be prescribed under the Social Security Act, contributions with respect to wages, as defined in section 19002, equal to the sum of the taxes which would be imposed by the Federal Insurance Contributions Act, sections 1400 and 1410, if the services covered by the agreement constituted employment within the meaning of that Act;

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Effective date.** Such agreement shall be effective with respect to services in employment covered by the agreement performed after a date specified therein, but in no event may it be effective with respect to any such services performed prior to the first day of January, 1951; and

[1985, c. 801, §§ 5, 7 (NEW) .]

4. **Services covered.** All services, which constitute employment as defined in section 19002, are performed in the employ of a political subdivision of the State, and are covered by a plan which is in conformity with the terms of the agreement and has been approved by the state agency under section 19005, shall be covered by the agreement.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§19004. COVERAGE OF EMPLOYEES OF POLITICAL SUBDIVISIONS

1. **Plan.** Each political subdivision of the State following the approval of the town meeting of a town or the governing body of a city, district or other instrumentality is authorized to submit for approval by the state agency a plan for extending the benefits of the Social Security Act, Title II, in conformity with applicable provisions of such Act, to employees of such political subdivision. Each such plan and any amendment thereof shall be approved by the state agency if it finds that such plan, or such plan as amended, is in conformity with such requirements as are provided in regulations of the state agency, except that no such plan shall be approved unless:

A. It is in conformity with the requirements of the Social Security Act, and with the agreement entered into under section 19003; [1985, c. 801, §§ 5, 7 (NEW).]

B. It specifies the source or sources from which the funds necessary to make the payments required by subsection 3, paragraph A, and by subsection 4 are expected to be derived and contains reasonable assurance that such sources will be adequate for such purpose; [1985, c. 801, §§ 5, 7 (NEW).]

C. It provides for such methods of administration of the plan by the political subdivision as are found by the state agency to be necessary for the proper and efficient administration of the plan; [1985, c. 801, §§ 5, 7 (NEW).]

D. It provides that the political subdivision will make such reports, in such form and containing such information, as the state agency may from time to time require, and comply with such provisions as the state agency or the Federal Security Administrator may from time to time find necessary to assure the correctness and verification of such reports; and [1985, c. 801, §§ 5, 7 (NEW).]

E. It authorizes the state agency to terminate the plan in its entirety, in the discretion of the state agency, if it finds that there has been a failure to comply substantially with any provision contained in such plan, such termination to take effect at the expiration of such notice and on such conditions as may be provided by regulations of the state agency and may be consistent with the Social Security Act. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Hearing.** The state agency shall not finally refuse to approve a plan submitted by a political subdivision under subsection 1 and shall not terminate an approved plan, without reasonable notice and opportunity for hearing to the political subdivision affected thereby.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Contributions.**

A. Each political subdivision as to which a plan has been approved under this section shall pay into the Contribution Fund, with respect to wages, as defined in section 19002, at such time or times as the state agency may by regulation prescribe, contributions in the amounts and at the rate specified in the applicable agreement entered into by the state agency under section 19003. [1985, c. 801, §§ 5, 7 (NEW).]

B. Each political subdivision required to make payments under paragraph A is authorized, in consideration of the employee's retention in, or entry upon, employment after enactment of this chapter, to impose upon each of its employees, as to services which are covered by an approved plan, a contribution with respect to his wages, as defined in section 19002, not exceeding the amount of tax which would be imposed by section 1400 of the Federal Insurance Contributions Act if such services constituted employment within the meaning of that act, and to deduct the amount of such contribution from his wages as and when paid. Contributions so collected shall be paid into the Contribution Fund in partial discharge of the liability of such political subdivision or instrumentality under paragraph A. Failure to deduct such contribution shall not relieve the employee or employer of liability therefor. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

4. **Delinquent payments.** Delinquent payments due under subsection 3, paragraph A, may, with interest at the rate of 6% per year, be recovered by action in a court of competent jurisdiction against the political subdivision liable therefor or may, at the request of the state agency, be deducted from any other moneys payable to such subdivision by any department or agency of the State.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§19005. CONTRIBUTION FUND

The "Contribution Fund," as established, shall consist of and there shall be deposited in the fund: All contributions, interest and penalties collected under section 19004; all money appropriated thereto under this chapter; any property or securities and earnings thereof acquired through the use of money belonging to the fund; interest earned upon any money in the fund; and all sums recovered upon the bond of the custodian or otherwise for losses sustained by the fund and all other money received for the fund from any other source. All money in the fund shall be mingled and undivided. Subject to this chapter, the state agency is vested with full power, authority and jurisdiction over the fund, including all money and property or securities belonging thereto. The state agency shall invest the fund pursuant to section 17153, subsection 3 and credit all interest and income earned in excess of that needed, for the purposes set forth in this section, to the expense

fund of the state agency, to be used to prepare and, if approved by the Legislature, implement a portable and integrated retirement plan for participating local districts and to defray the cost of administration for those districts that participated in the social security system through the Maine Public Employees Retirement System. The state agency may perform any and all acts whether or not specifically designated, which are necessary to the administration of the Contribution Fund and are consistent with this chapter. [1989, c. 77, §1 (AMD); 2007, c. 58, §3 (REV).]

The Contribution Fund shall be established and held separate and apart from any other funds or money of the State and shall be used and administered exclusively for the purpose of this chapter. Subject to this section, withdrawals from the fund shall be made for, and solely for, payment of amounts required to be paid to the Secretary of the Treasury pursuant to an agreement entered into under section 19003; and refunds of overpayments, not otherwise adjustable, made by a political subdivision or instrumentality. [1989, c. 77, §1 (AMD).]

From the Contribution Fund the custodian of the fund shall pay to the Secretary of the Treasury such amounts and at such time or times as may be directed by the state agency in accordance with any agreement entered into under section 19003 and the Social Security Act. [1985, c. 801, §§ 5, 7 (NEW).]

The Treasurer of State shall be ex officio treasurer and custodian of the Contribution Fund and shall administer such fund in accordance with this chapter and the directions of the state agency and shall pay all warrants drawn upon it in accordance with this section and with such regulations as the state agency may prescribe pursuant thereto. [1985, c. 801, §§ 5, 7 (NEW).]

There are authorized to be appropriated biannually to the Contribution Fund, in addition to the contributions collected and paid into the Contribution Fund under section 19004, to be available for the purposes of the 2nd and 3rd paragraphs of this section until expended, such additional sums as are found to be necessary in order to make the payments to the Secretary of the Treasury which the State is obligated to make pursuant to an agreement entered into under section 19003. [1985, c. 801, §§ 5, 7 (NEW).]

The state agency shall submit to each regular session of the Legislature, at least 90 days in advance of the beginning of each session, an estimate of the amounts authorized to be appropriated to the Contribution Fund by the preceding paragraph of this section for the next appropriation period. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 77, §1 (AMD). 2007, c. 58, §3 (REV).

§19006. RULES AND REGULATIONS

The state agency shall make and publish such rules and regulations, not inconsistent with this chapter, as it finds necessary or appropriate to the efficient administration of the functions with which it is charged under this chapter. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§19007. COST OF ADMINISTRATION

Any cost of administering this chapter may be prorated among the political subdivisions joining this plan. A revolving fund is established from which costs of administration shall be paid and to which shall be credited the amounts billed to and received from the political subdivisions in the plan. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

Part 22: INTERDEPARTMENTAL ADVISORY COUNCILS

Chapter 435: MAINE HEALTH POLICY ADVISORY COUNCIL

§19101. ESTABLISHMENT; ROLE

(REPEALED)

SECTION HISTORY
1987, c. 542, §§C2,C3 (NEW). 1989, c. 503, §B34 (AMD). 1991, c. 622, §S20 (RP).

§19102. DEFINITIONS

(REPEALED)

SECTION HISTORY
1987, c. 542, §§C2,C3 (NEW). 1987, c. 816, §KK10 (AMD). 1991, c. 622, §S20 (RP).

§19103. MEMBERSHIP; OFFICERS; COMPENSATION

(REPEALED)

SECTION HISTORY
1987, c. 542, §§C2,C3 (NEW). 1987, c. 816, §KK11 (AMD). 1991, c. 622, §S20 (RP).

§19104. STUDIES AND REPORTS

(REPEALED)

SECTION HISTORY
1987, c. 542, §§C2,C3 (NEW). 1989, c. 799, §1 (AMD). 1991, c. 622, §S20 (RP).

§19105. WORKING RELATIONSHIPS

(REPEALED)

SECTION HISTORY
1987, c. 542, §§C2,C3 (NEW). 1991, c. 622, §S20 (RP).

§19106. ANNUAL REPORTS

(REPEALED)

SECTION HISTORY
1987, c. 542, §§C2,C3 (NEW). 1991, c. 622, §S20 (RP).

§19107. PUBLIC PARTICIPATION AND HEARINGS

(REPEALED)

SECTION HISTORY
1987, c. 542, §§C2,C3 (NEW). 1991, c. 622, §S20 (RP).

§19108. STAFF

(REPEALED)

SECTION HISTORY
1987, c. 542, §§C2,C3 (NEW). 1989, c. 799, §2 (AMD). 1991, c. 622, §S20 (RP).

§19109. ADVISORY COMMITTEES

(REPEALED)

SECTION HISTORY
1987, c. 542, §§C2,C3 (NEW). 1991, c. 622, §S20 (RP).

§19110. FUNDING

(REPEALED)

SECTION HISTORY
1987, c. 542, §§C2,C3 (NEW). 1989, c. 799, §3 (AMD). 1991, c. 622, §S20 (RP).

Chapter 437: INTERDEPARTMENTAL COUNCIL

§19111. INTERDEPARTMENTAL COUNCIL

(REPEALED)

SECTION HISTORY
1993, c. 738, §B3 (NEW). 1993, c. 738, §B9 (AFF). RR 1995, c. 2, §15 (COR). 1999, c. 668, §57 (RP). 1999, c. 785, §2 (RP).

§19112. GOALS OF THE COUNCIL

(REPEALED)

SECTION HISTORY
1993, c. 738, §B3 (NEW). 1993, c. 738, §B9 (AFF). 1997, c. 342, §§1,2 (AMD). 1999, c. 668, §58 (RP). 1999, c. 785, §2 (RP).

§19113. POWERS AND DUTIES

(REPEALED)

SECTION HISTORY
1993, c. 738, §B3 (NEW). 1993, c. 738, §B9 (AFF). 1999, c. 668, §59 (RP). 1999, c. 785, §2 (RP).

§19114. CHILDREN'S RESIDENTIAL TREATMENT COMMITTEE

(REPEALED)

SECTION HISTORY

1993, c. 738, §B3 (NEW). 1993, c. 738, §B9 (AFF). 1995, c. 560, §K82 (AMD). 1995, c. 560, §K83 (AFF). 1999, c. 668, §60 (RP). 1999, c. 785, §2 (RP).

§19115. ADMINISTRATION

(REPEALED)

SECTION HISTORY
1993, c. 738, §B3 (NEW). 1993, c. 738, §B9 (AFF). 1999, c. 668, §61 (RP). 1999, c. 785, §2 (RP).

Chapter 438: COUNCIL ON CHILDREN AND FAMILIES

§19121. COUNCIL ON CHILDREN AND FAMILIES

(REPEALED)

SECTION HISTORY
1999, c. 785, §3 (NEW). 2001, c. 354, §3 (AMD). RR 2003, c. 2, §9 (COR). 2005, c. 294, §13 (RP).

§19122. PURPOSES OF THE COUNCIL; GOALS

(REPEALED)

SECTION HISTORY
1999, c. 785, §3 (NEW). 2005, c. 294, §13 (RP).

§19123. DUTIES

(REPEALED)

SECTION HISTORY
1999, c. 785, §3 (NEW). 2005, c. 294, §13 (RP).

§19124. STAFFING; ADMINISTRATION

(REPEALED)

SECTION HISTORY
1999, c. 785, §3 (NEW). 2005, c. 294, §13 (RP).

Chapter 439: CHILDREN'S CABINET

§19131. CHILDREN'S CABINET

1. **Establishment.** The Children's Cabinet, referred to in this chapter as the "cabinet," is established to promote interdepartmental collaboration on children's policy development and program implementation and to support the provision of services for Maine families and children that are planned, managed and delivered in a holistic and integrated manner to improve their self-sufficiency, safety, economic stability, health and quality of life.

[1999, c. 785, §3 (NEW) .]

2. **Membership.** The cabinet consists of the following members:

A. The Commissioner of Corrections; [1999, c. 785, §3 (NEW).]

B. The Commissioner of Education; [1999, c. 785, §3 (NEW).]

C. The Commissioner of Health and Human Services; [2005, c. 397, Pt. A, §7 (AMD).]

D. [2005, c. 397, Pt. A, §8 (RP).]

E. The Commissioner of Public Safety; [2003, c. 576, §2 (AMD).]

F. The Commissioner of Labor; and [2003, c. 576, §3 (NEW).]

G. At the discretion of the Governor, a member of the public, appointed by the Governor. [2003, c. 576, §3 (NEW).]

[2005, c. 397, Pt. A, §§7, 8 (AMD) .]

3. **Chair.** The Governor shall appoint one of the members to serve as chair of the cabinet. The term of the chair is 2 years.

[1999, c. 785, §3 (NEW) .]

SECTION HISTORY
1999, c. 785, §3 (NEW). 2001, c. 354, §3 (AMD). 2003, c. 576, §§1-3 (AMD). 2005, c. 397, §§A7,8 (AMD).

§19132. DUTIES OF THE CABINET

The cabinet shall collaborate to create, manage and promote coordinated policies, programs and service delivery systems that support children, families and communities consistent with the purposes of this chapter. To accomplish these purposes, the cabinet shall carry out the following duties: [1999, c. 785, §3 (NEW).]

1. **Regional children's cabinets.** Appoint regional children's cabinets to ensure that the purposes of this chapter are implemented at the regional and local levels;

[1999, c. 785, §3 (NEW) .]

2. **Subcommittees.** Appoint subcommittees, which may include members from any public or private agency, advisory committee or any citizen, who has appropriate interest and expertise, as may be necessary to carry out the work of the cabinet;

[1999, c. 785, §3 (NEW) .]

3. **Coordinate funding; collaboration.** Coordinate funding and budgets among the departments of the cabinet related to child and family services in order to carry out the purpose of this chapter, collaborate to share resources, remove barriers and support initiatives that prevent health and behavioral problems in children;

[1999, c. 785, §3 (NEW) .]

4. **Planning and policy development.** Conduct long-range planning and policy development leading to a more effective public and private service delivery system;

[1999, c. 785, §3 (NEW) .]

5. **Coordinated service delivery.** Coordinate the delivery of residential and community-based children's services among the departments;

[1999, c. 785, §3 (NEW) .]

6. **Assessment.** Assess resource capacity and allocations;

[1999, c. 785, §3 (NEW) .]

7. **Policy and program review.** Improve policies and programs through the review of specific case examples; and

[1999, c. 785, §3 (NEW) .]

8. **Communication.** Broadly communicate the work of the cabinet.

[1999, c. 785, §3 (NEW) .]

SECTION HISTORY
1999, c. 785, §3 (NEW).

§19133. PROGRAM IMPLEMENTATION AND OVERSIGHT

The cabinet shall initiate, implement and oversee programs, policies and services consistent with the purposes of this chapter, which may include but are not limited to: [1999, c. 785, §3 (NEW).]

1. **Communities for Children.** Supporting a collaborative effort between communities and State Government, known as Communities for Children, to effectively address problems facing the State's children and families by mobilizing the resources of State Government with resources and leadership at the community level;

[1999, c. 785, §3 (NEW) .]

2. **Effectiveness indicators.** Identifying indicators to measure child well-being to be used by Maine policy makers;

[1999, c. 785, §3 (NEW) .]

3. **Safe homes.** Working to ensure that all children have a safe and permanent home;

[1999, c. 785, §3 (NEW) .]

4. **Civil and caring school environments.** Providing civil and caring school environments in which violence is eliminated and the health needs of students are provided for;

[1999, c. 785, §3 (NEW) .]

5. **Supportive communities.** Focusing community members and resources to support goal-setting, counseling and mentoring for every child;

[1999, c. 785, §3 (NEW) .]

6. **Reducing suicide.** Reducing the incidence of suicide among Maine youth and improving access to appropriate prevention and intervention services;

[1999, c. 785, §3 (NEW) .]

7. **Access to information and referral.** Ensuring easy access to information and referral services regarding child and family services;

[1999, c. 785, §3 (NEW) .]

8. **Service coordination.** Coordinating social services to children and their families as an integrated whole and facilitating access to all services needed by family members;

[1999, c. 785, §3 (NEW) .]

9. **Ensuring services.** Ensuring coordination of services to parents of children birth to 5 years of age; and

[1999, c. 785, §3 (NEW) .]

10. **Local case review and resolution; pooled funds.** Providing services to children with multiple needs within the child's community by supporting case review and resolution at the local level using appropriate funds pooled from each department of the cabinet.

[1999, c. 785, §3 (NEW) .]

SECTION HISTORY
1999, c. 785, §3 (NEW).

§19134. FUNDS

The cabinet is authorized to solicit, receive and pool funds from the Federal Government, any political subdivision of the State or any individual, foundation or corporation and may expend those funds for purposes that are consistent with this chapter. [1999, c. 785, §3 (NEW).]

SECTION HISTORY
1999, c. 785, §3 (NEW).

§19135. ANNUAL REPORT

The cabinet shall provide an annual report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs, the joint standing committee of the Legislature having jurisdiction over criminal justice matters, the joint standing committee of the Legislature having jurisdiction over education and cultural affairs and the joint standing committee of the Legislature having jurisdiction over health and human services matters and the Chief Justice of the Supreme Court. A copy of the report must be made available to the public. [2005, c. 294, §14 (AMD).]

SECTION HISTORY
1999, c. 785, §3 (NEW). 2005, c. 294, §14 (AMD).

Part 23: PUBLIC HEALTH

Chapter 501: MEDICAL CONDITIONS

§19201. DEFINITIONS

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [1987, c. 539, (RPR).]

1. **Antibody to HIV.** "Antibody to HIV" means the specific immunoglobulin produced by the body's immune system in response to HIV.

[1987, c. 539, (RPR) .]

1-A. **Bona fide occupational exposure.** "Bona fide occupational exposure" means skin, eye, mucous membrane or parenteral contact of a person with the potentially infectious blood or other body fluids of another person that results from the performance of duties by the exposed person in the course of employment. It also includes such contact resulting from performance of emergency services by a volunteer firefighter as defined by Title 30-A, section 3151 or by an emergency medical services person licensed under Title 32, chapter 2-B when responding to an emergency as part of a governmental, nonprofit or other organized entity, whether the firefighter or emergency medical services person is compensated for such services or not.

[1999, c. 429, §1 (AMD) .]

1-B. **Employer; employer of the person exposed.** "Employer" and "employer of the person exposed" include a self-employed person who is exposed to the potentially infectious blood or other body fluids of another person. It also includes, in the case of a volunteer firefighter or emergency medical services person, the organization for which the services are performed.

[1999, c. 429, §1 (AMD) .]

2. **Health care provider.** "Health care provider" means any appropriately licensed, certified or registered provider of mental or physical health care, either in the public or private sector or any business establishment providing health care services.

[1987, c. 539, (RPR) .]

2-A. **Health care setting.** "Health care setting" means any location where there is provision of preventive, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, services, procedures or counseling, including emergency services performed in the field, and appropriate assistance with disease or symptom management and maintenance that affects an individual's physical, mental or behavioral condition, including the process of banking blood, sperm, organs or any other tissue.

[1999, c. 429, §2 (NEW) .]

2-B. **Health care facility.** "Health care facility" or "facility" means a facility, institution or entity licensed pursuant to Title 22 that offers health care to persons in this State, including a home health care provider and hospice program. "Health care facility" or "facility" includes a pharmacy licensed pursuant to Title 32.

[2011, c. 347, §1 (NEW) .]

3. **HIV.** "HIV" means the human immunodeficiency virus, identified as the causative agent of Acquired Immune Deficiency Syndrome or AIDS.

[1987, c. 539, (RPR) .]

4. **HIV antigen.** "HIV antigen" means the specific immune-recognizable marker proteins of HIV.

[1987, c. 539, (RPR) .]

4-A. **HIV test.** "HIV test" means a test for the presence of an antibody to HIV or a test for an HIV antigen or other diagnostic determinants specific for HIV infection.

[1995, c. 404, §2 (AMD) .]

5. **HIV infection; HIV infection status.** "HIV infection" means the state wherein HIV has invaded the body and is being actively harbored by the body. "HIV infection status" means the results of an HIV test.

[1995, c. 404, §3 (AMD) .]

5-A. **Informed consent.** "Informed consent" means consent that is:

A. Based on an actual understanding by the person to be tested:

(1) That the test is being performed;

(2) Of the nature of the test;

(3) Of the persons to whom the results of that test may be disclosed;

(4) Of the purpose for which the test results may be used; and

(5) Of any reasonably foreseeable risks and benefits resulting from the test; and [1987, c. 811, §2 (AMD).]

B. Wholly voluntary and free from express or implied coercion. [1987, c. 539, (RPR).]

[1987, c. 811, §2 (AMD) .]

6. **Person.** "Person" means any natural person, firm, corporation, partnership or other organization, association or group, however organized.

[1987, c. 539, (RPR) .]

7. **Seropositivity.** "Seropositivity" means the presence of antibody to HIV as detected by appropriate laboratory tests.

[1987, c. 539, (RPR) .]

8. **Viral positivity.** "Viral positivity" means demonstrated presence of HIV.

[1987, c. 539, (RPR) .]

SECTION HISTORY
1987, c. 402, §A76 (NEW). 1987, c. 443, §2 (NEW). 1987, c. 539, (RPR). 1987, c. 811, §§1,2 (AMD). 1995, c. 404, §§1-3 (AMD). 1999, c. 429, §§1,2 (AMD). 2011, c. 347, §1 (AMD).

§19202. MAINE HIV ADVISORY COMMITTEE

1. **Duties.**

[1999, c. 390, §10 (AFF); 1999, c. 390, §1 (RP) .]

1-A. **Duties.**

[2009, c. 203, §8 (AFF); 2009, c. 203, §1 (RP) .]

1-B. **Duties.** The Maine HIV Advisory Committee, as established in section 12004-I, subsection 42 and referred to in this section as "the committee," on behalf of those individuals infected by, at risk for or affected by the human immunodeficiency virus, referred to in this section as "HIV," in the State, shall:

A. Advise the Office of the Governor and state, federal and private sector agencies, officials and committees on HIV-related and AIDS-related policy, planning, budget or rules; [2009, c. 203, §2 (NEW); 2009, c. 203, §8 (AFF).]

B. Make an annual assessment of emerging HIV-related issues and trends; [2009, c. 203, §2 (NEW); 2009, c. 203, §8 (AFF).]

C. Initiate and respond to legislation, both state and federal; and [2009, c. 203, §2 (NEW); 2009, c. 203, §8 (AFF).]

D. Prepare and present, in person, an annual report on the status of HIV in the State to the Office of the Governor and the joint standing committee of the Legislature having jurisdiction over health and human services matters by March 1st of each year. [2013, c. 108, §1 (AMD).]

[2013, c. 108, §1 (AMD) .]

2. **Membership.**

[1999, c. 390, §10 (AFF); 1999, c. 390, §3 (RP) .]

2-A. **Membership.**

[2009, c. 203, §8 (AFF); 2009, c. 203, §3 (RP) .]

2-B. **Membership.** The committee consists of 19 members as provided in this subsection.

A. The committee includes 7 members as follows, of whom only the Legislators are voting members:

(1) Two members of the Legislature, one Senator nominated by the President of the Senate and one Representative nominated by the Speaker of the House of Representatives;

(2) The director of the HIV, STD and viral hepatitis program within the Department of Health and Human Services, Maine Center for Disease Control and Prevention;

(3) A representative of the Department of Education, nominated by the Commissioner of Education;

(4) A representative of the Department of Corrections, nominated by the Commissioner of Corrections;

(5) A representative of the organizational unit of the Department of Health and Human Services that provides programs and services for substance abuse prevention and treatment, nominated by the Commissioner of Health and Human Services; and

(6) A representative of the Department of Health and Human Services, Office of MaineCare Services, nominated by the Commissioner of Health and Human Services. [2011, c. 657, Pt. AA, §4 (AMD).]

B. The committee shall identify 12 additional voting representatives for membership as described in this paragraph, with broad input from persons with HIV or at risk for HIV infection or from organizations with extensive participation of persons with HIV, organizations interested in and working on HIV and AIDS prevention and health, other community-based organizations providing HIV and AIDS services, rural health centers and the public:

(1) Four persons living with HIV/AIDS;

(2) Two representatives of populations most affected by HIV/AIDS in the State;

(3) Two providers of HIV-related prevention or social services;

(4) Two representatives of the public health community who have experience in the prevention of and the care and treatment of persons with HIV or infectious diseases; and

(5) Two persons chosen by the committee because of the positive impact the persons' expertise or experience will have on the work of the committee. [2013, c. 108, §2 (RPR).]

[2013, c. 108, §2 (AMD) .]

3. **Terms.** The term of office of each voting member is 3 years except that nonvoting members serve during the duration of the commissioner's term of office for the agency that each member represents and Legislators serve during the term for which they were elected. The membership shall annually elect a chair and vice-chair. The chair is the presiding member of the committee. All vacancies must be filled for the balance of the unexpired term in the same manner as original appointments.

[2009, c. 203, §5 (AMD); 2009, c. 203, §8 (AFF) .]

3-A. **Compensation.** The members of the committee are entitled to compensation in accordance with chapter 379. All members are entitled to reimbursement for expenses.

[1999, c. 390, §6 (NEW); 1999, c. 390, §10 (AFF) .]

4. **Meetings.** The committee shall meet at least 4 times a year and more frequently if needed to respond to the duties of this committee as specified in subsection 1-B. Special meetings may be called by the chair and must be called at the request of the Department of Health and Human Services, Maine Center for Disease Control and Prevention or by 3 or more members of the committee.

[2009, c. 203, §6 (AMD); 2009, c. 203, §8 (AFF) .]

5. **Annual program and budget review.**

[1999, c. 390, §10 (AFF); 1999, c. 390, §8 (RP) .]

6. **Committee may accept funds.** The committee may vote to accept or refuse gifts, grants or other funding that may be offered to the committee.

[1993, c. 384, §2 (NEW) .]

SECTION HISTORY
1987, c. 402, §A76 (NEW). 1987, c. 443, §2 (NEW). 1987, c. 539, (RPR). 1987, c. 651, (AMD). 1987, c. 769, §A33 (AMD). 1987, c. 861, §§7,8 (AMD). 1989, c. 189, (AMD). 1991, c. 404, §1 (AMD). 1991, c. 404, §2 (AFF). 1993, c. 384, §2 (RPR). 1999, c. 390, §§1-8 (AMD). 1999, c. 390, §10 (AFF). 2001, c. 354, §3 (AMD). RR 2003, c. 2, §10 (COR). 2003, c. 689, §B6 (REV). 2009, c. 203, §§1-6 (AMD). 2009, c. 203, §8 (AFF). 2011, c. 657, Pt. AA, §4 (AMD). 2013, c. 108, §§1, 2 (AMD).

§19203. CONFIDENTIALITY OF TEST

No person may disclose the results of an HIV test, except as follows: [1987, c. 811, §3 (RPR).]

1. **Subject of test.** To the subject of the test;

[1987, c. 811, §3 (RPR) .]

2. **Designated health care provider.** To a health care provider designated by the subject of the test in writing . When a patient has authorized disclosure of HIV test results to a person or organization providing health care, the patient's health care provider may make these results available only to other health care providers working directly with the patient and only for the purpose of providing direct medical or dental patient care. Any health care provider who discloses HIV test results in good faith pursuant to this subsection is immune from any criminal or civil liability for the act of disclosing HIV test results to other health care providers;

[1999, c. 512, Pt. B, §1 (AMD); 1999, c. 512, Pt. B, §§5, 6 (AFF) .]

3. **Authorized person.** To a person or persons to whom the test subject has authorized disclosure in writing, except that the disclosure may not be used to violate any other provisions of this chapter;

[1987, c. 811, §3 (RPR) .]

4. **Certain health care providers.** A health care provider who procures, processes, distributes or uses a human body part donated for a purpose may, without obtaining informed consent to the testing, perform an HIV test in order to assure medical acceptability of the gift for the purpose intended. Testing pursuant to this subsection does not require pretest and post-test counseling;

[1987, c. 811, §3 (RPR) .]

5. **Research facility.** The Department of Health and Human Services, a laboratory certified and approved by the Department of Health and Human Services pursuant to Title 22, chapter 411, or a health care provider, blood bank, blood center or plasma center may, for the purpose of research and without first obtaining informed consent to the testing, subject any body fluids or tissues to an HIV test if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher;

[1987, c. 811, §3 (RPR); 2003, c. 689, Pt. B, §6 (REV) .]

6. **Anonymous testing sites.** To an anonymous testing site established pursuant to section 19203-B;

[1987, c. 811, §3 (RPR) .]

7. **Other agencies.** To employees of, or other persons designated by, the Department of Corrections and the Department of Health and Human Services, to the extent that those employees or other persons are responsible for the treatment or care of subjects of the test. Those agencies shall adopt rules, within 90 days of August 4, 1988, pursuant to chapter 375, subchapter 2, designating the persons or classes of persons to whom the test results may be disclosed. The rules of the Department of Corrections must designate those persons who may receive the results of an HIV test of a county jail inmate;

[2003, c. 2, §11 (COR) .]

8. **Bureau of Health.** To the Department of Health and Human Services, which may disclose results to other persons only if that disclosure is necessary to carry out its duties as provided in Title 22, section 42 and chapters 250 and 251;

[2007, c. 539, Pt. N, §6 (AMD) .]

9. **Medical records.** As part of a medical record when release or disclosure of that record is authorized pursuant to section 19203-D;

[2011, c. 347, §2 (AMD) .]

10. **Court ordered disclosure.** To:

A. A person authorized by section 19203-C to receive test results following an accidental exposure; or [1991, c. 803, §1 (NEW).]

B. A victim-witness advocate authorized by section 19203-F to receive the test results of a person convicted of a sexual crime as defined in section 19203-F, subsection 1, paragraph C, who shall disclose to a victim under section 19203-F, subsection 4; or [2011, c. 347, §3 (AMD).]

[2011, c. 347, §3 (AMD) .]

11. **Access by health information exchange or other entity.** To a statewide health information exchange designated by the State that provides and maintains an individual protection mechanism by which an individual may choose to opt in to allow that statewide health information exchange to disclose that individual's health care information covered under this section to a health care provider or health care facility for purposes of treatment, payment and health care operations, as those terms are defined in 45 Code of Federal Regulations, Section 164.501. A state-designated statewide health information exchange also must satisfy the requirement in Title 22, section 1711-C, subsection 18, paragraph C of providing a general opt-out provision to an individual at all times.

A state-designated statewide health information exchange may disclose an individual's health care information covered under this section even if the individual has not chosen to opt in to allow the state-designated statewide health information exchange to disclose the individual's health care information when in a health care provider's judgment disclosure is necessary to:

A. Avert a serious threat to the health or safety of others, if the conditions, as applicable, described in 45 Code of Federal Regulations, Section 164.512(j)(2010) are met; or [2011, c. 347, §4 (NEW).]

B. Prevent or respond to imminent and serious harm to the individual and disclosure is to a provider for diagnosis or treatment. [2011, c. 347, §4 (NEW).]

[2011, c. 347, §4 (NEW) .]

This section does not prohibit limited administrative disclosure in conjunction with a mandatory testing program of a military organization subject to Title 37-B. [1987, c. 811, §3 (RPR).]

Nothing in this section may be construed as prohibiting the entry of an HIV test result on the patient's medical record in accordance with this chapter. [1999, c. 512, Pt. B, §3 (AMD); 1999, c. 512, Pt. B, §§5, 6 (AFF).]

SECTION HISTORY
1987, c. 402, §A76 (NEW). 1987, c. 443, §2 (NEW). 1987, c. 539, (RPR). 1987, c. 811, §3 (RPR). 1989, c. 487, §1 (AMD). 1995, c. 319, §1 (AMD). 1995, c. 404, §4 (AMD). 1995, c. 560, §K82 (AMD). 1995, c. 560, §K83 (AFF). 1997, c. 70, §1 (AMD). 1997, c. 793, §§B1-3 (AMD). 1997, c. 793, §B6 (AFF). 1999, c. 3, §§4,5 (AFF). 1999, c. 127, §A13 (AMD).

1999, c. 512, §§B1-3 (AMD). 1999, c. 512, §B5 (AFF). 1999, c. 790, §§A59,60 (AFF). 2001, c. 354, §3 (AMD). RR 2003, c. 2, §11 (COR). 2003, c. 689, §B6 (REV). 2007, c. 539, Pt. N, §6 (AMD). 2011, c. 347, §§2-4 (AMD).

§19203-A. VOLUNTARY INFORMED CONSENT REQUIRED

1. **Individual tested.** Except as provided in this section and section 19203, subsections 4 and 5, an HIV test must be voluntary and undertaken only with a patient's knowledge and understanding that an HIV test is planned. A patient must be informed orally or in writing that an HIV test will be performed unless the patient declines. Oral or written information required to be given to a patient under this subsection must include an explanation of what an HIV infection involves and the meaning of positive and negative test results. A patient must be provided the opportunity to ask questions, either orally or in writing. Informed consent is not required for repeated HIV testing by health care providers to monitor the course of established infection.

[2007, c. 93, §1 (AMD) .]

2. **Insurers.** Persons required to take an HIV test by an insurer, nonprofit hospital or medical service organization or nonprofit health care plan must provide their written informed consent on forms approved by the Superintendent of Insurance. If the test is positive, post-test counseling must be provided by the person or organization requesting the test. The Superintendent of Insurance may adopt rules to define language requirements of the form.

[2007, c. 93, §1 (AMD) .]

3. **Access to medical care.** A health care provider may not deny any person medical treatment or care solely for refusal to give consent for an HIV test. A health care provider may not request a person's written consent to an HIV test as a precondition to the provision of health care. All written consent to testing must be in accordance with section 19201, subsection 5-A. This section does not prohibit a health care provider from recommending an HIV test for diagnostic or treatment purposes. A physician or other health care provider is not civilly liable for failing to have an HIV test performed for diagnostic or treatment purposes if the test was recommended and refused in writing by the patient.

[2007, c. 93, §1 (AMD) .]

4. **Occupational exposure.** Consent need not be obtained when a bona fide occupational exposure creates a significant risk of infection if a court order has been obtained under section 19203-C. The fact that an HIV test was given as a result of an occupational exposure and the results of that test may not appear in any records of the person whose blood or body fluid is the source of the exposure. If the test is positive, post-test counseling must be offered. The subject of the test may choose not to be informed about the result of the test.

[2007, c. 93, §1 (AMD) .]

4-A. **Occupational exposure in health care setting.** When a bona fide occupational exposure occurs in a health care setting, authorization to test the source patient for HIV must be obtained from that patient if the patient is present or can be contacted at the time of exposure and is capable of providing consent. At the time of exposure, if the source patient is not present and can not be contacted or is incapacitated, then any reasonably available member of the following classes of individuals, in descending order of priority, may authorize an HIV test on a blood or tissue sample from the source patient:

A. The patient's legal guardian; [1999, c. 429, §3 (NEW).]

B. An individual known to have power of attorney for health care for the patient; [1999, c. 429, §3 (NEW).]

C. An adult relative, by blood, marriage or adoption; [1999, c. 429, §3 (NEW).]

D. An adult with whom the patient has a meaningful social and emotional relationship; and [1999, c. 429, §3 (NEW).]

E. A physician who is familiar with occupational exposures to HIV. [1999, c. 429, §3 (NEW).]

The individual authorizing the HIV test must be informed of the nature, reliability and significance of the HIV test and the confidential nature of the test.

If the person contacted for authorization refuses to authorize the test, the test may not be conducted unless consent is obtained from the source patient or from the court pursuant to section 19203-C.

This subsection does not authorize a person described in paragraphs A to D to receive the test result. Test results must be given to the exposed person, to a personal physician if designated by the exposed person and to either the physician who authorizes the test or the health care provider who manages the occupational exposure.

The patient may choose not to be informed about the result of the HIV test. Without express patient authorization, the results of the HIV test and the fact that an HIV test was done as a result of an occupational exposure in a health care setting may not appear in the patient's health care records. The exposed individual's occupational health care record may include documentation of the occupational exposure and, if the record does not reveal the source patient's identity, the results of the source patient's HIV test.

[1999, c. 429, §3 (NEW) .]

5. **Exposure from sexual crime.** Consent need not be obtained when a court order has been issued under section 19203-F. The fact that an HIV test was given as a result of the exposure and the results of that test may not appear in a convicted offender's medical record. Counseling on risk reduction must be offered, but the convicted offender may choose not to be informed about the result of the test unless the court has ordered that the convicted offender be informed of the result.

[1995, c. 319, §2 (AMD) .]

6. **Protection of newborn infants.** Subject to the consent and procedure requirements of subsection 1, a health care provider who is providing care for a pregnant woman shall include an HIV test in a standard set of medical tests performed on the woman. A health care provider who is providing care for a newborn infant shall test the infant for HIV and ensure that the results are available within 12 hours of birth of the infant if the health care provider does not know the HIV status of the mother or the health care provider believes that HIV testing is medically necessary unless a parent objects to the test on the grounds that it conflicts with the sincere religious or conscientious beliefs and practices of the parent. If a woman declines to be tested for HIV pursuant to this subsection and subsection 1, the health care provider shall document the woman’s decision in the woman’s medical record.

[2011, c. 229, §1 (NEW) .]

SECTION HISTORY
1987, c. 443, §2 (NEW). 1987, c. 539, (RPR). 1987, c. 811, §§4,5 (AMD). 1991, c. 803, §2 (AMD). 1995, c. 319, §2 (AMD). 1995, c. 404, §§5,6 (AMD). 1999, c. 429, §3 (AMD). 2007, c. 93, §1 (AMD). 2011, c. 229, §1 (AMD).

§19203-B. ANONYMOUS TESTING SITES

The Department of Health and Human Services may designate or establish certification and approval standards for and support anonymous testing sites where an individual may request an HIV test under conditions which ensure anonymity. [1987, c. 539, (NEW); 2003, c. 689, Pt. B, §6 (REV).]

SECTION HISTORY
1987, c. 539, (NEW). 2003, c. 689, §B6 (REV).

§19203-C. JUDICIAL CONSENT TO HIV TEST

1. **Petition.** Any person who experiences a bona fide occupational exposure may petition the District Court with jurisdiction over the facility or other place where the exposure occurred to require the person whose blood or body fluid is the source of the exposure to submit to an HIV test and to require that the results of the test be provided to the petitioner provided that the following conditions have been met:

A. The exposure to blood or body fluids creates a significant risk of HIV infection, as defined by the Bureau of Health through the adoption of rules in accordance with the Maine Administrative Procedure Act, chapter 375; [1995, c. 404, §7 (AMD).]

B. The authorized representative of the employer of the person exposed has informed the person whose blood or body fluid is the source of the occupational exposure and has sought to obtain written informed consent from the person whose blood or body fluid is the source of the exposure; and [1995, c. 404, §7 (AMD).]

C. Written informed consent was not given by the person whose blood or body fluid is the source of the exposure and that person has refused to be tested, or, in the event of an occupational exposure in a health care setting when the source patient was not present and could not be contacted or was incapacitated, the individual contacted for authorization to test the source patient's blood or tissue sample denied the authorization. [1999, c. 429, §4 (AMD).]

[1999, c. 429, §4 (AMD) .]

1-A. **Persons authorized.**

[1995, c. 404, §8 (RP) .]

2. **Prehearing duties of the court.** Upon receipt by the District Court of the petition, the court shall:

A. Schedule a hearing to be held as soon as practicable; [1987, c. 811, §6 (NEW).]

B. Cause a written notice of the petition and hearing to be given, in accordance with the Maine Rules of Civil Procedure, to the patient who is the subject of the proceeding; [1987, c. 811, §6 (NEW).]

C. Appoint counsel, if requested, for any indigent client not already represented; and [1987, c. 811, §6 (NEW).]

D. Furnish counsel with copies of the petition. [1987, c. 811, §6 (NEW).]

[1987, c. 811, §6 (NEW) .]

3. **Hearing.** The hearing shall be governed as follows.

A. The hearing shall be conducted in accordance with the Maine Rules of Evidence and in an informal manner consistent with orderly procedure. [1987, c. 811, §6 (NEW).]

B. The hearing shall be confidential and be electronically or stenographically recorded. [1987, c. 811, §6 (NEW).]

C. The report of the hearing proceedings must be sealed. No report of the hearing proceedings may be released to the public, except by permission of the person whose blood or body fluid is the source of the exposure or that person's counsel and with the approval of the court. [1995, c. 404, §9 (AMD).]

D. The court may order a public hearing at the request of the person whose blood or body fluid is the source of the exposure or that person's counsel. [1995, c. 404, §9 (AMD).]

[1995, c. 404, §9 (AMD) .]

4. **Determination.** The court shall require the person whose blood or body fluid is the source of the exposure to obtain an HIV test if the petitioner proves, by a preponderance of the evidence, that:

A. The exposure to blood or body fluids of the person created a significant risk of HIV infection as defined by the Bureau of Health through the adoption of rules in accordance with the Maine Administrative Procedure Act, chapter 375; [1995, c. 404, §10 (AMD).]

B. An authorized representative of the employer of the person exposed has informed the patient of the occupational exposure and has sought to obtain written informed consent from the person whose blood or body fluid is the source of the exposure; and [1995, c. 404, §10 (AMD).]

C. Written informed consent was not given by the person whose blood or body fluid is the source of the exposure and that person has refused to be tested. [1995, c. 404, §10 (AMD).]

[1997, c. 331, §2 (AMD) .]

5. **Consent.** The court may not order a person whose blood or body fluid is the source of the exposure to obtain an HIV test unless the employee exposed to the blood or body fluids of that person has consented to and obtained an HIV test immediately following that documented exposure.

[1995, c. 404, §10 (AMD) .]

6. **Costs.** The employer of the person exposed is responsible for the petitioner's reasonable costs related to obtaining the results of an HIV test pursuant to this section, including the payment of the petitioner's attorneys' fees.

[1995, c. 404, §10 (AMD) .]

7. **Appeals.** A person required to undergo an HIV test may appeal the order to Superior Court. The appeal is limited to questions of law. Any findings of fact of the District Court may not be set aside unless clearly erroneous.

[1995, c. 404, §10 (AMD) .]

8. **Reporting to bureau and counseling.**

[1995, c. 404, §11 (RP) .]

9. **Subsequent testing.** Subsequent testing arising out of the same incident of occupational exposure must be conducted in accordance with this section.

[1995, c. 404, §12 (AMD) .]

10. **Bureau of Health report.** The Bureau of Health shall report on an annual basis to the Maine HIV Advisory Committee the following information:

A. The number of incidents in which the Bureau of Health is requested to determine under subsection 1, paragraph A whether a bona fide occupational exposure has occurred; and [1995, c. 404, §13 (NEW).]

B. With regard to the incidents reported in paragraph A, the occupations represented, the nature or a description of the incidents and the number of incidents determined to be and not to be bona fide occupational exposures. [1995, c. 404, §13 (NEW).]

[1995, c. 404, §13 (NEW) .]

SECTION HISTORY
1987, c. 811, §6 (NEW). 1989, c. 219, §§1,2 (AMD). 1995, c. 404, §§7-13 (AMD). 1997, c. 331, §§1,2 (AMD). 1999, c. 429, §4 (AMD).

§19203-D. RECORDS

When a medical record entry is made concerning information of a person's HIV infection status, including the results of an HIV test, the following apply to the release of that information as a part of the medical record. [1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §4 (REEN).]

1. **Authorized release.** The person who is the subject of an HIV test, at or near the time the entry is made in the medical record, shall elect, in writing, whether to authorize the release of that portion of the medical record containing the HIV infection status information when that person's medical record has been requested. A new election may be made when a change in the person's HIV infection status occurs or whenever the person makes a new election. The release form must clearly state whether or not the person has authorized the release of that information. The person must be advised of the potential implications of authorizing the release of that information.

A. When release has been authorized, the custodian of the medical record may release, upon request, the person's medical record, including any HIV infection status information contained in the medical record. Release of HIV infection status information pursuant to this paragraph is not a violation of any of the confidentiality provisions of this chapter. [1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §4 (REEN).]

B. When release has not been authorized, the custodian of the medical record may, upon request, release that portion of the medical record that does not contain the HIV infection status information. Except as otherwise provided in this section, HIV infection status information may be released only if the person has specifically authorized a separate release of that information. A general release form is insufficient. [1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §4 (REEN).]

[1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §4 (REEN) .]

2. **Authorized disclosure.** A medical record containing results of an HIV test may not be disclosed, discoverable or compelled to be produced in any civil, criminal, administrative or other proceedings without the consent of the person who is the subject of an HIV test, except in the following cases:

A. Proceedings held pursuant to the communicable disease laws, Title 22, chapter 251; [1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §4 (REEN).]

B. Proceedings held pursuant to the Adult Protective Services Act, Title 22, chapter 958-A; [1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §4 (REEN).]

C. Proceedings held pursuant to the child protection laws, Title 22, chapter 1071; [1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §4 (REEN).]

D. Proceedings held pursuant to the mental health laws, Title 34-B, chapter 3, subchapter IV, article III; and [1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §4 (REEN).]

E. Pursuant to a court order upon a showing of good cause, provided that the court order limits the use and disclosure of records and provides sanctions for misuse of records or sets forth other methods for ensuring confidentiality. [1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §4 (REEN).]

[1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §4 (REEN) .]

3. **Utilization review; research.** Nothing in this section may be interpreted to prohibit reviews of medical records for utilization review purposes by duly authorized utilization review committees or peer review organizations. Qualified personnel conducting scientific research, management audits, financial audits or program evaluation with the use of medical records may not identify, directly or indirectly, any individual patient in any report of such research, audit, evaluation or otherwise disclose the identities of persons tested in any manner.

[1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §4 (REEN) .]

4. **Access by health care providers.** Nothing in this section may prohibit access to medical records by the designated health care provider of the person who is the subject of an HIV test in accordance with section 19203, subsection 2.

[1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §4 (REEN) .]

5. **Confidentiality policy.** Health care providers and others with access to medical records containing HIV infection status information shall have a written policy providing for confidentiality of all patient information consistent with this chapter. That policy must require, at a minimum, action consistent with disciplinary procedures for violations of the confidentiality policy.

[1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §4 (REEN) .]

6. **Access by health information exchange or other entity.** Nothing in this section precludes the disclosure of a medical record containing HIV information to a state-designated statewide health information exchange that provides and maintains an individual protection mechanism by which an individual may choose to opt in to allow the state-designated statewide health information exchange to disclose that individual's health care information covered under this section to a health care provider or health care facility consistent with the rules and regulations contained in the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, for purposes of treatment, payment and health care operations, as those terms are defined in 45 Code of Federal Regulations, Section 164.501. A state-designated statewide health information exchange also must satisfy the requirement in Title 22, section 1711-C, subsection 18, paragraph C of providing a general opt-out provision to an individual at all times.

A state-designated statewide health information exchange may disclose an individual's health care information covered under this section even if the individual has not chosen to opt in to allow the state-designated statewide health information exchange to disclose the individual's health care information when in a health care provider's judgment disclosure is necessary to:

A. Avert a serious threat to the health or safety of others, if the conditions, as applicable, described in 45 Code of Federal Regulations, Section 164.512(j)(2010) are met; or [2011, c. 347, §5 (NEW).]

B. Prevent or respond to imminent and serious harm to the individual and disclosure is to a provider for diagnosis or treatment. [2011, c. 347, §5 (NEW).]

[2011, c. 347, §5 (NEW) .]

SECTION HISTORY
1987, c. 811, §6 (NEW). 1995, c. 404, §14 (AMD). 1997, c. 793, §B6 (AFF). 1997, c. 793, §B4 (RP). 1999, c. 3, §§4,5 (AFF). 1999, c. 512, §B5 (AFF). 1999, c. 512, §B4 (REEN). 1999, c. 790, §§A59,60 (AFF). 2011, c. 347, §5 (AMD).

§19203-E. HIV TEST AFTER CONVICTION FOR SEXUAL ASSAULT

(REPEALED)

SECTION HISTORY
1991, c. 803, §3 (NEW). 1993, c. 391, §§1,2 (AMD). 1995, c. 319, §3 (RP).

§19203-F. HIV TEST AFTER CONVICTION FOR SEXUAL ASSAULT

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

A. "Convicted offender" means a person who has been convicted of a sexual crime or, in the case of a juvenile, a person who has been adjudicated as having committed a sexual crime. [1995, c. 319, §4 (NEW).]

B. "Incapacitated adult" means an adult who is impaired by reason of mental illness, mental deficiency, physical illness or disability to the extent that the individual lacks sufficient understanding or capacity to make or communicate responsible decisions concerning that individual. [1995, c. 319, §4 (NEW).]

C. "Sexual crime" means a crime involving a sexual act, as defined in Title 17-A, section 251, subsection 1, paragraph C, subparagraph (1). [1995, c. 319, §4 (NEW).]

[1995, c. 319, §4 (NEW) .]

2. **Request for testing.** A person who is the victim of a sexual crime, or that person's parent, guardian or authorized representative if that person is a minor or incapacitated adult, may petition the court at any time prior to sentencing or no later than 180 days after conviction to order the convicted offender to submit to HIV testing and to order that the convicted offender be informed of the test results.

[1995, c. 319, §4 (NEW) .]

3. **Duties of the court.** Upon receipt of the petition, the court shall order that the convicted offender obtain HIV testing conducted by or under authority of the Department of Health and Human Services and, if requested by the petitioner, that the convicted offender be informed of the test results.

[1995, c. 319, §4 (NEW); 2003, c. 689, Pt. B, §6 (REV) .]

4. **Reporting and counseling.** The health care facility in which a convicted offender is tested pursuant to this section shall disclose the results of the test to the victim-witness advocate, who shall disclose the result to the petitioner. The health care facility shall, upon order of the court, disclose the results of the test to the convicted offender.

[2007, c. 93, §2 (AMD) .]

SECTION HISTORY
1995, c. 319, §4 (NEW). 2003, c. 689, §B6 (REV). 2007, c. 93, §2 (AMD).

§19204. RESTRICTIONS UPON REVEALING HIV TEST RESULTS

(REPEALED)

SECTION HISTORY
1987, c. 402, §A76 (NEW). 1987, c. 443, §2 (NEW). 1987, c. 539, (RPR). 1987, c. 811, §7 (AMD).

§19204-A. COUNSELING NEW HIV CASES

Except as otherwise provided by this chapter, persons who test positive for HIV infection must be offered post-test counseling. Persons who are authorized by section 19203-C or 19203-F to receive test results after exposure must be offered counseling regarding the nature, reliability and significance of the HIV test and the confidential nature of the test. Persons offered counseling under this section may decline the offer by signing a waiver stating that counseling has been offered and is being declined. [2007, c. 93, §3 (AMD).]

1. **Pretest counseling.**

[2007, c. 93, §3 (RP) .]

2. **Post-test counseling.** "Post-test counseling" must include:

A. Personal counseling that includes, at a minimum, a discussion of:

(1) The test results and the reliability and significance of the test results. The person providing post-test counseling shall communicate the result confidentially and through personal contact;

(3) Information on good preventive practices and risk reduction plans; and

(4) Referrals for medical care and information and referrals for support services, including social, emotional support and legal services, as needed; [2007, c. 93, §3 (AMD).]

B. An entry in the medical record of the person being counseled summarizing the contents of the discussion; and [2001, c. 647, §2 (AMD).]

C. The offer of face-to-face counseling. If the subject of the test declines, the provider of the test may provide an alternative means of providing the information required by paragraph A. [1995, c. 404, §15 (NEW).]

[2007, c. 93, §3 (AMD) .]

3. **Preventive practices.**

[1987, c. 811, §8 (RP) .]

4. **Referrals.**

[1987, c. 811, §8 (RP) .]

5. **Written information to person being counseled.** To comply with the requirements of this section regarding post-test counseling, in addition to meeting the requirements of subsection 2, the provider of an HIV test shall give to the person being counseled a written document containing information on the subjects described in subsection 2, paragraph A.

[2007, c. 93, §3 (AMD) .]

SECTION HISTORY
1987, c. 443, §2 (NEW). 1987, c. 539, (RPR). 1987, c. 811, §8 (RPR). 1991, c. 803, §4 (AMD). 1995, c. 319, §5 (AMD). 1995, c. 404, §15 (AMD). 1995, c. 625, §A15 (AMD). 2001, c. 647, §§1-3 (AMD). 2007, c. 93, §3 (AMD).

§19204-B. RESTRICTIONS ON REQUIRING TESTS OR RESULTS OF TESTS

1. **Employee testing.** An employee or applicant for employment may not be required to submit to an HIV test or reveal whether the employee or applicant for employment has obtained an HIV test as a condition of employment or to maintain employment, except when based on a bona fide occupational qualification. The Maine Human Rights Commission shall enforce this subsection.

[1995, c. 404, §16 (AMD) .]

2. **Employee rights.** The employment status of any employee may not be affected or changed:

A. If the employee declines to be tested; [2007, c. 93, §4 (AMD).]

B. If the employee testifies or assists in any proceeding under this chapter; [1987, c. 811, §9 (NEW).]

C. If the employee asserts any other rights exercised in good faith pursuant to this chapter; or [1987, c. 811, §9 (NEW).]

D. Because of the result of any test taken pursuant to this chapter. [1987, c. 811, §9 (NEW).]

[2007, c. 93, §4 (AMD) .]

SECTION HISTORY
1987, c. 811, §9 (NEW). 1989, c. 161, (AMD). 1995, c. 404, §16 (AMD). 2007, c. 93, §4 (AMD).

§19204-C. RESTRICTIONS UPON REVEALING HIV ANTIBODY TEST RESULTS

An insurer, nonprofit hospital or medical services organization, nonprofit health care plan or health maintenance organization may not request any person to reveal whether the person has obtained a test for the presence of antibodies to HIV or a test to measure the virus or to reveal the results of such tests taken prior to an application for insurance coverage. [1995, c. 404, §17 (AMD).]

SECTION HISTORY
1991, c. 3, §1 (NEW). 1995, c. 404, §17 (AMD).

§19205. COORDINATION OF SERVICES TO PERSONS WITH HIV OR AIDS

1. **Policy; services.** It is the policy of the State to provide to persons who test positive for HIV or have been diagnosed as having AIDS the services of departments and agencies, including, but not limited to, the Department of Education, the Department of Health and Human Services and the Department of Corrections.

[2003, c. 2, §12 (COR) .]

2. **Coordination of services.** A person designated by the Commissioner of Health and Human Services shall ensure coordination of new and existing services so as to meet the needs of persons with HIV or AIDS and identify gaps in programs.

The committee established in section 12004-I, subsection 42, shall work with the person designated in this chapter to ensure the coordination of services to meet the needs of persons with HIV or AIDS.

[1995, c. 404, §19 (AMD); 2003, c. 689, Pt. B, §7 (REV) .]

3. **Development of a client support services system.** A client support services system shall be developed to assist individuals infected with the Human Immune Deficiency Virus and to ensure that they receive necessary services. The client support service, arranged by the staff of community-based agencies, shall include, but not be limited to, assisting the individual's needs and assisting the individual with obtaining access to necessary health care, social service, housing, transportation, counseling and income maintenance services. The Department of Health and Human Services shall be responsible for providing overall direction for the development of the client support services system.

[1987, c. 769, Pt. A, §34 (NEW); 2003, c. 689, Pt. B, §6 (REV) .]

SECTION HISTORY
1987, c. 402, §A76 (NEW). 1987, c. 443, §2 (NEW). 1987, c. 539, (RPR). 1987, c. 769, §A34 (AMD). 1989, c. 502, §A22 (AMD). 1989, c. 700, §A28 (AMD). RR 1995, c. 1, §5 (COR). 1995, c. 404, §§18,19 (AMD). 1995, c. 560, §K82 (AMD). 1995, c. 560, §K83 (AFF). 2001, c. 354, §3 (AMD). RR 2003, c. 2, §12 (COR). 2003, c. 689, §§B6,7 (REV).

§19206. CIVIL LIABILITY

Any person violating this chapter is liable to the subject of the test for actual damages and costs plus a civil penalty of up to $1,000 for a negligent violation and up to $5,000 for an intentional violation, subject to Title 14, chapter 741. [1987, c. 811, §10 (AMD).]

Any person may bring an action for injunctive relief for a violation of sections 19203 and 19204 in addition to or instead of the penalties provided in this section. The applicant for injunctive relief under this section shall not be required to give security as a condition upon the issuance of the injunction. [1987, c. 539, (RPR).]

SECTION HISTORY
1987, c. 402, §A76 (NEW). 1987, c. 443, §2 (NEW). 1987, c. 539, (RPR). 1987, c. 811, §10 (AMD).

§19207. CIVIL LIABILITY

(REPEALED)

SECTION HISTORY
1987, c. 443, §2 (NEW). 1987, c. 539, (RP).

§19208. PROCEEDINGS

All proceedings brought pursuant to this chapter shall be closed to the public, unless the court orders otherwise with the consent of all parties. [1987, c. 811, §11 (NEW).]

SECTION HISTORY
1987, c. 811, §11 (NEW).

Chapter 502: COMMUNITY-BASED AIDS ORGANIZATIONS

§19251. DEFINITIONS

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [1989, c. 501, Pt. P, §20 (NEW).]

1. **Bureau.** "Bureau" means the Department of Health and Human Services, Bureau of Health.

[1989, c. 501, Pt. P, §20 (NEW); 2003, c. 689, Pt. B, §6 (REV) .]

2. **Community-based AIDS organization.** "Community-based AIDS organization" means a nonprofit community organization whose primary purpose is to provide educational information on HIV-related illnesses, support to persons with HIV-related illnesses and assistance to families and others providing care and support to persons with HIV-related illnesses.

[1989, c. 501, Pt. P, §20 (NEW) .]

3. **Fiscal agent.** "Fiscal agent" means an incorporated community organization, agency or institution designated by a community-based AIDS organization and authorized by the bureau to receive and distribute grants to that community-based AIDS organization.

[1989, c. 501, Pt. P, §20 (NEW) .]

4. **Statewide AIDS alliance.** "Statewide AIDS alliance" means a statewide coalition of community-based AIDS organizations having at least one representative from each member organization.

[1989, c. 501, Pt. P, §20 (NEW) .]

SECTION HISTORY
1989, c. 501, §P20 (NEW). 2003, c. 689, §B6 (REV).

§19252. AUTHORIZATION FOR EXPENDITURE OF FUNDS

The bureau may make grants to community-based AIDS organizations or fiscal agents for the purposes of maintaining a statewide network of volunteer organizations that are members of a statewide AIDS alliance and supporting the work of those organizations. [1989, c. 501, Pt. P, §20 (NEW).]

1. **Grants.** Grants shall be made according to rules adopted by the bureau. In order to be eligible for a grant, the applicant must match state funds, in a percentage to be determined by the bureau, from community contributions of cash or contributions in kind.

[1989, c. 501, Pt. P, §20 (NEW) .]

2. **Award of grants.** Grants awarded shall be based on submission to the bureau of an annual plan which includes, but is not limited to, community education, materials and ongoing operations of the organization.

[1989, c. 501, Pt. P, §20 (NEW) .]

3. **Distribution of grants.** Grants shall be awarded to support existing community-based AIDS organizations and to assist the establishment of new community-based AIDS organizations. The bureau shall award the first grant no later than October 1, 1989.

[1989, c. 501, Pt. P, §20 (NEW) .]

4. **Consultation with statewide AIDS alliance.** The bureau shall seek the advice of a statewide AIDS alliance regarding the distribution of grants before any grants are awarded.

[1989, c. 501, Pt. P, §20 (NEW) .]

SECTION HISTORY
1989, c. 501, §P20 (NEW).

§19253. FISCAL AGENTS

A fiscal agent receiving grants under this chapter shall act only in an administrative capacity to receive and distribute grant money to the nonprofit community organization, as described in the rules promulgated by the bureau for regulating the local administration of these programs. [1989, c. 501, Pt. P, §20 (NEW).]

SECTION HISTORY
1989, c. 501, §P20 (NEW).

§19254. RULES

The bureau shall adopt rules, pursuant to the Maine Administrative Procedure Act, chapter 375, which are necessary for the implementation of this chapter including, but not limited to, program and administrative standards. [1989, c. 501, Pt. P, §20 (NEW).]

SECTION HISTORY
1989, c. 501, §P20 (NEW).

Chapter 503: USE OF GENETIC INFORMATION FOR EMPLOYMENT PURPOSES

§19301. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1997, c. 677, §1 (NEW).]

1. **Genetic characteristic.** "Genetic characteristic" means any inherited gene or chromosome, or alteration of a gene or chromosome, that is scientifically or medically believed to predispose an individual to a disease, disorder or syndrome or to be associated with a statistically significant increased risk of development of a disease, disorder or syndrome.

[1997, c. 677, §1 (NEW) .]

2. **Genetic information.** "Genetic information" means the information concerning genes, gene products or inherited characteristics that may be obtained from an individual or family member.

[1997, c. 677, §1 (NEW) .]

3. **Genetic test.** "Genetic test" means a test for determining the presence or absence of an inherited genetic characteristic in an individual, including tests of nucleic acids such as deoxyribonucleic acid, or DNA, ribonucleic acid, or RNA, or mitochondrial DNA, and tests of chromosomes or proteins in order to identify a predisposing genetic characteristic.

[1997, c. 677, §1 (NEW) .]

SECTION HISTORY
1997, c. 677, §1 (NEW).

§19302. EMPLOYMENT DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC TESTING

1. **Discrimination prohibited.** An employer may not fail or refuse to hire, discharge or otherwise discriminate against an employee or applicant for employment with respect to the compensation, terms or conditions of employment on the basis of genetic information concerning that individual or because of the individual's refusal to submit to a genetic test or make available the results of a genetic test or on the basis that the individual received a genetic test or genetic counseling, except when based on a bona fide occupational qualification.

[1997, c. 677, §1 (NEW) .]

2. **Enforcement; remedies.** The Maine Human Rights Commission shall enforce this section. Violations of this section are subject to the remedies available under chapter 337, subchapters VI and VII.

[1997, c. 677, §1 (NEW) .]

SECTION HISTORY
1997, c. 677, §1 (NEW).

Part 24: PROTECTION AND ADVOCACY AGENCIES

Chapter 511: PROTECTION AND ADVOCACY FOR PERSONS WITH DISABILITIES

§19501. POLICY

It is the policy of the State to ensure that the legal and human rights of all persons with disabilities residing in the State are protected through the establishment of a protection and advocacy system pursuant to 29 United States Code, Section 794(e), 42 United States Code, Section 6042 et seq., as recodified, and Section 10801 et seq. [2001, c. 357, §2 (AMD).]

SECTION HISTORY
1989, c. 837, §1 (NEW). 2001, c. 357, §2 (AMD).

§19502. DESIGNATION

The Governor shall designate an agency, independent of any state or private agency that provides treatment, services or habilitation to persons with disabilities, to serve as the protection and advocacy agency for persons with disabilities. [2001, c. 357, §3 (AMD).]

SECTION HISTORY
1989, c. 837, §1 (NEW). 2001, c. 357, §3 (AMD).

§19503. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1989, c. 837, §1 (NEW).]

1. **Abuse.** "Abuse" means the act or failure to act, knowingly, recklessly or intentionally, that causes, or may cause, injury or death. "Abuse" includes, but is not limited to, rape or sexual assault, the striking of an individual, the use of excessive force in the use of bodily restraints, the use of bodily or chemical restraints in a manner that is not in compliance with federal and state laws, regulations and rules and verbal, nonverbal, mental and emotional harassment.

[2001, c. 357, §4 (AMD) .]

2. **Agency.** "Agency" means the protection and advocacy agency for persons with disabilities, designated by the Governor.

[1989, c. 837, §1 (NEW) .]

2-A. **Complaint.** "Complaint" means, but is not limited to, any report or communication, formal or informal, written or oral, including media accounts and telephone calls from any source, including anonymous calls, alleging abuse or neglect of a person with a disability.

[2001, c. 357, §5 (NEW) .]

3. **Developmental disability.** "Developmental disability" means a disability attributable to a mental or physical impairment or combination of mental and physical impairments that:

A. Is manifested before the person reaches 22 years of age; [1989, c. 837, §1 (NEW).]

B. Is likely to continue indefinitely; [1989, c. 837, §1 (NEW).]

C. Results in substantial functional limitations in 3 or more of the following areas of major life activity:

(1) Self care;

(2) Receptive and expressive language;

(3) Learning;

(4) Mobility;

(5) Self direction;

(6) Capacity for independent living; and

(7) Economic self-sufficiency.

A person from birth through 9 years of age who has a substantial developmental delay or specific congenital or acquired condition may be considered to have a developmental disability without meeting 3 of the criteria stated in this subsection if there is a high probability that the person will meet those criteria later in life if services and supports are not provided to the person; and [2001, c. 1, §13 (COR).]

D. Reflects the person's need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services that are of a lifelong or extended duration and are individually planned and coordinated. [1989, c. 837, §1 (NEW).]

[2001, c. 1, §13 (COR) .]

4. **Exploitation.** "Exploitation" means the illegal or improper use of an individual or the individual's resources for another's profit or advantage.

[1989, c. 837, §1 (NEW) .]

5. **Facility.** "Facility" means any foster home; boarding home; nursing home; group home; hospital; state mental health institute; state-operated psychiatric treatment facility; state, county or municipal correctional or detention facility; shelter; or any other facility licensed or funded by the State, or any subdivision of the State, for the provision of services, supports and other assistance or residential services or treatment. "Facility" includes any facility providing services, supports and other assistance or residential services or treatment that operates without a license that is required by law, ordinance or rule.

[2001, c. 357, §7 (RPR) .]

6. **Learning disability.** "Learning disability" means a disorder exhibited in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or to do mathematical calculations.

[1989, c. 837, §1 (NEW) .]

7. **Mental illness.** "Mental illness" means a significant mental illness or emotional impairment, as determined by a qualified mental health professional.

[1989, c. 837, §1 (NEW) .]

8. **Neglect.** "Neglect" means a negligent act or omission that causes or may cause an individual's injury or death or that places an individual at risk of injury or death. "Neglect" includes, but is not limited to, failure to establish or carry out an individual program, treatment or habilitation plan or the deprivation of or failure to meet essential needs, including needs for adequate nutrition, clothing, health care and a safe environment.

[1989, c. 837, §1 (NEW) .]

9. **Personnel.** "Personnel" means staff employed by the agency.

[2001, c. 357, §8 (AMD) .]

10. **Person with a disability.** "Person with a disability" means a person with a physical or mental impairment that substantially limits one or more of the major life activities of that person and includes, but is not limited to, a person with a developmental disability, a learning disability or a mental illness.

[2001, c. 357, §9 (RPR) .]

11. **Probable cause.** "Probable cause" means a reasonable ground for belief that a person with a disability has been or may be subject to abuse or neglect. The belief may be based on reasonable inferences drawn from experience or training regarding similar incidents, conditions or problems that are usually associated with abuse or neglect.

[2001, c. 357, §10 (NEW) .]

SECTION HISTORY
1989, c. 837, §1 (NEW). RR 2001, c. 1, §13 (COR). 2001, c. 357, §§4-10 (AMD).

§19504. ORGANIZATION

The protection and advocacy agency for persons with disabilities, designated by the Governor, must meet the following requirements. [1989, c. 837, §1 (NEW).]

1. **Governing authority.** The agency is governed by an authority established in accordance with the following.

A. Members must be selected in accordance with the agency's policies and procedures. [1989, c. 837, §1 (NEW).]

B. By October 1, 1990, membership must include the chair of the advisory council, described in subsection 2, and other individuals who represent or who are knowledgeable about the needs of the clients served by the agency. [1989, c. 837, §1 (NEW).]

C. The governing authority is responsible for the planning, design, establishment of priorities and implementation and functioning of the agency, subject to the provisions of subsection 2. [1989, c. 837, §1 (NEW).]

[1989, c. 837, §1 (NEW) .]

2. **Advisory council.** The agency shall establish an advisory council with the following membership and duties.

A. The advisory council shall advise the agency on policies and priorities to be followed in carrying out the duties of the agency as the protection and advocacy agency for individuals with mental illness. [2001, c. 357, §11 (AMD).]

B. Members of the advisory council must include attorneys, mental health professionals, individuals from the public who are knowledgeable about mental illness and the advocacy needs of persons with mental illness and who have demonstrated a substantial commitment to improving mental health services, a provider of mental health services, individuals who have received or who are receiving mental

health services and family members of those individuals. At least 60% of the membership must consist of individuals who have received or who are receiving mental health services and family members of those individuals. [2001, c. 357, §11 (AMD).]

[2001, c. 357, §11 (AMD) .]

SECTION HISTORY
1989, c. 837, §1 (NEW). 2001, c. 357, §11 (AMD).

§19505. POWERS AND DUTIES OF THE AGENCY

The agency has the following powers and duties. [1989, c. 837, §1 (NEW).]

1. **Information and referral.** The agency may provide information on and referral to programs and services addressing the needs of persons with disabilities.

[1989, c. 837, §1 (NEW) .]

2. **Advice.** The agency may advise and educate individuals on the rights of persons with disabilities and otherwise support and assist those persons in the protection of and advocacy for those rights.

[1989, c. 837, §1 (NEW) .]

3. **Pursuit of remedies.** The agency may pursue administrative, legal and other appropriate remedies on behalf of persons with disabilities. The agency has standing to file a civil action for alleged violations of chapter 337, subchapter 5 in Superior Court. Notwithstanding section 4622, subsection 1, the agency may be awarded reasonable attorney's fees and costs as provided in section 4614.

[2015, c. 452, §1 (AMD) .]

4. **Investigation.** The agency may investigate allegations of abuse, exploitation or neglect of persons with disabilities. The agency may initiate an investigation upon receipt of a report that an incident of abuse, exploitation or neglect has occurred or is occurring. The agency may also initiate an investigation on its own initiative when it has probable cause to believe that abuse, exploitation or neglect has occurred or is occurring.

[1989, c. 837, §1 (NEW) .]

5. **Report.** The agency shall prepare an annual report for submission to the Governor, the Legislature, the Commissioner of Health and Human Services and the Secretary of the United States Department of Health and Human Services. The report must describe the activities, accomplishments and expenditures of the agency during the most recently completed fiscal year.

[1995, c. 2, §16 (COR); 2001, c. 354, §3 (AMD); 2003, c. 689, Pt. B, §7 (REV) .]

6. **Goals and priorities.** The agency shall represent persons with disabilities and otherwise conduct its activities in accordance with goals and priorities annually established by the agency, with other requirements of applicable federal law and with the terms of any grants or contracts. The agency shall provide the public with an opportunity to comment upon the agency's goals and priorities.

[2001, c. 357, §12 (NEW) .]

7. **Monitoring.** The agency may monitor the delivery of services, supports and other assistance or residential services or treatment provided to persons with disabilities for the purpose of ensuring that services, supports and assistance meet the needs of those persons and are delivered in conformity with laws, regulations, rules and other standards regarding quality of care.

[2001, c. 357, §12 (NEW) .]

SECTION HISTORY
1989, c. 837, §1 (NEW). RR 1995, c. 2, §16 (COR). 2001, c. 354, §3 (AMD). 2001, c. 357, §12 (AMD). 2003, c. 689, §B7 (REV). 2015, c. 452, §1 (AMD).

§19506. AGENCY ACCESS TO RECORDS, FACILITIES, PERSONS WITH DISABILITIES AND REPORTS

For the purposes of this chapter, agency personnel in the performance of duties pursuant to section 19505 must be granted access to records, facilities, persons with disabilities and reports as follows. [1989, c. 837, §1 (NEW).]

1. **Records.** Agency personnel must be granted access to all records, reports and supporting information, other than records, reports and supporting information created in the course of an ongoing criminal investigation by the Attorney General, a district attorney's office or a law enforcement agency or records, reports and supporting information designated as confidential by Title 16, section 804, that:

A. Pertain to a person who is a client of the agency, if the person or the person's legal guardian or other legal representative has authorized the agency to have that access; [1989, c. 837, §1 (NEW).]

B. [2001, c. 357, §13 (RP).]

C. Describe incidents of abuse, exploitation, neglect or injury, and the steps taken to investigate those incidents, prepared by any staff person of any facility serving persons with disabilities or by any agency charged with investigating allegations of abuse, exploitation, neglect and injury occurring at facilities that serve persons with disabilities; or [2001, c. 357, §13 (AMD).]

D. Pertain to an individual who is or was a person with a disability and who is the subject of a complaint received by the agency or who, as a result of monitoring or other activities resulting from a complaint or other evidence, the agency has probable cause to believe has been or is being abused, exploited or neglected and who:

(1) By reason of a mental or physical condition is unable to authorize the agency to have access and is either under public guardianship or without a legal guardian or other representative who may authorize the agency to have access;

(2) Has a legal guardian, conservator or other legal representative who has been contacted by the agency upon receipt of the name and address of the guardian, conservator or representative, and the agency has offered assistance to that person to resolve the situation, and that person has failed or refused to act on behalf of the individual; or

(3) Is deceased or whose whereabouts are unknown. [2001, c. 357, §13 (NEW).]

Agency personnel must be given access to the records of a person with a disability and other records relevant to conducting an investigation within 3 business days of the agency making a written request. When the agency determines there is probable cause to believe that the health or safety of the person is in serious or immediate jeopardy or in event of the death of a person with a disability, the agency must be given access to records within 24 hours of the agency making a written request.

[2013, c. 267, Pt. B, §2 (AMD) .]

2. **Persons with disabilities.** Any department, agency, board, commission or office of the State or of any subdivision of the State, and any private agency or individual licensed or funded by the Federal Government or the State or any subdivision of the State that operates or administers any program or facility providing services to persons with disabilities shall permit agency personnel performing duties pursuant to section 19505 to meet with those persons. The program or facility must allow agency personnel to communicate privately with the persons with disabilities.

[1989, c. 837, §1 (NEW) .]

3. **Facilities.** Any facility that serves a person with a disability shall permit access to the premises of the facility by agency personnel performing duties pursuant to section 19505.

A. Access to the premises must include reasonable unaccompanied access to all residents of the facility at reasonable times, including normal working and visiting hours, for the following purposes:

(1) Providing information and training on and referral to programs addressing the needs of a person with a disability and information about the rights of a person with a disability and the protection and advocacy services of the agency, including the name, address and telephone number of the agency; and

(2) Monitoring the rights and safety of recipients of services from the facility. [2001, c. 357, §14 (NEW).]

B. If the agency is conducting an investigation of a complaint of abuse, neglect or exploitation, access to the premises must include:

(1) The opportunity to interview any recipient of services from the facility, facility employee or other person, including the person suspected to be the victim of abuse, neglect or exploitation, who the agency reasonably believes may have knowledge of the incident under investigation; and

(2) The opportunity to view, inspect and photograph all areas of the facility's premises that the agency reasonably believes may be connected to the incident under investigation. [2001, c. 357, §14 (NEW).]

[2001, c. 357, §14 (AMD) .]

4. **Reports.** The agency must be provided copies of each annual survey report and plan of corrections for cited deficiencies made pursuant to Title 22, chapter 405 and pursuant to 42 United States Code, Sections 1395 et seq. and 1396 et seq. with respect to any facility serving persons with disabilities within the State. The reports and plans must be provided to the agency within 30 days of completion.

[1989, c. 837, §1 (NEW) .]

SECTION HISTORY
1989, c. 837, §1 (NEW). 2001, c. 357, §§13,14 (AMD). 2013, c. 267, Pt. B, §2 (AMD).

§19507. CONFIDENTIALITY OF INFORMATION; REPRESENTATION OF INDIVIDUALS WITH DISABILITIES

1. **Disclosure of nonidentifiable information.** Authorized agency personnel, in the performance of their duties under section 19505, may disclose information, materials and records that do not contain personally identifiable data.

[1989, c. 837, §1 (NEW) .]

2. Disclosure to subject. Disclosure of information to a person with mental illness who is the subject of records is subject to this section.

A. Authorized agency personnel may disclose information from the records obtained pursuant to section 19506 to a mentally ill individual who is the subject of the records, except when a mental health professional associated with the organization providing the records, who is responsible for supervising the provision of the mental health services to the individual, notifies the agency in writing that, based on the professional's determination, disclosure would be detrimental to the health of the subject individual. [1989, c. 837, §1 (NEW).]

B. Upon receipt of written notification pursuant to paragraph A, the agency may not disclose information from the records to the subject individual unless another mental health professional has reviewed the records and, based upon the professional's judgment following review, determines that disclosure would not be detrimental to the health of the individual. The reviewing mental health professional must be selected by:

(1) The individual;

(2) The individual's guardian or other legal representative; or

(3) The agency, acting on behalf of an individual whose guardian is the State or an individual whose guardian or other legal representative is not the State, has not selected, within a reasonable time after receipt of notice pursuant to paragraph A, a mental health professional to review the records. [1989, c. 837, §1 (NEW).]

[1989, c. 837, §1 (NEW) .]

3. Disclosure of identifiable information and representation. Agency personnel may represent persons with disabilities or disclose information, materials and records containing personally identifiable information when one of the following occurs.

A. The person gives consent. [1989, c. 837, §1 (NEW).]

B. The person has been judged incompetent or is a minor, and the individual's guardian or other legal representative gives consent. [1989, c. 837, §1 (NEW).]

C. The person, by reason of a mental or physical condition, is unable to give consent and is without a legal guardian or other representative who may consent on behalf of the individual. [1989, c. 837, §1 (NEW).]

D. The person is under public guardianship and the agency proceeds according to the provisions of subsection 4. [1989, c. 837, §1 (NEW).]

E. The surrogate parent of a developmentally disabled or learning disabled minor authorizes the agency to represent the person in, or to disclose information regarding, special education matters governed by Title 20-A, chapter 303, subchapter I, or 20 United States Code, Sections 1401 to 1485. [1989, c. 837, §1 (NEW).]

F. The person has a legal guardian, conservator or other legal representative and:

(1) The legal guardian, conservator or legal representative has been contacted by the agency upon receipt of the name and address of the legal guardian, conservator or legal representative;

(2) The agency has offered assistance to the legal guardian, conservator or legal representative to resolve the situation; and

(3) The legal guardian, conservator or legal representative has failed or refused to act on behalf of the person. [2001, c. 357, §15 (NEW).]

G. The person is deceased or the person's whereabouts are unknown. [2001, c. 357, §15 (NEW).]

[2001, c. 357, §15 (AMD) .]

4. **Public guardians.** Before the agency represents or discloses personally identifiable information pertaining to a person with a disability who is under public guardianship, the agency and the public guardian shall adhere to the following procedures.

A. The agency shall give the public guardian written notice of its intent to represent or disclose personally identifiable information pertaining to a person with a disability who is under public guardianship. [1989, c. 837, §1 (NEW).]

B. After giving notice pursuant to paragraph A, the agency may represent the person or disclose the information unless, within 5 working days, the public guardian gives to the agency written notice of its objections. [1989, c. 837, §1 (NEW).]

C. The objections of the public guardian to the agency's representation or disclosure may only be based upon the public guardian's belief that the actions of the agency would be detrimental to the person's interests. The written notice must state the public guardian's basis for that belief and the case name, docket number and court that established the public guardianship. [1989, c. 837, §1 (NEW).]

D. If the public guardian established under Title 18-A, article V, objects under paragraph B, the agency may petition the Probate Court that established the guardianship for permission to represent the person. [1989, c. 837, §1 (NEW).]

E. If the person is a child for whom the Department of Health and Human Services has been granted custody under Title 22, section 4034, 4035 or 4038, the agency may petition the court that granted custody for permission to represent the child. The agency must provide notice of the petition to the department at the same time the petition is filed with the court but need not provide notice to other parties to the original protective proceeding. The petition must be granted unless the Department of Health and Human Services demonstrates that representation by the agency would be detrimental to the child's interest. The court shall issue an order approving or denying the petition within 10 days of the filing of the petition. [1989, c. 837, §1 (NEW); 2003, c. 689, Pt. B, §6 (REV).]

F. In cases of emergency requiring immediate agency representation in judicial or administrative proceedings, the agency need not await the public guardian's response to its notice of intent to represent. In these instances the public guardian may raise objections in the proceedings in which the agency represents the person with disabilities. [1989, c. 837, §1 (NEW).]

G. The agency and state agencies acting as public guardians shall, within 6 months of April 17, 1990, enter into cooperative agreements, in writing, describing how this subsection will be implemented. [1997, c. 2, §24 (COR).]

[1997, c. 2, §24 (COR); 2003, c. 689, Pt. B, §6 (REV) .]

SECTION HISTORY
1989, c. 837, §1 (NEW). RR 1997, c. 2, §24 (COR). 2001, c. 357, §15 (AMD). 2003, c. 689, §B6 (REV).

§19508. APPLICATION TO RESIDENTS IN CHILDREN'S HOMES

This chapter also applies to children with disabilities in children's homes, emergency children's shelters, family foster homes, specialized children's homes and children's residential care facilities, as defined in Title 22, section 8101, and to other residential educational facilities, including the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf and other similar facilities. [2013, c. 179, §1 (AMD).]

SECTION HISTORY
1989, c. 837, §1 (NEW). 2005, c. 279, §4 (AMD). 2005, c. 662, §A3 (AMD). 2013, c. 179, §1 (AMD).

§19509. NOTICE OF DEATH OR INJURY

Notwithstanding any provision of law to the contrary, the following provisions apply to psychiatric hospitals, hospital units that are equipped to provide inpatient care and treatment for persons with mental illness, state mental health institutes and state-operated psychiatric treatment facilities. Notice provided under this section must be provided within 7 days of the date of the death, attempted suicide or the incident causing a serious injury resulting in significant impairment of physical condition. Notice provided under this section must include the name of the person with a disability; the name, address and telephone number of that person's legal guardian, conservator or legal representative and parent if that person is a minor; a detailed description of the occurrence and any injuries sustained; the name, street address and telephone number of the facility; and the name and job title of the person providing the notice. [2001, c. 471, Pt. D, §8 (AMD); 2001, c. 471, Pt. D, §10 (AFF).]

1. **Psychiatric hospitals; hospital units.** A psychiatric hospital or a hospital unit that is equipped to provide inpatient care and treatment for persons with mental illness shall provide the agency with access to information relating to the death of any person with a disability who died while in the psychiatric hospital or hospital unit in seclusion or restraint, whose death occurred within 24 hours of being in seclusion or restraint in the psychiatric hospital or hospital unit or when it is reasonable to conclude that the death is a result of having been in seclusion or restraint in the psychiatric hospital or hospital unit.

[2001, c. 471, Pt. D, §9 (AMD); 2001, c. 471, Pt. D, §10 (AFF) .]

2. **State mental health institutes; state-operated psychiatric treatment facilities.** A state mental health institute or state-operated psychiatric treatment facility shall notify the agency and provide access to information relating to a person with a disability if that person, while in the hospital, has died, attempted suicide or sustained a serious injury resulting in significant impairment of physical condition. For the purposes of this subsection, significant impairment includes serious injuries resulting from burns, lacerations, bone fractures, substantial hematoma and injuries to internal organs whether self-inflicted or inflicted by another person.

[2001, c. 357, §16 (NEW) .]

3. **Department.** The Department of Health and Human Services shall, within 3 days of receipt, forward to the agency all notices received pursuant to Title 34-B, section 3861, subsection 1, paragraph E.

[2007, c. 89, §1 (NEW) .]

SECTION HISTORY
2001, c. 357, §16 (NEW). 2001, c. 471, §§D8,9 (AMD). 2001, c. 471, §D10 (AFF). 2007, c. 89, §1 (AMD).

Part 25: SUBSTANCE ABUSE PREVENTION AND TREATMENT

Chapter 521: SUBSTANCE ABUSE PREVENTION AND TREATMENT

Subchapter 1: GENERAL PROVISIONS

§20001. TITLE

This chapter may be known and cited as the "Maine Substance Abuse Prevention and Treatment Act." [1989, c. 934, Pt. A, §3 (NEW).]

SECTION HISTORY
1989, c. 934, §A3 (NEW).

§20002. PURPOSE

The purposes of this Act are: [1989, c. 934, Pt. A, §3 (NEW).]

1. **Integrated and comprehensive approach.** To adopt an integrated approach to the problem of alcohol and other drug abuse and to focus all the varied resources of the State on developing a comprehensive and effective range of alcohol and other drug abuse prevention and treatment activities and services;

[2007, c. 116, §1 (AMD) .]

2. **Coordination of activities and services.** To establish within the Department of Health and Human Services the responsibility for planning, developing, implementing, coordinating and evaluating all of the State's alcohol and other drug abuse prevention and treatment activities and services;

[2011, c. 657, Pt. AA, §5 (AMD) .]

3. **Tobacco use by juveniles.** To enforce the State's laws relating to the sale and use of tobacco products by juveniles and to coordinate state and local activities related to those provisions. The department shall take all necessary actions to ensure compliance with the Synar Act, 42 United States Code, Section 300X-26, including the preparations of reports for the signature of the Governor. All law enforcement agencies, all state departments, including the Department of Public Safety, and municipalities shall cooperate with the department in these efforts.

The department may enter into any contracts or agreements necessary or incidental to the performance of its duties under this section, subject to section 20005, subsection 6 and section 20005-A. The department shall provide or assist in the provision of voluntary training programs regarding the sales of tobacco products to juveniles; and

[2011, c. 657, Pt. AA, §5 (AMD) .]

4. **Gambling addiction counseling.** To establish standards for the provision of gambling addiction counseling services and other activities relating to the prevention and treatment of gambling addiction. The department may accept private, state and federal funds to support the performance of its duties under this subsection.

[2011, c. 657, Pt. AA, §6 (AMD) .]

SECTION HISTORY

1989, c. 934, §A3 (NEW). 1991, c. 601, §2 (AMD). 1995, c. 470, §1 (AMD). 1995, c. 560, §§L1,2 (AMD). 1995, c. 560, §L16 (AFF). 2001, c. 354, §3 (AMD). RR 2003, c. 2, §13 (COR). 2003, c. 689, §B6 (REV). 2007, c. 116, §1 (AMD). 2011, c. 657, Pt. AA, §§5, 6 (AMD).

§20003. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1989, c. 934, Pt. A, §3 (NEW).]

1. **Alcoholic.** "Alcoholic" means a person who uses alcoholic beverages to the extent that the person's health is substantially impaired or endangered or the person's social or economic function is substantially disrupted.

[1991, c. 601, §3 (AMD) .]

2. **Approved public treatment facility.** "Approved public treatment facility" means an alcohol treatment facility operating under the direction and control of the department or providing treatment under this subchapter through a contract with the department under section 20008, or any facility funded in whole or in part by municipal, state or federal funds.

[2011, c. 657, Pt. AA, §7 (AMD) .]

3. **Approved treatment facility.** "Approved treatment facility" means a public or private alcohol treatment facility meeting standards approved by the department in accordance with section 20005 and licensed pursuant to subchapter 5 and other applicable provisions of state law.

[2011, c. 657, Pt. AA, §8 (AMD) .]

3-A. **Commission.** "Commission" means the Substance Abuse Services Commission, as established by section 12004-G, subsection 13-C.

[1993, c. 410, Pt. LL, §4 (NEW) .]

3-B. **Commissioner.** "Commissioner" means the Commissioner of Health and Human Services.

[2011, c. 657, Pt. AA, §9 (AMD) .]

4. **Community service provider.** "Community service provider" means a provider of alcohol or drug abuse treatment or gambling addiction treatment, including, but not limited to, evaluation.

[2007, c. 116, §2 (AMD) .]

5. **Council.**

[1993, c. 410, Pt. LL, §5 (RP) .]

6. **Department.** "Department" means the Department of Health and Human Services.

[2011, c. 657, Pt. AA, §10 (AMD) .]

7. **Dependency-related drug.** "Dependency-related drug" means alcohol or any substance controlled under Title 22, chapter 558 or Title 32, chapter 117.

[1989, c. 934, Pt. A, §3 (NEW) .]

8. **Director.**

[2011, c. 657, Pt. AA, §11 (RP) .]

9. **Drug abuse prevention.** "Drug abuse prevention" means all facilities, programs or services relating to drug abuse control, education, rehabilitation, research, training and treatment, and includes these functions as related to alcoholics and intoxicated persons. The term includes such functions even when performed by an organization whose primary mission is the prevention of drug traffic or is unrelated to drugs. This term does not include any function defined under subsection 19 as "prevention of drug traffic."

[1989, c. 934, Pt. A, §3 (NEW) .]

10. **Drug abuser.** "Drug abuser" means a person who uses any drugs, dependency-related drugs or hallucinogens in violation of any law of the State.

[1989, c. 934, Pt. A, §3 (NEW) .]

11. **Drug addict.** "Drug addict" means a drug-dependent person who, due to the use of a dependency-related drug, has developed such a tolerance to the dependency-related drug that abrupt termination of its use would produce withdrawal symptoms.

[1989, c. 934, Pt. A, §3 (NEW) .]

12. **Drug-dependent person.** "Drug-dependent person" means any person who is unable to function effectively and whose inability to do so causes, or results from, the use of a dependency-related drug.

[1989, c. 934, Pt. A, §3 (NEW) .]

13. **Emergency service patrol.**

[1991, c. 601, §5 (RP) .]

14. **Incapacitated by alcohol.**

[1991, c. 601, §5 (RP) .]

15. **Incompetent person.**

[1991, c. 601, §5 (RP) .]

16. **Intoxicated person.**

[1991, c. 601, §5 (RP) .]

17. **Office.**

[2011, c. 657, Pt. AA, §12 (RP) .]

18. **Prevention.** "Prevention" means any activity designed to educate or provide information to individuals and groups about the use or abuse of alcohol and other drugs.

[1989, c. 934, Pt. A, §3 (NEW) .]

19. **Prevention of drug traffic.** "Prevention of drug traffic" means any functions conducted for the purpose of preventing drug traffic, such as law enforcement and judicial activities or proceedings, including:

A. The investigation, arrest and prosecution of drug offenders and offenses; or [1989, c. 934, Pt. A, §3 (NEW).]

B. The detection and suppression of illicit drug supplies. [1989, c. 934, Pt. A, §3 (NEW).]

[1989, c. 934, Pt. A, §3 (NEW) .]

20. **Standards.** "Standards" means criteria and rules of the department that are to be met before and during operation of any treatment facility or treatment program.

[2011, c. 657, Pt. AA, §13 (AMD) .]

21. **Substance Abuse Advisory Group.** "Substance Abuse Advisory Group" means the group consisting of the 5 commissioners designated in section 20007.

[1989, c. 934, Pt. A, §3 (NEW) .]

22. **Treatment.** "Treatment" means the broad range of emergency, outpatient, intermediate and inpatient services and care, including career counseling, diagnostic evaluation, employment, health, medical, psychiatric, psychological, recreational, rehabilitative, social service care, treatment and vocational services, that may be extended to an alcoholic, intoxicated person, drug abuser, drug addict, drug-dependent person or a person in need of assistance due to the use of a dependency-related drug.

[1989, c. 934, Pt. A, §3 (NEW) .]

23. **Treatment program.** "Treatment program" means any program or service, or portion of a program or service, sponsored under the auspices of a public or private nonprofit agency providing services especially designed for the treatment of those persons listed in subsection 22.

[1989, c. 934, Pt. A, §3 (NEW) .]

SECTION HISTORY
1989, c. 934, §A3 (NEW). 1991, c. 601, §§3-5 (AMD). 1991, c. 850, §2 (AMD). 1993, c. 410, §§LL4,5 (AMD). 2001, c. 354, §3 (AMD). 2007, c. 116, §2 (AMD). 2011, c. 657, Pt. AA, §§7-13 (AMD).

§20004. OFFICE ESTABLISHED

(REPEALED)

SECTION HISTORY
1989, c. 934, §A3 (NEW). 1995, c. 560, §L16 (AFF). 1995, c. 560, §L3 (RPR). 2001, c. 354, §3 (AMD). 2003, c. 689, §B6 (REV). 2011, c. 657, Pt. AA, §14 (RP).

§20004-A. DEPARTMENTS AND AGENCIES RESPONSIBLE FOR COOPERATION IN IMPLEMENTATION

All departments and agencies in State Government are required to cooperate with the department in its implementation and administration of this chapter. [2011, c. 657, Pt. AA, §15 (AMD).]

SECTION HISTORY
1993, c. 410, §LL6 (NEW). 2011, c. 657, Pt. AA, §15 (AMD).

§20005. POWERS AND DUTIES

The department shall: [2011, c. 657, Pt. AA, §16 (AMD).]

1. **State Government.** Establish the overall plans, policies, objectives and priorities for all state alcohol and other drug abuse prevention and treatment functions, except the prevention of drug traffic and the State Employee Assistance Program established pursuant to Title 22, chapter 254-A;

[1991, c. 601, §6 (AMD) .]

2. **Comprehensive plan.** Develop and provide for the implementation of a comprehensive state plan for alcohol and drug abuse. Any plan developed by the department must be subject to public hearing prior to implementation;

[2011, c. 657, Pt. AA, §17 (AMD) .]

3. **Information.** Ensure the collection, analysis and dissemination of information for planning and evaluation of alcohol and drug abuse services;

[1989, c. 934, Pt. A, §3 (NEW) .]

4. **Coordination; organizational unit.** Ensure that alcohol and drug abuse assistance and service are delivered in an efficient and coordinated program and, with the oversight of the commission, coordinate all programs and activities authorized by the federal Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Public Law 91-616 (1982), as amended, and by the Drug Abuse Office and Treatment Act of 1972, 21 United States Code, Section 1101 et seq. (1982), as amended; and other state or federal programs or laws related to drug abuse prevention that are not the specific responsibility of another state agency under federal or state law;

[1993, c. 410, Pt. LL, §7 (AMD) .]

5. **Budget.** Develop and submit to the Legislature by January 15th of the first year of each legislative biennium recommendations for continuing and supplemental allocations, deappropriations or reduced allocations and appropriations from all funding sources for all state alcohol and drug abuse programs. The department shall make final recommendations to the Governor before any substance abuse funds are appropriated or deappropriated in the Governor's proposed budget. The department shall formulate all budgetary recommendations for the Driver Education and Evaluation Programs with the advice, consultation and full participation of the chief executive officer of the Driver Education and Evaluation Programs.

Notwithstanding any other provision of law, funding appropriated and allocated by the Legislature for the department for substance abuse prevention and treatment is restricted solely to that use and may not be used for other expenses of the department. By January 15th of each year, the commissioner or the commissioner's designee shall deliver a report of the budget and expenditures of the department for substance abuse prevention and treatment to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and human resource matters;

[2011, c. 657, Pt. AA, §18 (AMD) .]

6. **Contracts and licensing.** Through the commissioner:

A. Administer all contracts with community service providers for the delivery of alcohol and drug abuse services; [2007, c. 116, §3 (AMD).]

A-1. Administer all contracts with community service providers for the delivery of gambling addiction counseling services; and [2007, c. 116, §4 (NEW).]

B. Establish operating and treatment standards and inspect and issue certificates of approval for approved treatment facilities, drug abuse treatment facilities or programs, including residential treatment centers, community-based service providers and facilities that are private nonmedical institutions pursuant to section 20024 and subchapter 5. [2003, c. 673, Pt. V, §1 (AMD); 2003, c. 673, Pt. V, §29 (AFF).]

C. [1995, c. 560, Pt. L, §16 (AFF); 1995, c. 560, Pt. L, §5 (RP).]

The commissioner may delegate contract and licensing duties under this subsection to the Department of Corrections as long as that delegation ensures that contracting for alcohol and other drug abuse services provided in community settings is consolidated within the department, that contracting for alcohol and other drug abuse services delivered within correctional facilities is consolidated within the Department of Corrections and that contracting for alcohol and other drug abuse services delivered within mental health facilities or as a component of programs serving persons with intellectual disabilities or autism is consolidated within the department.

The commissioner may not delegate contract and licensing duties if that delegation results in increased administrative costs.

The commissioner may not issue requests for proposals for existing contract services until the commissioner has adopted rules in accordance with the Maine Administrative Procedure Act to ensure that the reasons for which existing services are placed out for bid and the performance standards and manner in which compliance is evaluated are specified and that any change in provider is accomplished in a manner that fully protects the consumer of services.

The commissioner shall establish a procedure to obtain assistance and advice from consumers of alcohol and other drug abuse services regarding the selection of contractors when requests for proposals are issued;

[2011, c. 657, Pt. AA, §19 (AMD) .]

6-A. **Contract award and renewal.** Award a new contract through a request-for-proposal procedure. Any contract of $500,000 per year or more that is renewed must be awarded through a request-for-proposal procedure at least every 8 years, except for the following.

A. A renewal contract with a provider is not subject to the request-for-proposal procedure requirement if the contract granted under this subsection is performance based. [1997, c. 381, §1 (NEW).]

B. Notwithstanding paragraph A, the department shall subject a contract to a request-for-proposal procedure when necessary to comply with paragraph C. [1997, c. 381, §1 (NEW).]

C. A contract under this subsection that is subject to renewal must be awarded through a request-for-proposal procedure if the department determines that:

(1) The provider has breached the existing contract;

(2) The provider has failed to correct deficiencies cited by the department;

(3) The provider is inefficient or ineffective in the delivery of services and is unable to improve its performance within a reasonable time; or

(4) The provider can not or will not respond to a reconfiguration of service delivery requested by the department; [1997, c. 381, §1 (NEW).]

[1997, c. 381, §1 (NEW) .]

6-B. **Consumer assistance and advice.** Establish a procedure to obtain assistance and advice from consumers of substance abuse services regarding the selection of contractors when requests-for-proposals are issued.

[1997, c. 381, §1 (NEW) .]

7. **Uniform requirements.** Develop, use and require the use of uniform contracting, information gathering and reporting formats by any state-funded alcohol and other drug abuse programs. Contracting standards must include measurable performance-based criteria on which funding allocations are, in part, based;

[1991, c. 601, §6 (AMD) .]

8. **Reports.** By January 15th of each year, report to the Legislature on the accomplishments of the past year's programs, the progress toward obtaining goals and objectives of the comprehensive state plan and other necessary or desirable information;

[1989, c. 934, Pt. A, §3 (NEW) .]

9. **Funds.** Have the authority to seek and receive funds from the Federal Government and private sources to further the purposes of this Act;

[1989, c. 934, Pt. A, §3 (NEW) .]

10. **Agreements.** Enter into agreements necessary or incidental to the purposes of this Act;

[1989, c. 934, Pt. A, §3 (NEW) .]

11. **Cooperation.** Provide support and guidance to individuals, local governments, public organizations and private organizations in their alcohol and drug abuse prevention activities;

[1989, c. 934, Pt. A, §3 (NEW) .]

12. **Rules.** Adopt rules, in accordance with the Maine Administrative Procedure Act, necessary to carry out the purposes of this chapter and approve any rules adopted by state agencies for the purpose of implementing alcohol or drug abuse prevention or treatment programs.

All state agencies must comply with rules adopted by the department regarding uniform alcohol and other drug abuse contracting requirements, formats, schedules, data collection and reporting requirements;

[2011, c. 657, Pt. AA, §20 (AMD) .]

12-A. **Training programs.** Provide or assist in the provision of training programs for all persons in the field of treating alcoholics and drug abusers, persons engaged in the prevention of alcohol and other drug abuse or any other organization or individual in need of or requesting training or other educational information related to alcohol or other drug abuse;

[1991, c. 601, §7 (NEW) .]

12-B. **Motor vehicle operator programs.** Administer and oversee the operation of the State's programs related to the abuse of alcohol by motor vehicle operators;

[1993, c. 410, Pt. LL, §8 (AMD) .]

13. **General authority.** Perform other acts or exercise any other powers necessary or convenient to carry out the purposes of this chapter;

[1993, c. 410, Pt. LL, §9 (AMD) .]

14. **Interdepartmental cooperation.** Document to the Legislature's satisfaction active participation and cooperation between the department and the other departments with which it works through the commission;

[2011, c. 657, Pt. AA, §21 (AMD) .]

15. **Public input.** Document an active, aggressive effort to obtain client and public input on its decision-making process through public hearings and other activities conducted by the commission;

[1993, c. 410, Pt. LL, §10 (NEW) .]

16. **Substance abuse services plan.** Plan for not only those services funded directly by the department, but also those additional services determined by the commission to be critical and related;

[2011, c. 657, Pt. AA, §22 (AMD) .]

17. **Program services assessment and implementation.** Analyze the existing services system, including the prevention services offered within the State's public school systems, identify gaps, strengths and weaknesses in the current services, identify priorities for expanding or revising the existing services and develop a specific plan to accomplish the most critical changes that are needed;

[1993, c. 410, Pt. LL, §10 (NEW) .]

18. **Comprehensive training strategy.** Establish a comprehensive training strategy designed to develop the capacity of front-line staff in direct human services positions, including appropriate state agency staff, to recognize, assess and refer chemically dependent clients for appropriate treatment;

[1993, c. 410, Pt. LL, §10 (NEW) .]

19. **Fiscal and program accountability.** Enhance its current efforts to ensure fiscal and program accountability for the services it purchases and provides;

[2005, c. 674, §1 (AMD) .]

20. **Review policies.** Review the full range of public policies and strategies existing in State Government to identify changes that would strengthen its response, identify policies that might discourage excessive consumption of alcohol and other drugs and generate new funding for alcohol and other drug services; and

[2005, c. 674, §1 (AMD) .]

21. **List of banned performance-enhancing substances.** Develop and maintain a list of banned performance-enhancing substances in accordance with Title 20-A, section 6621.

[2005, c. 674, §2 (NEW) .]

SECTION HISTORY
1989, c. 934, §A3 (NEW). 1991, c. 557, §§1,2 (AMD). 1991, c. 601, §§6,7 (AMD). 1991, c. 792, (AMD). 1991, c. 850, §§3,4 (AMD). 1993, c. 349, §21 (AMD). 1993, c. 410, §§LL7-10 (AMD). 1995, c. 560, §§L4,5 (AMD). 1995, c. 560, §L16 (AFF). 1997, c. 381, §1 (AMD). 1997, c. 588, §1 (AMD). 2003, c. 673, §V1 (AMD). 2003, c. 673, §V29 (AFF). 2003, c. 689, §B6 (REV). 2005, c. 674, §§1,2 (AMD). 2007, c. 116, §§3, 4 (AMD). 2011, c. 542, Pt. A, §6 (AMD). 2011, c. 657, Pt. AA, §§16-22 (AMD).

§20005-A. PERFORMANCE-BASED CONTRACTS

In addition to other applicable requirements and unless precluded by other restrictions on the use of funds, the commissioner shall manage all funds available for the provision of alcohol or other drug abuse services, as well as all funds available for the provision of gambling addiction counseling services, in accordance with the provisions of this section. [2007, c. 116, §5 (AMD).]

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

A. "Agreement" means a legally binding written document between 2 or more parties, including those documents that are commonly referred to as accepted application, proposal, prospectus, contract, grant, joint or cooperative agreement, purchase of service or state aid. [1995, c. 560, Pt. L, §6 (AMD); 1995, c. 560, Pt. L, §16 (AFF).]

B. "Performance-based contract" means an agreement for the purchase of direct client services employing a client-centered, outcome-oriented process that is based on measurable performance indicators and desired outcomes and includes the regular assessment of the quality of services provided. [1993, c. 737, §1 (NEW).]

[1995, c. 560, Pt. L, §6 (AMD); 1995, c. 560, Pt. L, §16 (AFF) .]

2. **Performance-based contract.** The commissioner shall ensure that all agreements to purchase alcohol or other drug abuse services entered into on or after July 1, 1995 are performance-based contracts.

[1995, c. 560, Pt. L, §6 (AMD); 1995, c. 560, Pt. L, §16 (AFF) .]

3. **Rules.** The commissioner shall adopt rules to implement this section, including, but not limited to, the establishment of program goals, outcome measures, an information management system to collect and manage contract data, a system of ongoing assessment of program effectiveness and hold-harmless guidelines for provider agencies during the first contract period or 12 months, whichever is greater.

[1995, c. 560, Pt. L, §6 (AMD); 1995, c. 560, Pt. L, §16 (AFF) .]

4. **Procedures.** The following procedures apply whenever the commissioner commences a request-for-proposal procedure.

A. The commissioner shall hold at least one informational meeting at least 30 days before the due date for submission of the notice of intent to bid. Any informational meeting must be advertised in newspapers of general circulation stating the location, date, time and purpose of the meeting. At the meeting the commissioner shall provide detailed information to any interested party about the contract to be bid or rebid, provide notice of anticipated major changes from any previous contract and respond to questions. [1995, c. 691, §1 (AMD).]

B. The commissioner shall require any interested party to submit a notice of intent to bid at least 30 days before the date bids will be accepted as a precondition to submitting a formal bid. The notice of intent must contain minimal requirements that demonstrate a prospective bidder's competence and ability to comply with the requirements of the contract. [1995, c. 691, §1 (AMD).]

C. If only one community service provider submits a notice of intent to bid, the commissioner may enter into negotiations concerning a contract with that provider in accordance with the procedures established for performance-based contracts. [1995, c. 560, Pt. L, §6 (AMD); 1995, c. 560, Pt. L, §16 (AFF).]

D. For purposes of this section, the commissioner retains the right to reject any bids submitted and any proposals made during negotiations pursuant to paragraph C. [1995, c. 560, Pt. L, §6 (AMD); 1995, c. 560, Pt. L, §16 (AFF).]

[1995, c. 691, §1 (AMD) .]

SECTION HISTORY
1993, c. 737, §1 (NEW). 1995, c. 402, §B1 (AMD). 1995, c. 560, §L6 (AMD). 1995, c. 560, §L16 (AFF). 1995, c. 691, §1 (AMD). 2007, c. 116, §5 (AMD).

§20006. DIRECTOR

(REPEALED)

SECTION HISTORY
1989, c. 934, §A3 (NEW). 1991, c. 601, §§8,9 (AMD). 1995, c. 560, §L16 (AFF). 1995, c. 560, §L7 (RP).

§20006-A. COMMISSIONER DUTIES

The commissioner or the commissioner's designee shall: [2011, c. 657, Pt. AA, §23 (AMD).]

1. **Alternatives.** Propose alternatives to current alcohol and drug abuse prevention and treatment programs and services;

[1995, c. 560, Pt. L, §8 (NEW); 1995, c. 560, Pt. L, §16 (AFF) .]

2. **Investigate.** Conduct investigations and studies of any alcohol or drug abuse program or community service provider operating under the control of the department or providing treatment under this chapter through a contract with the department under section 20008 that are licensed pursuant to section 20024 or any facility funded in whole or in part by municipal, state or local funds, as necessary; and

[2011, c. 657, Pt. AA, §23 (AMD) .]

3. **Other duties and powers.** Carry out other duties and exercise other powers granted to the commissioner under this Act and under Title 22-A, section 207, subsection 3.

[2011, c. 657, Pt. AA, §23 (AMD) .]

SECTION HISTORY
1995, c. 560, §L8 (NEW). 1995, c. 560, §L16 (AFF). 2007, c. 539, Pt. N, §7 (AMD). 2011, c. 657, Pt. AA, §23 (AMD).

§20006-B. GAMBLING ADDICTION PREVENTION AND TREATMENT FUND

1. **Fund established.** The Gambling Addiction Prevention and Treatment Fund, referred to in this section as "the fund," is established for the purpose of supporting gambling addiction analysis, prevention and treatment to be administered by the department. The fund is a dedicated, nonlapsing fund into which payments are received in accordance with Title 8, section 1036, subsection 2.

[2011, c. 657, Pt. AA, §24 (AMD) .]

2. **Report.** The commissioner or the commissioner's designee shall report annually by March 1st to the joint standing committee of the Legislature having jurisdiction over gambling matters. The report must include a description of a continuum of care model used to identify the need for gambling addiction services, prevention efforts, intervention and treatment provided using money from the fund. The report must describe any collaborative efforts between the department, the Gambling Control Board established under Title 8, section 1002 and slot machine operators licensed in accordance with Title 8, chapter 31 to support the purpose of the fund described in subsection 1. The commissioner may submit recommendations for legislation to the joint standing committee of the Legislature having jurisdiction over gambling matters, which is authorized to submit that legislation to the Legislature.

[2011, c. 657, Pt. AA, §24 (AMD) .]

SECTION HISTORY
2009, c. 622, §1 (NEW). 2011, c. 657, Pt. AA, §24 (AMD).

§20007. AGENCY COOPERATION

State agencies shall cooperate fully with the department in carrying out this chapter. A state agency may not develop, establish, conduct or administer any alcohol or drug abuse prevention or treatment program without the approval of the department. The department may request personnel, facilities and data from other agencies as the commissioner finds necessary to fulfill the purposes of this Act. [2011, c. 657, Pt. AA, §25 (AMD).]

SECTION HISTORY
1989, c. 934, §A3 (NEW). 1995, c. 165, §1 (AMD). 2011, c. 657, Pt. AA, §25 (AMD).

§20008. COMPREHENSIVE PROGRAM ON ALCOHOLISM AND DRUG ABUSE

The department shall establish and provide for the implementation of a comprehensive and coordinated program of alcohol and drug abuse prevention and treatment in accordance with subchapters 2 and 3 and the purposes of this Act. The program must include the following elements. [2011, c. 657, Pt. AA, §26 (AMD).]

1. **Public and private resources.** All appropriate public and private resources must be coordinated with and utilized in the program.

[1989, c. 934, Pt. A, §3 (NEW) .]

2. **Program.** The program must include emergency treatment provided by a facility affiliated with a general hospital or with part of the medical service of a general hospital.

[1989, c. 934, Pt. A, §3 (NEW) .]

3. **Treatment.** The department shall provide for adequate and appropriate treatment for alcoholics, drug abusers, drug addicts and drug-dependent persons admitted under sections 20043 to 20044. Treatment may not be provided at a correctional institution, except for inmates.

[2011, c. 657, Pt. AA, §27 (AMD) .]

4. **Contract with facilities.** The department shall contract with approved treatment facilities whenever possible. The administrator of any treatment facility may receive for observation, diagnosis, care and treatment in the facility any person whose admission is applied for under any of the procedures in this subchapter.

[2011, c. 657, Pt. AA, §28 (AMD) .]

SECTION HISTORY
1989, c. 934, §A3 (NEW). 1991, c. 601, §§10-12 (AMD). 2011, c. 657, Pt. AA, §§26-28 (AMD).

§20009. PLANNING

The department shall plan alcohol and drug abuse prevention and treatment activities in the State and prepare and submit to the Legislature the following documents: [2011, c. 657, Pt. AA, §29 (AMD).]

1. **Biennial plan.** By January 15, 1991, and biennially thereafter, with the advice and consultation of the Maine Council on Alcohol and Drug Abuse Prevention and Treatment, a comprehensive plan containing statements of measurable goals to be accomplished during the coming biennium and establishing performance indicators by which progress toward accomplishing those goals will be measured; and

[1991, c. 601, §13 (AMD) .]

2. **Four-year assessment.** By January 15, 1991, and every 4th year thereafter, an assessment of the costs related to drug abuse in the State and the needs for various types of services within the State, including geographical disparities in the needs for various types of services and the needs of special populations of drug abusers.

[1989, c. 934, Pt. A, §3 (NEW) .]

SECTION HISTORY
1989, c. 934, §A3 (NEW). 1991, c. 601, §13 (AMD). 2011, c. 657, Pt. AA, §29 (AMD).

Subchapter 2: PREVENTION

§20021. PUBLIC AWARENESS

The department shall create and maintain a program to increase public awareness of the impacts and prevalence of alcohol and drug abuse. The public awareness program must include promotional and technical assistance to local governments, schools and public and private nonprofit organizations interested in alcohol and drug abuse prevention. [2011, c. 657, Pt. AA, §30 (AMD).]

SECTION HISTORY
1989, c. 934, §A3 (NEW). 1991, c. 601, §14 (AMD). 2011, c. 657, Pt. AA, §30 (AMD).

§20022. INFORMATION DISSEMINATION

As part of its comprehensive prevention and treatment program, the department shall operate an information clearinghouse and oversee, support and coordinate a resource center within the Department of Education. The information clearinghouse and resource center constitute a comprehensive reference center of information related to the nature, prevention and treatment of alcohol and other drug abuse. In fulfillment of the requirement of this section, the resource center may be located within the Department of Education and

may operate there pursuant to a memorandum of agreement between the departments. Information must be available for use by the general public, political subdivisions, public and private nonprofit agencies and the State. [2011, c. 657, Pt. AA, §31 (AMD).]

Functions of the information clearinghouse and resource center may include, but are not limited to: [1991, c. 601, §15 (AMD).]

1. **Research.** Conducting research on the causes and nature of drugs, drug abuse or people who are dependent on drugs, especially alcoholics and intoxicated persons;

[1989, c. 934, Pt. A, §3 (NEW) .]

2. **Information collection.** Collecting, maintaining and disseminating knowledge, data and statistics related to drugs, drug abuse and drug abuse prevention;

[1989, c. 934, Pt. A, §3 (NEW) .]

3. **Educational materials.** Preparing, publishing and disseminating educational materials; and

[1989, c. 934, Pt. A, §3 (NEW) .]

4. **Treatment facilities.** Maintaining an inventory of the types and quantity of drug abuse prevention facilities, programs and services available or provided under public or private auspices to drug addicts, drug abusers and drug-dependent persons, especially alcoholics and intoxicated persons. This function includes the unduplicated count, locations and characteristics of persons receiving treatment, as well as the frequency of admission and readmission and the frequency and duration of treatment of those persons. The inventory must include the amount, type and source of resources for drug abuse prevention.

[1989, c. 934, Pt. A, §3 (NEW) .]

SECTION HISTORY
1989, c. 934, §A3 (NEW). 1991, c. 601, §15 (AMD). 2011, c. 657, Pt. AA, §31 (AMD).

§20023. EDUCATION

To the fullest extent possible, the Commissioner of Education shall coordinate all elementary and secondary school alcohol and drug abuse education programs administered by the Department of Education and funded under the federal Drug-Free Schools and Communities Act of 1986 with programs administered by the Department of Health and Human Services. The Commissioner of Education shall participate in planning, budgeting and evaluation of alcohol and other drug abuse programs, in cooperation with the Substance Abuse Advisory Group, and ensure that alcohol and drug abuse education programs administered by the Department of Education that involve any community participation are coordinated with available treatment services. [2011, c. 657, Pt. AA, §32 (AMD).]

Nothing in this section interferes with the authority of the Department of Education to receive and allocate federal funds under the federal Drug-Free Schools and Communities Act of 1986. [1989, c. 700, Pt. B, §46 (AMD); 1989, c. 934, Pt. A, §3 (NEW).]

SECTION HISTORY
1989, c. 700, Pt. B, §46 (AMD). 1989, c. 934, §A3 (NEW). 1991, c. 601, §§16,17 (AMD). 2011, c. 657, Pt. AA, §32 (AMD).

§20024. LICENSING

The department shall periodically enter, inspect and examine a treatment facility or program and examine its books, programs, standards, policies and accounts. This examination process must include a review of the requirements to be a community-based service provider pursuant to subchapter 5. The department shall fix and collect the fees for the inspection and certification and shall maintain a list of approved public and private treatment facilities. [2011, c. 657, Pt. AA, §33 (AMD).]

Upon request by the department, each approved public and private treatment facility must provide data, statistics, schedules and information that the department reasonably requires. The commissioner may remove a facility that fails to provide such information from the list of approved facilities. [2011, c. 657, Pt. AA, §33 (AMD).]

An approved public or private treatment facility may not refuse inspection or examination by the department under this section. [2011, c. 657, Pt. AA, §33 (AMD).]

Procedures to decertify any facility or to refuse certification are governed by the Maine Administrative Procedure Act. [1991, c. 601, §19 (NEW).]

A treatment facility or program that receives and maintains accreditation from a national accrediting body approved by the department must be deemed in compliance with comparable state licensing rules upon its submission to the department of written evidence of compliance including, but not limited to, national accreditation approval, reports, findings and responses. The department may review compliance under this paragraph in response to a complaint against the facility or program. [2011, c. 145, §1 (NEW).]

SECTION HISTORY
1989, c. 934, §A3 (NEW). 1991, c. 601, §§18,19 (AMD). 1991, c. 850, §5 (AMD). 2011, c. 145, §1 (AMD). 2011, c. 657, Pt. AA, §33 (AMD).

Subchapter 3: TREATMENT

§20041. EVALUATION

1. **Data collection; sources.** The department shall collect data and use information from other sources to evaluate or provide for the evaluation of the impact, quality and value of alcohol and drug abuse prevention activities, treatment facilities and other alcohol and other drug abuse programs.

[2011, c. 657, Pt. AA, §34 (AMD) .]

2. **Content of evaluation.** Any evaluation of treatment facilities must include, but is not limited to, administrative adequacy and capacity, policies and treatment planning and delivery. Alcohol and drug abuse prevention and treatment services authorized by this Act and by the following federal laws and amendments that relate to drug abuse prevention must be evaluated:

A. The Drug Abuse Office and Treatment Act of 1972, 21 United States Code, Section 1101 et seq. (1982); [1989, c. 934, Pt. A, §3 (NEW).]

B. The Community Mental Health Centers Act, 42 United States Code, Section 2688 et seq. (1982); [1989, c. 934, Pt. A, §3 (NEW).]

C. The Public Health Service Act, 42 United States Code, Section 1 et seq. (1982); [1989, c. 934, Pt. A, §3 (NEW).]

D. The Vocational Rehabilitation Act, 29 United States Code, Section 701 et seq. (1982); [1989, c. 934, Pt. A, §3 (NEW).]

E. The Social Security Act, 42 United States Code, Section 301 et seq. (1982); and [1989, c. 934, Pt. A, §3 (NEW).]

F. The federal Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Public Law 91-616 (1982) and similar Acts. [1989, c. 934, Pt. A, §3 (NEW).]

[1991, c. 601, §20 (AMD) .]

SECTION HISTORY
1989, c. 934, §A3 (NEW). 1991, c. 601, §20 (AMD). 2011, c. 657, Pt. AA, §34 (AMD).

§20042. STANDARDS

The department shall contract for treatment services only with approved treatment facilities. [2011, c. 657, Pt. AA, §35 (AMD).]

SECTION HISTORY
1989, c. 934, §A3 (NEW). 1991, c. 601, §20 (AMD). 2011, c. 657, Pt. AA, §35 (AMD).

§20043. ACCEPTANCE FOR TREATMENT OF ALCOHOLICS, DRUG ABUSERS, DRUG ADDICTS AND DRUG-DEPENDENT PERSONS

The department shall adopt rules for acceptance of persons into a treatment program, considering available treatment resources and facilities, for the purpose of early and effective treatment of alcoholics, drug abusers, drug addicts and drug-dependent persons. [2011, c. 657, Pt. AA, §36 (AMD).]

In establishing rules, the department must be guided by the following standards. [2011, c. 657, Pt. AA, §37 (AMD).]

1. **Voluntary basis.** People must be treated on a voluntary basis.

[1991, c. 601, §20 (AMD) .]

2. **Initial assignment.** A person must be initially assigned or transferred to outpatient or intermediate treatment, unless the person is found to require residential treatment.

[1991, c. 601, §20 (AMD) .]

3. **Denial of treatment.** A person may not be denied treatment solely because that person has withdrawn from treatment against medical advice on a prior occasion or has relapsed after earlier treatment.

[1989, c. 934, Pt. A, §3 (NEW) .]

4. **Individualized treatment plan.** An individualized treatment plan must be prepared and maintained on a current basis for each patient.

[1989, c. 934, Pt. A, §3 (NEW) .]

5. **Coordinated treatment.** Provision must be made for a continuum of coordinated treatment services, so that a person who leaves a facility or a form of treatment has available and may utilize other appropriate treatment.

[1989, c. 934, Pt. A, §3 (NEW) .]

6. **Denial of treatment services.** A person, firm or corporation licensed by the department as an approved alcohol or drug treatment facility under Title 5, section 20005 to provide shelter or detoxification services, and that receives any funds administered by the department to provide substance abuse prevention and treatment services, may not deny treatment to any person because of that person's inability or failure to pay any assessed fees.

[2011, c. 657, Pt. AA, §38 (AMD) .]

7. **Community-based.** Treatment must be provided in the least restrictive setting possible and in the person's home community wherever possible.

[1991, c. 601, §20 (NEW) .]

8. **Diagnosing.** Diagnosing of a person's mental capabilities, psychological or personality composition, or other nonalcohol-related or drug-related conditions or mental states may not be conducted until detoxification is complete and the person is judged to be medically no longer under the influence of a chemical or substance of abuse.

[1991, c. 601, §20 (NEW) .]

SECTION HISTORY
1989, c. 934, §A3 (NEW). 1991, c. 601, §20 (AMD). 2011, c. 657, Pt. AA, §§36-38 (AMD).

§20044. VOLUNTARY TREATMENT OF ALCOHOLICS, DRUG ABUSERS, DRUG ADDICTS AND DRUG-DEPENDENT PERSONS

1. **Voluntary treatment.** An alcoholic, drug abuser, drug addict or drug-dependent person may apply for voluntary treatment directly to an approved treatment facility.

[1991, c. 601, §20 (AMD) .]

2. **Determination.** A person who comes voluntarily or is brought to an approved treatment facility for residential care and treatment must be examined immediately by a licensed physician. That person may then be admitted or referred to another health facility based upon the physician's recommendation. Subject to rules adopted by the department, the administrator in charge of an approved treatment facility may determine who may be admitted for treatment. If a person is refused admission to an approved treatment facility, the administrator, subject to rules adopted by the department, shall refer the person to another approved treatment facility for treatment if possible and appropriate.

[2011, c. 657, Pt. AA, §39 (AMD) .]

3. **Outpatient or intermediate treatment.** If a person receiving residential care leaves an approved treatment facility, that person must be encouraged to consent to appropriate outpatient or intermediate treatment.

[1991, c. 601, §20 (AMD) .]

4. **Discharge.** If a person leaves an approved treatment facility, against the advice of the administrator in charge of the facility and that person does not have a home, the patient must be assisted in obtaining shelter.

[1991, c. 601, §20 (AMD) .]

SECTION HISTORY

1989, c. 934, §A3 (NEW). 1991, c. 601, §20 (AMD). 2011, c. 657, Pt. AA, §39 (AMD).

§20045. TREATMENT AND SERVICES FOR INTOXICATED PERSONS AND PERSONS INCAPACITATED BY ALCOHOL

(REPEALED)

SECTION HISTORY
1989, c. 934, §A3 (NEW). 1991, c. 601, §21 (RP).

§20046. EMERGENCY COMMITMENT OF AN INCAPACITATED OR INTOXICATED PERSON

(REPEALED)

SECTION HISTORY
1989, c. 934, §A3 (NEW). 1991, c. 601, §22 (RP).

§20047. RECORDS

1. **Registration and records.** Registration and other records of treatment facilities must remain confidential and are privileged to the patient.

[1989, c. 934, Pt. A, §3 (NEW) .]

2. **Information for research.** Notwithstanding subsection 1, the commissioner may make available information from patients' records for purposes of research into the causes and treatment of alcoholism and drug abuse. Information under this subsection may not be published in a way that discloses patients' names or other identifying information.

[2011, c. 657, Pt. AA, §40 (AMD) .]

SECTION HISTORY
1989, c. 934, §A3 (NEW). 2011, c. 657, Pt. AA, §40 (AMD).

§20048. VISITATION AND COMMUNICATION OF PATIENTS

1. **Hours of visitation.** Subject to reasonable rules regarding hours of visitation that the commissioner may adopt, patients in any approved treatment facility must be granted opportunities for adequate consultation with counsel and for continuing contact with family and friends consistent with an effective treatment program.

[2011, c. 657, Pt. AA, §41 (AMD) .]

2. **Communication.** Mail or other communication to or from a patient in any approved treatment facility may not be intercepted, read or censored. The commissioner may adopt reasonable rules regarding the use of telephones by patients in approved treatment facilities.

[2011, c. 657, Pt. AA, §41 (AMD) .]

3. **Restrictions.** The patient may exercise all civil rights, including, but not limited to, civil service status; the right to vote; rights relating to the granting, renewal, forfeiture or denial of a license, permit, privilege or benefit pursuant to any law; and the right to enter contractual relationships and to manage the patient's property, except:

A. To the extent the commissioner determines that it is necessary for the medical welfare of the patient to impose restrictions, unless the patient has been restored to legal capacity; or [2011, c. 657, Pt. AA, §41 (AMD).]

B. When specifically restricted by other laws or rules. [1989, c. 934, Pt. A, §3 (NEW).]

Restrictions on the exercise of civil rights may not be imposed on any patient solely because of the fact of that person's admission to a mental hospital.

[2011, c. 657, Pt. AA, §41 (AMD) .]

SECTION HISTORY
1989, c. 934, §A3 (NEW). 2011, c. 657, Pt. AA, §41 (AMD).

§20049. EMERGENCY SERVICE PATROL; ESTABLISHMENT; RULES

(REPEALED)

SECTION HISTORY
1989, c. 934, §A3 (NEW). 1991, c. 601, §23 (RP).

§20050. PAYMENT FOR TREATMENT; FINANCIAL ABILITY OF PATIENTS

1. **Payment.** If treatment is provided by an approved treatment facility and the patient has not paid the charge for that treatment, the treatment facility is entitled to any payment received by the patient or to which the patient may be entitled because of the services rendered, and from any public or private source available to the treatment facility because of the treatment provided to the patient.

[1991, c. 601, §24 (AMD) .]

2. **Liability.** A patient in an approved public treatment facility, or the estate of the patient, or a person obligated to provide for the cost of treatment who has sufficient financial ability, is liable to the treatment facility for cost of maintenance and treatment of the patient in accordance with established rates.

[1989, c. 934, Pt. A, §3 (NEW) .]

3. **Finances.** The department shall adopt rules governing financial ability that take into consideration the patient's income, savings, other personal and real property and any support being furnished to any other person that the patient is required by law to support.

[2011, c. 657, Pt. AA, §42 (AMD) .]

SECTION HISTORY
1989, c. 934, §A3 (NEW). 1991, c. 601, §24 (AMD). 2011, c. 657, Pt. AA, §42 (AMD).

§20051. CRIMINAL LAW LIMITATIONS

1. **Laws.** A county, municipality or other political subdivision may not adopt or enforce a local law, ordinance, regulation or rule having the force of law that includes drinking, being a person with alcoholism or being found in an intoxicated condition as one of the elements of an offense giving rise to a criminal or civil penalty or sanction.

[2009, c. 299, Pt. A, §1 (AMD) .]

2. **Interpretation.** A county, municipality or other political subdivision may not interpret or apply any law of general application to circumvent subsection 1.

[1989, c. 934, Pt. A, §3 (NEW) .]

3. **Effect.** Nothing in this subchapter affects any law, ordinance, regulation or rule against drunken driving, driving under the influence of alcohol or other similar offense involving the operation of a vehicle, snowmobile, aircraft, boat, machinery or other equipment, or regarding the sale, purchase, dispensing, possessing or use of alcoholic beverages at stated times and places or by a particular class of persons.

[1989, c. 934, Pt. A, §3 (NEW) .]

SECTION HISTORY
1989, c. 934, §A3 (NEW). 2009, c. 299, Pt. A, §1 (AMD).

§20052. LONG-TERM METHADONE AND OTHER NARCOTIC DRUG DETOXIFICATION AND MAINTENANCE TREATMENT

(REPEALED)

SECTION HISTORY
1995, c. 499, §1 (NEW). 1995, c. 499, §5 (AFF). 2001, c. 26, §1 (RP).

§20053. LONG-TERM NARCOTIC DEPENDENCY TREATMENT PROJECT

(REPEALED)

SECTION HISTORY
1995, c. 499, §1 (NEW). 1995, c. 499, §5 (AFF). 1995, c. 621, §§1,2 (AMD). 1997, c. 245, §19 (AMD). 2001, c. 26, §2 (RP).

Subchapter 4: MAINE COUNCIL ON ALCOHOL AND DRUG ABUSE PREVENTION AND TREATMENT

§20061. MEMBERSHIP

(REPEALED)

SECTION HISTORY
1989, c. 934, §A3 (NEW). 1991, c. 601, §25 (AMD). 1993, c. 410, §LL11 (RP).

§20062. MEETINGS; COMPENSATION; QUORUM

(REPEALED)

SECTION HISTORY

1989, c. 934, §A3 (NEW). 1993, c. 410, §LL11 (RP).

§20063. POWERS AND DUTIES OF THE COUNCIL

(REPEALED)

SECTION HISTORY
1989, c. 934, §A3 (NEW). 1991, c. 601, §§26,27 (AMD). 1993, c. 410, §LL11 (RP).

Subchapter 4-A: SUBSTANCE ABUSE SERVICES COMMISSION

§20065. MEMBERSHIP

1. **Members; appointment.** The Substance Abuse Services Commission, as established by section 12004-G, subsection 13-C, consists of 21 members.

[1999, c. 401, Pt. FFF, §1 (AMD) .]

2. **Qualifications.** To be qualified to serve, members must have education, training, experience, knowledge, expertise and interest in drug abuse prevention and training. Members must reflect experiential diversity and concern for drug abuse prevention and treatment in the State. Members must have an unselfish and dedicated personal interest demonstrated by active participation in drug abuse programs such as prevention, treatment, rehabilitation, training or research in drug abuse and alcohol abuse.

[1993, c. 410, Pt. LL, §12 (NEW) .]

3. **Members; representation.** The commission consists of the following members:

A. One member of the Senate, appointed by the President of the Senate, and 5 members of the Legislature who may be members of either the Senate or the House of Representatives, appointed by the President of the Senate if Senators or the Speaker of the House if members of the House of Representatives and 2 of these 5 at-large members of the Legislature must be members of the joint standing committee of the Legislature having jurisdiction over health and human services matters; [1999, c. 401, Pt. FFF, §2 (RPR).]

B. One physician experienced in the treatment of substance abuse, appointed by the Governor; [1993, c. 410, Pt. LL, §12 (NEW).]

C. One public school superintendent who has experience with school-based substance abuse prevention and education programs, appointed by the Governor; [1993, c. 410, Pt. LL, §12 (NEW).]

D. One elementary school educator, appointed by the Governor; [1993, c. 410, Pt. LL, §12 (NEW).]

E. One representative from nominations by a statewide alliance for addiction recovery appointed by the Governor; [2001, c. 303, §1 (AMD).]

F. One attorney who represents clients involved with the substance abuse system, appointed by the Governor; [1993, c. 410, Pt. LL, §12 (NEW).]

G. One educator involved in postsecondary substance abuse education, appointed by the Governor; [1993, c. 410, Pt. LL, §12 (NEW).]

H. One substance abuse prevention practitioner, one substance abuse education practitioner and one substance abuse treatment practitioner, appointed by the Governor; [1993, c. 410, Pt. LL, §12 (NEW).]

I. One private sector employer familiar with substance abuse employee assistance programs, appointed by the Governor; and [1993, c. 410, Pt. LL, §12 (NEW).]

J. Five members of the public, appointed by the Governor. In appointing these 5 members, the Governor shall select members from outstanding people in the following areas:

(1) Drug abuse prevention;

(2) Drug abuse treatment;

(3) Education;

(4) Employers; and

(5) Persons affected by or recovering from alcoholism, chronic intoxication, drug abuse or drug dependency, evidenced by a minimum of 3 years of sobriety or abstention from drug abuse. [1993, c. 410, Pt. LL, §12 (NEW).]

[2001, c. 303, §1 (AMD) .]

4. **Term; vacancies.** Terms of appointment begin and expire on June 1st. A vacancy in the commission does not affect the commission's powers, but must be filled in the same manner as the original appointment.

A member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed may be appointed only for the remainder of that term.

A. The terms of the 5 public members appointed under subsection 3, paragraph J are staggered. Of the initial appointees under that paragraph, 2 are appointed for terms of 3 years, 2 for terms of 2 years and one for a term of one year. Thereafter, all appointments are for terms of 3 years, except that a member appointed to fill a vacancy in an unexpired term serves only for the remainder of that term. Members hold office until the appointment and confirmation of their successors. A public member may not be appointed for more than 2 consecutive, 3-year terms. [1993, c. 700, §1 (AMD).]

B. Members who are members of the Legislature and appointed by the President of the Senate or the Speaker of the House of Representatives serve at the pleasure of the appointing authority. [1993, c. 410, Pt. LL, §12 (NEW).]

C. [1993, c. 700, §2 (RP).]

[1993, c. 700, §§1, 2 (AMD) .]

5. **Reappointment; termination.** Members may be appointed for 2 consecutive terms only and may serve after the expiration of their terms until their successors have been appointed and qualified and have taken office. The appointing authority may terminate the appointment of a member for good and just cause and the appointing authority shall communicate the reason for the termination to the member terminated. The appointment of a member of the commission is terminated if a member is absent from 3 consecutive meetings without a good and just cause that is communicated to the chair of the commission.

[1993, c. 410, Pt. LL, §12 (NEW) .]

6. **Officers.** The Governor shall designate one member to chair the commission. The commission may elect other officers from its members as it considers appropriate.

[1993, c. 410, Pt. LL, §12 (NEW) .]

7. **Subcommittees.** The commission may appoint from its membership subcommittees relating to particular problem areas or other matters, provided that the commission functions as an integrated committee.

[1993, c. 410, Pt. LL, §12 (NEW) .]

8. **Administrative and financial assistance.** The department shall provide the commission administrative or financial assistance that is available from department resources.

[2011, c. 657, Pt. AA, §43 (AMD) .]

SECTION HISTORY
1993, c. 410, §LL12 (NEW). 1993, c. 700, §§1,2 (AMD). 1995, c. 560, §L9 (AMD). 1995, c. 560, §L16 (AFF). 1999, c. 401, §§FFF1,2 (AMD). 2001, c. 303, §1 (AMD). 2011, c. 657, Pt. AA, §43 (AMD).

§20066. MEETINGS; COMPENSATION; QUORUM

1. **Calling meetings.** The commission shall meet at the call of the chair or at the call of at least 1/4 of the members appointed and currently holding office.

[1993, c. 410, Pt. LL, §12 (NEW) .]

2. **Frequency of meetings.** The commission shall meet at least 12 times a year and at least once a month.

[1993, c. 410, Pt. LL, §12 (NEW) .]

3. **Minutes.** The commission shall keep minutes of all meetings, including a list of people in attendance. The commission shall immediately send copies of the minutes to the Governor and the leadership of the Legislature, who shall provide for their appropriate distribution and retention in a place of safekeeping.

[1993, c. 410, Pt. LL, §12 (NEW) .]

4. **Compensation.** Members of the commission are entitled to compensation under chapter 379.

[1993, c. 410, Pt. LL, §12 (NEW) .]

5. **Quorum; council action.** A majority of the commission members constitutes a quorum for the purpose of conducting the business and exercising all the powers of the commission. A vote of a majority of the members present is sufficient for all actions of the commission.

[1993, c. 410, Pt. LL, §12 (NEW) .]

SECTION HISTORY
1993, c. 410, §LL12 (NEW).

§20067. DUTIES OF THE COMMISSION

The commission, in cooperation with the department, has the following duties. [2011, c. 657, Pt. AA, §44 (AMD).]

1. **Oversee office.**

[1995, c. 560, Pt. L, §16 (AFF); 1995, c. 560, Pt. L, §10 (RP) .]

1-A. **Advise the department.** The commission shall advise the department in the development and implementation of significant policy matters relating to substance abuse.

[2011, c. 657, Pt. AA, §45 (AMD) .]

2. **Advise, consult and assist.** The commission shall advise, consult and assist the Governor, the executive and legislative branches of State Government and the Chief Justice of the Supreme Judicial Court with activities of State Government related to drug abuse prevention, including alcoholism and intoxication.

[1997, c. 134, §9 (AMD) .]

3. **Serve as advocate; review and evaluate; inform the public.** The commission shall serve as an advocate on alcoholism and drug abuse prevention, promoting and assisting activities designed to meet the problems of drug abuse and drug dependence at the national and state levels. With the support of the department, the commission shall review and evaluate on a continuing basis state and federal policies and programs relating to drug abuse and other activities conducted or assisted by state departments or agencies that affect persons who abuse or are dependent on drugs. In cooperation with the department, the commission shall keep the public informed by collecting and disseminating information, by conducting or commissioning studies and publishing the results of those studies, by issuing publications and reports and by providing public forums, including conferences and workshops.

[2011, c. 657, Pt. AA, §46 (AMD) .]

4. **Report to the Legislature.** The commission shall report annually to the joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs on or before the last business day of each year. The report must include developments and needs related to drug abuse prevention, including alcoholism and intoxication, and significant policy matters relating to substance abuse.

[1999, c. 401, Pt. FFF, §3 (NEW) .]

SECTION HISTORY
1993, c. 410, §LL12 (NEW). 1995, c. 560, §§L10,11 (AMD). 1995, c. 560, §L16 (AFF). 1997, c. 134, §9 (AMD). 1999, c. 401, §FFF3 (AMD). 2011, c. 657, Pt. AA, §§44-46 (AMD).

Subchapter 5: DRIVER EDUCATION AND EVALUATION PROGRAMS

§20071. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1991, c. 601, §28 (NEW).]

1. **Alcohol-related or other drug-related motor vehicle incident.** "Alcohol-related or other drug-related motor vehicle incident" means a conviction or administrative action resulting in the suspension of a motor vehicle operator's license for a violation under former Title 29, section 1311-A; Title 29, section 1312, subsection 10-A; Title 29, section 1312-C; Title 29, section 1312-B; Title 29, section 1313-B; Title 29, section 2241, subsection 1, paragraph N; Title 29, section 2241-G, subsection 2, paragraph B, subparagraph (2); Title 29, section 2241-J; Title 29-A, section 1253; Title 29-A, section 2411; Title 29-A, section 2453; Title 29-A, section 2454, subsection 2; Title 29-A, section 2456; Title 29-A, section 2457; Title 29-A, section 2472, subsection 3, paragraph B and subsection 4; Title 29-A, section 2503; Title 29-A, sections 2521 to 2523; or Title 29-A, section 2525 or the rules adopted by the Department of the Secretary of State for the suspension of commercial drivers' licenses.

[1999, c. 448, §1 (AMD) .]

2. **Client.** "Client" means a person who is required to complete an alcohol and other drug education, evaluation and treatment program for an alcohol-related or drug-related motor vehicle offense.

[1991, c. 601, §28 (NEW) .]

3. **Community-based service provider.** "Community-based service provider" means a provider of either the treatment component or the evaluation component, or both, of the alcohol and other drug education, evaluation and treatment program certified under section 20075 or a program approved by the office.

[1991, c. 601, §28 (NEW) .]

4. **Completion of treatment.** "Completion of treatment," for the purpose of recommendation by the office to the Secretary of State concerning restoration of the driver's license to the client, means that the individual has responded to treatment to the extent that there is a substantial probability that the individual will not be operating under the influence. This substantial probability may be shown by:

A. An acknowledgement by the client of the extent of the client's alcohol or drug problem; [1991, c. 601, §28 (NEW).]

B. A demonstrated ability to abstain from the use of alcohol and drugs; and [1991, c. 601, §28 (NEW).]

C. A willingness to seek continued voluntary treatment or to participate in an appropriate self-help program, or both, as necessary. [1991, c. 601, §28 (NEW).]

[1991, c. 601, §28 (NEW) .]

4-A. **First offender.** "First offender" means a client who has no previous alcohol-related or drug-related motor vehicle incident within a 10-year period.

[1999, c. 448, §2 (AMD) .]

4-B. **First offender with an aggravated operating-under-the-influence offense.**

[2001, c. 511, §1 (RP) .]

5. **Multiple offender.** "Multiple offender" means a client who has more than one alcohol-related or drug-related motor vehicle incident within a 10-year period or has a previous incident prior to the 10-year period for which the client has not completed a Driver Education and Evaluation Program as established in section 20072.

[1999, c. 448, §3 (AMD) .]

SECTION HISTORY
1991, c. 601, §28 (NEW). 1991, c. 622, §Y2 (AMD). 1993, c. 631, §§2-4 (AMD). 1995, c. 65, §§A11,12 (AMD). 1995, c. 65, §§A153,C15 (AFF). 1999, c. 448, §§1-3 (AMD). 2001, c. 511, §1 (AMD).

§20072. DRIVER EDUCATION AND EVALUATION PROGRAMS

The Driver Education and Evaluation Programs are established in the department. The Driver Education and Evaluation Programs shall administer the alcohol and other drug education, evaluation and treatment programs as provided in this chapter. The department shall certify to the Secretary of State: [2011, c. 657, Pt. AA, §47 (AMD).]

1. **Completion of Driver Education and Evaluation Programs.** Those individuals who have satisfactorily completed a program pursuant to section 20073-B; and

[1999, c. 448, §4 (AMD) .]

2. **Completion of treatment other than Driver Education and Evaluation Programs.** Those individuals who have satisfied the requirement for completion of treatment as defined in section 20071 by means other than a program pursuant to section 20073-B.

[1999, c. 448, §4 (AMD) .]

SECTION HISTORY
1991, c. 601, §28 (NEW). 1991, c. 622, §Y3 (AMD). 1991, c. 850, §6 (AMD). 1995, c. 560, §L12 (AMD). 1995, c. 560, §L16 (AFF). 1999, c. 448, §4 (AMD). 2011, c. 657, Pt. AA, §47 (AMD).

§20072-A. FUNDING

General Fund appropriations for the Driver Education and Evaluation Programs may not exceed $1,700,000 in any fiscal year. [2009, c. 462, Pt. J, §1 (NEW).]

SECTION HISTORY
2009, c. 462, Pt. J, §1 (NEW).

§20073. PROGRAM COMPONENTS

(REPEALED)

SECTION HISTORY
1991, c. 601, §28 (NEW). 1991, c. 622, §Y4 (RP).

§20073-A. PROGRAM COMPONENTS

(REPEALED)

SECTION HISTORY
1991, c. 622, §Y5 (NEW). 1991, c. 850, §§7,8 (AMD). 1993, c. 631, §§5,6 (AMD). 1999, c. 448, §5 (RP).

§20073-B. PROGRAMS AND COMPONENTS; RULES

The department shall design programs and components that are age-appropriate and therapeutically appropriate. The department shall adopt rules regarding requirements for these programs and components and any other rules necessary to implement this subchapter. Rules adopted pursuant to this section are routine technical rules as defined in chapter 375, subchapter 2-A. [2011, c. 657, Pt. AA, §48 (AMD).]

SECTION HISTORY
1999, c. 448, §6 (NEW). 2011, c. 657, Pt. AA, §48 (AMD).

§20074. SEPARATION OF EVALUATION AND TREATMENT FUNCTIONS

A Driver Education and Evaluation Programs private practitioner or a counselor employed by a substance abuse facility approved or licensed by the department providing services under this subchapter may not provide both treatment services and evaluation services for the same individual participating in programs under this subchapter unless a waiver is granted on a case-by-case basis by the Driver Education and Evaluation Programs. The practitioner or counselor providing evaluation services shall give a client the name of 3 practitioners or counselors who can provide treatment services, at least one of whom may not be employed by the same agency as the practitioner or counselor conducting the evaluation. [2011, c. 657, Pt. AA, §49 (AMD).]

SECTION HISTORY

1991, c. 601, §28 (NEW). 1991, c. 622, §Y6 (AMD). 1991, c. 850, §9 (AMD). 2011, c. 657, Pt. AA, §49 (AMD).

§20075. CERTIFICATION; RECERTIFICATION

All providers of the evaluation, intervention and treatment components of the Driver Education and Evaluation Programs must be certified by the department pursuant to section 20005, section 20024, section 20073-B and this subchapter. The certification period for individual providers and agencies is 2 years. The department shall adopt rules requiring continuing education for recertification. [2011, c. 657, Pt. AA, §50 (AMD).]

SECTION HISTORY
1991, c. 601, §28 (NEW). 1991, c. 850, §10 (AMD). 1999, c. 448, §7 (AMD). 2001, c. 511, §2 (AMD). 2011, c. 657, Pt. AA, §50 (AMD).

§20076. FEES

(REPEALED)

SECTION HISTORY
1991, c. 601, §28 (NEW). 1991, c. 622, §Y7 (RP).

§20076-A. FEES

(REPEALED)

SECTION HISTORY
1991, c. 622, §Y8 (NEW). 1999, c. 448, §8 (RP).

§20076-B. FEES

The department shall set fees in accordance with the cost of each program. All fees must be transferred to the General Fund. The department may waive all or part of any fee for a client who provides sufficient evidence of inability to pay. [2011, c. 657, Pt. AA, §51 (AMD).]

SECTION HISTORY
1999, c. 448, §9 (NEW). 2011, c. 657, Pt. AA, §51 (AMD).

§20077. REPORT

Beginning in 1992, the commissioner shall report annually by February 1st to the joint standing committee of the Legislature having jurisdiction over human resource matters regarding the department's activities under this subchapter. A copy of the report must be sent to the Executive Director of the Legislative Council. [2011, c. 657, Pt. AA, §52 (AMD).]

SECTION HISTORY
1991, c. 601, §28 (NEW). 2011, c. 657, Pt. AA, §52 (AMD).

§20078. BOARD OF APPEALS

(REPEALED)

SECTION HISTORY
1991, c. 601, §28 (NEW). 1991, c. 622, §§Y9,10 (AMD). 1991, c. 850, §§11-14 (AMD). 1991, c. 850, §19 (AFF).

§20078-A. BOARD OF APPEALS

The Driver Education and Evaluation Programs Appeals Board, established in section 12004-G, subsection 15-A, is referred to as the "board" in this subchapter and is governed by this section. [1993, c. 631, §7 (NEW).]

1. **Qualifications.** Each member of the board must have training, education, experience and demonstrated ability in successfully treating clients who have substance abuse problems. Board members may not hold a current certificate to provide driver education, evaluation and treatment services during their terms of appointment.

[1993, c. 631, §7 (NEW) .]

2. **Appointment; term; removal.** The board consists of 3 members appointed by the Governor for 2-year terms; initially, however, 2 members are appointed for 2-year terms and one member for a one-year term. A vacancy occurring prior to the expiration of a term must be filled by appointment for the unexpired term. Members may be removed by the Governor for cause.

[1993, c. 631, §7 (NEW) .]

3. **Facilities; staff.** The commissioner shall provide staff support and adequate facilities for the board.

[2011, c. 657, Pt. AA, §53 (AMD) .]

4. **Chair; rules.** The board shall elect annually a chair from its members. The commissioner shall adopt rules to carry out the purposes of this section.

[2011, c. 657, Pt. AA, §54 (AMD) .]

5. **Compensation.** Each member of the board is entitled to compensation in accordance with chapter 379.

[1993, c. 631, §7 (NEW) .]

6. **Appeal from decision.** A client of Driver Education and Evaluation Programs may appeal to the board as follows.

A. The client may appeal a failure to certify completion of treatment pursuant to section 20072, subsection 2. [1993, c. 631, §7 (NEW).]

B. The client may appeal an evaluation decision referring the client to treatment or a completion of treatment decision. A client may appeal under this paragraph only after the client has sought a 2nd opinion of the need for treatment or of satisfactory completion of treatment. [1999, c. 448, §10 (AMD).]

[1999, c. 448, §10 (AMD) .]

7. **Appeal procedure and action.** An appeal is heard and decided by one board member. The board may affirm or reverse the decision of the treatment provider or agency, require further evaluation, make a finding of completion of treatment or make an alternate recommendation. The board, after due consideration, shall make a written decision and transmit that decision to the Driver Education and Evaluation Programs and the client who appealed the case. The decision of the board is final agency action for purposes of judicial review pursuant to chapter 375, subchapter VII.

[1993, c. 631, §7 (NEW) .]

SECTION HISTORY

1993, c. 631, §7 (NEW). 1999, c. 448, §10 (AMD). 2011, c. 657, Pt. AA, §§53, 54 (AMD).

Chapter 523: OFFICE OF STATE QUALITY MANAGEMENT

§20090. OFFICE ESTABLISHED; PURPOSE

(REPEALED)

SECTION HISTORY
1993, c. 707, §BB7 (NEW). 1995, c. 368, §HH7 (RP).

§20091. DEFINITIONS

(REPEALED)

SECTION HISTORY
1993, c. 707, §BB7 (NEW). 1995, c. 368, §HH7 (RP).

§20092. IMPLEMENTATION AND ADMINISTRATION

(REPEALED)

SECTION HISTORY
1993, c. 707, §BB7 (NEW). 1995, c. 368, §HH7 (RP).

§20093. POWERS AND DUTIES

(REPEALED)

SECTION HISTORY
1993, c. 707, §BB7 (NEW). 1995, c. 368, §HH7 (RP).

§20094. EXECUTIVE DIRECTOR; ADMINISTRATIVE ASSISTANT

(REPEALED)

SECTION HISTORY
1993, c. 707, §BB7 (NEW). 1995, c. 368, §HH7 (RP).

Part 26: ADMINISTRATIVE AND FINANCIAL SERVICES

Chapter 551: DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

Subchapter 1: GENERAL PROVISIONS

§21001. DEFINITIONS

(REPEALED)

SECTION HISTORY
1991, c. 622, §BB1 (NEW). 1991, c. 780, §Y106 (RP).

§21002. DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES ESTABLISHED; PURPOSE

(REPEALED)

SECTION HISTORY
1991, c. 622, §BB1 (NEW). 1991, c. 780, §Y106 (RP).

§21003. COMMISSIONER APPOINTMENT

(REPEALED)

SECTION HISTORY
1991, c. 622, §BB1 (NEW). 1991, c. 780, §Y106 (RP).

§21004. PROVISION OF SERVICES

(REPEALED)

SECTION HISTORY
1991, c. 622, §BB1 (NEW). 1991, c. 780, §Y106 (RP).

§21005. POWERS AND DUTIES OF COMMISSIONER

(REPEALED)

SECTION HISTORY
1991, c. 622, §BB1 (NEW). 1991, c. 780, §Y106 (RP).

§21006. DEPARTMENT ORGANIZATION

(REPEALED)

SECTION HISTORY
1991, c. 622, §BB1 (NEW). 1991, c. 780, §Y106 (RP).

§21007. FINANCIAL SERVICES; STAFF

(REPEALED)

SECTION HISTORY
1991, c. 622, §BB1 (NEW). 1991, c. 780, §Y106 (RP).

§21008. PERSONNEL SERVICES; STAFF

(REPEALED)

SECTION HISTORY
1991, c. 622, §BB1 (NEW). 1991, c. 780, §Y106 (RP).

Part 27: INTERBRANCH COMMUNICATION AND COORDINATION

Chapter 555: INTERBRANCH COMMUNICATION AND COORDINATION

§21201. FINDINGS

The Legislature finds that difficulties in interactions among the Executive Department, the Legislature and the Judicial Department often arise from the lack of understanding of the functions, structures, needs and perspectives of the 3 separate but coequal branches of government. Increased communication and coordination in daily activities as well as in long-range planning are possible to improve the effectiveness and efficiency of all 3 branches without the imposition of the views or directions of one or 2 branches upon another. [1993, c. 675, Pt. C, §12 (NEW).]

SECTION HISTORY
1993, c. 675, §C12 (NEW).

§21202. INTERBRANCH FORUM

1. **Annual interbranch forum.** Beginning in February 1995 and at least every year thereafter, the Chief Justice of the Supreme Judicial Court, the Governor, the President of the Senate and the Speaker of the House of Representatives shall jointly convene an interbranch forum.

[1993, c. 675, Pt. C, §12 (NEW) .]

2. **Purpose of forum.** The purpose of the interbranch forum is to provide for discussions among the top policymakers from each branch of government to address the need for cooperation and coordination at all levels. Topics to be discussed may include, but are not limited to:

A. An integrated system of communication; [1993, c. 675, Pt. C, §12 (NEW).]

B. A technology plan; [1993, c. 675, Pt. C, §12 (NEW).]

C. Long-range planning; and [1993, c. 675, Pt. C, §12 (NEW).]

D. The allocation and use of resources. [1993, c. 675, Pt. C, §12 (NEW).]

[1993, c. 675, Pt. C, §12 (NEW) .]

3. **More frequent forums.** Representatives of the 3 branches may convene a forum as often as they determine it is appropriate.

[1993, c. 675, Pt. C, §12 (NEW) .]

4. **Expenses.** Each branch absorbs the expenses for convening and holding interbranch forums within the general operating budgets for each department.

[1993, c. 675, Pt. C, §12 (NEW) .]

SECTION HISTORY
1993, c. 675, §C12 (NEW).

Chapter 557: INTERSTATE ECONOMIC DEVELOPMENT COMMISSION FOR THE NORTHERN NEW ENGLAND STATES

§21301. COMMISSION

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See PL 1997, c. 254, §2)

1. **Establishment.** The Interstate Economic Development Commission for the Northern New England States, referred to in this chapter as the "commission," is created to examine and promote economic development throughout the member states set forth in subsection 2.

[1997, c. 254, §1 (NEW); 1997, c. 254, §2 (AFF) .]

2. **Member states.** The member states are Maine, New Hampshire and Vermont to the extent that these states have enacted legislation substantially the same as this chapter.

[1997, c. 254, §1 (NEW); 1997, c. 254, §2 (AFF) .]

3. **Members.** The commission consists of the following 15 members:

A. The governor of each member state, or the governor's designee; [1997, c. 254, §1 (NEW); 1997, c. 254, §2 (AFF).]

B. The commissioner of the state department of each member state with jurisdiction over economic development, or the commissioner's designee; [1997, c. 254, §1 (NEW); 1997, c. 254, §2 (AFF).]

C. Three public members, one appointed by each governor of each member state; and [1997, c. 254, §1 (NEW); 1997, c. 254, §2 (AFF).]

D. Six legislative members, appointed by the presiding officer of each House of the Legislature of each member state. [1997, c. 254, §1 (NEW); 1997, c. 254, §2 (AFF).]

[1997, c. 254, §1 (NEW); 1997, c. 254, §2 (AFF) .]

4. **Terms.** Members of the commission who are governors, commissioners or legislative members serve during the term of office for which they were elected or appointed. Public members serve 4-year terms. A vacancy must be filled in the same manner as the original appointment.

[1997, c. 254, §1 (NEW); 1997, c. 254, §2 (AFF) .]

5. **Chair.** The position of chair rotates among the governors of the member states, or their designees, on an annual basis. Before or at the first meeting of the commission, the governors shall establish the order of rotation.

[1997, c. 254, §1 (NEW); 1997, c. 254, §2 (AFF) .]

6. **Compensation.** Members are not entitled to compensation.

[1997, c. 254, §1 (NEW); 1997, c. 254, §2 (AFF) .]

7. **Meetings.** The commission shall meet at least 6 times each year.

[1997, c. 254, §1 (NEW); 1997, c. 254, §2 (AFF) .]

SECTION HISTORY
1997, c. 254, §1 (NEW). 1997, c. 254, §2 (AFF).

§21302. DUTIES OF THE COMMISSION

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See PL 1997, c. 254, §2)

1. **Economic development.** The commission shall gather and review information regarding economic development and methods of enhancing economic development in member states. The information may be gathered from any source, including the governors' offices and the departments with jurisdiction over economic development of each member state.

[1997, c. 254, §1 (NEW); 1997, c. 254, §2 (AFF) .]

2. **Tourism.** The commission shall gather and review information regarding the promotion of tourism and methods of expanding access to travel opportunities among the member states.

[1997, c. 254, §1 (NEW); 1997, c. 254, §2 (AFF) .]

3. **Legislation.** The commission may develop and recommend legislation for introduction in each member state that promotes economic development and tourism.

[1997, c. 254, §1 (NEW); 1997, c. 254, §2 (AFF) .]

SECTION HISTORY
1997, c. 254, §1 (NEW). 1997, c. 254, §2 (AFF).

Part 28: COMPENSATION AND REDRESS

Chapter 601: THE BAXTER COMPENSATION AUTHORITY

Subchapter 1: GENERAL PROVISIONS

§22001. DEFINITIONS

(REPEALED)

SECTION HISTORY
2001, c. 439, §T5 (NEW). 2005, c. 2, §A11 (AMD). 2005, c. 2, §A14 (AFF). MRSA T. 5, §22010 (RP).

§22002. BAXTER COMPENSATION AUTHORITY

(REPEALED)

SECTION HISTORY
2001, c. 439, §T5 (NEW). 2003, c. 352, §§1,2 (AMD). MRSA T. 5, §22010 (RP).

§22003. PROGRAM DIRECTOR

(REPEALED)

SECTION HISTORY
2001, c. 439, §T5 (NEW). MRSA T. 5, §22010 (RP).

§22004. COMPENSATION PANEL

(REPEALED)

SECTION HISTORY
2001, c. 439, §T5 (NEW). 2001, c. 667, §C3 (AMD).

§22005. APPEAL BOARD

(REPEALED)

SECTION HISTORY
2001, c. 439, §T5 (NEW). MRSA T. 5, §22010 (RP).

§22006. TRAINING AND EDUCATION

(REPEALED)

SECTION HISTORY
2001, c. 439, §T5 (NEW). MRSA T. 5, §22010 (RP).

§22007. PROGRAM PRINCIPLES AND GUIDELINES

(REPEALED)

SECTION HISTORY
2001, c. 439, §T5 (NEW). MRSA T. 5, §22010 (RP).

§22008. STATUS OF MEMBERS AND EMPLOYEES

(REPEALED)

SECTION HISTORY
2001, c. 439, §T5 (NEW). MRSA T. 5, §22010 (RP).

§22009. PUBLIC PROCEEDINGS AND RECORDS; CONFIDENTIALITY

(REPEALED)

SECTION HISTORY
2001, c. 439, §T5 (NEW). 2003, c. 352, §3 (AMD). MRSA T. 5, §22010 (RP).

§22010. REPEAL

(REPEALED)

SECTION HISTORY
2001, c. 439, §T5 (NEW). MRSA T. 5, §22010 (RP).

Subchapter 2: THE BAXTER COMPENSATION PROGRAM

§22021. BAXTER COMPENSATION PROGRAM

(REPEALED)

SECTION HISTORY
2001, c. 439, §T5 (NEW). MRSA T. 5, §22010 (RP).

§22022. ELIGIBILITY

(REPEALED)

SECTION HISTORY
2001, c. 439, §T5 (NEW). MRSA T. 5, §22010 (RP).

§22023. CLAIM PROCESS

(REPEALED)

SECTION HISTORY
2001, c. 439, §T5 (NEW). 2003, c. 673, §BBBB1 (AMD). MRSA T. 5, §22010 (RP).

§22024. DECISION

(REPEALED)

SECTION HISTORY
2001, c. 439, §T5 (NEW). 2001, c. 667, §C4 (AMD). MRSA T. 5, §22010 (RP).

§22025. APPEAL

(REPEALED)

SECTION HISTORY

2001, c. 439, §T5 (NEW). 2003, c. 352, §§4,5 (AMD). MRSA T. 5, §22010 (RP).

§22026. ACCEPTANCE

(REPEALED)

SECTION HISTORY
2001, c. 439, §T5 (NEW). MRSA T. 5, §22010 (RP).

§22027. PAYMENT

(REPEALED)

SECTION HISTORY
2001, c. 439, §T5 (NEW). 2001, c. 667, §C5 (AMD). 2003, c. 673, §BBBB2 (AMD). MRSA T. 5, §22010 (RP).

§22028. APOLOGY

(REPEALED)

SECTION HISTORY
2001, c. 439, §T5 (NEW). MRSA T. 5, §22010 (RP).

Subchapter 3: SERVICES

§22041. COUNSELING

(REPEALED)

SECTION HISTORY
2001, c. 439, §T5 (NEW). 2003, c. 689, §B6 (REV). MRSA T. 5, §22010 (RP).

Part 29: EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES

Chapter 611: DUTIES OF THE STATE

§23001. DUTIES OF STATE

In order to provide equal opportunity in all aspects of State Government to qualified individuals with disabilities, each department, agency and instrumentality of the State shall: [2005, c. 570, Pt. A, §1 (NEW).]

1. **Periodic review.** Review, on a periodic basis, the adequacy of hiring, placement and advancement practices within that department, agency or instrumentality of the State with respect to individuals with disabilities;

[2005, c. 570, Pt. A, §1 (NEW) .]

2. **Plan.** Develop by January 1, 2007 and update annually thereafter a plan to increase the opportunities for individuals with disabilities to be employed by that department, agency or instrumentality of the State. This plan must include a description of the extent to which the special needs of employees who are individuals with disabilities are being met. Beginning with the plans updated in 2009, each department, agency and instrumentality of the State shall submit the plans to the Director of the Bureau of Human Resources within the Department of Administrative and Financial Services;

[2007, c. 551, §1 (AMD) .]

2-A. **Report to committees.** Submit a biennial report beginning March 1, 2009, compiled by the Director of the Bureau of Human Resources within the Department of Administrative and Financial Services, on the plans developed pursuant to subsection 2 to the joint standing committees of the Legislature having jurisdiction over state and local government matters and over labor matters and to the Governor's office. The report must include any changes made to the plans, an assessment made by the director of the effectiveness of the plans and any recommendations for legislative action pertaining to the report. The joint standing committee of the Legislature having jurisdiction over state and local government matters may submit legislation pertaining to the report to the first regular session of each Legislature;

[2007, c. 551, §2 (NEW) .]

3. **Outsourcing; leases.** In its contracts governing functions and duties that are outsourced and in its contracts governing leased space, include provisions that encourage the employment of individuals with disabilities;

[2005, c. 570, Pt. A, §1 (NEW) .]

4. **Outreach.** Expand its outreach efforts, using both traditional and nontraditional methods, to make qualified individuals with disabilities aware of available employment opportunities within that department, agency or instrumentality of the State; and

[2005, c. 570, Pt. A, §1 (NEW) .]

5. **Accommodate.** Increase its efforts to accommodate individuals with disabilities.

[2005, c. 570, Pt. A, §1 (NEW) .]

SECTION HISTORY
2005, c. 570, §A1 (NEW). 2007, c. 551, §§1, 2 (AMD).

Part 30: INVESTMENT IN YOUNG CHILDREN

Chapter 621: MAINE CHILDREN'S GROWTH COUNCIL

§24001. MAINE CHILDREN'S GROWTH COUNCIL

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

A. "Council" means the Maine Children's Growth Council established in subsection 2. [2007, c. 683, Pt. A, §2 (NEW).]

B. "Young children" means children from birth through 5 years of age. [2007, c. 683, Pt. A, §2 (NEW).]

[2007, c. 683, Pt. A, §2 (NEW) .]

2. **Establishment.** The Maine Children's Growth Council, as established in section 12004-J, subsection 16, is created to develop, maintain and evaluate a plan for sustainable social and financial investment in healthy development of the State's young children and their families.

[2007, c. 683, Pt. A, §2 (NEW) .]

3. **Membership.** The council consists of the members listed in this subsection who must have a strong interest in early childhood and early care and education and must be influential in their communities:

A. Two members of the Senate, one from each of the 2 political parties having the greatest number of members in the Senate, appointed by the President of the Senate; [2007, c. 683, Pt. A, §2 (NEW).]

B. Two members of the House of Representatives, one from each of the 2 political parties having the greatest number of members in the House, appointed by the Speaker of the House; [2007, c. 683, Pt. A, §2 (NEW).]

C. The Governor or the Governor's designee and the Attorney General or the Attorney General's designee; [2007, c. 683, Pt. A, §2 (NEW).]

D. Three parents, at least one of whom has a young child, one each appointed by the Governor, the President of the Senate and the Speaker of the House; [2007, c. 683, Pt. A, §2 (NEW).]

E. Two persons with experience in public funding and philanthropy, appointed by the President of the Senate; [2007, c. 683, Pt. A, §2 (NEW).]

F. One person representing child abuse and neglect prevention, appointed by the Speaker of the House; [2007, c. 683, Pt. A, §2 (NEW).]

G. One person representing postsecondary education, appointed by the Governor; [2007, c. 683, Pt. A, §2 (NEW).]

H. Eight persons representing statewide, membership or constituent organizations that advance the well-being of young children and their families, nominated by their organizations and appointed by the Governor, of whom:

(1) Three must represent statewide organizations or associations involved in early care and education programs, child care centers, Head Start programs, family child care providers, resource development centers, programs for school-age children, child development services, physicians and child advocacy;

(2) One must represent a law enforcement organization involved with children;

(3) One must represent an organization that works on community organization and mobilization;

(4) One must represent public health;

(5) One must represent the Maine Economic Growth Council; and

(6) One must represent a labor organization; [2009, c. 392, §1 (AMD).]

I. One person representing a statewide association of business and industry and one person representing a business roundtable on early childhood investment, appointed by the Governor; [2007, c. 683, Pt. A, §2 (NEW).]

J. Up to 8 members of the public, appointed by the Governor; [2009, c. 392, §1 (AMD).]

K. Three ex-officio nonvoting members: the Commissioner of Education or the commissioner's designee, a Department of Health and Human Services employee who works with early childhood programs including Head Start and a person representing the office within the Department of Health and Human Services that is the fiscal agent for the federal grant program for comprehensive early childhood initiatives; and [2009, c. 392, §1 (AMD).]

L. The director of the Head Start collaboration project within the Department of Health and Human Services, Office of Child Care and Head Start. [2009, c. 392, §1 (NEW).]

[2009, c. 392, §1 (AMD) .]

4. **Terms of appointment.** Except for ex-officio members, members of the council are appointed for terms of 3 years. Members who are Legislators are appointed for the duration of the legislative terms in which they were appointed. Members who are not Legislators may serve beyond their designated terms until their successors are appointed.

[2007, c. 683, Pt. A, §2 (NEW) .]

5. **Cochairs.** The Governor shall appoint cochairs for the council.

[2007, c. 683, Pt. A, §2 (NEW) .]

6. **Quorum; meetings.** A majority of the voting members of the council constitute a quorum. The council may meet as often as necessary but shall meet at least 6 times a year. A meeting may be called by a cochair or by any 5 members.

[2011, c. 388, §1 (AMD) .]

7. **Compensation.** Members of the council serve without compensation for their services, except that parents appointed under subsection 3, paragraph D who are not reimbursed by another organization may receive mileage reimbursement and a per diem to cover related costs such as child care, and Legislators are entitled to receive the legislative per diem, as defined in Title 3, section 2, and reimbursement for travel and other necessary expenses for attendance at authorized meetings of the council.

[2007, c. 683, Pt. A, §2 (NEW) .]

8. **Staffing; funding.** The council may hire staff as necessary for its work and as resources permit. The council may accept grant funding and other funding as may be available for the work of the council.

[2011, c. 388, §2 (AMD) .]

9. **Logo.** The council may develop, adopt and publicize a logo or slogan to identify its work.

[2007, c. 683, Pt. A, §2 (NEW) .]

SECTION HISTORY
2007, c. 683, Pt. A, §2 (NEW). 2009, c. 392, §1 (AMD). 2011, c. 388, §§1, 2 (AMD).

§24002. DUTIES

1. **Duties.** The duties of the council include, but are not limited to:

A. Reviewing and addressing recommendations of legislative studies and advisory committees regarding young children and the Children's Cabinet; [2007, c. 683, Pt. A, §2 (NEW).]

B. Adopting and updating a long-term plan for investment in the healthy development of young children that will achieve sustainable social and financial investment in the healthy development of young children and their families.

(1) In adopting and updating the plan the council shall consult and coordinate with members of the public, the Children's Cabinet, the Department of Education, the Department of Health and Human Services and advocates, community agencies and providers of early care and education and services to children and their families; monitor and evaluate progress in accomplishing the plan's vision, goals and performance indicators and best practice research; and consider the changing economic and demographic conditions and the effect of investments on economic growth and productivity.

(2) The plan must include strategies:

(a) To create and sustain a unified, statewide early childhood services system that provides essential resources for children, shares common standards for quality, respects the diversity and uniqueness of young children and their families, reflects a commitment to sustainable growth, includes family representation, recognizes the importance of child care in sustaining employment for parents and recognizes the value of new forms of cooperation among government, business and society in achieving the goals of the plan; and

(b) For overall investment and prioritization of early childhood and education programs, services and initiatives and to address workforce education and training issues, utilization of community partners across the state and investments in technology and infrastructure; and [2007, c. 683, Pt. A, §2 (NEW).]

C. Reporting by January 15, 2011 and every 2 years thereafter at the start of the first regular session of the Legislature to the Governor and the one or more joint standing committees of the Legislature having jurisdiction over health, human services, taxation and education matters on the activities and accomplishments of the council and its long-term plan for investment in the healthy development of young children, and issuing such other reports as the council determines to be appropriate. [2011, c. 388, §3 (AMD).]

[2011, c. 388, §3 (AMD) .]

SECTION HISTORY
2007, c. 683, Pt. A, §2 (NEW). 2011, c. 388, §3 (AMD).

§24003. RECORDS AND MEETINGS

1. **Public records and meetings.** The records of the council are public records and meetings of the council are public meetings for the purposes of the State's freedom of access laws.

[2007, c. 683, Pt. A, §2 (NEW) .]

SECTION HISTORY
2007, c. 683, Pt. A, §2 (NEW).

§24004. REPEAL

(REPEALED)

SECTION HISTORY
2007, c. 683, Pt. A, §2 (NEW). 2009, c. 392, §2 (RP).

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