MAINE LEGISLATIVE DRAFTING MANUAL

1st Edition
October 1990

Revised through November 1994
Revised through January 1998
Revised through November 2000
Revised through October 2004
Revised through August 2009
Revised through October 2016
Revised through November 2022
Revised through October 2026

Published under the auspices of the
Legislative Council, Maine State Legislature

Office of the Revisor of Statutes
7 State House Station
Augusta, Maine 04333
(207) 287-1650
revisor.office@legislature.maine.gov

PREFACE

This edition of the Maine Legislative Drafting Manual, the eighth revision since October 1990, is intended to be a guide to the form, format and legislative style that should be used in preparing and editing legislative text. The changes made in this edition are technical in nature for the most part, including updating of references and examples.

This edition of the Maine Legislative Drafting Manual is offered to the user in the same spirit as previous revisions: to foster and improve the high quality of Maine law. We welcome your comments and suggestions for ways to improve this manual to make it a more useful tool for your legislative drafting.

Edward A. Charbonneau
Revisor of Statutes
October 2026

PART I: THE DRAFTING PROCESS 1

CHAPTER 1: CLOTURE AND INTAKE 2
Section 1. Cloture 2
Section 2. Authority for introduction, sponsorship 2
A. Legislators 2
B. Governor 3
C. Executive branch departments 3
D. Other 3
Section 3. Intake 3
A. Sufficiency of information 3
B. Interviewing process 4
Section 4. Legislative confidentiality 4
Section 5. Legislative numbering 5
CHAPTER 2: THE INITIAL DRAFT 8
Section 1. Preliminary research and resources 8
A. Maine Revised Statutes Annotated 8
B. Maine Key Number Digest 9
C. History and disposition; old legislative documents as models 9
D. Laws of the State of Maine 9
E. Index to private and special laws 9
F. Department rules 9
G. Study reports 10
H. Laws of other states 10
I. Uniform and model acts 10
J. The Law and Legislative Reference Library 10
K. Legislative staff 10
L. Other resources 10
Section 2. Writing 10
A. Structure 10
(1) Mark-up 11
(2) Cut-and-paste 11
(3) Electronic 11
B. Final review 11
Section 3. Draft processing 12
A. Legal review 12
B. Technical processing 12
C. Editing and proofreading 12

PART II: FORM AND FORMAT OF LEGISLATIVE INSTRUMENTS 14

CHAPTER 1: BILLS 15
Section 1. Types of bills 15
A. Public law 15
B. Private and special law 15
Section 2. Elements of bills 15
A. The title 15
B. Preambles 16
(1) The mandate preamble 16
(2) Change in use of land held for conservation or recreation purposes 17
(3) Confirmation process change 17
C. The emergency preamble 17
D. The enacting clause 18
E. The main body of the bill 18
(1) Short title sections 18
(2) Purpose clauses 19
(a) Constitutional challenge 19
(b) Major changes to existing law 19
(c) Model or uniform act 19
(3) Definitions 20
(a) Clarity and consistency 20

(b) Difficult or technical words 20
(c) Substitutes 20
(4) General rules, permanent provisions and most significant provisions 21
(5) Subordinate provisions, temporary provisions and exceptions 21
(6) Penalty or enforcement provisions 21
(7) Housekeeping 21
(a) Revision clause 21
(b) Staggered terms 22
(c) Savings or application clause 22
(d) Transition clause 23
(e) Implementation provisions 24
(f) Severability clause 24
(g) Nonseverability clause 24
(h) Appropriations and allocations sections 25
(i) Retroactivity clause 26
(j) Repeal clause 26
(k) Effective date and contingent effective date clause 26
(l) Emergency clause 28
(m) Referendum clause 28
F. Fiscal note 29
G. Summaries and comments 29
Section 3. Technical style 31
A. General organizational rules 31
(1) Arrangement by type of law affected 31
(a) Maine Revised Statutes 32
(b) Public laws 32
(c) Private and special laws 32
(d) Resolves 33
(e) Unallocated laws 33
(2) Conflicting law 33
B. Technical rules 33
(1) The Maine Revised Statutes 33
(a) Structure of the Maine Revised Statutes 33
(b) Amending clauses and legislative actions 35
(c) Section structure 37
(d) Title; headnotes 37
(e) Lead-ins 37
(2) Unallocated law 38
(a) New law 38
(b) Existing law 38
Section 4. New drafts 38
Section 5. Examples of complete bills 38
CHAPTER 2: RESOLVES 43
Section 1. Elements of a resolve 43
A. Title 43
B. The emergency preamble 43
C. Preamble 44
D. The main body 44
E. Fiscal note and summary 45
Section 2. Technical style 45
A. Enacting new law 45
B. Amending existing law 45
Section 3. Example of complete resolve 45
CHAPTER 3: CONCEPT DRAFTS 47
CHAPTER 4: CONSTITUTIONAL RESOLUTIONS 48
Section 1. Elements of constitutional resolution 48
A. The title 48
B. The preamble 48
C. The main body 48
D. The referendum provision 49

E. The effective date 51
F. Summary 51
Section 2. Technical style 51
A. Structure of the Constitution 51
B. Proposed changes to the Constitution 51
Section 3. Example of complete constitutional resolution 52
CHAPTER 5: RESOLUTIONS 54
Section 1. Joint resolutions; elements 54
Section 2. Senate or House resolutions 55
Section 3. Memorials; elements 55
Section 4. In memoriam; elements 57
CHAPTER 6: ORDERS 59
Section 1. Elements of an order 59
A. The preamble. 59
B. The introductory phrase 59
C. The body 59
Section 2. Common types of orders; examples; forms 59
A. Congratulatory orders or legislative sentiments 59
B. Orders to recall bills 60
C. Orders to report out bills 62
(1) Form when bill exists and is in committee 62
(2) Form when no bill exists, but order supplies title 62
(3) Form when no bill exists and order does not supply title 62
D. Orders of adjournment 62
(1) Form for adjournment until a specified date 63
(2) Form for adjournment without day 63
(3) Form for adjournment until Veto Day 63
E. Orders concerning the rules 63
(1) Form for changing Joint Rules (by joint order) 63
(2) Form for changing Senate Rules by Senate order or House Rules by House order 63
F. Orders to carry over bills 63
G. Study orders 65
H. Other uses of orders 65
CHAPTER 7: AMENDMENTS 66
Section 1. Types of amendments; processing of amendments 66
A. Committee amendments 66
B. Floor amendments 66
(1) Senate amendments 66
(2) House amendments 66
C. Committee of conference amendments 66
Section 2. Amendments to the second degree 67
Section 3. Elements 67
A. Heading 67
B. Introductory paragraph 67
C. Body of the amendment 68
D. Fiscal note 68
E. Summary 68
Section 4. Technical style 69
A. Printer instructions 69
B. Amendatory language 69
C. Numbering 69
D. Quotation marks 70
Section 5. Examples 70
A. The bill, H.P. 153, L.D. 205 70
B. Committee Amendment "A" to H.P. 153, L.D. 205 71
C. House Amendment "A" to Committee Amendment "A" to H.P. 153, L.D. 205 72

PART III: STYLE AND GRAMMAR 74

CHAPTER 1: STYLE 75
Section 1. Audience 75

Section 2. Clarity 75
A. Overdrafting 75
B. Vagueness 76
Section 3. Consistency 76
Section 4. Legislative objective: the legislative sentence 76
A. Legal rule 77
(1) Legal subject 77
(2) Legal action 77
B. Limitations on application 77
(1) Case 77
(2) Conditions 78
(3) Drafting an exception to a provision 79
C. Putting the sentence together 80
Section 5. Outlining 80
A. When to outline 80
(1) Subordinate clauses or ideas 80
(2) Complicated text 81
(3) Formulas 81
B. Outlining sections 82
C. When to use a paragraph 82
(1) Existing language 82
(2) Series; lists 82
D. Flushing left 84
Section 6. Indented and blocked paragraphs 84
Section 7. Voice 86
A. Active vs. passive 86
B. Acceptable uses of passive voice 87
(1) Old or repeated information 87
(2) Noun strings 87
(3) Gender-specific language 87
Section 8. Tense 87
A. Present tense 87
B. Past tense 88
C. Future tense 88
Section 9. Person 89
Section 10. Singular and plural 89
Section 11. Nominal style 89
Section 12. Splitting verbs and word groups 90
Section 13. Modifiers 91
A. Placement of modifiers 91
B. Dangling participles 91
C. Noun strings as modifiers 92
Section 14. Gender 92
A. Intentional gender distinctions 93
B. Proper nouns and adjectives 93
C. Common nouns and adjectives 93
(1) Familial relationships 94
(2) "Person" as suffix 94
D. Words with legal meanings or general acceptance 95
E. Pronouns 95
(1) Repeating the noun 95
(2) Possessive pronouns 95
(3) Verbal expression 95
(4) Plurals 96
(5) "Who," "which" or "that" 96
(6) Passive voice 96
(7) "If" or "when" 97
(8) "The other" 97
(9) Recasting 97
(10) Reflexive pronouns 97

(11) Person, partnership or corporation 98
CHAPTER 2: WORD CHOICE AND USAGE 99
Section 1. Legal action verbs: shall, must and may 99
A. Mandatory and permissive language 99
(1) Shall 99
(a) Used to impose a duty 99
(b) Not for objects or concepts 99
(c) Not used in describing condition 99
(d) Not used to confer a right 100
(e) Future law 100
(2) Must 100
(a) When not a person 100
(b) To express requirements 101
(c) In describing condition to be met 101
(3) May 101
(4) Will 101
B. Prohibitive and restrictive language 101
(1) Prohibiting action 101
(2) Negating duty or condition 102
(3) Negating right or privilege 102
Section 2. Jargon 102
Section 3. Non-English terms 102
Section 4. Acronyms, abbreviations and symbols 103
A. Statutory text 103
(1) Common symbols and abbreviations 103
(2) Statutorily defined abbreviations 103
(3) Proper names 103
(4) Special materials 103
(5) Land descriptions 103
B. Summary 104
Section 5. Numbers 104
A. Cardinal numbers 104
(1) General rule 104
(2) The number "one" 104
B. Ordinal numbers 105
(1) General rule 105
(2) Use of "1st" for certain dates 105
(3) Other exceptions 105
C. Fractions 106
D. Percentages 106
E. Ranges of numbers 106
Section 6. Dates; time and time periods 106
A. Dates 106
B. Time; time periods 107
Section 7. Age 108
Section 8. Relative pronouns; restrictive and nonrestrictive clauses: that, which and who 108
A. Relative pronouns 108
B. Restrictive and nonrestrictive clauses 109
(1) That 109
(2) Which 109
(3) Which + noun 109
Section 9. References to committees 110
Section 10. Proper names 111
Section 11. Selected problem words 111
A. "And" and "or" 111
B. "Assure," "ensure" and "insure" 112
C. "Attorney's fees" 112
D. "Biannual" and "biennial" 112
E. "Deem" 112
F. "Each," "every," etc. 112

(1) "Each" or "every" ... 112
G. "Oral" and "verbal" ... 113
H. "Person" and "individual" ... 113
I. "Respectively" and "as the case may be" ... 113
(1) "Respectively" ... 113
(2) "As the case may be" ... 113
J. "Rules" and "regulations" ... 113
K. "Such" and "said" ... 113
L. "There" ... 114
Section 12. Forbidden and preferred words and phrases ... 115
A. Couplets ... 115
(1) Avoid the use of redundant couplets ... 115
(2) Avoid the use of inconsistent couplets ... 115
B. Indefinite or archaic words ... 115
C. Simple language ... 116
Section 13. Respectful language ... 118
CHAPTER 3: CAPITALIZATION ... 120
Section 1. General capitalization rules ... 120
A. Initial word ... 120
B. Proper nouns ... 120
C. Titles; specific titleholders ... 120
(1) Maine titles ... 120
(2) National titles ... 121
Section 2. Specialized capitalization rules ... 121
A. Governmental bodies ... 121
(1) Generally ... 121
(2) Courts ... 121
(3) Federal and State ... 121
(4) Legislature ... 121
B. Legal instruments and documents ... 122
(1) Acts ... 122
(2) Resolves ... 122
(3) Law ... 122
(4) Constitution ... 122
(5) Legislative documents and legislation ... 122
(6) Revised Statutes ... 122
(a) Headnotes ... 122
(b) Paragraphs, subparagraphs, divisions and subdivisions ... 122
(c) Subunits ... 123
(7) Bill titles ... 123
(a) Hyphenated terms ... 123
(b) Miscellaneous rules ... 124
C. Funds ... 124
D. Specific tables ... 124
E. Table and column headings ... 124
F. Letters ... 124
G. Abbreviations ... 124
H. Hyphenated words ... 124
CHAPTER 4: PUNCTUATION ... 125
Section 1. Periods ... 125
Section 2. Commas ... 125
A. Series ... 126
B. Clauses and phrases ... 126
(1) "When," "if," "unless" or "which" clause ... 126
(2) Interrupting expressions ... 126
(a) Appositive word or phrase ... 126
(b) Parentheticals ... 126
(c) Nonrestrictive clauses or phrases ... 127
(3) Restrictive clauses ... 127
C. Multiple adjectives ... 127

Section 3. Semicolons 127
Section 4. Colons 128
Section 5. Parentheses 128
Section 6. Brackets 128
Section 7. Quotation marks 128
Section 8. Hyphenation 129
A. Compound adjectives 129
B. Adverb or adjective ending in -ly 129
C. Certain prefixes 129
D. Civil and military titles 130
E. Foreign phrases as adjectives 130
CHAPTER 5: CITATION 131
Section 1. Maine materials 131
A. Constitution of Maine 131
(1) Internal references 131
(2) External references 131
B. Maine statutes 131
(1) Internal references 131
(2) External references 132
(3) Repealed law 132
C. Public laws 132
(1) External cites 132
(2) Internal cites 132
D. Private and special laws 132
E. Resolves 132
(1) External cites 132
(2) Internal cites 133
F. Constitutional resolutions 133
G. Citations to Maine rules 133
(1) Courts of the State 133
(2) Reference to department or agency rules of the State 133
Section 2. Federal materials 133
A. United States Constitution 133
B. Citations to federal statutes 134
(1) Code citation 134
(a) Official name 134
(b) Title number 134
(c) Year 134
(2) Exception; citation to an original act 134
(a) Federal delineation 134
(b) Official name 134
(c) Public law number 134
(d) Year 134
C. Rules and regulations 134
(1) Code of Federal Regulations 135
(2) Federal Register 135
D. Treasury materials 135
Section 3. Citations to court opinions and opinions of the Attorney General 135

PART IV: SPECIALIZED DRAFTING SITUATIONS 136

CHAPTER 1: REFERENDA 137
Section 1. Statutory referenda 137
Section 2. Advisory referenda 138
Section 3. Local referenda 138
CHAPTER 2: STATEWIDE BOND ISSUES 140
CHAPTER 3: CRIMINAL PENALTIES, CIVIL VIOLATIONS AND THE MAINE CRIMINAL CODE 143
Section 1. Introduction; initial questions 143
Section 2. Drafting 143
A. Criminal violations 143
(1) Classification 143

(a) Exceptions ... 144
(b) Felonies and misdemeanors ... 145
(2) Format ... 145
(3) State of mind (*mens rea*) ... 146
(4) Subsequent violations ... 146
(5) Statute of limitation; restitution ... 147
B. Civil violations ... 147
(1) Format ... 147
(2) Fines ... 147
(3) Civil penalties ... 147
(4) Subsequent violations ... 148
(5) Additional provisions regarding civil violations ... 148
C. Enforcement through civil action ... 149
Section 3. Differences between crimes and civil violations ... 149
CHAPTER 4: REQUESTS FOR OPINIONS OF THE JUSTICES OF THE SUPREME JUDICIAL COURT ... 151
CHAPTER 5: UNIFORM LAWS ... 154
CHAPTER 6: MUNICIPAL ORGANIZATION, BOUNDARIES AND OTHER REAL ESTATE MATTERS ... 155
Section 1. Converting a plantation to a town ... 155
Section 2. Changing boundaries ... 156
Section 3. Deorganization ... 157
Section 4. Annexation ... 161
Section 5. Secession of territory ... 163
Section 6. Conveyance of state land ... 168
CHAPTER 7: INCORPORATION BY REFERENCE ... 170
CHAPTER 8: INITIATED BILLS ... 173
CHAPTER 9: STATUTORY INCONSISTENCIES, CONFLICTS AND ERRORS ... 174
CHAPTER 10: ACTIONS RELATING TO THE UNITED STATES CONSTITUTION ... 176
CHAPTER 11: LEGISLATIVE STUDIES ... 179
CHAPTER 12: APPROPRIATIONS AND ALLOCATIONS ... 183
Section 1. Overview ... 183
Section 2. Initiative description ... 184
Section 3. Appropriations and allocations section formats ... 185
Section 4. Specialized executive branch budget drafting ... 188
Section 5. Examples of appropriation sections ... 188
CHAPTER 13: MANDATES ... 198
CHAPTER 14: PUBLIC RECORDS EXCEPTIONS AND CONFIDENTIALITY PROVISIONS ... 199
Section 1. Overview ... 199
Section 2. Allocating the exception of the statutes based upon its breadth ... 199
Section 3. Drafting public records exceptions and confidentiality provisions ... 199
A. Designating a record confidential ... 200
B. Authorizing the disclosure of a confidential record to a certain person ... 200
C. Authorizing the disclosure of a confidential record with permission ... 200
D. Authorizing the disclosure of a confidential record for certain purposes ... 200
E. Authorizing the disclosure of a confidential record to third parties with conditions ... 201
F. Authorizing the disclosure of aggregated or summarized data when individual records are confidential ... 201
G. Making a confidential record public upon the occurrence of certain events ... 201
H. Prohibiting the disclosure of a confidential record through compulsion or judicial process ... 202
BIBLIOGRAPHY ... **203**
INDEX ... **205**

PART I
THE DRAFTING PROCESS

CHAPTER 1
CLOTURE AND INTAKE

Section 1. Cloture

All proposed legislation must be submitted to the Office of the Revisor of Statutes prior to its introduction. The date by which legislative drafting requests must be filed in the Office of the Revisor of Statutes is referred to in Maine as "cloture." The guidelines for the filing of requests are set forth in the Joint Rules of that Legislature. Although the Joint Rules adopted by each specific Legislature may vary, past Legislatures have consistently adopted Joint Rules requiring that:

- Requests for bills or resolves be submitted to the Office of the Revisor of Statutes on behalf of state departments, agencies or commissions on or before the first Wednesday in December or within 30 days after a newly elected Governor takes the oath of office.

- Requests filed after established cloture deadlines be reviewed and approved by the Legislative Council.

- During the first regular session, all requests by Legislators for bills and resolves be submitted to the Office of the Revisor of Statutes on or before a specified date following the convening of the session in December.

- The Legislative Council establish a cloture date and procedures for submission of bill requests for the second regular session.

- Requests by Legislators for bills be filed with the Office of the Revisor of Statutes and be accompanied by "sufficient instructions, information and data required for its preparation." (Note that concept drafts do not require the submission of the same amount of information. A discussion of concept drafts may be found on page 47.)

Bill requests submitted after the cloture deadline are submitted to the Legislative Council for review and approval. The Office of the Revisor of Statutes will not begin drafting or processing an after deadline request unless at least 6 members of the council vote to accept the proposal for introduction.

Section 2. Authority for introduction, sponsorship

Each legislative instrument must have a proper authority for introduction. Although bill requests may come from a wide variety of sources, including state agencies, study groups, joint standing committees and Legislators, bills may be introduced only by the following authorities.

A. Legislators. The majority of bills are authorized for introduction as Legislators' bills filed before or after the filing deadline. As provided in the Joint Rules, these bills have a primary sponsor and may have one lead cosponsor from the other chamber and up to 8 other cosponsors from either chamber. Except through the direct initiative process set forth in Article IV, Part Third, Section 18 of the Constitution of Maine, citizens, interest groups and lobbyists cannot introduce legislation; they must have a Legislator who agrees to sponsor their bills.

B. Governor. Historically, the Joint Rules have not placed limits on the ability of the Governor to submit bills at any time during the legislative session. Bills that originate from the Governor's office have a primary legislative sponsor and may have one lead cosponsor from the other chamber and up to 8 other cosponsors from either chamber. A Governor's bill indicates on the bill jacket its origin.

C. Executive branch departments. Bills that originate from the executive branch departments follow the same rules of sponsorship as Legislators' bills and Governor's bills but also routinely bear a legend on the bill jacket indicating the bill's origin.

Example:

> Submitted by the Department of Health and Human Services pursuant to Joint Rule 204.

D. Other. Bills may also be submitted pursuant to other authorities, such as a public law, a resolve, a private and special law, the Maine Revised Statutes, a joint order or a legislative rule. Bills submitted under these authorities do not have sponsors. Instead, these bills bear appropriate legends on the bill jackets indicating their authority.

Examples:

> Submitted by the Joint Standing Committee on Judiciary pursuant to Resolve 2021, chapter 78, section 1.
>
> Submitted by the Joint Standing Committee on Transportation pursuant to Joint Order 2021, S.P. 734.
>
> Submitted by the Commission on Governmental Ethics and Election Practices pursuant to the Maine Revised Statutes, Title 1, section 1009.

Section 3. Intake

Intake, which is the receipt and initial processing of legislative requests, is a crucial step in the drafting process. Inadequate intake can lead to frustration on the part of both drafter and sponsor and wasted time and effort on the part of everyone involved in the drafting process.

A. Sufficiency of information. Under the Joint Rules, with the exception of concept drafts, a request filed by a Legislator is considered complete when the request is properly titled and accompanied by sufficient instructions, information and data required for its preparation.

A request is complete if an experienced drafter, working with the information and directions contained in the request or with generally available reference materials specified in the request, is able to draft a bill that is suitable for introduction. If not, the sponsor is informed by the Revisor

that the request is incomplete, and unless sufficient information is provided within 5 business days, the Joint Rules provide that the bill request may be denied.

B. Interviewing process. The interviewer's job during intake is to ask questions to determine what the problem is that the sponsor wants addressed, the relevant facts creating the background for the request and what approach the sponsor wishes to follow to address the problem.

- If a bill would create a new statutory program, the interviewer should ask the sponsor to specify the targeted or affected population; the person or entity that will implement, administer or oversee the program; the authority that person or entity has to carry out its duties; and the source of funding to support the program.

- If a bill would "make it against the law" to commit some act or fail to undertake some action, the interviewer should ask what the sponsor intends as the penalty for the violation or as the enforcement mechanism to ensure compliance.

- If the bill is to be drafted as an emergency measure (see pages 17 to 18), the interviewer should ascertain the facts and circumstances that necessitate enactment of the bill as an emergency measure.

In addition, the interviewer should ask the sponsor where the idea for the bill originated since the answer received often may lead to a valuable resource. If the sponsor wishes to model a bill on a proposal from a prior session, the interviewer should ask the sponsor whether any proposed amendments to that bill should be incorporated.

If the bill requires rulemaking (see pages 9 to 10), the interviewer should ask the sponsor if the rules would be major substantive rules, requiring review by the Legislature, or routine technical rules, not requiring review by the Legislature.

The interviewer should record clearly all of the information provided during intake because the request may ultimately be drafted by someone else.

Section 4. Legislative confidentiality

Under the freedom of access provisions contained in the Maine Revised Statutes (see Title 1, section 402, subsection 3, paragraph C), legislative bill requests and related working papers are exempt from disclosure during the legislative session or sessions in which the papers are prepared or considered or to which the papers are carried over. All such materials become public at the end of the session in which they are prepared or to which they are carried over.

The Joint Rules, however, specify that the names of sponsors and the titles of requests for bills and resolves submitted by Legislators or by departments, agencies or commissions become public information upon filing, unless the Legislator, department, agency or commission directs that the title remain confidential until cloture. Under the Joint Rules, titles of requests for bills and resolves submitted by the Governor are considered public information upon filing unless the Governor has directed that a particular title remain confidential until the bill or resolve is printed.

In addition, the policies and guidelines established by the Legislative Council authorize the release to a presiding officer, the Secretary of the Senate or the Clerk of the House information regarding the aggregate number and status of bills, amendments and orders not yet released. With respect to floor amendments only, these policies and guidelines authorize sufficient access by each leader, the Secretary of the Senate and the Clerk of the House to information regarding the number of unreleased floor amendments filed by Legislators that relate to impending action on bills in the House and Senate unless the sponsor has indicated that the fact of such filing must remain confidential.

The Legislative Council has adopted a comprehensive policy on legislative confidentiality that provides, among other things, that:

- Legislative staff may prepare or change drafts of bills or amendments only for Legislators or others who have authority to introduce legislation;

- Drafts may be released only to the sponsor and persons that the sponsor has specifically designated; and

- Unless a Legislator has expressly waived confidentiality for all or a part of that Legislator's request, any information concerning a bill request is confidential, except for the title and sponsor's name. Nonpartisan staff may share confidential information with one another when necessary in accordance with their office policies.

Section 5. Legislative numbering

When a bill request is received by the Office of the Revisor of Statutes, it is entered into a computerized tracking system by its title and the name of the sponsor or other authority. It is then assigned a Legislative Request (L.R.) number, which appears at the bottom of the page of all drafts. L.R. numbers are assigned sequentially, based on chronological order of receipt. L.R. numbers cannot be requested or reserved. Because the L.R. number is used by the nonpartisan staff offices to track drafts before they are introduced as bills, anyone inquiring about the status of a draft should refer to the L.R. number.

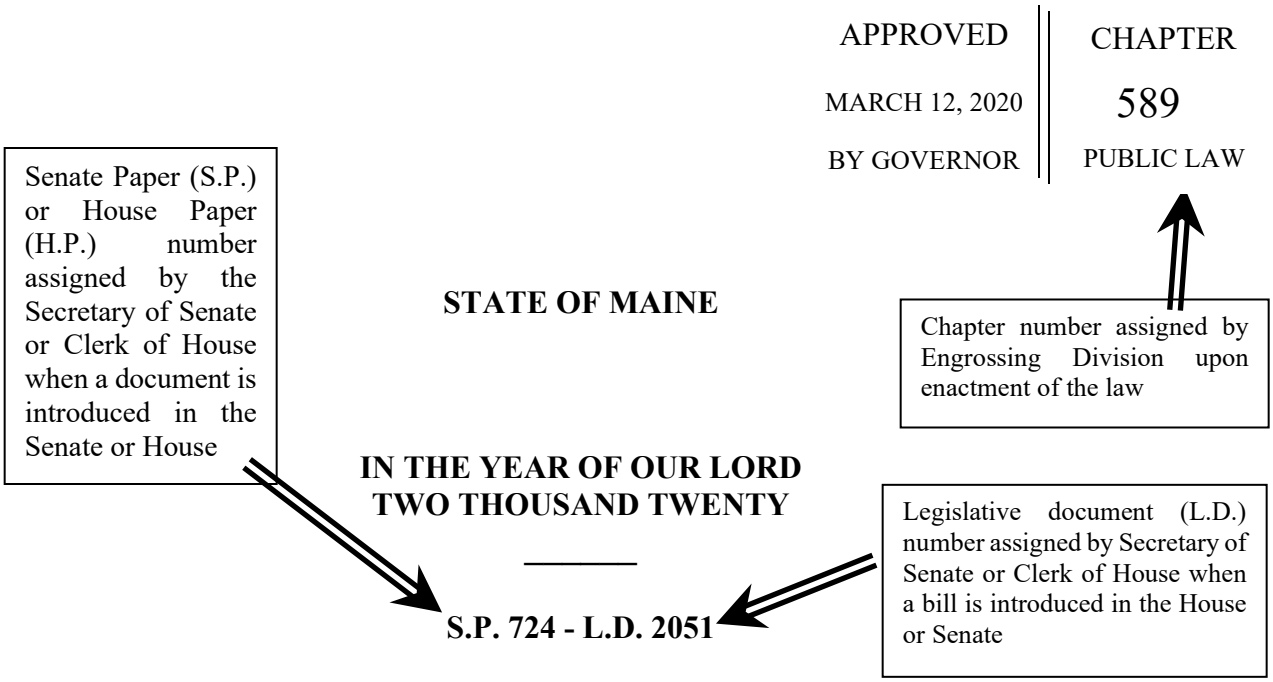
When a bill is introduced in the House or Senate, it is given a Legislative Document (L.D.) number and it is also assigned a House Paper or Senate Paper number (e.g., H.P. 123 or S.P. 456).

Amendments or other subsequent requests relating to the bill are given the L.R. number of the original bill request, along with an item number suffix (e.g., L.R. 1288 (2)) that identifies the particular document. If the amendment is printed, the Clerk of the House or Secretary of the Senate assigns it an amendment letter (e.g., Committee Amendment "A") and a filing number (e.g., H-749).

When a bill is enacted by the Legislature, the enactor receives its own item suffix, which appears at the bottom of the page. If the bill becomes law, it is assigned a chapter number by the Engrossing Division of the Office of the Revisor of Statutes. Chapter numbers are issued sequentially, based on the type of the enacted law (e.g., Public Law 2021, chapter 1 is followed by

Public Law 2021, chapter 2, etc., but the first enacted resolve is designated Resolve 2021, chapter 1, and so on). The following page contains an example, with annotations, of a public law.

EXAMPLE:

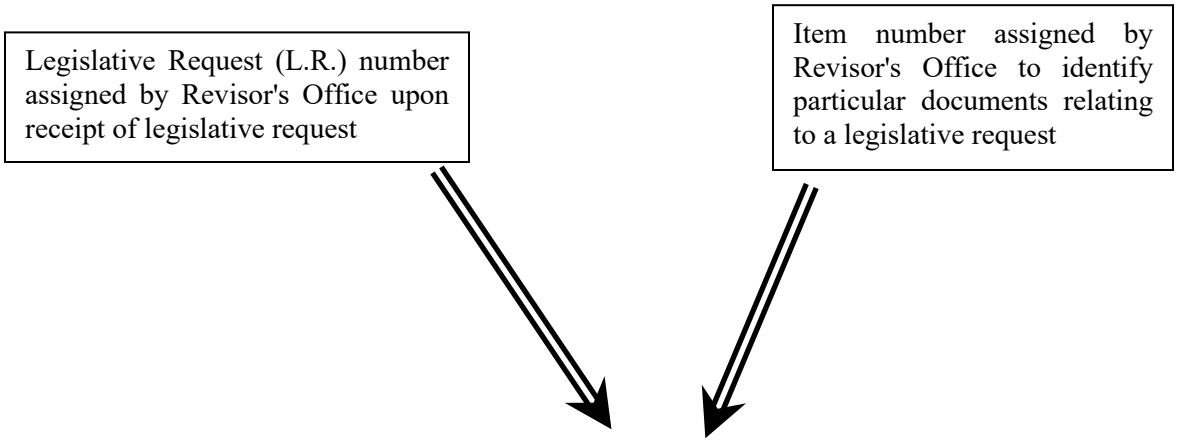


An Act to Amend the Qualifications for the State Nuclear Safety Inspector

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

Sec. 1. 22 MRSA §663-A, sub-§1, as enacted by PL 2007, c. 539, Pt. KK, §2, is amended to read:

1. Qualifications. The State Nuclear Safety Inspector must be an individual knowledgeable in the field of commercial nuclear power production and possess, at a minimum, a ~~master's~~ bachelor's degree with major work in nuclear, mechanical, electrical or chemical engineering and have at least ~~3~~ 4 years' experience in nuclear operations.



CHAPTER 2
THE INITIAL DRAFT

The goal of a drafter of legislation is to compose in words a legislative document that clearly, simply and accurately expresses the intent of the sponsor, committee or commission in a simple and clear manner. Drafting involves much more than converting an idea into words. The drafter must first gain a clear understanding of both the intended goal and the existing legal and factual framework, create a broad outline with which to work, carefully cover the significant details and add the fine touches to polish the draft. The drafter must make sure that the proposal, when drafted, is consistent with existing law. This chapter identifies the important sources that must be considered and highlights important steps in the drafting process.

Section 1. Preliminary research and resources

In preparing an initial draft, the drafter must consider the existing legal and factual framework and develop a draft that is consistent with that framework.

The United States Constitution, the Constitution of Maine, the Maine Revised Statutes, federal law, judicial decisions and opinions of the Attorney General provide parameters and guidance for drafting. In addition, the following tools, documents and resources are available to the drafter, though not all of these resources will be useful in the drafting of every bill.

A. *Maine Revised Statutes Annotated.* *Maine Revised Statutes Annotated* (MRSA), published by Thomson Reuters Publishing Company in cooperation with the Office of the Revisor of Statutes, contains the text of the Maine Revised Statutes. Included after each section are very brief library references, historical and statutory notes or summaries of case law or Attorney General opinions. The summaries of case law reflect opinions issued by the Maine Supreme Judicial Court and various federal courts that have interpreted the Maine statutes.

Text contained in a bound volume may have been updated since that volume was published. Updated text and recent annotations are contained in annual "pocket parts" at the back of each volume or in separate softbound supplementary pamphlets. It is essential that a drafter consult the pocket part or supplementary pamphlet as well as the bound volume. In certain cases, additional changes may have been made since the pocket part was published. If so, these changes may be located using *Laws of the State of Maine*, Thomson Reuters' *Maine Legislative Service* and recent chaptered laws. It is often necessary to read the bound volume, the pocket part and the more recent changes together in order to understand correctly the law that is currently in effect. MRSA also contains an annually updated subject index that references the Title and section of statutes on each subject.

The Maine Revised Statutes are also available online through the Office of the Revisor of Statutes at the following website: https://legislature.maine.gov/statutes/. This electronic version of the Maine Revised Statutes is fully searchable by Title, section or phrase. The online version is updated annually following a legislative session, so any changes made between updates will not be reflected in the online version.

B. *Maine Key Number Digest.* The *Maine Key Number Digest*, also published by Thomson Reuters Publishing Company, brings together under one standard classification system annotations of opinions of the Maine Supreme Judicial Court and the Maine Attorney General and of the federal courts when those federal courts construe Maine law. A brief annotation summarizing the holding of each case is included, along with a citation to the *Atlantic Reporter* or the appropriate federal reporter.

C. History and disposition; old legislative documents as models. Two publications provide access to relevant documents from previous sessions; they are often good models on which to base drafts.

The Legislative Information Office compiles a record of the actions taken on all legislation introduced in each legislative session, the dates on which actions were taken and the final disposition of the legislation. Following each legislative session, a paperbound volume is published by the Legislative Information Office entitled *History and Final Disposition of Legislative Documents*. It lists the title, legislative history and disposition of all legislation introduced at that session.

The Office of Policy and Legal Analysis and the Office of Fiscal and Program Review publish the *Legislative Digest of Bills and Summaries of Enacted Laws*, which provides the disposition of all bills and briefly summarizes the content of every enacted law. Copies of these publications are available in the Law and Legislative Reference Library and online at https://legislature.maine.gov/opla/enacted-laws.

D. *Laws of the State of Maine.* The *Laws of the State of Maine* contains all of the laws enacted in any given session of the Legislature, including private and special laws and resolves not found in the Maine Revised Statutes.

Each annual volume of the *Laws of the State of Maine* contains a subject index and a cross-reference table to the statutes.

The *Laws of the State of Maine,* beginning with the session laws from the 117th Legislature, is also available online through the Office of the Revisor of Statutes at https://legislature.maine.gov/ros/LawsofMaine/. This electronic version of the *Laws of the State of Maine* is fully searchable.

E. Index to private and special laws. The Office of the Revisor of Statutes maintains a cumulative subject index covering all private and special laws enacted by the Legislature. This index should be checked if the drafter suspects that the requested legislation may have been the subject of previous special legislation.

F. Department rules. Statutes often give departments or agencies authority to issue rules that implement legislative policies or that provide a level of detail not appropriate in legislation. When adopted in accordance with the Maine Administrative Procedure Act, these rules have the force of law. A drafter should ascertain whether department or agency rules have been issued covering the subject area in question and how the sponsor wishes to proceed in light of these rules. The bill should explicitly set forth the proposed policy in statute, and any departmental rules that

conflict with that policy would necessarily have to be altered to conform with the statute. If the legislation delegates rule-making authority to departments or agencies, the rules adopted must be identified as either "routine technical" or "major substantive," depending on the level of legislative oversight required (see 5 MRSA c. 375, sub-c. 2-A).

G. Study reports. Committees and commissions directed to study a particular issue or subject are usually required to submit a report. The completed report is often accompanied by proposed legislation, which can provide a good model from which to draft later proposals relating to the same subject. Study reports are published and are available online at https://legislature.maine.gov/opla/completed-study-reports.

H. Laws of other states. Because problems that affect Maine frequently affect other states, a drafter may find that legislation similar to the request being drafted has been considered or enacted in another state. Legislation enacted in other states may be found in the annual *Shared State Legislation* published by the Council of State Governments. Westlaw and the Internet are two good resources. Of course, legislation based on another state's law may need to be significantly altered in order to fit substantively and stylistically with Maine's laws.

I. Uniform and model acts. The National Conference of Commissioners on Uniform State Laws prepares uniform acts, which it publishes in *Uniform Laws Annotated* and on its website at https://www.uniformlaws.org.

J. The Law and Legislative Reference Library. The Law and Legislative Reference Library maintains materials on subjects of legislative interest, including information on programs of other states; uniform state legislation; copies of bills and resolutions introduced in previous sessions of the Legislature; and comprehensive studies of particular problems compiled by various public and private groups from this State and other states. The library maintains a website at https://legislature.maine.gov/lawlibrary/.

K. Legislative staff. The Office of the Revisor of Statutes (ROS), the Office of Policy and Legal Analysis (OPLA) and the Office of Fiscal and Program Review (OFPR) have extensive expertise and, depending on the nature and source of an inquiry, may be able to offer assistance.

The personnel in OPLA and OFPR specialize in working with the joint standing and select committees of the Legislature and legislative and special study groups and can provide the drafter with information. The analysts in OPLA have expertise in specific policy areas, and the analysts in OFPR have expertise in the area of tax policy as well as expertise in fiscal issues in specific subject areas.

L. Other resources. The Attorney General's Office, state agencies, independent agencies and nongovernmental resources such as lobbyists, persons in business or industry and representatives of public service or interest groups may all be useful resources to the drafter.

Section 2. Writing

A. Structure. After completing any necessary research and before beginning to write, the drafter should determine the structure of the draft. The subject of a bill may determine the structure

of the draft. For instance, if a bill will include a set of new procedures, the draft should follow the chronological order of those procedures. When the structure of a bill is not as apparent, outlining is a particularly important first step in order to ensure the draft follows a logical and coherent progression.

In structuring a bill, normally:

- General provisions precede special provisions;
- More central provisions precede more peripheral provisions;
- Permanent provisions precede temporary provisions; and
- Technical or housekeeping provisions appear last.

Refer to Part II of this manual for more specific rules on the form and format of proposed legislation. In addition to composing a draft from scratch, the drafter may find the following methods useful.

(1) Mark-up. To use the mark-up method, the drafter uses a photocopy or printout of the existing law as it appears either in the Maine Revised Statutes or in *Laws of the State of Maine,* either of which may be downloaded from the Maine law website (https://legislature.maine.gov/ROS/publications/9173), and marks the desired changes by striking through and underscoring the text, as appropriate. An old L.R. or L.D. also may be used. If the drafter uses the Internet version of the Maine Revised Statutes, it is necessary to ensure that the most recent session's laws have been incorporated into the draft. The online version of the Maine Revised Statutes is updated once annually following a legislative session. Any changes made during a session will not be reflected in the online version until after the annual update. The mark-up method obviates errors, such as omitting and inadvertently changing portions of existing law, that may occur if existing wording is rewritten or retyped.

(2) Cut-and-paste. The cut-and-paste method is similar to the mark-up method. It allows the drafter to insert blocks of text that make changes to existing law or that enact new law. This method and the mark-up method are helpful when the drafter uses existing statutory language as a model for the draft.

(3) Electronic. Drafts may be done in electronic format.

The Office of the Revisor of Statutes will accept legible drafts by any of these methods. Electronic drafts must be in Microsoft Word or RTF (rich text format) and will be accepted by e-mail or on flash drive. In addition, a hard copy of the draft should be submitted.

B. Final review. Before a draft is submitted to the Office of the Revisor of Statutes for processing, the drafter should double-check a few items. Are the sections numbered in order? Are all references and citations correct? Have terms been used consistently? Are internal and external cross-references consistent? The following checklist of items should be considered or addressed in most instances.

- Has the appropriate type of legislative instrument been chosen? (See Part II)
- Are there constitutional limits that apply to the draft?
- Is the draft consistent with all relevant statutes?
- Have conflicts with other laws been resolved?
- Are definitions needed?
- Have necessary administrative powers been included?
- Are appropriation and allocation provisions needed?
- Should an effective date be specified?
- Are the title and summary accurate?
- Are statutory cross-references correct?

More important, while ensuring the bill's technical, legal and grammatical elements are correct, the drafter must also ensure that the draft still reflects the bill's underlying purpose and intent.

After applying the above checklist to a draft, the drafter may wish to ask a colleague to read over the draft and suggest improvements.

After initial processing by the Office of the Revisor of Statutes, any changes made to a draft should be made on the printed version that has been produced by the Office of the Revisor of Statutes.

Section 3. Draft processing

A. Legal review. When a draft is submitted, it is first reviewed and, if necessary, revised by one of the legal staff in the Office of the Revisor of Statutes. The logical structure, the proposed allocation to the Maine Revised Statutes and the form and format are examined. The language is edited when necessary to conform with the legislative style and grammar explained in Part III of this manual, and any unnecessarily gender-specific terms are eliminated.

Questions concerning intent and clarity sometimes arise at this stage, and the sponsor or contact person designated by the sponsor should be asked when necessary to resolve these issues.

B. Technical processing. The technical processing of a draft is done by one or more legislative technicians in the Office of the Revisor of Statutes. Technicians supply the technical elements of legislative instruments, such as appropriate legislative histories, and may fix or point out errors made in drafts, such as amending a law that is already repealed, amending a law that is in conflict without addressing the conflict or making erroneous allocations to the Maine Revised Statutes.

C. Editing and proofreading. Following technical processing, proofreader/editors in the Office of the Revisor of Statutes edit the draft by checking for errors of grammar, punctuation, spelling, structure and arrangement and by helping ensure the draft's consistency, coherence, clarity

and conformity with this drafting manual. Proofreader/editors often offer suggestions or pose questions to address substantive ambiguities or inconsistencies in the draft. Proofreader/editor questions and suggestions are reviewed by the drafter. On occasion, it may be necessary for the drafter in responding to such questions and suggestions to consult with the bill's sponsor or the sponsor's contact person.

A draft goes through one or more cycles of legal review, technical processing and proofreading/editing until it is judged ready for introduction. At that point, the sponsor may either sign the draft or make changes. After incorporation of any final changes, the draft is sent to the sponsor for signature. It is then sent to the sponsor's chamber, and the Secretary of the Senate or the Clerk of the House assign a Senate Paper or House Paper number and L.D. number, suggest reference to the appropriate committee and order the bill printed. At that point, the draft is printed and is available publicly.

PART II
FORM AND FORMAT OF LEGISLATIVE INSTRUMENTS

After deciding what the objectives of a particular piece of legislation are, the drafter must determine which type of legislative instrument is proper to accomplish those objectives. Each type of legislative instrument is discussed in a separate chapter of this Part. The final version of each of these instruments is processed in the Office of the Revisor of Statutes.

CHAPTER 1
BILLS

Section 1. Types of bills

There are two types of bills that create or affect laws of potentially unlimited duration.

A. Public law. Public law bills propose laws that affect all of the people of the State or all persons or things of a particular class. Since these bills affect the general law, the sections of a public law bill that are of general or long-lasting application are almost always allocated to the Maine Revised Statutes; that is, they are placed somewhere in the existing statutory framework. Temporary provisions of a public law bill or housekeeping provisions are usually not allocated to the statutes but are drafted as unallocated law and placed at the end of the bill (e.g., transition provisions, retroactivity clauses, appropriations and allocations sections, effective date sections and emergency clauses; these are discussed on pages 21 to 29). An unallocated provision of law is published in *Laws of the State of Maine* but is not included in the Maine Revised Statutes.

B. Private and special law. A private and special law bill is distinguished from a public law bill in that it has a much narrower scope. A private and special law bill proposes a law that relates to particular persons or entities or to a class of particular persons or entities, or operates on or over a portion of a class instead of the entire class. For example, water and sewer districts are routinely created by means of a private and special law. A private and special law is not allocated to the Maine Revised Statutes, but appears in *Laws of the State of Maine*.

Occasionally, a bill will propose laws relating to the people of the State in general (public laws) as well as to particular entities (private and special laws). A drafter should avoid proposing public laws and private and special laws in the same bill since determining which provisions are of general application and locating and indexing the laws would be difficult. If combining them cannot be avoided, bills affecting both public and private and special laws are classified as public law bills.

Section 2. Elements of bills

The elements of a bill are listed below in the order in which they appear in bills. Bills need not contain all of the elements listed.

A. The title. The purpose of a bill title is to provide a general idea of the subject matter and scope of the bill. Titles of bills always begin: "An Act ..."

Unlike many other states, Maine has no constitutional requirement concerning the titles of bills, and titles do not have to be all-inclusive of the content of the bill. A title should be short and descriptive of the content and scope of the bill and should not attempt to be an exhaustive index of every subject covered by the bill. In addition, titles should not be overly broad or vague, such as "An Act Concerning Labor."

The title of a bill should state the subject of the bill in an objective manner. Avoid using editorial language in the title, such as "An Act to Improve the Moral Character and Health of the

Citizens of Maine by Prohibiting the Drinking of Liquor on Sunday." The Revisor of Statutes has authority under the Joint Rules to correct inaccurate, generalized or misleading bill titles.

Bill requests are given titles for filing, tracking and indexing purposes. The title of a bill, however, is not finalized until every other part of the bill is written. To ensure that the title accurately reflects the subject matter of the bill and is not misleading or incorrect, a drafter should draft the title to fit the bill; a drafter should never draft the bill to fit the title.

Similarly, when amending or redrafting a bill, the drafter should check the original title of the bill to be sure that the changes to the bill do not require a change in the title. This is particularly important in bills dealing with appropriations of funds where the amount of the appropriation is set out in the title and the amount is being changed.

Examples:

"An Act to Extend the Statute of Limitations for Medical Malpractice Cases"

"An Act to Clarify the Traffic Movement Standards Under the Site Location of Development Laws"

"An Act to Restrict Smoking in Enclosed Shopping Malls"

"An Act to Establish an Income Tax Exemption for National Guard Members and Certain Members of the Military"

B. Preambles. In addition to bond issues and constitutional resolutions, discussed beginning on pages 140 and 48, respectively, the Constitution of Maine provides that passage of certain other bills by the Legislature requires greater than a majority vote; such measures begin with a preamble specifying the required vote that appears directly after the bill title and before the emergency preamble, if an emergency preamble is used. The most common of these measures are discussed below. When a bill contains more than one preamble, the preambles should be connected with "; and"

(1) The mandate preamble. The Constitution of Maine, Article IX, Section 21 provides that, if a bill requires a local unit of government to expand or modify its activities and to expend additional funds from local revenues but does not provide funding for at least 90% of those expenditures, passage of the bill requires an affirmative vote of 2/3 of all the elected members of each House for the bill to be binding on the local unit of government. A bill imposing a state mandate may be enacted without a 2/3 vote, but its mandate provisions will not be binding on local units of state government.

Example:

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide

funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

If a legislative document containing a mandate preamble also includes another type of preamble, the mandate preamble always comes first.

(2) Change in use of land held for conservation or recreation purposes. The Constitution of Maine, Article IX, Section 23 provides that if a bill proposes to transfer, reduce or substantially alter the use of land that is held by the State for conservation or recreation purposes, passage of the bill requires an affirmative vote of 2/3 of all the elected members of each House.

Example:

Preamble. The Constitution of Maine, Article IX, Section 23 requires that real estate held by the State for conservation or recreation purposes may not be reduced or its uses substantially altered except on the vote of 2/3 of all members elected to each House.

(3) Confirmation process change. The Constitution of Maine, Article V, Part First, Section 8 requires that a bill that alters the confirmation process established for an executive or judicial office cannot be passed except by the affirmative vote of 2/3 of those members of each House present and voting.

Example:

Preamble. The Constitution of Maine, Article V, Part First, Section 8 provides that certain statutes enacted relating to confirmation procedures for gubernatorial nominees require a 2/3 vote of the members of each House present and voting.

C. The emergency preamble. If a measure is to take effect sooner than 90 days after adjournment of the legislative session, the Constitution of Maine, Article IV, Part Third, Section 16 requires that the measure contain an emergency preamble and an emergency clause (see page 28) and be enacted as emergency legislation by the affirmative vote of 2/3 of all the elected members. Under that provision of the Constitution of Maine, an emergency bill may not include an infringement of the right of municipal home rule, a franchise or license to an individual or corporation for longer than one year or provision for the sale, lease or rental for more than 5 years of real estate.

The emergency preamble, if used, appears after the title of the bill. If a legislative document containing an emergency preamble also includes another type of preamble, the emergency preamble always comes last. The first and last paragraphs of the emergency preamble are standard in form and appear in every emergency preamble. The middle paragraphs are used to set out the background facts that necessitate the emergency enactment as required by the Constitution of Maine. In

practice, the elements contained within the bill itself, such as an early reporting deadline for a study commission, may require the bill to be an emergency.

Example:

> **Emergency preamble. Whereas,** acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and
>
> **Whereas,** current law preserving rental housing for low-income households will expire on August 1, 2010; and
>
> **Whereas,** 2,000 rental units will be at risk in 2011 and 18,000 units will be at risk over the next decade; and
>
> **Whereas,** no new federally subsidized low-income rental units have been constructed since 2002 while, at the same time, the number of low-income households has increased significantly; and
>
> **Whereas,** it is necessary to preserve as many of these low-income rental units as possible for low-income households; and
>
> **Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

D. The enacting clause. The Constitution of Maine, Article IV, Part First, Section 1 requires an enacting clause on every public law bill or private and special law bill. The enacting clause appears after the title of the bill or, if the bill is an emergency measure, after the emergency preamble. The enacting clause reads: **"Be it enacted by the People of the State of Maine as follows:"**

E. The main body of the bill. The main body of the bill contains the substantive language of the bill as well as the technical and housekeeping provisions listed in this paragraph. Not all of the elements listed are necessary in all, or even most, cases. When the inclusion of some of these elements is necessary or desirable, they are arranged according to the type of law affected, as discussed in this Part of the manual. Within that order, the sections are further arranged by category as follows:

(1) Short title sections. A short title section, one that establishes the popular name of an act, is not mandatory, but often is useful when a bill enacts a large uniform code or other major segment in the Maine Revised Statutes. Short title sections are not used in private and special laws. The short title is useful when referring to that law elsewhere in the statutes and for use by courts, Legislators and others when dealing with that law as a whole.

Example:

§3401. Short title

This chapter may be known and cited as "the Maine Wind Energy Act."

(2) Purpose clauses. As a rule, purpose clauses, however titled, should not be included in acts or resolves. A well-drafted law does not require the inclusion of an aid for interpretation, and the unnecessary inclusion of a purpose clause may actually obfuscate the plain meaning of substantive provisions, leaving the court to guess the Legislature's true intent. Another danger in using these clauses is that drafters tend to rely on purpose clauses to convey the intent of the Legislature in lieu of including language in the substantive provisions of the law that effectuate that intent. For these reasons, the Office of the Revisor of Statutes routinely removes purpose clauses that do not fall under one of the limited exceptions listed below.

Purpose clauses may be used:

(a) Constitutional challenge. To strengthen a law against a constitutional challenge;

(b) Major changes to existing law. When there are major changes in existing law, such as in a recodification, and there may be uncertainty as to whether the changes should be construed as merely an update of existing language or structure or as a substantive change in legislative intent; or

(c) Model or uniform act. When a model or uniform act is enacted by the Legislature and changes have been made to the act to conform it to the structure of the Maine Revised Statutes, but no substantive changes have been made.

If a guide for interpretation is necessary for purposes other than those listed above, consider including a rule of construction in the statute rather than a purpose clause or using the summary to express the purpose of the legislation.

Example:

§302. Rule of construction

This chapter must be liberally construed.

Example:

5. Liberal construction. This section must be liberally construed to effect the legislative purpose of clarifying title to land currently encumbered by ancient deeds that lacked technical words of inheritance or an habendum clause.

(3) Definitions. A definition section should be included in a bill only when necessary. A definition section may be needed to:

(a) Clarity and consistency. Maintain clarity and consistency when the draft contains terms that may be interpreted differently from their common meanings;

(b) Difficult or technical words. Define words that are difficult or technical; or

(c) Substitutes. Define terms that may be substituted for longer terms or phrases used repeatedly in the law.

If a word has a common meaning and is clearly understood without a special explanation, a definition should not be included. A definition section should never include substantive provisions of law.

The standard language used to introduce a definition section is: "As used in this (Title, Part, chapter, section, etc.), unless the context otherwise indicates, the following terms have the following meanings." Each defined term must be used in the relevant unit (Title, Part, chapter, section, etc.).

Defined words should be arranged alphabetically.

Example:

§1971. Definitions

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

1. Commissioner. "Commissioner" means the Commissioner of Inland Fisheries and Wildlife.

2. Cowling. "Cowling" means the forward or rear portion of the vehicle, usually of fiberglass or similar materials, surrounding the motor and clutch assembly.

If a definition is intended to be illustrative rather than exhaustive (i.e., rather than setting out all items covered by the word, the definition sets out only examples of the type of item to be covered by the word), the term "includes" is used.

Example:

"Tuna" includes that fish commonly called a horse mackerel.

A definition used in only one section or smaller unit may be indicated at the end of the unit.

Example:

A school resource officer shall complete diversity, equity and inclusion training or implicit bias training at least once during that officer's first year of employment as a school resource officer. For purposes of this section, "school resource officer" means a law enforcement officer as defined in Title 25, section 3701, subsection 3 who works in a public school.

A more complete discussion of the proper use of definition sections can be found in Chapter VII of *The Fundamentals of Legal Drafting* by Reed Dickerson.

(4) General rules, permanent provisions and most significant provisions. These sections set out the main portions of the law or the general rules that will apply to the persons to whom the law is addressed. These sections form the core of the enacted law and should be clear and concise. Each separate idea or rule should be expressed in a separate section.

(5) Subordinate provisions, temporary provisions and exceptions. These sections include any major exceptions to the general provisions and rules set out in the preceding sections and also include minor provisions of the law that are of less general application or interest. Administrative provisions, for example, would be included in these sections.

In a provision that includes language granting an agency rule-making authority, the drafter must identify in the bill whether those rules are "major substantive " or "routine technical." (See pages 9 to 10.)

Example:

10. Major substantive rules. The department shall adopt rules to implement this section. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

(6) Penalty or enforcement provisions. When a law requires or prohibits a certain action or type of conduct, it is generally necessary to include an enforcement mechanism such as a penalty or sanction for failure to comply. The format for writing civil and criminal penalty provisions is described on pages 145 to 148.

(7) Housekeeping. A bill may include several technical housekeeping provisions. These sections are not generally allocated to the Maine Revised Statutes, even in public law bills, and are placed at the end of the main body of the bill. The most common of these sections, listed in the usual order of their appearance, are as follows.

(a) Revision clause. If a bill changes the name of a state agency or other entity or changes the proper name of a code or act throughout the entire Maine Revised Statutes, a revision clause may be used. A revision clause may be relied upon only to make uniform changes; if individual changes are necessary, those changes should be made in an allocated bill section. The revision clause should be drafted carefully

to include all phrases affected by the intended change. For example, when changing the name of a department, the name of the commissioner of that department must be changed also. In order to ensure completeness, a phrase search on the name should be done.

Example:

> **Sec. 30. Maine Revised Statutes amended; revision clause.** Wherever in the Maine Revised Statutes the words "Atlantic Salmon Authority" appear or reference is made to that entity or those words, those words are amended to read or mean, as appropriate, "Atlantic Salmon Commission" or "commission," and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

(b) Staggered terms. When a sponsor wishes to establish a new board or commission in the Maine Revised Statutes and wants to establish staggered terms for the initial appointments, the best way to accomplish this is to set the term of office in the statutory language and add an unallocated section at the end that "notwithstands" the statute and provides that several members are appointed for initial terms that are shorter than the term specified in the statute. If the board members are to be appointed by different appointing authorities (e.g., the Speaker of the House of Representatives, the President of the Senate and the Governor) and the sponsor wishes to stagger the terms, the drafter needs to link the term to be staggered with the appointing authority.

Example:

> **Sec. 3. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title 10, section 11, subsection 5, the appointing authorities for the original appointments of public members of the Citizen Trade Policy Commission shall designate their first appointment for a one-year term, their 2nd appointment for a 2-year term and any other appointments for a 3-year term. An initial term of one or 2 years may not be considered a full term for purposes of limiting the number of terms for which a member may serve.

(c) Savings or application clause. The Maine Revised Statutes, Title 1, section 302 contains a general savings clause, which is a provision that preserves preexisting rights that have vested before a change in the law. Laws, however, may require special savings clauses to address special problems created in the passage of those laws. If, for example, current procedures or actions will be disrupted when the new law takes effect, a savings clause may be used to exempt, or "grandfather," certain classes of persons from the law. Likewise, if rights or duties already have matured or proceedings have begun, the drafter may wish to limit the application of the new law.

Examples:

> **Sec. 21. Application.** This Act does not apply to any license or permit proceeding, appeal, reconsideration or other action pending before the Department of Environmental Protection on the effective date of this Act.

> **Sec. 21. Application.** This Act applies to all employees injured on or after November 20, 1987 who have not had a rehabilitation plan developed under the Maine Revised Statutes, former Title 39, section 83, subsection 3 or Title 39-A, section 217, subsection 2 as of the effective date of this Act.

(d) Transition clause. When a state department or agency is reorganized or abolished or its duties are significantly altered, it is often necessary to provide for the transfer of the functions, property and personnel of the prior agency to the new agency or to accommodate the change in duties. This is accomplished through the use of a transition clause.

Example:

> **Sec. B-43. Transition provisions.** The following provisions govern the transition of the Maine State Museum Bureau to the Maine State Museum.
>
> 1. The Maine State Museum is the successor in every way to the powers, duties and functions of the former Maine State Museum Bureau.
>
> 2. All existing rules, regulations and procedures in effect, in operation or adopted in or by the Maine State Museum Bureau or any of its administrative units or officers are hereby declared in effect and continue in effect until rescinded, revised or amended by the proper authority.
>
> 3. All existing contracts, agreements and compacts currently in effect in the Maine State Museum Bureau continue in effect.
>
> 4. Any positions authorized and allocated subject to the personnel laws to the former Maine State Museum Bureau are transferred to the Maine State Museum and may continue to be authorized.
>
> 5. All records, property and equipment previously belonging to or allocated for the use of the former Maine State Museum Bureau become, on the effective date of this Act, part of the property of the Maine State Museum.

6. All existing forms, licenses, letterheads and similar items bearing the name of or referring to the "Maine State Museum Bureau" may be used by the Maine State Museum until existing supplies of those items are exhausted.

Another example of a transition provision may be found in PL 1993, c. 708, Part J, section 14.

(e) Implementation provisions. Other unallocated provisions may be necessary to implement the law and should be given descriptive headnotes indicating the substance of the provisions.

(f) Severability clause. The Maine Revised Statutes, Title 1, section 71 provides that, if any provision or application of a law is invalid, the valid provisions or applications of that law are unaffected. Thus, the inclusion of a severability clause in a bill is unnecessary and may result in confusion since a court may attach significance to the presence of a severability clause in a law, given the absence of those clauses in other laws.

There are older laws still in existence that contain severability clauses. When amending or reenacting sections of the law that contain such clauses, it is the policy of the Office of the Revisor of Statutes to remove the severability language and to insert the following explanatory paragraph in the summary:

> This bill does not reenact language on severability removed in section ___ from the Maine Revised Statutes, Title ___, section ___, because that language is unnecessary given the general rule of construction governing severability in Title 1, section 71, subsection 8 that applies to all of the statutes. It is the intent of the Legislature that the removal of the severability language from Title ___, section ___ has no substantive effect on the severability of this chapter or the applicability of that general rule of construction.

(g) Nonseverability clause. As discussed above, the Maine Revised Statutes, Title 1, section 71 contains a severability clause that applies to all of the Maine Revised Statutes. If the sponsor of a bill intends the bill to be considered an inseparable whole and does not want the bill sections to be severable, a nonseverability clause is necessary.

Example:

> **Sec. 10. Nonseverability.** Notwithstanding the provisions of the Maine Revised Statutes, Title 1, section 71, if any provision of this Act or its application is held invalid, it is the intent of the Legislature that the entire Act is invalidated.

(h) Appropriations and allocations sections. An appropriations and allocations section is the Legislature's authorization for an organization, generally a state agency, to make an expenditure. Appropriations authorize expenditures from the General Fund and allocations authorize expenditures from non-General Fund resources. Authorizations of non-General Fund expenditures are considered allocations because the resources are already designated for a particular purpose. Appropriations and allocations sections are usually drafted by the Office of Fiscal and Program Review (OFPR).

For more information on appropriations and allocations, see the Maine Revised Statutes, Title 5, Part 4, dealing with miscellaneous financial matters. Specific questions about fiscal matters should be resolved through consultation with the Office of Fiscal and Program Review. There are many possible variations in appropriations and allocations (see pages 183 to 197 for a more thorough examination of appropriations and allocations sections and examples).

Example:

Sec. XX. Appropriations and allocations. The following appropriations and allocations are made.

NAME OF MAJOR UNIT

(to which the appropriation or allocation is made, usually a state department, branch of State Government or independent agency)

Program Name XXXX

Initiative: (Description of the appropriation and allocation and the purposes for which the money is to be used)

FUND NAME (source of appropriation)	**20YY-YY**	**20YY-YY**
Position Count: LEGISLATIVE COUNT OR FTE COUNT	x.xxx	x.xxx
Line category (that is, general item categories for which money is usually appropriated, such as Personal Services, All Other or Capital Expenditures)	$Amount	$Amount
FUND TOTAL	$Amount	$Amount

(If the appropriations and allocations section contains more than one initiative, then the dollar amount needs to be totaled for the major unit.)

NAME OF MAJOR UNIT TOTALS	**20YY-YY**	**20YY-YY**
FUND	**$Amount**	**$Amount**
NAME OF MAJOR UNIT TOTAL - ALL FUNDS	**$Amount**	**$Amount**

(If the appropriations and allocations section contains an appropriation or allocation for more than one major unit or fund, then the dollar amount needs to be totaled for the section.)

SECTION TOTALS	**20YY-YY**	**20YY-YY**
FUND	**$Amount**	**$Amount**
SECTION TOTAL - ALL FUNDS	**$Amount**	**$Amount**

(i) Retroactivity clause. A bill that has a retroactive application should be drafted with care. Courts generally will not give a law retroactive application unless the intent of the Legislature to make it retroactive is clear and unambiguous. Note that constitutional restrictions on the use of retroactivity clauses may apply in certain situations.

Example:

Sec. 10. Retroactivity. This Act applies retroactively to January 1, 2018.

(j) Repeal clause. An unallocated repeal clause should not be used to repeal provisions in the Maine Revised Statutes. If a drafter wishes to repeal on a date certain language that is contained in the Maine Revised Statutes, the repeal language should be included in the statutory language that is allocated to the Maine Revised Statutes.

Example:

§691. Repeal. This chapter is repealed September 1, 2021.

If the drafter wishes to repeal language in a resolve, a private and special law or an unallocated public law, an unallocated repeal clause is used.

Example:

Sec. 10. Repeal. Resolved: That this resolve is repealed January 1, 2021.

(k) Effective date and contingent effective date clause. Pursuant to the Constitution of Maine, Article IV, Part Third, Section 16, the general effective date for acts is 90 days after the adjournment of the session of the Legislature passing those acts. Any act that does not contain an emergency preamble and clause or a provision that sets a specific effective date takes effect on the general effective date.

If it is desirable to delay the operation of a law for a period of time longer than 90 days after adjournment of the Legislature to allow those affected by the law to make preparations to comply with its provisions, then an effective date clause is necessary. An example of a law that was delayed beyond the general effective date is the Maine Criminal Code, which was enacted in 1975 but did not go into effect until May 1, 1976.

A bill may designate a specific date upon which a law, or parts of a law, will become effective by adding an effective date clause.

Examples:

> **Sec. 10. Effective date.** This Act takes effect January 1, 2019.

> **Sec. 10. Effective date.** Those sections of this Act that amend the Maine Revised Statutes, Title 35-A, section 116, subsections 1 and 8 take effect August 1, 2022. *(Note: In this example, the sections of the Act that are not given a specific effective date would take effect on the general effective date.)*

A bill may name a specific occurrence or event that will trigger the operation of a law or parts of a law by adding a contingent effective date clause. For a contingent effective date to actually work in practice, the drafter must ensure that the contingency does not serve to unconstitutionally delegate to an entity (not the Legislature) whether the law takes effect. As a result, the drafter must take care to draft a contingency whose occurrence can be clearly and objectively verified. The drafter must also include language requiring that, upon such occurrence, notification must be given to necessary individuals and offices, including the Office of the Revisor of Statutes.

Example:

> **Sec. 8. Contingent effective date.** Those sections of this Act that enact the Maine Revised Statutes, Title 7, section 219 and Title 20-A, section 6601-A and amend Title 20-A, section 6602, subsections 3, 5 and 12 do not take effect unless:
>
> 1. The United States Department of Agriculture grants the State a waiver from the requirement that the state educational agency administer the National School Lunch Program, the School Breakfast Program and the Special Milk Program and approves the transfer of the administration for these programs from the Department of Education to the Department of Agriculture, Conservation and Forestry; and
>
> 2. The Commissioner of Agriculture, Conservation and Forestry notifies the Secretary of State, the Secretary of the

Senate, the Clerk of the House of Representatives and the Revisor of Statutes that written approval for the transfer has been received.

In no event may this Act take effect until 90 days after adjournment of the First Regular Session of the 133rd Legislature.

If a bill contains a referendum provision, the effective date provisions will usually be included in the referendum clause.

(l) Emergency clause. If any part of a bill is to become effective immediately upon approval or sooner than 90 days after adjournment of the Legislature, it must be passed as emergency legislation and must contain an emergency preamble and an emergency clause. It is the emergency clause that indicates when the bill becomes effective. The emergency clause, like the effective date clause, is placed at the end of the main body of the bill. The emergency clause may provide that the bill will become effective immediately upon approval (i.e., immediately upon approval of the Governor or upon passage by the Legislature over the veto of the Governor), may set a specific date on which the bill will take effect or may name a specific occurrence or event that will trigger the operation of the bill. A bill may provide that various parts of the bill take effect at different times.

Examples:

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

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect July 1, 2019.

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

(m) Referendum clause. A Legislator may wish to submit a proposed bill to the voters of the State or of the area being affected by the bill before the bill takes effect. This submission is done through a referendum clause, which appears at the end of the body of the bill, generally replacing the effective date clause. The referendum clause provides that, upon passage by the Legislature, the act must be submitted to the voters of the State or other unit, and if the voters accept the act, it will take effect at some specified time, usually following calculation of the vote and proclamation of those results.

Statutory, municipal and advisory referenda are discussed in greater detail and examples are given on pages 137 to 139. Bond issues, which are also subject to referenda, are discussed on pages 140 to 142.

F. Fiscal note. A bill or resolve affecting state revenues, appropriations or allocations or that requires a local unit of government to expand or modify its activities so as to necessitate additional expenditures from local revenues and that has a committee recommendation other than "Leave to Withdraw," "Ought Not to Pass" or "Referral to Another Committee" must include a fiscal note describing the fiscal impact of the bill before the bill is reported out of committee. Thus, a fiscal note is required if the bill will have a negative or positive effect on state revenue, appropriations or allocations or require a local unit of government to expand or modify its activities so as to necessitate additional expenditures from local revenues and if any member of the committee hearing the bill gives it a favorable report. However, a fiscal note is not required to be added by committee amendment to the bill if there is no other proposed change to the bill and the fiscal note only describes minor costs or minor savings that would result from the bill's enactment. Fiscal information for bills relating to counties and municipalities is further governed by the Maine Revised Statutes, Title 3, section 163-A, subsection 12 and Title 30-A, section 5685. Fiscal notes, if necessary, are generally added by committee amendment to the bill or in a new draft of the bill, except that fiscal notes sometimes appear in original department or executive bills. In addition, bills that are not expected to be referred to committee, new bills reported out by a committee and any amendment introduced that would affect the fiscal impact of the bill must also include a fiscal note.

Because the Office of Fiscal and Program Review has sole responsibility for preparing all fiscal notes, a legislative staff drafter needing a fiscal note for a bill must request one from that office. A fiscal note may not be added to a bill unless it originates from the Office of Fiscal and Program Review or it appears on a budget bill submitted through the budget office of the executive branch.

G. Summaries and comments. A summary, formerly known as a "statement of fact," provides a brief summary of the bill, resolve or amendment. This may include a brief description of the purpose of the bill or the problem that the bill is intended to solve. The Office of the Revisor of Statutes is responsible for ensuring that each bill has an appropriate summary and rewrites proposed summaries that are too long, testimonial in nature or misleading or that advocate a position. Summaries should be straightforward and factual. Brevity in a summary, however, should not override the need for accuracy and thoroughness. In a bill dealing with a broad subject matter, a more detailed summary may be necessary.

Examples:

SUMMARY

The purpose of this bill is to allow greater flexibility in residential placement of individuals who are near 18 years of age. Under this bill, the Department of Health and Human Services may allow persons who reach 18 years of age to remain in a children's home for a period of up to 9 months after that birthday or allow a person 17 years of age or older to be placed in an adult care home. The decision concerning placement would be based on the best interest of the resident.

SUMMARY

This bill provides landowners whose property has been the subject of a revaluation additional time to qualify for the tree growth tax or farm and open space programs.

SUMMARY

This bill establishes the Emergency Medical Services Fund to support emergency medical services operations, to provide matching funds to licensed service providers and to promote training of emergency medical persons.

Revenue for the fund is generated by a $25 fee imposed on all persons convicted of a moving violation involving the operation of a motor vehicle and resulting in an accident.

A bill covering a broad subject may require a lengthier summary.

SUMMARY

This bill accomplishes the following.

1. It adds 3 members of the public to the Board of Licensure in Medicine.

2. It requires that investigation of consumer complaints by the board be done in a timely fashion.

3. It requires a report by the board to the Legislature concerning the disposition of complaints received.

4. It requires that the board budget for adequate personnel to handle consumer complaints in a timely fashion.

5. It increases the biennial registration fee for physicians from $250 to $500 to fund the additional board activities required by this bill.

6. It requires that physicians and hospitals post material prepared by the board indicating to consumers the procedure for filing complaints against physicians.

7. It provides for staggered terms for the initially appointed additional public members.

Some uniform laws and code enactments, such as the Maine Criminal Code and the Maine Uniform Probate Code, contain explanatory comments that appear after each section. These comments may supplement the summary and are not part of the law, although they may be used in some cases as a guide to legislative intent. For examples of comments, see 2015 Legislative Document 1177 and 2009 Legislative Document 1404.

Section 3. Technical style

A. General organizational rules. A bill may contain any number of provisions, although to avoid confusion it should deal with only one major subject. (Some exceptions to this general rule include budget bills and errors bills.) These provisions are organized into bill sections that are numbered consecutively (e.g., "Sec. 1," "Sec. 2," etc.). Each distinct provision or idea should be in a separate section.

If the body of a bill contains several distinct pieces that may in turn be logically divided into bill sections, divide the bill into Parts designated "Part A," "Part B" and so on. Sections within a Part are numbered as "Sec. A-1," "Sec. A-2," etc. However, when cited, Sec. A-1 is "Part A, Section 1."

Arrangement of bill sections is governed primarily by the law type affected or enacted, discussed below, and secondarily by the subject matter of each section, discussed in detail on pages 32 to 38. Note that if a bill has parts, the sections in each part follow the rules for section arrangement.

(1) Arrangement by type of law affected. A bill section may enact or in some way affect the Maine Revised Statutes, a public law, a private and special law or a resolve. A bill section also may enact new law that is not allocated to the statutes or tied to any of these other types of instruments. A bill may have any combination of these proposed actions, but if it has any sections allocated to the Maine Revised Statutes, it is a public law bill. If a bill proposes to amend or affect only a resolve, the proper instrument is a resolve, not an act. Generally, if the bill only enacts unallocated law or amends or affects only a private and special law, the bill is a private and special law bill. For further distinctions between allocated and unallocated law, see page 15.

Bills that affect various law types are arranged by allocated public law sections, other public laws or sections, private and special laws and resolves.

For example, a bill affecting:

Private and Special Law 1985, c. 102;
Public Law 1989, c. 110;
Title 12, §3; and
Resolve 1985, c. 43

should be arranged as follows:

Sec. 1. 12 MRSA §3;
Sec. 2. PL 1989, c. 110;
Sec. 3. P&SL 1985, c. 102; and
Sec. 4. Resolve 1985, c. 43.

Once the drafter has determined the law type affected or enacted in each section of the bill, those sections are arranged in the following order of priority.

(a) Maine Revised Statutes. Sections of the bill enacting or affecting a section or sections of the Maine Revised Statutes are arranged in ascending numerical order, according to the statutes the bill sections affect, by Title and section or larger statutory unit.

For example, a bill affecting:

Title 12, §32;
Title 12, §3;
Title 36, §1760; and
Title 5, §361

should be arranged as follows:

Sec. 1. 5 MRSA §361;
Sec. 2. 12 MRSA §3;
Sec. 3. 12 MRSA §32; and
Sec. 4. 36 MRSA §1760.

(b) Public laws. Sections of the bill that enact or affect sections of public laws are arranged so that the section affecting the earliest enactment appears first and the section affecting the latest enactment appears last.

For example, a bill affecting:

Public Law 1997, c. 4;
Public Law 1999, c. 110; and
Public Law 1997, c. 300

should be arranged as follows:

Sec. 1. PL 1997, c. 4;
Sec. 2. PL 1997, c. 300; and
Sec. 3. PL 1999, c. 110.

(c) Private and special laws. If a private and special law bill only enacts new law, the elements are arranged as described on pages 15 to 31, since there would be no

allocation to the Maine Revised Statutes and no other overriding method of arranging the sections.

If a private and special law bill enacts new law and affects existing private and special laws, the new enactments appear first in the body of the bill, followed by the sections affecting existing law, arranged by date of enactment.

Bill sections that enact sections in existing private and special laws or amend existing private and special laws are arranged sequentially from earliest to latest enactment as with the sections that affect public laws.

(d) Resolves. Sections that enact sections in existing resolves or amend existing resolves are arranged sequentially from earliest to latest enactment.

(e) Unallocated laws. Sections of a public law bill that are not allocated to the statutes and do not affect other existing laws or resolves are arranged so that they appear last in the main body of the bill. (If, however, the bill is a private and special law bill, unallocated sections enacting new law appear before sections effecting changes to other private and special laws, as described in paragraph (c).)

(2) Conflicting law. When law proposed by a bill conflicts with existing law, the existing law should be expressly changed or repealed since the courts are generally unwilling to find that a law is repealed by implication. In addition, a drafter should not rely on general language such as "This Act applies notwithstanding any other law to the contrary" to take care of inconsistent law. Use of such general language is confusing and does not make clear which of several inconsistent laws is to prevail. When laws are repealed in a bill, the repealers are placed according to the bill section arrangement scheme outlined above, not grouped at the end of the bill.

B. Technical rules. The following are some of the technical rules that must be followed when drafting bills; additional technical rules apply and are implemented by the Office of the Revisor of Statutes in the production of bills.

(1) The Maine Revised Statutes. The statutes are the codified law in Maine containing the general law of long-lasting application.

(a) Structure of the Maine Revised Statutes. The statutes are divided into Titles. The current general arrangement of Titles was created in the 1964 revision. Each Title covers a general subject area. For example, Title 20-A relates to education, and Title 32 contains provisions regulating professions and occupations.

Titles are subdivided into smaller units to assist in arranging subject matter logically and systematically. The usual and preferred structure is as follows, with the method of designation shown in parentheses.

TITLE (1, 2, ...)
    SUBTITLE (1, 2, ...)

PART (1, 2, ...)
SUBPART (1, 2, ...)
CHAPTER (1, 2, ...)
SUBCHAPTER (1, 2, ...)
ARTICLE (1, 2, ...)
SUBARTICLE (1, 2, ...)
SECTION (§1, §2, ...)
SUBSECTION (1, 2, ...)
PARAGRAPH (A, B, ...)
SUBPARAGRAPH ((1), (2), ...)
DIVISION ((a), (b), ...)
SUBDIVISION ((i), (ii), ...)

Some Titles, such as Titles that enact uniform laws (discussed in more detail on page 154), deviate somewhat from this structure, and occasionally other discrepancies appear in the statutes, such as articles that are designated by Roman rather than Arabic numerals. The drafter should follow the existing designating convention for the statutory grouping in which the drafter is working.

When enacting new units, the drafter should avoid using subtitles, subparts and subarticles, as these units are usually unnecessary.

New material should be allocated to the Title of the Maine Revised Statutes in which it most logically fits. The Office of the Revisor of Statutes reviews, and alters when necessary, allocations to the Maine Revised Statutes to ensure and preserve the arrangement of the statutes. When allocating new material to the statutes, the drafter should follow the rules listed below.

- Ideally, the numerical designation of a new chapter should be an odd number (e.g., 101, 103, 105, 107). This practice leaves room for the enactment of other new chapters at later dates.

- When a new chapter is enacted, the number assigned to the first section of that chapter, ideally, should be sufficiently higher than the last section number of the preceding chapter to permit the future addition of sections between those chapters.

- The first section of any chapter, ideally, should be given a numerical designation having a last digit of "1" (e.g., §101, §381, §5221).

- When a chapter, section, paragraph or other unit must be inserted between two existing, consecutively numbered units, the inserted unit, ideally, should be given the same number or letter as the preceding one, followed by a hyphen and a number or letter. For example, a new section inserted between sections 113 and 114 is 113-A. A new paragraph inserted between paragraphs A and B is A-1. Additional sections or paragraphs are lettered and numbered consecutively as §§113-B, 113-C, 113-D, ... or ¶¶A-2, A-3,

A-4, …. This method should only be used once; that is, a section should not be designated as §113-A-1. This technique is often used when the drafter must repeal a part, chapter, section or other unit and replace it with new material that is substantively related to the repealed material but is sufficiently different to warrant the repeal, or that uses headnotes and a structure not consistent with the material repealed.

- If a statutory unit was repealed in the past, it may be reenacted with its former numerical or alphabetical designation *only* if the provision being reenacted is identical, word for word, to the section that was repealed. When the substance of the repealed section is the same but the wording is not identical, use an alpha designation after the unit's former designation. For example, if the Maine Revised Statutes, Title 1, section 1 was repealed and in a subsequent law was enacted again with minor language changes, it would be designated Title 1, section 1-A.

- A statutory unit may be repealed and replaced only when the new language is substantively related to the language being replaced.

(b) Amending clauses and legislative actions. Each bill section that affects the Maine Revised Statutes begins with an amending clause that recites the specific provision of the Maine Revised Statutes being affected, the appropriate historical reference for that provision and the legislative action proposed by the bill section. The only possible legislative actions are:

- Enacting new law;
- Amending existing law;
- Repealing existing law;
- Repealing existing law and replacing it with new law;
- Reallocating existing law;
- Reenacting law that was repealed; and
- Correcting and renumbering law.

New statutory language, whether it appears as a new enactment, as repeal and replacement language or as an addition to existing law, is indicated by underscoring. Statutory language that is to be removed is shown by striking through the existing text. If a statutory provision is repealed in its entirety, no text follows the amending clause. The drafter needs to specify the Title and section to which the draft language should be allocated, but need not supply historical references, as that information is provided and double-checked in the technical processing and proofreading/editing stages in the Office of the Revisor of Statutes. The amending clauses in the following examples do not contain the historical information that is routinely provided by the Office of the Revisor of Statutes.

Examples:

(i) Enacting new law.

Sec. 1. 20-A MRSA §256, sub-§7 is enacted to read:

7. Women in administration; data; report. The commissioner shall compile data annually on the number of women holding administrative positions requiring certification and shall report the data annually, on or before January 1st, to the joint standing committee of the Legislature having jurisdiction over educational matters.

(ii) Amending existing law.

Sec. 1. 5 MRSA §15138, first ¶ is amended to read:

Agencies of State Government shall cooperate to assess the needs of zones and provide appropriate assistance to these zones. A committee is established, composed of, at a minimum, the Commissioner of Economic and Community Development, Director of the State Planning Office, Commissioner of Transportation, Commissioner of Labor, Commissioner of ~~Educational and Cultural Services~~ Education, Executive Director of the Maine Technical College System, Chief Executive Officer of the Finance Authority of Maine and the Director of the Maine State Housing Authority. The committee shall meet quarterly with representatives from each zone to review projects, assess the coordination of existing resources and identify any other potential resources to ensure that the needs of the zones are being addressed to the fullest extent possible.

(iii) Repealing existing law.

Sec. 1. 20-A MRSA c. 505-A, as amended, is repealed.

Sec. 2. 37-B MRSA §608, as enacted by PL 1983, c. 460, §3, is repealed.

(iv) Repealing and replacing existing law. Use of this particular legislative action is limited to situations in which the new language is substantively related to the language that is being replaced.

Sec. 1. 24-A MRSA §4203, sub-§3, ¶M is repealed and the following enacted in its place:

M. A description of the proposed quality assurance program, including the formal organization structure, methods for developing criteria, procedures for

comprehensive evaluation of the quality of care rendered to enrollees and processes to initiate corrective action and reevaluation when deficiencies in provider or organizational performance are identified;

(v) Reenacting law that was repealed. This may be used only when the repealed law is reenacted word for word.

Sec. 1. 29-A MRSA §2401, sub §5-A, as repealed by PL 1999, c. 470, §27, is reenacted to read:

5-A. Ignition interlock device. "Ignition interlock device" means a device that connects a breath analyzer to a motor vehicle's ignition system. The analyzer monitors the concentration of alcohol in the breath of any person who attempts to start the motor vehicle by using the ignition system. The device prevents the vehicle from starting unless the person provides a breath sample with a concentration of alcohol that is below a preset level.

(c) Section structure. The text of a statute section may be organized as indented paragraphs or in outline or tabular form. The distinction between indented and blocked paragraphs within a section is discussed on pages 84 to 85. The guidelines for using the outline form are set out on pages 80 to 84. Headnotes and lead-ins are discussed below.

(d) Title; headnotes. Any unit of the Maine Revised Statutes higher than a section must have a headnote. Generally, sections and subsections of the Maine Revised Statutes must have headnotes. No portion of a statute below a subsection has a headnote. Headnotes are important because they aid the reader in finding a particular section by identifying the substance of each section. A headnote does not have the force of law (see the Maine Revised Statutes, Title 1, section 71, subsection 10); as a result, a drafter should not rely on language in a headnote to impose any legal requirement or prohibition. A drafter should revise a headnote when a statutory change makes the existing one obsolete or misleading.

Headnotes should be concise. If a section headnote cannot be made both concise and complete, it may indicate that the scope of the section is too broad and that the section should be divided into more than one section.

A few Titles in the Maine Revised Statutes, such as some uniform laws, do not use subsection headnotes. The drafter should employ the conventions used in the Title being affected for the sake of clarity.

(e) Lead-ins. A "lead-in" is an introductory phrase or sentence after a headnote that provides a transition from a unit to a subunit. A lead-in is required between a subsection and a lettered paragraph but is optional between a section headnote and

a subsection. While this requirement appears to produce redundant language, a headnote is not part of the law, thus, subsections always contain text in addition to the headnote.

(2) Unallocated law. The technical style used in drafting unallocated law in public or private and special law bills is much less complicated than in the Maine Revised Statutes.

(a) New law. When enacting a section of new unallocated law, the section must begin with a section headnote. Within that section the drafter may include indented paragraphs and the same outline form used for working in the statutes. The text for a section of new unallocated law is not underscored.

(b) Existing law. A bill section may propose a legislative action that affects in some way existing unallocated law found in a public law, a private and special law or, occasionally, a resolve. (See pages 35 to 37 for a discussion of possible legislative actions.) Such a section begins with an amending clause that recites the specific provision of unallocated law being affected, the appropriate historical reference for that provision and the legislative action proposed by the bill section. The drafter need not supply the historical reference, however. Language that is to be removed is shown by striking through the existing text. New language is indicated by underscoring.

Section 4. New drafts

A specialized type of bill is a "new draft." A new draft is a new version of an existing bill and must be created by a committee report authorized by the presiding officers as "Ought to Pass in New Draft."

A new draft always indicates the L.D. number of the original bill, the names of the original sponsor and cosponsors and the new title if the title is changed. A new draft is, however, a legislative document in its own right and has its own paper and document numbers.

Section 5. Examples of complete bills

This section provides examples of public law bills and private and special law bills.

Example A: Public law bill.

[TITLE]	**An Act to Implement the Recommendations of the Secretary of State Regarding Automatic Voter Registration**
[ENACTING CLAUSE]	**Be it enacted by the People of the State of Maine as follows:**

[BODY OF BILL]

[AMENDING CLAUSE, ALLOCATED SECTIONS]

Sec. 1. 21-A MRSA §232, sub-§1, as enacted by PL 2019, c. 409, §6 and affected by §9, is amended to read:

1. Application for driver's license or nondriver identification card; creation of pending voter registration record. If an individual applies for a driver's license or nondriver identification card from the bureau, unless the individual opts out under section 234, the bureau shall ~~scan~~ record the documentation provided by the individual and create a pending voter registration record for that individual, which must be stored electronically in the bureau's database. The pending voter registration record and the record of the accompanying ~~scanned~~ documentation must be in a searchable, auditable format.

Sec. 2. 21-A MRSA §232, sub-§1-A is enacted to read:

1-A. Creation of pending voter registration record in other circumstances. If an individual has previously applied for a driver's license or nondriver identification card from the bureau and the bureau has recorded the necessary documentation provided by that individual, unless the individual opts out under section 234, the bureau shall create a pending voter registration record for that individual whenever the individual appears in person at the bureau's office to conduct other transactions. The pending voter registration record and the record of the accompanying documentation must be in a searchable, auditable format.

[UNALLOCATED SECTION]

Sec. 3. Report. By January 1, 2021, the Secretary of State shall submit a report to the joint standing committee of the Legislature having jurisdiction over voter registration matters on the progress made toward implementing automatic voter registration and the estimated time required to complete all activities necessary for implementation. The report may include recommended legislation for the proper implementation of the automatic voter registration system, including recommended adjustments to the implementation date. The joint standing committee may report out legislation to the First Regular Session of the 130th Legislature based on the report.

[EFFECTIVE DATE]

Sec. 4. Effective date. Those sections of this Act that amend the Maine Revised Statutes, Title 21-A, section 232, subsection 1 and enact Title 21-A, section 232, subsection 1-A take effect January 1, 2022.

[SUMMARY]

SUMMARY

This bill replaces the requirement that the Department of the Secretary of State, Bureau of Motor Vehicles scan documentation that will be used to create a pending voter registration record for

an individual who has not opted out of automatic voter registration and who applies for a driver's license or nondriver identification card with a requirement that the bureau record the individual's documentation for pending voter registration record purposes. The bill also authorizes the bureau to create a pending voter registration record for an individual who has previously applied for a driver's license or nondriver identification card and submitted documentation sufficient to create a pending voter registration record if the individual appears before the bureau to conduct another transaction and does not opt out of automatic voter registration.

The bill directs the Secretary of State to submit, by January 1, 2021, a report to the joint standing committee of the Legislature having jurisdiction over voter registration matters on the progress made toward implementing automatic voter registration and the estimated time required to complete all activities necessary for implementation. The joint standing committee may report out legislation to the First Regular Session of the 130th Legislature based on the report.

Example B: Emergency public law bill.

[TITLE] **An Act to Increase the Automatic Draft Authority for Licensed Insurance Producers**

[EMERGENCY PREAMBLE]

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

Whereas, this legislation must take effect before the end of the 90-day period to address, as soon as possible, the increased frequency of severe weather occurrences between December and April and the resulting property damage claims; and

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

[ENACTING CLAUSE] **Be it enacted by the People of the State of Maine as follows:**

[BODY OF BILL]

[AMENDING CLAUSE]

Sec. 1. 24-A MRSA §1402, sub-§1, ¶C, as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:

[ALLOCATED SECTION]

C. Licensed producers authorized by contract to settle and pay claims within a specified limit established by the insurer or fraternal benefit society not to exceed ~~$5,000~~ $10,000 or, temporarily in the event of a severe weather occurrence, $20,000;

[EMERGENCY CLAUSE]

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

[SUMMARY]

SUMMARY

This bill increases the standard automatic draft authority for licensed insurance producers from $5,000 to $10,000 and allows for a temporary increase of $20,000 in the event of a severe weather occurrence.

Example C: Emergency private and special law bill.

[TITLE]

An Act to Amend the Charter of the City of Brewer High School District

[EMERGENCY PREAMBLE]

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

Whereas, the annual compensation for City of Brewer High School District trustees begins in fiscal year 2019-20, which begins July 1, 2019; and

Whereas, to conduct its official business in a financially responsible manner for the benefit of its residents, the City of Brewer must include all upcoming financial obligations in the budget prepared for fiscal year 2019-20; and

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

[ENACTING CLAUSE]

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

[BODY OF BILL]

[AMENDING CLAUSE]

Sec. 1. P&SL 1925, c. 4, §4, 2nd ¶, 5th sentence is repealed and the following enacted in its place:

Beginning in fiscal year 2019-20, each trustee of the City of Brewer High School District receives equal compensation

annually as determined by the council of the City of Brewer to be paid from the funds of the City of Brewer High School District.

[EMERGENCY CLAUSE]

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

[SUMMARY]

SUMMARY

This bill amends the charter of the City of Brewer High School District to provide that beginning in fiscal year 2019-20 each trustee of the district receives the same amount of annual compensation as determined by the city council.

CHAPTER 2
RESOLVES

Resolves have the same force of law as acts. Resolves do not affect the general law and are restricted in application, much the same as private and special law bills. Resolves, however, are of a very limited duration. According to an opinion of the Attorney General concerning resolves, "a resolve will not be interpreted as making permanent, substantive changes in the general law" (Op. Me. Att'y Gen. 80-53 analyzing City of Bangor v. Inhabitants of Etna, 140 Me. 85, 34 A.2d 205 (1943)). Resolves are the proper instrument for one-time occurrences, such as legislative authorization for an individual to sue the State or the establishment of a study commission with a specified reporting date if the study commission is not required to be created by a joint study order pursuant to the Joint Rules.

Section 1. Elements of a resolve

The following elements are listed in the order in which they appear in a resolve. Resolves need not contain all of the elements listed. A resolve never contains an enacting clause.

A. Title. The title of a resolve begins "Resolve, ..." followed by a concise statement of the contents of the resolve. Follow the same rules set out for drafting titles of bills when drafting resolves.

Examples:

Resolve, to Ensure Appropriate Care for Older Persons with Dementia and Certain Other Diseases

Resolve, Authorizing the Bureau of Public Lands to Convey by Sale to the Town of Dennysville the State's Interest in Certain Real Property in the Town of Edmunds

B. The emergency preamble. The emergency preamble in a resolve is similar to that used in a bill. (See pages 17 to 18 for discussion.)

Example:

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

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, the above-named major substantive rule has been submitted to the Legislature for review; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; and

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

C. Preamble. Although it is not common, a resolve may include a preamble that does not signify the necessity for a greater-than-majority vote. This type of preamble often includes a recitation of the facts necessitating the legislation, much like an emergency preamble. This type of "nonemergency" preamble may be included only on a resolve.

Example:

Preamble. Whereas, the 112th Legislature in 1985, reacting to concerns that the State's thousands of learning-disabled children and adolescents were not being properly identified and appropriately served by the educational system, created a joint select committee to study the problem; and

Whereas, the joint select committee identified areas of serious concern related to the training and certification of teachers in the area of learning disabilities, identification and evaluation of learning-disabled children and adolescents and the provision of services for learning-disabled children and adolescents; and

Whereas, no formal mechanism exists to monitor the implementation of the joint select committee's recommendations; now, therefore, be it

D. The main body. Prior to the First Regular Session of the 114th Legislature, most resolves were not divided into numbered sections, but instead consisted of unnumbered paragraphs. Because it was difficult to refer to these paragraphs when amending a resolve, sections are now numbered. Each section must have a headnote that briefly indicates the subject content of the resolve section. A resolve section may consist of more than one paragraph and may have subsections and other smaller units within it.

Example:

Sec. 1. Board of Trustees of University of Maine System authorized to study establishment of training program. Resolved: That the Board of Trustees of the University of Maine System is directed to conduct a study to determine the costs of establishing an advanced nursing degree program for nurse practitioners in northern Maine.

Sec. 2. Reporting date established. Resolved: That the board of trustees shall report its findings, including proposed location of the program, to the Legislature by February 1, 2005.

The contents of the resolve should be arranged by subject matter in a logical and consistent manner, with each separate provision being set out in a separate section of the resolve.

A resolve may contain any of the types of sections that have been discussed as possible sections of a bill (appropriation sections, effective date sections, emergency clauses, etc.). The only difference is that where the word "Act" is used in a bill, it is replaced by the word "resolve" in the resolve.

E. Fiscal note and summary. The rules for drafting fiscal notes and summaries are the same as those set out in the chapter on bills (Chapter 1) except that the word "resolve" is used instead of the word "Act."

Section 2. Technical style

A resolve may enact new law or affect other resolves. If a resolve does both of these, those sections enacting new law appear first in the draft, followed by sections affecting existing resolves arranged sequentially from earliest to latest enactments.

A. Enacting new law. A section of a resolve enacting new law must begin with a headnote. The new law appears without underscoring.

B. Amending existing law. A section of a resolve affecting existing law begins with an amending clause that recites the specific provision of the resolve being affected, the appropriate historical reference for that provision and the legislative action proposed by the resolve section. Drafters need not supply historical references, as that information is supplied by the Office of the Revisor of Statutes. Language that is to be removed is shown by striking through the existing text. New language is indicated by underscoring.

Section 3. Example of complete resolve

The following example illustrates the use of a resolve that contains a preamble constitutionally required when altering the use of land held by the State for conservation or recreation purposes. (See discussion on page 17.)

Example:

[TITLE]

Resolve, Authorizing Certain Land Transactions by the Department of Agriculture, Conservation and Forestry, Bureau of Parks and Lands

[PREAMBLE]

Preamble. The Constitution of Maine, Article IX, Section 23 requires that real estate held by the State for conservation or recreation purposes may not be reduced or its uses substantially altered except on the vote of 2/3 of all members elected to each House; and

Whereas, the land authorized for transfer by this resolve is within the designations in the Maine Revised Statutes, Title 12, section 598-A; and

Whereas, the Director of the Bureau of Parks and Lands within the Department of Agriculture, Conservation and Forestry may sell or exchange lands with the approval of the Legislature in accordance with the Maine Revised Statutes, Title 12, sections 1814, 1837 and 1851; now, therefore, be it

[BODY OF RESOLVE]

Sec. 1. Director of Bureau of Parks and Lands authorized to convey land. Resolved: That the Director of the Bureau of Parks and Lands within the Department of Agriculture, Conservation and Forestry may, by a boundary line agreement and on such other terms and conditions as the director may direct by quitclaim deed without covenant, convey all interests held by the bureau in 2 parcels of land cumulatively totaling 2.923 acres, more or less, to Richard Hatton McAuley and to Richard Hatton McAuley and Anita Baldwin in exchange for 2.923 acres, more or less, to execute a boundary line adjustment to create a straight southeast boundary line at Vaughan Woods Memorial State Park located in South Berwick.

SUMMARY

[SUMMARY]

This resolve authorizes certain land transactions by the Director of the Bureau of Parks and Lands within the Department of Agriculture, Conservation and Forestry in order to execute a boundary line adjustment to create a straight southeast boundary line at Vaughan Woods Memorial State Park located in South Berwick.

An example of a resolve creating a study commission may be found on pages 181 to 182.

CHAPTER 3
CONCEPT DRAFTS

Beginning in the 119th Legislature, the Joint Rules were amended to allow a sponsor to direct the Office of the Revisor of Statutes to prepare a bill or resolve as a concept draft. A concept draft contains only a summary of the proposed legislation. It is not a fully drafted bill or resolve but it is submitted for printing and reference to committee in the same manner as a fully drafted bill or resolve.

A sponsor might request that a bill or resolve be prepared as a concept draft if the sponsor is not in possession, at the time of cloture, of sufficient details for the Office of the Revisor of Statutes to prepare a fully drafted bill. Alternatively, a sponsor might be aware of several different remedies to the perceived problem but might wish to allow the joint standing committee to which the bill is referred to work out the details in a committee amendment.

Example:

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

CONCEPT DRAFT
SUMMARY

This bill is a concept draft pursuant to Joint Rule 208.

This bill proposes to amend the current law to establish a procedure to deal with defendants who are found incompetent to stand trial by a court. Under the procedure established by this bill, a defendant found incompetent to stand trial would be ordered by the court to be confined by the State for the purpose of obtaining treatment. The defendant would be confined until the court found that the person was competent to stand trial.

If the Legislature wishes to enact the legislation, the concept draft must be replaced by an amendment with fully drafted language. If a joint standing committee wishes to recommend passage of a bill that was referred to it in concept draft form, the committee must report out a committee amendment that strikes the text of the concept draft and replaces it with a fully drafted proposal. The Joint Rules require that any committee amendment be germane to the detailed summary of the concept draft.

CHAPTER 4
CONSTITUTIONAL RESOLUTIONS

The only way to amend the Constitution of Maine is by a constitutional resolution, which is passed by the Legislature and then submitted to the voters for approval. A resolution proposing a constitutional amendment should contain only proposed changes in the existing language of, or an addition to, the Constitution of Maine. Any changes in public or private and special laws necessitated by the acceptance of the resolution should be done in a bill enacted after acceptance of the resolution. A constitutional resolution is quite different in form from a bill or a resolve, although certain basic elements are similar.

Section 1. Elements of constitutional resolution

The following elements are listed in the order in which they appear in a constitutional resolution.

A. The title. The title of the constitutional resolution always begins "RESOLUTION, Proposing an Amendment to the Constitution of Maine to..." followed by a short description of the resolution's content. Again, the general rules for drafting a title of a bill should be followed.

Example:

> RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require Residency of Candidates at the Time of Nomination for Placement on the Ballot

B. The preamble. In all constitutional resolutions there is a standard preamble that reads as follows:

> **Constitutional amendment. Resolved:** Two thirds of each branch of the Legislature concurring, that the following amendment to the Constitution of Maine be proposed:

C. The main body. The main body of a constitutional resolution is divided into paragraphs, each dealing with a proposed amendment or addition to the Constitution of Maine. Each paragraph proposing new or amended language to the Constitution begins with an amending clause that recites the specific provision of the Constitution to be affected and the appropriate legislative action. The paragraphs are arranged by order of the constitutional provision they propose to amend, repeal or enact. The constitutional provision with the lowest article, part and section designation comes first and the resolution continues in sequence to the end. The paragraphs of a constitutional resolution are not given section designations.

Example:

Constitution, Art. IV, Pt. Third, §2-A is enacted to read:

Section 2-A. Line-item veto of dollar amounts appearing in appropriation or allocation sections of legislative documents. The Governor has power to disapprove any dollar amount appearing in an appropriation section or allocation section, or both, of an enacted legislative document. Unless the Governor exercises the line-item veto power authorized in this section no later than one day after receiving for signature the enacted legislation, the powers of the Governor as set out in section 2 apply to the entire enacted legislation. For any disapproved dollar amount, the Governor shall replace the dollar amount with one that does not result in an increase in an appropriation or allocation or a decrease in a deappropriation or deallocation.

D. The referendum provision. The Constitution of Maine, Article X, Section 4 provides that the Legislature, by a 2/3 vote of both houses, may propose amendments to the Constitution. The proposed amendments do not become part of the Constitution unless approved by the majority of voters voting on the referendum. The referendum provision is generally set out in a standardized form but it may be varied judiciously to meet particular needs.

Example:

Constitutional referendum procedure; form of question; effective date. Resolved: That the municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, at a statewide election held in the month of November following the passage of this resolution, to vote upon the ratification of the amendment proposed in this resolution by voting upon the following question:

"Do you favor amending the Constitution of Maine to _____ (Here set out a brief description of the proposed amendment in question form usually paraphrasing the title. Although the question is not part of the constitutional amendment and the Legislature has latitude in wording, the question should reflect the content and intention of the proposed amendment and should not be misleading or promotional. Insert double quotation marks around the question.) ?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within the corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The

Governor shall review the returns. If it appears that a majority of the legal votes are cast in favor of the amendment, the Governor shall proclaim that fact without delay and the amendment becomes part of the Constitution of Maine on the date of the proclamation.

Secretary of State shall prepare ballots. Resolved: That the Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this resolution necessary to carry out the purposes of this referendum.

Occasionally, a sponsor will request that two or more companion questions appear in the referendum section. If the sponsor cannot be discouraged from pursuing this course, the following example of a referendum section is offered as a model.

Example:

Constitutional referendum procedure; form of question; effective date. Resolved: That the municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, at a statewide election held in the month of November following the passage of this resolution, to vote upon the ratification of the amendments proposed in this resolution by voting upon the following questions:

Question A: "Do you favor amending the Constitution of Maine to establish 4-year terms of office for Representatives in even-numbered districts beginning in 2006, and 4-year terms of office for Representatives in odd-numbered districts beginning in 2008?"

Question B: "Do you favor amending the Constitution of Maine to establish 4-year terms of office for Senators in even-numbered districts beginning in 2006, and 4-year terms of office for Senators in odd-numbered districts beginning in 2008?"

The legal voters of each city, town and plantation shall vote by ballot on these questions and designate their choice by a cross or check mark placed within the corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns. If it appears that a majority of the legal votes are cast in favor of Question A, the Governor shall proclaim that fact without delay and the amendment becomes part of the Constitution of Maine on the date of the proclamation. If it appears that a majority of the legal votes are cast in favor of Question B, the Governor shall proclaim that fact without delay and the amendment

becomes part of the Constitution of Maine on the date of the proclamation.

E. The effective date. The effective date provisions in a constitutional resolution are generally incorporated in the referendum provisions. While the most frequently used effective date for constitutional resolutions is upon proclamation by the Governor, other effective dates may be used.

Example:

The Governor shall review the returns. If it appears that a majority of the legal votes are cast in favor of the amendment, the Governor shall proclaim that fact without delay and the amendment becomes part of the Constitution of Maine on January 1, 2005.

F. Summary. Like a bill, a constitutional resolution contains a summary. See pages 29 to 31 for rules on drafting summaries.

Section 2. Technical style

A. Structure of the Constitution. The Constitution of Maine is composed of a preamble and 10 Articles. Unlike the Constitution of the United States, amendments to the Constitution of Maine are integrated into the body of the Constitution according to subject matter and not placed at the end. The Constitution of Maine requires the Chief Justice to recodify the Constitution every 10 years. Recodification allows for removal of unnecessary language and proper numbering of sections. The structure of the Constitution of Maine is:

PREAMBLE
ARTICLE
PART (Used only in ARTICLES IV, V and VIII)
SECTION
SUBSECTION

B. Proposed changes to the Constitution. Language that is to be removed from the Constitution is shown by striking through the existing text. New language is indicated by underscoring.

Section 3. Example of complete constitutional resolution

[TITLE]

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Promote Historic and Scenic Preservation

[PREAMBLE]

Constitutional amendment. Resolved: Two thirds of each branch of the Legislature concurring, that the following amendment to the Constitution of Maine be proposed:

[BODY OF RESOLUTION]

[AMENDING CLAUSE]

Constitution, Art. IX, §8, sub-§5 is enacted to read:

5. Historic and scenic preservation. The Legislature has the power to provide that municipalities may reduce taxes on real property if the property owner agrees to maintain the property in accordance with criteria adopted by the governing legislative body of the municipality to maintain the historic integrity of important structures or to provide scenic view easements of significant vistas.

[REFERENDUM AND EFFECTIVE DATE PROVISIONS]

Constitutional referendum procedure; form of question; effective date. Resolved: That the municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, at a statewide election held in the month of November following the passage of this resolution, to vote upon the ratification of the amendment proposed in this resolution by voting upon the following question:

[QUESTION]

> "Do you favor amending the Constitution of Maine to allow for reduced property taxes on property that will be maintained for historic preservation or for scenic views of significant vistas?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within the

corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns. If it appears that a majority of the legal votes are cast in favor of the amendment, the Governor shall proclaim that fact without delay and the amendment becomes part of the Constitution of Maine on the date of the proclamation.

Secretary of State shall prepare ballots. Resolved: That the Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this resolution necessary to carry out the purposes of this referendum.

[SUMMARY]

SUMMARY

This resolution proposes to amend the Constitution of Maine to allow the Legislature to enact a law allowing municipalities to reduce property taxes on property dedicated to historic preservation or preservation of scenic easements.

CHAPTER 5
RESOLUTIONS

Senate, House and Joint Resolutions are formal expressions of legislative sentiment, opinion or will and do not have the force of law. A resolution may be directed to another branch of State Government or local government, another state government, the federal government, an official of those governments or to another person or entity. Unlike on bills, summaries do not appear on resolutions. The following are specific types of resolutions.

Section 1. Joint resolutions; elements

Joint resolutions are jointly issued by the Senate and the House of Representatives to express special sentiment or opinion. Requests for specific joint resolutions should be filed initially with the Office of the Revisor of Statutes. The Office of the Revisor of Statutes sends requests to the President of the Senate and the Speaker of the House of Representatives. The President and the Speaker may approve or reject a request or instruct the Office of the Revisor of Statutes to process the request as a legislative sentiment. (See page 59 for a discussion of legislative sentiments.)

The title begins with the words "JOINT RESOLUTION ..." and it should describe concisely the contents of the resolution. The preamble follows with paragraphs that set out the reasons for the sentiment or opinion that is expressed in the body.

The body of the joint resolution is used to set out the sentiment or opinion that the Legislature wishes to convey. If copies of the resolution are to be sent to a specified person or persons, indicate in the last paragraph of the main body to whom those copies are to be sent by the Secretary of State.

The following joint resolution is a typical example of the commemoration of an anniversary of a political subdivision of the State.

Example:

[TITLE]

JOINT RESOLUTION COMMEMORATING THE 200th ANNIVERSARY OF WASHINGTON COUNTY

[PREAMBLE]

WHEREAS, the most easterly county in these United States, Maine's Washington County, is the home of crystalline lakes, granite mountains, great expanses of beautiful forests and a spectacular and craggy "bold coast"; and

WHEREAS, this proud region has been home to generations of hardy citizens who have made a resourceful living by carefully stewarding their limited material resources while industriously harvesting and utilizing the abundant bounty of the county's fields, forests, rivers and seacoast; and

WHEREAS, the "Sunrise County, USA" has historic significance, as it was originally a part of York County, was then part of Lincoln County and was separately set off and incorporated by the General Court of the Commonwealth of Massachusetts on June 25, 1789, and as the first naval battle of the Revolutionary War was fought off Machias on June 11, 1775; and

WHEREAS, the rugged beauty of this region, from Quoddy Head Light to Cobscook Bay, to Deblois' blueberry barrens, to Cutler's majestic fjord-like bays, to Grand Lake Stream, has been preserved for the enjoyment of visitors from throughout this State and around the world; and

WHEREAS, downeast Maine and the people who inhabit it have captured our nation's imagination, and epitomize the self-reliance and independence of all residents of Maine; now, therefore, be it

[BODY OF RESOLUTION]

RESOLVED: That We, the Members of the One Hundred and Fourteenth Legislature now assembled in the First Regular Session, on behalf of the people we represent, take this opportunity to recognize the Bicentennial Anniversary of Washington County, to commend the inhabitants and officials of this county for the success they have achieved together for two centuries and to extend to each our sincere hopes and best wishes for continued achievement over the next 200 years; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the citizens and officials of this proud region in honor of the occasion.

Section 2. Senate or House resolutions

The elements of a Senate or House resolution are the same as those of a joint resolution. Like joint resolutions, these instruments express special sentiment or opinion, but they are issued by only one house. The form is similar to joint resolutions, except that the title begins "RESOLUTION ..." and the references in the body of the resolution are to the particular house rather than to the Legislature as a whole.

Section 3. Memorials; elements

Memorials are joint resolutions used to petition individuals or entities over which the Legislature has no control to take some action. Like all other joint resolutions, requests for memorials must be filed in the Office of the Revisor of Statutes. Pursuant to the Joint Rules, memorials require approval of the Legislative Council before they may be introduced.

The elements of a memorial follow the form of joint resolutions, except for the following elements. Titles of memorials begin "JOINT RESOLUTION MEMORIALIZING ..." A standard introductory paragraph follows the title and comes before the preamble, identifying the memorialists and the person or entity that is the subject of the petition.

Example:

[TITLE]	**JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO REQUIRE EXPANSION OF FISH HATCHERY OPERATIONS**
[INTRODUCTORY PARAGRAPH]	**WE,** your Memorialists, the Members of the One Hundred and Twenty-seventh Legislature of the State of Maine now assembled in the First Regular Session, most respectfully present and petition the President of the United States and the United States Congress as follows:
[PREAMBLE]	**WHEREAS,** the Atlantic salmon, *Salmo salar*, is a salmon found in the north Atlantic Ocean and in rivers that flow into the north Atlantic Ocean, and the fish has historically been an important economic asset to the State of Maine; and **WHEREAS,** the major rivers of the State once ran thick with salmon traveling upstream to spawn; and **WHEREAS,** salmon populations have been reduced to nearly undetectable numbers in most rivers in Maine; and **WHEREAS,** the Federal Government has designated the Atlantic salmon as an endangered species; and **WHEREAS,** the Federal Government spends millions of dollars annually to restore the species with no significant success; and **WHEREAS,** there are specific hatchery operations that can improve upon the current results; and **WHEREAS,** a significant number of salmon originating in Maine are being harvested in a commercial fishery off the west coast of Greenland; and **WHEREAS,** this fishery is a major obstacle to the restoration of salmon in Maine rivers; now, therefore, be it
[BODY OF MEMORIAL]	**RESOLVED:** That We, your Memorialists, on behalf of the people we represent, take this opportunity to respectfully request that the President and the United

States Congress direct the United States Fish and Wildlife Service and the National Marine Fisheries Service to expand hatchery operations to rivers in Maine by partnering with the State and with the many non-government organizations that are focused on restoring Atlantic salmon to their historic natal rivers; and be it further

RESOLVED: That We, your Memorialists, urge that additional resources be made available to the United States State Department that would assist its efforts through the North Atlantic Salmon Conservation Organization convention to help with the curtailment or suspension of the wild Atlantic salmon fishery off the west coast of Greenland; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable Barack H. Obama, President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives and to each Member of the Maine Congressional Delegation.

Section 4. In memoriam; elements

A special type of joint resolution known as an "in memoriam" is used to express sympathy on the death of prominent local or state figures. This type of joint resolution does not require approval from the President of the Senate and the Speaker of the House. The elements of an in memoriam differ from those of other joint resolutions.

Example:

STATE OF MAINE

IN MEMORIAM

WHEREAS, THE LEGISLATURE HAS LEARNED
WITH DEEP REGRET OF THE DEATH OF

Tom Jones, of Rockville. Mr. Jones took an active role in the civic affairs of Rockville as a member of the school committee. Mr. Jones will be long remembered and sadly missed by his family and friends and all those whose lives he touched;

THEREFORE, BE IT RESOLVED THAT WE, THE MEMBERS OF THE SENATE AND HOUSE OF REPRESENTATIVES PAUSE IN A MOMENT OF UNDERSTANDING AND PRAYER TO INSCRIBE THIS TOKEN

OF SYMPATHY AND CONDOLENCE TO ALL WHO SHARE THIS GREAT LOSS AND RESPECTFULLY REQUEST THAT WHEN THE LEGISLATURE ADJOURNS THIS DATE IT DO SO IN HONOR AND LASTING TRIBUTE TO THE DECEASED.

CHAPTER 6
ORDERS

Orders are used for administrative or organizational functions that are internal to the Legislature. An order may also be used to express the Legislature's will that a certain action be taken or to convey the Legislature's sentiments or opinion. An order may be a joint order, a Senate order or a House order.

Section 1. Elements of an order

Orders generally consist of a preamble, an introductory phrase and the body. The preamble is routinely omitted in a simple order when no explanation of the background for the order is needed. An order does not have a summary.

A. The preamble. The preamble in an order is written in the same manner as that of a joint resolution.

B. The introductory phrase. The form of the introductory phrase depends on whether the order is a joint order, Senate order or House order. A joint order originating in the Senate reads "**ORDERED,** the House concurring, that ..." and one originating in the House reads "**ORDERED,** the Senate concurring, that ..." A Senate or House order begins with the phrase, "**ORDERED,** that ..."

C. The body. The wording of the body of an order depends on the action that is being requested or the sentiment being expressed.

Section 2. Common types of orders; examples; forms

A. Congratulatory orders or legislative sentiments. The most common use of orders is to congratulate or recognize a person, group or other entity for an outstanding achievement, civic accomplishment or important event. The President of the Senate and the Speaker of the House of Representatives, pursuant to the Joint Rules, set guidelines for the use of these instruments.

Example:

STATE OF MAINE

BE IT KNOWN TO ALL THAT

WE, THE MEMBERS OF THE SENATE AND

HOUSE OF REPRESENTATIVES,

JOIN IN RECOGNIZING

John and Jane Smith, of Smalltown, who are celebrating their 50th Wedding Anniversary on December 1, 2020. We extend our congratulations and best wishes;

AND BE IT ORDERED THAT THIS OFFICIAL EXPRESSION OF SENTIMENT BE SENT FORTHWITH ON BEHALF OF THE LEGISLATURE AND THE PEOPLE OF THE STATE OF MAINE.

B. Orders to recall bills. Occasionally, the Legislature wishes to reconsider its actions on a bill that is on the Governor's desk awaiting signature or that has failed and been placed in the legislative files. An order to recall a bill must recall the bill to either the House or the Senate; an order cannot recall a bill to a committee.

The Joint Rules provide that a bill that is finally rejected may be recalled from the legislative files by a joint order approved by a vote of 2/3 of both chambers.

Example:

STATE OF MAINE

_____

In House _____

ORDERED, the Senate concurring, that Bill, "An Act Amending the Maine Uniform Transfers to Minors Act," H.P. 401, L.D. 601, and all its accompanying papers, be recalled from the legislative files to the House.

SPONSORED BY:_____
(Representative JONES)
TOWN: Augusta

In order to amend a bill that has been in the possession of the Engrossing Division of the Office of the Revisor of Statutes for more than 24 hours, it is necessary to first recall that bill from Engrossing.

Example:

STATE OF MAINE

_____

In Senate _____

ORDERED, the House concurring, that Bill, "An Act Relating to Tree Growth Reimbursement," H.P. 867, L.D. 1224, and all its accompanying papers, be recalled from the Engrossing Division to the Senate.

SPONSORED BY:_____
(Senator SMITH)
COUNTY: Penobscot

A bill that has been sent to the Governor may be recalled by a joint order.

Example:

STATE OF MAINE

_____

In Senate _____

ORDERED, the House concurring, that Bill, "An Act to Establish a Presidential Primary in Maine," S.P. 178, L.D. 202, and all its accompanying papers, be recalled from the Governor's desk to the Senate.

SPONSORED BY:_____
(Senator BROWN)
COUNTY: Somerset

A bill that has been sent to a joint standing committee may be recalled by a joint order.

Example:

STATE OF MAINE

_____

In Senate _____

ORDERED, the House concurring, that, notwithstanding Joint Rule 310 or any other rule to the contrary, Bill, "An Act to Prohibit the Sale of Liquor on Sundays," S.P. 161, L.D. 1234, and all its accompanying papers, be recalled from the Joint Standing Committee on Veterans and Legal Affairs to the Senate.

SPONSORED BY:_____
(Senator SMITH)
COUNTY: Kennebec

C. Orders to report out bills. The Legislature may order a joint standing committee of the Legislature to report out a bill, including a bill that does not yet exist.

(1) Form when bill exists and is in committee:

ORDERED, the Senate (or House) concurring, that the Joint Standing Committee on (name of committee) shall report out, to the Senate (or House), that Bill, "An Act (title of bill)," S.P. (or H.P.) ___, L.D. ___.

(2) Form when no bill exists, but order supplies title:

ORDERED, the Senate (or House) concurring, that the Joint Standing Committee on (name of committee) shall report out, to the Senate (or House), a Bill, "An Act (title of bill supplied by sponsor of order)."

(3) Form when no bill exists and order does not supply title:

ORDERED, the Senate (or House) concurring, that the Joint Standing Committee on (name of committee) shall report out, to the Senate (or House), (a bill) (legislation) (set out the subject matter and brief description of the content of the bill).

D. Orders of adjournment. Orders may be used to adjourn the Legislature until a specified date, or direct the Legislature to adjourn "without day," or *sine die*, when the Legislature is finished

with its session. These orders are sometimes prepared in the offices of the Clerk of the House and the Secretary of the Senate rather than in the Office of the Revisor of Statutes. The forms for these orders are as follows:

(1) Form for adjournment until a specified date:

> **ORDERED,** the House (or Senate) concurring, that, when the House and Senate adjourn, they adjourn to (set date and time for reconvening).

(2) Form for adjournment without day:

> **ORDERED,** that a message be sent to the Senate (or House) informing that Body that the House (or Senate) has transacted all the business that has come before it and is ready to Adjourn Without Day.

(3) Form for adjournment until Veto Day:

> **ORDERED,** the House concurring, that, when the House and Senate adjourn, they both adjourn to (date and time for reconvening), at which time the Senate and House of Representatives shall meet for one legislative day for the purpose of considering possible objections of the Governor to any bill or resolve presented by the Legislature under the Constitution of Maine, Article IV, Part Third, Section 2.

E. Orders concerning the rules. Orders may be used to enact, amend or repeal the rules of either chamber or the Joint Rules. Until an order enacting proposed Joint, Senate or House Rules is adopted, the rules may be amended by an amendment to the order. Once the order establishing the Joint, Senate or House Rules is adopted, those rules are amended by an order.

The forms of these orders are as follows:

(1) Form for changing Joint Rules (by joint order):

> **ORDERED,** the Senate (or the House) concurring, that the Joint Rules be amended by (adding, repealing or amending) Joint Rule (number of Joint Rule) to read: (set out proposed new rule or amendment using strike-through and underscoring to show changes).

(2) Form for changing Senate Rules by Senate order or House Rules by House order:

> **ORDERED,** that Senate (or House) Rule (number of rule) be (adopted, repealed or amended) (set out proposed new rule or amendment using strike-through and underscoring to show changes).

F. Orders to carry over bills. The Legislature may wish to carry over bills from a session to be considered further at the next regular or special session of that Legislature. Bills that are

carried over are held in committee. Note that the form is the same whether one bill or 100 bills are carried over. The Legislative Council must approve any proposed carryover of legislation, and council-approved requests are usually consolidated into one omnibus order.

Example:

STATE OF MAINE

_____

In House _____

ORDERED, the Senate concurring, that the following specified matters be held over to any special or regular session of the 127th Legislature.

Taxation

H.P. 43, L.D. 49 - An Act to Exempt from Excise Tax Certain Vehicles Used by Persons with a Disability

S.P. 239, L.D. 646 - An Act to Provide Incentives for Municipal Cooperation and Shared Services

H.P. 670, L.D. 973 - An Act to Ensure That Nicotine Products Are Taxed Equally

H.P. 854, L.D. 1254 - An Act to Implement and Fund an Integrated Beach Management Program

H.P. 967, L.D. 1421 - An Act to Establish a Tax-free Savings Program for Individuals with Disabilities

Transportation

H.P. 159, L.D. 227 - An Act to Remove Barriers to Job Opportunities for Young Truck Drivers

H.P. 205, L.D. 287 - An Act to Improve Traffic Safety During Political Campaign Seasons

H.P. 468, L.D. 687 - An Act to Expand Classification Categories for Motor Vehicles in the State

H.P. 771, L.D. 1110 - An Act to Modernize Road User Fees

Veterans and Legal Affairs

H.P. 554, L.D. 805 - Resolve, Authorizing Certain Individuals to Bring Suit Against the Department of Health and Human Services

H.P. 623, L.D. 904 - An Act to Increase Fairness in Campaign Financing

H.P. 692, L.D. 997 - An Act to Streamline Licensing Requirements for and Payments from Veterans' Organizations

H.P. 875, L.D. 1279 - An Act to Authorize Advance Deposit Wagering for Horse Racing

SPONSORED BY: _____

(Representative MCCABE)

TOWN: Skowhegan

G. Study orders. For a discussion of study orders as well as legislation establishing studies, see pages 179 to 182.

H. Other uses of orders. Orders are used for many other purposes, such as to direct the printing of documents received by either house, authorizing the issuance of stamps and regulating the use of legislative facilities. A drafter who is unsure of the proper form for a particular order should consult the Office of the Revisor of Statutes, the Secretary of the Senate or the Clerk of the House.

CHAPTER 7
AMENDMENTS

An amendment is a proposed change to a bill, resolve, constitutional resolution, resolution or order or another amendment. An amendment must relate to the same subject matter as the instrument to which it is offered. Whether a specific amendment is sufficiently related to the subject matter of the bill is a ruling of the presiding officers. The President of the Senate or the Speaker of the House may rule that an amendment is not germane and therefore not properly brought before the body. The Office of the Revisor of Statutes processes requests for amendments authorized by Legislators or committees only, although a request might include a draft prepared by a lobbyist or an executive department or agency.

Section 1. Types of amendments; processing of amendments

There are three types of amendments: committee amendments and floor amendments, which are the most common types, and committee of conference amendments, which are far less commonly used.

A. Committee amendments. After considering a legislative document, the committee to which the document was referred may propose revisions to that document. This proposed revision is called a committee amendment; it is drafted by the legislative analyst for that committee. A committee amendment may be reported out by one or more members of the committee. If a majority of the members, or a plurality if no majority exists, of a committee supports the amendment, it is a majority report; a minority of the committee may join in a minority report. In theory, a committee could report out as many amendments as there are committee members.

B. Floor amendments. Floor amendments may originate in either the Senate or House of Representatives.

(1) Senate amendments. A Senate amendment is proposed and sponsored by a member of the Senate.

(2) House amendments. A House amendment is proposed and sponsored by a member of the House of Representatives.

After an amendment has been processed in the Office of the Revisor of Statutes, it is either signed by the sponsor, if a floor amendment, or received by the committee clerk, if a committee amendment, and then filed with either the Secretary of the Senate or the Clerk of the House. Senate amendments are filed with the Secretary of the Senate and House amendments are filed with the Clerk of the House. Committee amendments are filed with either the secretary or the clerk in accordance with the original instrument's house of origin. The secretary or the clerk assigns a letter designation and a filing number, then reproduces the amendment for distribution. The first amendment of a certain type is given the letter designation "A" and each subsequent amendment of that type to the same legislative instrument is assigned the next letter in sequence.

C. Committee of conference amendments. A committee of conference amendment may be reported out by a committee of conference that is established pursuant to the Joint Rules to

attempt to reconcile differences between the chambers with respect to a proposal. Like other committee amendments, a committee of conference amendment does not have a sponsor and, like other committee amendments, a committee of conference amendment always amends the bill itself. Under the Joint Rules, committee of conference amendments are not subject to further amendment; the committee of conference report may be either accepted or rejected, but "no other action may be had except through another committee of conference."

Section 2. Amendments to the second degree

Amendments beyond the second degree are prohibited. This means that an amendment may amend an amendment, but it may never amend an amendment to an amendment. Floor amendments to committee amendments and floor amendments to other floor amendments are proper as long as there are no more than two levels of amendments. The drafter must first determine what instrument needs to be amended. For example, if House Amendment "A" to Committee Amendment "A" to a bill has been adopted, the drafter may be able to avoid a problem by creating a new House amendment that goes directly to the bill if the changes desired are not in conflict with House Amendment "A" to Committee Amendment "A" to the bill. If the proposed changes are in conflict with House Amendment "A" to Committee Amendment "A" to the bill, the drafter must indicate to the sponsor that House Amendment "A" to Committee Amendment "A" to the bill must be removed or "killed," and the drafter writes the amendment as if House Amendment "A" to Committee Amendment "A" to the bill never existed (although in most instances, much of the body of that amendment may be incorporated as text in the new amendment, House Amendment "B" to Committee Amendment "A" to the bill).

Factors to consider in determining which document to amend include:

- Whether amendments have already been accepted and by which house;
- The sponsor's instructions;
- The likelihood of acceptance of other printed amendments; and
- Whether amending one instrument rather than another requires the Legislature to take fewer additional procedural steps.

Section 3. Elements

In addition to the elements listed below, amendments have many technical elements with which the drafter need not be concerned, as they are supplied by the Office of the Revisor of Statutes.

A. Heading. The heading includes the house of origin and the session of the Legislature.

B. Introductory paragraph. The introductory paragraph, which appears after the heading, sets out the type of amendment, the instrument being amended and the title of the instrument being amended.

C. Body of the amendment. The body of the amendment contains the language that effectuates the objectives of the sponsor. The body consists of paragraphs setting out where and how the instrument is to be amended. The paragraphs always begin "Amend the bill (or amendment or other instrument) ..." The drafter must be aware that the changes proposed by the amendment may require changing the title of the instrument.

D. Fiscal note. A bill that proposes legislation that has a financial impact must have a fiscal note. Fiscal notes are usually added to bills during the amendment process. When drafting a committee amendment or a floor amendment, legislative drafters must submit a draft to the Office of Fiscal and Program Review to determine whether a fiscal note should be included in the amendment.

E. Summary. An amendment must have a summary. A summary should describe how the amendment alters the instrument being amended. The same rules set out on pages 29 to 31 for summaries on bills apply to floor amendments. Summaries on committee amendments are drafted by legislative analysts and may include background information endorsed by the committee and the purpose and intent of the committee in recommending the proposed change.

The following example identifies the basic elements of an amendment.

Example:

[AMENDMENT HEADING]	**STATE OF MAINE** **HOUSE OF REPRESENTATIVES** **130TH LEGISLATURE** **FIRST SPECIAL SESSION**
[INTRODUCTORY PARAGRAPH]	HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1200, L.D. 1611, "An Act to Amend Maine's Harness Racing Laws Regarding Race Dates and Pari-mutuel Pools"
[BODY OF AMENDMENT]	Amend the amendment in section 3 in subsection 3 in the 8th line (page 1, line 23 in amendment) by striking out the following: "municipality" and inserting the following: 'municipal officers of the municipality' Amend the amendment in section 3 in subsection 3 in the 8th line (page 1, line 23 in amendment) by striking out the following: "approves" and inserting the following: 'approve'
[RELETTERING/ RENUMBERING INSTRUCTION]	Amend the amendment by relettering or renumbering any

nonconsecutive Part letter or section number to read consecutively.

[SUMMARY]

SUMMARY

This amendment specifies that the municipal officers of a municipality must approve the sale of pari-mutuel pools and common pari-mutuel pools at a facility located in that municipality before the sale may be approved by the State Harness Racing Commission.

Section 4. Technical style

A. Printer instructions. Amendments are drafted in the form of technical directions because, historically, they were instructions to the printer. These directions should be as clear as possible to ensure that the proper changes are made to the legislative instrument when it is engrossed.

Note that the easiest way for a drafter to give these instructions unambiguously is to show the changes directly on the instrument being amended. The legislative technicians in the Office of the Revisor of Statutes will supply the necessary technical wording, described below, to accomplish the changes marked on the instrument.

B. Amendatory language. In order to identify the exact place in the instrument that the drafter seeks to amend, that place needs to be described in words and then identified by the page and line number.

Example:

Amend the bill in section 5 in §2475 in subsection 3 in the 3rd line (page 8, line 17 in L.D.) by striking out the following: "shall" and inserting the following: 'may'

Example:

Amend the bill by inserting after section 4 the following:

Example:

Amend the amendment by striking out everything after the title and inserting the following:

C. Numbering. When adding or deleting sections from an instrument by amendment, the drafter considers only the section numbers of the document that are being amended. For example, if a bill has three sections and an amendment inserts two more, "Sec. 4." and "Sec. 5.," and a second amendment to the bill then inserts a different new section to the bill, that second amendment would

also add a "Sec. 4." To limit the potential section numbering conflicts, the Office of the Revisor of Statutes includes the following paragraph in all amendments:

Example:

Amend the (instrument) by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

Similarly, after deleting sections by amendment, the drafter refers to the remaining sections by the same numerical designation that they had in the instrument being amended and then gives instructions to reletter or renumber.

D. Quotation marks. The type of quotation marks used is of special significance for amendments. When indicating that specific words in an instrument are to be deleted or when quoting specific words from an instrument, the amendment shows those words double quoted exactly as they appear in the instrument. When specific words are to be added by amendment, they are single quoted.

Section 5. Examples

This section contains three documents: a bill, a committee amendment to the bill and a House amendment to the committee amendment.

A. The bill, H.P. 153, L.D. 205:

An Act to Prohibit and Provide a Penalty for Trespass by Animals

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

Sec. 1. 17 MRSA §3853-D is enacted to read:

§3853-D. Trespass by animals

1. Prohibition. A person commits a civil violation if an animal owned by or subject to that person's control enters on the property of another after the person had been previously warned by a law enforcement officer or a justice of the peace that an animal owned by or subject to that person's control was found on the property of another. A person is not liable under this section if, at the time of the alleged trespass, that person was licensed or privileged to allow the animal to be on the property.

2. Penalty. A person who violates this section is subject to a fine of not more than $500. The court may also order restitution for any damage caused by the animal.

SUMMARY

This bill reestablishes the prohibition of and penalty for trespass by animals.

B. Committee Amendment "A" to H.P. 153, L.D. 205:

COMMITTEE AMENDMENT "A" to H.P. 153, L.D. 205, Bill, "An Act to Prohibit and Provide a Penalty for Trespass by Animals"

Amend the bill by striking out everything after the enacting clause and inserting the following:

'**Sec. 1. 7 MRSA c. 741** is enacted to read:

CHAPTER 741

ANIMAL TRESPASS

§4041. Livestock animal trespass

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

A. "Animal control officer" or "law enforcement officer" means the animal control officer or law enforcement officer having jurisdiction over the area in which the livestock animal was found.

B. "Livestock animals" means dairy, feeding, beef or breeding cattle; horses; sheep; goats; donkeys; or swine.

C. "Trespass" means that a livestock animal of an owner or keeper has entered or been found on the property of another person.

2. Removal. The owner or keeper of a livestock animal is responsible, at the owner's or keeper's expense, for removing any livestock animal found trespassing. An animal control officer or law enforcement officer may, at the owner's or keeper's expense, remove and control a livestock animal found trespassing if:

A. The owner or keeper fails to remove the livestock animal within 6 hours after having been notified by an animal control officer or law enforcement officer that a livestock animal owned or kept by the owner or keeper was trespassing; or

B. The livestock animal is an immediate danger to itself, persons or another's property.

3. Civil violation. A person commits a civil violation if a livestock animal owned or kept by that person is found trespassing and:

A. That person fails to remove the livestock animal within 6 hours after having been personally notified by an animal control officer or law enforcement officer that a livestock animal owned or kept by that person was trespassing; or

B. A livestock animal of that person had been found trespassing on a prior occasion within the 12 months immediately preceding the present trespass and the owner or keeper had, at that time, been notified by an animal control officer or law enforcement officer of that trespass.

4. Penalty. A person who violates subsection 3 is subject to a fine of not more than $500. In addition, the court may as part of the sentencing include an order of restitution for damages caused by the livestock animal in accordance with section 3964 and for costs incurred in removing and controlling the livestock animal.

5. Exemption. A person is not liable under this section if, at the time of the alleged trespass, that person was licensed or privileged to allow the livestock animal to be on the property.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment clarifies the intent of the bill by making the trespass of livestock on the property of another person a civil violation.

C. House Amendment "A" to Committee Amendment "A" to H.P. 153, L.D. 205:

HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 153, L.D. 205, Bill, "An Act to Prohibit and Provide a Penalty for Trespass by Animals"

Amend the amendment by inserting after the title the following:

'Amend the bill by inserting after the title and before the enacting clause the following:

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

Whereas, livestock animals have the greatest opportunity to trespass during the spring and summer when they are out in their pastures; and

Whereas, there needs to be a clarification of the animal trespass laws to cover this spring and summer; and

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

Amend the amendment by inserting at the end before the summary the following:

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

Amend the amendment by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment adds an emergency preamble and emergency clause to the committee amendment.

PART III
STYLE AND GRAMMAR

This Part sets forth the conventions of style and grammar applied by the Office of the Revisor of Statutes to help ensure consistency throughout the statutes and other Maine laws.

Consistency in style and grammar is important because legislative instruments are drafted and redrafted by a broad range of people and because statutes are enacted, amended and reenacted over a long period of time. The goals of a standardized legislative style are to ensure that later revisions are internally consistent with earlier documents and to assist readers in understanding the purpose and intent of the laws.

Good legislative drafting is, however, an art rather than a science, and the constraints imposed by the drafting environment may sometimes present situations that require deviation from certain accepted drafting conventions. These situations, such as inserting a new section in the middle of an old chapter that has been extensively interpreted by the law court, require the drafter to use common sense and legal judgment. While the drafter may deviate from these accepted drafting conventions, the conventions may never be disregarded without the conscious decision to do so and a sound reason for that decision.

This manual does not attempt to enumerate all the rules of English grammar or even to set forth all the points that ensure clarity in legislative drafting. The staff of the Office of the Revisor of Statutes often consult *The Fundamentals of Legal Drafting* (2nd ed.) and *Legislative Drafting* by Reed Dickerson along with *The Elements of Grammar* by Margaret Shertzer, *The Elements of Style* by William Strunk, Jr. and E.B. White and *Fowler's Modern English Usage* (2nd ed.) as supplementary authorities and recommend them to the interested drafter.

CHAPTER 1
STYLE

A good statutory style requires consistency, coherence and clarity. Bill drafts should be precise and understandable. This chapter provides guidelines for drafting style to achieve these goals.

Section 1. Audience

Not all bills are aimed at the same readers. The primary audience of a bill varies with the bill. Write laws that are addressed to the general public, such as laws that prohibit dumping in state parks, for people of average intelligence and education. However, if a bill will regulate securities sales, then brokers and bankers are the audience and the bill may involve the technical vocabulary of their trade. Whenever possible, assume the audience is the general public. Keep sentences short and eliminate or define difficult or technical words or words that have meanings that deviate from standard usage. In expressing legislative policy to any audience, simplicity is of primary importance.

Section 2. Clarity

Brief, concise drafting usually leads to clear, understandable language. Clarity should not, however, be sacrificed for the sake of brevity. Generally, short words are preferable to long words. A simple sentence is easier to understand than a complex or compound sentence. If the meaning of a complex sentence can be precisely stated in two or more simple sentences, use the simple sentences. If a word has the same meaning as a phrase, use the word. Omit needless words. In drafting, attempt to find the balance between overdrafting and vagueness.

A. Overdrafting. Preciseness in drafting is a worthy goal, but can be taken too far. It is generally unnecessary to name every single thing you are forbidding or requiring. An overzealous attempt at precision may result in redundancy and verbosity. Drafting too precisely may create unintended loopholes.

This example, adapted from a National Park Service rule, tries to cover all the possibilities:

Example:

> **§5010. Trees, shrubs, plants, grass and other vegetation**
>
> **1. General injury.** A person may not prune, cut, carry away, pull up, dig, fell, bore, chop, saw, chip, pick, move, sever, climb, molest, take, break, deface, destroy, set fire to, burn, scorch, carve, paint, mark, or in any manner interfere with, tamper, mutilate, misuse, disturb or damage any tree, shrub, plant, grass, flower, or part thereof, nor shall any person permit any chemical, whether solid, fluid, or gaseous, to seep, drip, drain or be emptied, sprayed, dusted or injected upon, about or into any tree, shrub, plant, grass, flower, or part thereof, except when specifically authorized by competent authority; nor may

> any person build fires, or station, or use any tar kettle, heater, road roller or other engine within an area covered by this part in such a manner that the vapor, fumes, or heat therefrom may injure any tree or other vegetation.

Using broad terms that include narrow terms is preferable and probably provides greater legal protection. In the above example, "cut" could include "chop," "saw" and "sever" (among others), making it unnecessary to list these included words. Still more broadly drafted, the rule might well read "a person may not harm the plants," and offer the same, if not more, protection.

B. Vagueness. Just as overdrafting can backfire and limit a provision in unforeseen ways, underdrafting is equally dangerous. Although it is often necessary or desirable to create a general or broad legislative standard or directive, beware of language that is so indefinite that it is meaningless or begs a challenge in court as invalid for vagueness. Generally, courts loathe declaring a law invalid on this ground, but careful drafting can eliminate the need for judicial scrutiny. Use subjective words prudently. Don't riddle drafts with immeasurable words such as "fair," "reasonable," "proper," "competent," "substantial," "remote," "vulgar," "adequate," "gross," "normal" or "immoral," unless the word is an accepted term of art, such as "reasonable" attorney's fees.

Section 3. Consistency

Although the generous use of synonyms is fundamental to most types of writing, it is particularly ill-suited for drafting legislation. When a word is used more than once in a law, a presumption arises that the word or phrase has the same meaning throughout, unless a contrary intent is clear. Three rules emerge from this:

- Don't use the same word to convey different meanings;
- Don't use different words to convey the same meaning; and
- Don't use a synonym if you are trying to indicate a difference in substance.

What may influence or control your choice of terms is an approach already taken in the same or a similar matter. If you are establishing an administrative mechanism for licensing a particular profession, for example, check the chapters of the Maine Revised Statutes, Title 32 for a possible model to follow. You don't want your choice of terms to affect existing law unintentionally.

Consistency builds in a certain degree of predictability of terms that aids legal research, both manual and computer-assisted. Using terms consistently, however, does not justify redundant writing. Don't write "... the purpose of screening is to screen ..." or "... the necessary steps required."

Section 4. Legislative objective: the legislative sentence

By following a strict pattern of statutory expression and avoiding variation in sentence form, the statutory objective can be stated more easily. Each sentence should express a single thought, making it easier for the reader to comprehend the rule expressed. It is best to follow an order of

development in which the sentence first identifies the person who must act followed by the action that the statute directs.

A. Legal rule. The simplest legislative sentence consists of a *legal subject* and a *legal action*. These two parts compose the *rule*. In more complicated forms, a sentence also may contain exceptions, conditions and cases.

(1) Legal subject. The legal subject identifies the person required or permitted to do something or prohibited from doing something. The description of the legal subject determines the person to whom the law will apply and should, therefore, be precise. Consider the following sentence:

> Whenever a structure is in disrepair, it must be ordered demolished.

The sentence does not tell the reader who is to issue the order. The intent was probably to place a duty on someone to order the demolition. The person with the duty should be identified. Compare this sentence:

> The inspector of buildings shall order the city to demolish any structure in disrepair.

Because the responsibility for legal duties, liabilities, rights, privileges and powers can reside only in a person, draft legal sentences in the personal form. It is illogical to direct a command at a "thing" because it is incapable of assuming responsibility. (See discussion on voice on pages 86 to 87.)

(2) Legal action. Legal action directs the legal subject to act in a particular manner, describing the particular act permitted, required, limited or prohibited. The verb directs, limits or permits action or inaction. Often, the greatest problem for the drafter is selecting the proper verb form. (See discussion on legal action verb forms on pages 99 to 102.)

B. Limitations on application. Frequently, a rule is not designed to be generally or uniformly applied. If there is a limitation on a rule's application, it should be expressed as either the "case" to which the legal action is confined or as a "condition" upon which it will operate. Normally, the case and condition should precede the legal subject.

(1) Case. The case sets out the facts that confine the legal rule's scope or application.

Example:

CASE:	When an emergency exists,
SUBJECT:	the director
ACTION:	may restrict a licensee's operations.

The case has indicated under what circumstances the authority granted by the legal rule may be exercised.

Use "when" to introduce a case, not "in case," "in the event" or "where."

Stating the case at the beginning of a sentence immediately notifies the reader of the rule's limited application. However, if a single rule applies to different cases, it may be more convenient to outline the cases after the rule.

Example:

SUBJECT:	The director
ACTION:	may restrict a licensee's operations:
CASES:	1) When an emergency exists; 2) When a licensee has been indicted; or 3) When a licensee has been adjudicated as bankrupt.

(2) Conditions. Until fulfilled, a condition suspends the operation of a rule and can apply to a rule of general application or to one restricted to certain cases. Place the condition before the rule and after the case.

Example:

CASE:	When an emergency exists,
CONDITION:	if the director determines that the situation threatens the life or safety of any individual,
RULE:	the director may restrict a licensee's operations.

When the legal action is stated affirmatively, introduce a condition with "if" or "until," as in the preceding example.

When the legal action is stated negatively, introduce a condition with "unless."

Example:

CASE:	When an emergency exists,
CONDITION:	unless the director determines that the situation threatens the life or safety of any individual,
RULE:	the director may not restrict a licensee's operations.

Do not use the future tense of a verb to state a condition.

Example:

Do not use:	Use:
If the board will approve the policy, applications will be considered in the order in which they are received.	If the board approves the policy, applications must be considered in the order in which they are received.

(3) Drafting an exception to a provision. Generally, an exception is used to exempt from the application of a law some matter that otherwise would be within the scope of the rule. The inappropriate use of exceptions, commonly in the form of "provisos," does more to confuse legislation than any other element of a legislative sentence. Exceptions should not be drafted in the form of a case or condition because this will lead to a complicated and unintelligible statute.

Do not use the phrase "provided that." The drafter can accomplish the same thing with greater clarity by using "if," "except," "as long as," "unless," "but" or a new sentence or clause.

Example:

> The board may revoke a supervised release if the supervised releasee fails to enter a program; provided that, if no community program is available at the time of supervised release, the board may order the supervised releasee to enter the first available community program.

Example of a clearer version, without "provided that":

Example:

> The board may revoke supervised release if the supervised releasee fails to enter a program. If no community program is available at the time of supervised release, the board may order the supervised releasee to enter the first available community program.

When properly used, the exception ordinarily precedes the case and condition, if any, and the rule.

Example:

EXCEPTION:	Except as provided in section 2,
CASE:	when an emergency exists,
RULE:	the director may ...

Another method preferred by some authorities for creating exceptions to a general rule is to create a section or subsection, with the headnote "Exception," and set out the exception separate from the rule. In this way, future exceptions may be added without harming the readability of the language.

C. Putting the sentence together. When finally put together, a complicated legislative sentence should follow this structure:

EXCEPTION:
CASE:
CONDITION:
RULE: Legal Subject
Legal Action

This structure should be modified, however, if the result is difficult to read. In such an instance, it is better to state the law in its generality and provide the limitations in separate sentences or sections. If the rule is to apply under several cases or conditions, you may state the rule first and then list the cases or conditions in an outline or tabular form as discussed in section 5 below.

Section 5. Outlining

Outlining involves organizing language into units to clarify the relationship between provisions and make the language easier to understand.

A. When to outline.

(1) Subordinate clauses or ideas. Outline text that contains provisions that include subordinate, related clauses or ideas. Drafters frequently make the mistake of treating independent related thoughts as subordinate ideas.

In the following example, the organization of the section into subsections is appropriate. The further division of subsections into subordinate paragraphs is correct in subsection 1, but not in subsection 2.

Example:

§101. Collection of taxes

1. Documents. An application for registration may be granted if the following conditions have been satisfied. The applicant has:

A. Submitted a dealer's certificate showing either that the sales tax due has been collected by the dealer or that the sale of the vehicle is not subject to tax; or

B. Properly executed and signed a use tax certificate.

2. Fee. Each official shall retain from the use taxes collected a fee of $1.25 for each vehicle for which a use tax certificate has been submitted, even when a certificate indicates that no use tax was due.

A. Retained fees must be transmitted to the Treasurer of State and credited to the Highway Fund.

B. Taxes collected must be transmitted to the Treasurer of State and credited to the General Fund.

Instead of dividing subsection 2 into subordinate paragraphs, write:

2. Fee; credit of fees and taxes. Each official shall retain from the use taxes collected a fee of $1.25 for each vehicle for which a use tax certificate has been submitted, even when a certificate indicates that no use tax was due. Retained fees must be transmitted to the Treasurer of State and credited to the Highway Fund. Taxes collected must be transmitted to the Treasurer of State and credited to the General Fund.

(2) Complicated text. When several of the items in a series are more than one typed line long or a section has complex internal punctuation, the text should be written in outline form for ease of reading. In addition, outlining is often useful when a legislative sentence contains several cases, conditions or exceptions. Occasionally, however, readability may suffer as a result of outlining if the method is used too extensively.

(3) Formulas. In the standard and oftentimes confusing phrasing of formulas, the sentences are often long because they include long multiple conditions; they include references that block sentence flow and delay the arrival of the next sentence elements; and they have long subordinate clauses that separate modifiers from the things they modify. The readability and clarity of language containing formulas is greatly improved through the use of outlining.

Reed Dickerson, in *Legislative Drafting*, recommends the "cookbook" approach in drafting formulas, that is, describing the steps, one by one, that produce the right figure. Here is an adapted part of Dickerson's example:

Example:

3. Computation of price. The seller shall compute the price of any item that is packed in a new container type or size as follows. The seller shall:

A. Determine the most similar container type for which the seller has established a price. From that container type, the seller then selects the nearest size that is 50% or less larger than the new size or if that size does not exist, the nearest size that is 50% or less smaller. This is the base container; and

B. Take as the base price the seller's price for the product when packed in the base container. If this price is a price as delivered to any point other than the shipping point, the seller converts it to a price F.O.B. shipping point by deducting the transportation charges that are reflected in it.

The advantages of this method are short sentences, information delivered in small amounts and use of the active voice.

B. Outlining sections. If you use an introductory expression that ends with a colon to lead into subordinate clauses or other text, make certain that each clause reads as a logical and grammatical continuation of the introductory language. In addition, begin each item with an upper-case letter, use a conjunction after the next to the last item, end each item except the last with a semicolon and end the last item with a period.

Example:

1. Entrance salary; exceeding minimum rate. The entrance salary may be above the minimum rate only if:

A. The individual's exceptional qualifications justify an appointment at a higher rate;

B. Others with similar qualifications are offered the same rate; and

C. The appointment at a higher rate is made at one of the established steps of the salary range.

When several items in a list are more than two typed lines long, or when the items are conditions that are complex, the list may need to be divided into separate sentences. Complete sentences should have their first words capitalized and should end in periods.

C. When to use a paragraph.

(1) Existing language. Because of the way laws are amended in Maine, consistency of form within a section is very important. A law written largely in paragraph form should remain in that form. If such a law is later amended to include some language in outline form, the instrument adding the new language or amending the old, as well as subsequent instruments, may have to include large amounts of unaffected existing language unnecessarily.

(2) Series; lists. A series of short items may be written in paragraph form without designation; that is, without numbers or letters marking each item. (For a discussion of the punctuation used in series and lists, see pages 126 to 128.)

Examples:

> Butter, fortified margarine, cream or salad oil may be used in moderate amounts to make food palatable.
>
> **§302. Rules**
>
> The administrator shall adopt rules that govern work hours, vacations, illness, sick leave, holidays, retirement, employee health services, group insurance evaluation procedures, promotions, personal hygiene practices, attire, conduct, disciplinary actions and other matters that need to be regulated so that employees can do their jobs properly.

If you use an introductory expression, follow it with a colon. (See page 128.)

Example:

> The administrator shall keep the following records: register, daily logs, medical records, dental records, programming records and good time records.

If any one of the items in a series contains a comma, separate the items with semicolons.

Example:

> … the following: soups; sweets such as desserts, sugar or jellies; or fats such as bacon, cream and salad dressings.

When writing a series or list, be careful to keep similar ideas in similar or "parallel" form. Here is an example of what to avoid:

> An applicant may not be hired who has any of the following conditions: blood pressure over 160/60, any communicable disease or applicant not of good general health.

The key word is "conditions." "Applicant not of good general health" is not the name of a condition in the way that "blood pressure" and "disease" are. The last clause should be rewritten as "poor general health." Here is another example:

Example:

> A person may not drain, throw or deposit upon the lands and waters within a state park any substance that would mar the appearance, create a stench or destroy the cleanliness or safety of the park.

"Appearance," "cleanliness" and "safety" all go with "of the park," but "stench" does not. The sentence needs to be rearranged in this way:

...any substance that would mar the park's appearance, destroy its cleanliness or safety or create a stench.

When you write a series or list, make sure that every item in it performs the same function in the sentence.

D. Flushing left. When you outline, *do not* use numbered subsections or lettered paragraphs in the middle of running text, a device commonly known as "flushing left." Flushing left reduces readability and usually increases ambiguity.

Example:

1. Minor; Class E crime. A person who has not attained 20 years of age who:

A. Consumes alcohol in a public place; or

B. Operates a school bus without a valid driver's license

commits a Class E crime.

The section is less confusing when written:

Example:

1. Minor; Class E crime. A person who has not attained 20 years of age commits a Class E crime if that person:

A. Consumes alcohol in a public place; or

B. Operates a school bus without a valid driver's license.

Section 6. Indented and blocked paragraphs

A paragraph may apply to the entire section or to a previous subunit (subsection, paragraph, etc.), depending on its format. In order to eliminate any ambiguity in determining this relationship, the drafters of the 1964 Revision of the Statutes established the following rule to govern "indented" and "blocked" paragraphs. If the paragraph is unnumbered, unlettered and indented only on the first line, the paragraph applies to the entire section. If the paragraph is "blocked" (the first line is not indented, but the paragraph may have an indented left margin), the paragraph applies to the nearest previous subunit that shares the same margin or is located the same number of spaces to the right of the margin. Because an indented paragraph relates to the section as a whole, a drafter should not intersperse indented paragraphs among smaller subunits in a single section.

Example:

§803. Explanation and notice to parent of minor

If the insured is a minor who has not attained 18 years of age and the insurer is requested to do so by either of the minor's parents, the insurer shall provide that parent with:

1. Payment or denial of claim. An explanation of the payment or denial of any claim filed on behalf of the insured minor;

2. Change in terms and conditions. An explanation of any proposed change in the terms and conditions of the policy; or

3. Notice of lapse. Reasonable notice that the policy may lapse, but only if the parent has provided the insurer with the address at which the parent may be notified.

A parent who is able to provide the information necessary for the insurer to process a claim pursuant to this section may authorize the filing of any claims under the policy.

The last sentence in the above section is indented and, therefore, applies to the entire section. The last sentence in the following example applies only to paragraph C.

Example:

A. The department, by rule adopted in accordance with subsection 9, shall determine the scope and amount of medical assistance to be provided to participants in the program.

B. The department, in consultation with the council, shall develop plans to ensure appropriate use of services.

C. The department shall adopt rules in accordance with subsection 9 setting forth a sliding scale of premiums to be paid by persons eligible for the program that meets the following criteria:

(1) The premium for a household must be zero when household income does not exceed 100% of the federal poverty level; and

(2) The premium for a household may not exceed 3% of the household income when household income exceeds 100% of the federal poverty level.

The department may, by rule, reduce or waive premiums for persons below 18 years of age whose household income does not exceed 125% of the federal poverty level.

Section 7. Voice

A. Active vs. passive. Whenever possible, use the active voice rather than the passive voice. A sentence is in the active voice when the subject "does" the verb: "Agencies publish rules" is in the active voice. "Rules are published by agencies" is in the passive voice because the subject ("rules") is not the doer of the verb ("are published"). The doer is "agencies." "Rules are published" is still in the passive voice, although the doer of the action does not appear at all.

In laws and rules, passive sentences without phrases containing "by" are dangerous because they do not say to whom duties are assigned. Consider the problem in the following sentence:

> Improvements to the licensed design made after the effective date of this section must be disclosed within 10 days of an improvement. Failure to do so is a material breach of the license agreement.

Nothing in the sentence tells the reader who must disclose improvements to whom. When rules and laws exist to explain people's responsibilities, drafters must avoid sentences that don't assign responsibilities clearly.

When a sentence contains a phrase beginning with "by," you can often change the sentence to active voice.

Examples:

Passive:

> The required monitoring frequency may be reduced by the commissioner to a minimum of one sample analyzed for total trihalomethanes per quarter.

Active:

> The commissioner may reduce the required monitoring frequency to a minimum of one sample analyzed for total trihalomethanes per quarter.

Passive:

> When a demand is made upon the Governor of this State by the executive authority of another state for the surrender of a person charged with crime...

Active:

> When the executive authority of another state demands that the Governor of this State surrender a person charged with crime ...

Drafters use the passive voice needlessly when they concentrate on things and requirements rather than on people and duties. The passive voice examples above concentrate on "the required monitoring frequency" and "a demand." For drafting purposes, it is better to impose a duty or grant permission in the active voice than to state a requirement in the passive voice.

B. Acceptable uses of passive voice. In certain instances, use of the passive voice may be desirable or necessary.

(1) Old or repeated information. Passive voice lets you put old or repeated information at the beginning of the sentence where it demands less attention and new information at the end of the sentence where it stands out.

Example:

> The indictment, information or affidavit must contain a charge that the person committed a crime and must be authenticated by the executive authority making the demand.

(2) Noun strings. Passive voice can also let you put a long string of nouns at the end of a sentence so that your reader will not have to work through the series before coming to the verb.

Example:

> The application may be made by the prosecuting attorney of the county in which the offense was committed, the parole board, the chief executive officer of the facility or the sheriff of the county from which the person escaped.

(3) Gender-specific language. Sometimes passive voice will help you avoid using gender-specific language such as "he" or "she." (See discussion on gender on pages 92 to 98.)

When you use passive voice for any of these reasons, be certain that the duty or permission is assigned clearly, either in the passive sentence or in one of the sentences nearby. If the passive voice does not solve these specific problems, it should not be used.

Section 8. Tense

Laws are meant to be of continuing application and should be written in the present tense.

A. Present tense. Drafters are tempted to look forward to the time when a law will be applied and, therefore, to frame legislation in the future tense. Resist that temptation. Use the present tense and write the statute as you want it to read at the time it is applied.

Example:

Do not use:	Use:

The duties of the board will include ...	The duties of the board include ...

Since the law speaks at the moment when read, avoid inserting words such as "current" or "existing" unless you also include the necessary temporal reference.

Example:

Do not use:	**Use:**
An existing facility is exempt from licensure.	A facility existing on January 1, 1991 (or "on the effective date of this section") is exempt from licensure.

B. Past tense. When it is necessary to express a time relationship, recite facts concurrent with the operation of the instrument as present facts and facts precedent to its operation as past facts.

Examples:

> If, having been convicted of a felony, an alien is found physically incapable of being deported within the time prescribed by section 402, the alien may ...
>
> Any person who is or has been a member of the Legislature is disqualified from further participation if that person ...

If it is necessary that a provision include past as well as future events, the drafter should use the present tense but insert before the appropriate verb the phrase "before (or after) this (Title, Part, section, etc.) takes effect."

C. Future tense. Although the future tense is rarely appropriate in drafting legislation, it is sometimes necessary. Keep in mind, however, that the temporal point of reference is the time at which the law is applied, not when it is written and not when it takes effect. The word "shall" is *never* appropriate to convey the future tense. The proper use of "will" is limited to something that happens in the future because of a preceding action.

Examples:

> If the contractor finds that service under section 3.02 of this contract will contribute to a violation of the law by the company, the contractor may ...
>
> If spending in the bureau will result in a budget shortfall, the commissioner may reduce department allotment levels.

Section 9. Person

Draft in the third person. Use gender-specific pronouns according to pages 92 to 98.

Section 10. Singular and plural

The Maine Revised Statutes, Title 1, section 71, subsection 9 provides that words of the singular number may include the plural and words of the plural number may include the singular. Nevertheless, a drafter should use the singular form of a noun rather than the plural whenever possible. This custom is based on the practical difficulty of using plurals consistently and the ambiguity that may arise as to the applicability of a provision. In the following example, the singular version would probably not be construed to apply only to an employee entering the premises alone, but must more than one employee enter the premises before the plural version applies?

Examples:

Singular:

If an employee enters the premises ...

Plural:

If employees enter the premises ...

If you use plurals to eliminate or avoid gender-specific pronouns, be sure to check your use for consistency and clarity.

Section 11. Nominal style

Many verbs have related nouns: "decide" is related to "decision"; "complain" to "complaint"; "speak" to "speech." An idea can often be expressed with either a verb or a related noun. For example, you can complain or make a complaint.

Writing that uses verbs (verbal style) is usually brief and clear. Writing that uses nouns (nominal style) can be too formal and wordy. Many drafters overuse nominal style.

Example:

Do not use:	**Use:**
to implement pupil management techniques	to manage pupils' behavior
established a contractual relationship with	contracted with
has knowledge or suspicion that	knows or suspects that
make application for	apply for

make payment for	pay for
make provision for	provide for
upon X's request to Y	if X asks Y
upon a determination by X that	if X determines that

There are many other possibilities. The suffixes "-ance," "-ancy," "-ant," "-ence," "-ency," "-ent," "-ion" and "-ment" often mark nouns derived from verbs. Whenever you see these suffixes, check for nominal style and try to eliminate it.

Section 12. Splitting verbs and word groups

Many sentences in bills have verbs in the infinitive form or verbs with more than one part: shall + (verb), may + (verb), must + (verb). Sometimes a word is placed between these parts, as in "The commissioner shall immediately order an investigation of a reported epidemic." Although it is generally better not to interrupt the verb parts, particularly when using the infinitive verb form, one-word adverbs in this position do no harm. In some areas of law, the verb parts are normally split, for instance when referring to culpable states of mind, such as "to knowingly fail." Longer interrupting phrases, however, are difficult to read, as in this sentence:

> Within 10 days after service of the notice of appeal, the appealing party may in writing, with a copy to the executive secretary of the Public Employment Relations Board and all parties or their representatives of record, order from the Bureau of Mediation Services a transcript of any parts of the proceedings it considers necessary.

The interrupting words make no sense without the verb "order," but the reader must struggle with more than 20 words to reach it. The interrupting words would serve better as a separate sentence:

> The appealing party may order from the Bureau of Mediation Services a transcript of any parts of the proceedings it considers necessary. The transcript order must be in writing. The appealing party shall give a copy of the transcript order to the executive secretary of the Public Employment Relations Board and all parties or their representatives of record.

Similarly, avoid interrupting a group of words that must be understood together. In this sentence, the interrupting phrase is set off in commas:

> The judge or magistrate must commit the accused to the county jail for a time, not exceeding 30 days specified in the warrant, that will enable the arrest of the accused to be made.

Again, the interrupting words should be a separate sentence:

> The commitment time may not exceed 30 days.

Generally, the legal subject should be followed immediately by the legal action, but one-word adverbs may be used in some instances, as in "A person who knowingly disrupts ..."

Section 13. Modifiers

A modifier is a word, a phrase or a clause that qualifies another word, phrase or clause.

Examples:

- the *escaped* prisoner
- the *executive* officer *of the county*
- an order *signed by the Governor*
- a document *stating the accused's name*

A. Placement of modifiers. Similar to verb parts and other word groups, the placement of modifiers in a sentence affects not only readability but meaning. Modifiers should be placed as close as possible to the words they modify. When they are not, sentences can be confusing, as in this rule:

> The public school district or intermediary service area shall inform the nonpublic school of the type, level and location of health services that are to be made available to the nonpublic school students by August 15th.

Are the services to be made available by August 15th, or is the district to inform the school by August 15th? The drafter probably meant "... shall inform the nonpublic school by August 15th ..." and should have written it that way.

Here are some misplaced modifiers:

> "Card issuer" means a financial institution ... providing use of a terminal to a customer to be activated by a card.
>
> The goal of food service in each facility is to provide food and beverages to clients that are nutritionally adequate.

The problem with the first example is that customers usually are not activated by cards; the problem with the second example is that nutritionally adequate food and beverages, not clients, are the concern.

B. Dangling participles. An infamous type of misplaced modifier is the dangling participle. Participles are verb forms that end in "-ed," "-t," "-en" or "-ing." A participle that appears near a noun that it does not modify is a dangling participle, as in the following sentence:

> If asked, an effective date clause must be added by the drafter.

These participles are called "dangling" because they are not attached to the right words. In context, this sentence is probably clear, but could be made clearer by avoiding the dangling participle. The following sentence uses participles correctly:

> If asked, the drafter shall add an effective date clause.

The participle goes with the nearest noun - the drafter is the one who is asked.

C. Noun strings as modifiers. A string of four or five nouns is hard to read because it masks the relationships between words. More words may be needed to make their relationships clear, as these examples show:

Do not use:	**Use:**
electronic financial terminal authorization application	use of an electronic financial terminal
Flesch scale analysis readability score	Flesch test score OR readability score on the Flesch scale
early childhood program alternative case loads	case loads for early childhood programs

Section 14. Gender

In 1988, the Legislature revised the rule of construction on the use of gender-specific language in the statutes. The Maine Revised Statutes, Title 1, section 71, subsection 7-A currently reads:

> **7-A. Gender.** In the construction of statutes, gender-neutral construction shall be applied as provided in this subsection.
>
> A. Whenever reasonable, as determined by the Revisor of Statutes, nouns rather than pronouns shall be used to refer to persons in order to avoid gender identification.
>
> B. In preparing any legislation which amends a section or larger division of statutes, the Revisor of Statutes shall be authorized to change any masculine or feminine gender word to a gender-neutral word when it is clear that the statute is not exclusively applicable to members of one sex. The Revisor of Statutes shall not otherwise alter the sense, meaning or effect of any statute.
>
> C. The rule of construction concerning gender on the effective date of an Act or resolve shall apply to that Act or resolve.

All legislation, including new enactments, amendments, revisions of existing laws and constitutional amendments, should be drafted according to the following guidelines.

A. Intentional gender distinctions. Do not tamper with a Legislator's intended meaning or application of a statute. If, for example, a Legislator wants to recognize "mothers" who have had three or more of their children killed serving in the Armed Forces, do not substitute "parents."

B. Proper nouns and adjectives. Formal names of people, places and institutions should not be altered.

C. Common nouns and adjectives. Gender-specific nouns and adjectives often can be easily replaced with neutral terms. A list of some substitutions that may be useful is as follows:

Alternatives for Nouns and Adjectives

Do not use:	**Use:**
alderman	municipal officer
bondsman	bonding agent; bonding organization
brakeman	brake tender
businessman	member of the business community
chairman	chair
clergyman	member of the clergy; cleric
committeeman	committee member
congressman	member of Congress
councilman	council member
craftsman	skilled worker; artisan
dairyman	dairy farmer
doorman	doorkeeper
draftsman	drafter
enlisted man	enlisted member
ferryman	ferry operator
fieldman	field worker
fireman	firefighter
fisherman (commercial)	person who fishes commercially
fisherman (recreational)	angler
flagman	flagger
foreman	supervisor
guardsman	guard; guard member
lawman	law enforcement officer
mailman	mail carrier
man	person or human
mankind	humankind, humanity
manmade	artificial; synthetic; human-made
manned	staffed; operated
manpower	work force; personnel
militiaman	militia member
motorman	driver
nurseryman	nursery operator
parts man	parts clerk or worker

patrolman	patrol officer
policeman	police officer; law enforcement officer
repairman	repairer
salesman	sales representative
seaman	crew member
selectman	member of the select board; municipal officer
serviceman	mechanic; member of the United States Armed Forces
signal man	signaler
spokesman	representative; spokesperson
storageman	storage agent; storer
talesman	substitute juror
thresherman	thresher
tillerman	tiller
tradesman	skilled worker; merchant
vestryman	vestry member
vice-chairman	vice-chair
warehouseman	warehouse operator
watchman	security guard
workman	worker
yardman	yard worker

(1) Familial relationships. Familial relationships can often be expressed without reference to gender.

Unless it is necessary to distinguish gender, use the following list as a guideline.

Do not use:	**Use:**
husband, wife	spouse
widow, widower	surviving spouse
mother, father	parent
son, daughter	child
sister, brother	sibling
stepmother, stepfather	stepparent
grandfather, grandmother	grandparent
aunt, uncle	sibling of a parent or that sibling's spouse
niece, nephew	child of a sibling or a spouse's sibling

(2) "Person" as suffix. As a general rule, do not take the easy way out by replacing the suffix "man" with "person" or "people." For example, do not use "tradesperson" for "tradesman." Choose "merchant" or "skilled worker" as the context requires.

D. Words with legal meanings or general acceptance. As the Maine Revised Statutes, Title 1, section 71, subsection 7-A indicates, eliminating gender-specific language from the statutes must not change the meaning or effect of any statute. Some gender-specific words have specific legal meanings or general acceptance and should not be changed.

Examples:

bachelor's degree	journeyman	master
fellow	landlord	master's degree
fellowship	manhole	midwife
fraternity	manslaughter	ombudsman

E. Pronouns. Because the English language relies so heavily on them, pronouns can be the most challenging aspect of gender-neutral drafting. To complicate matters further, "he or she" is not used in the Maine Revised Statutes. All gender-specific pronouns must be eliminated. A drafter may use any of the following alternatives in eliminating gender-specific pronouns.

(1) Repeating the noun. Repeating the noun is usually the easiest and clearest way to eliminate gender-specific pronouns. It is also the approach statutorily favored by the Legislature.

Example:

> The employer, upon written request from an employee or former employee, shall provide the employee, former employee or an authorized representative with an opportunity to review ~~his~~ the employee's personnel file if the employer has a personnel file for ~~him~~ that employee.

When repeating the noun results in a sentence that is cumbersome and confusing, redrafting the sentence according to one of the other alternatives set out below may be necessary.

(2) Possessive pronouns. Gender-specific possessive pronouns such as "his" or "her" can often be stricken or replaced with "a," "an" or "the."

Example:

> When a public officer or employee is absent with leave under the provisions of this chapter and when it is necessary in the public interest to provide for the performance of the duties of ~~his~~ the position during ~~his~~ the absence, the authority having power to fill a vacancy in ~~his~~ the position may appoint a substitute.

(3) Verbal expression. Sometimes "his" or "her" can be avoided by changing a nominal to a verbal expression.

Example:

> Any person who imports or ~~has in his possession~~ possesses any untaxed intoxicating liquor commits a Class E crime.

(4) Plurals. Provisions that apply to classes of people can be made plural, but caution should be used with this approach. Use the singular whenever possible. (See page 89.)

Example:

> This chapter does not apply to ~~a~~ duly licensed ~~physician or surgeon~~ physicians or surgeons unless ~~he practices~~ they practice dentistry as a specialty.

Do not, however, pair singular nouns with plural pronouns. For example, do not write:

> *A person* who has *their* blood pressure checked at a location other than a doctor's office or other medical facility ...

(5) "Who," "which" or "that." "If ... then he" clauses can often be changed to "who," "which" or "that" clauses.

Example:

> ~~If an~~ An applicant who has been licensed in another state ~~he~~ shall submit verification of licensure and the required fee.

(6) Passive voice. Some clauses can be changed to passive voice to avoid gender-specific phrases. Be certain that the new version or its context still makes it clear who is doing what.

Example:

> ~~When the board has~~ After being certified by the board, the candidate~~, he~~ may begin supervised clinical practice.

Remember, however, that the active voice is the preferred voice. (See pages 86 to 87.) Make sure that the sentence cannot simply be rewritten altogether to eliminate gender-specific pronouns.

Examples:

Active and gender specific:

> The commissioner may delegate his duty to prepare an annual report.

Passive and gender neutral:

The duty to prepare an annual report may be delegated by the commissioner.

Active and gender neutral:

The commissioner may delegate responsibility for preparing the annual report.

(7) "If" or "when." "If" or "when" clauses can be changed to "on" or "upon" phrases, or modifiers without expressed subjects.

Example:

~~If the commissioner finds~~ Upon finding that the sampling frequency can be safely reduced, ~~he~~ the commissioner may order it reduced.

(8) "The other." When a pronoun refers to another person or entity, replace the pronoun with "the other."

Example:

Whoever obtains long distance telephone service by intentionally charging its cost to a false or nonexistent telephone or credit card number or to the telephone or credit card number of another without ~~his~~ the other's authority may be sentenced to imprisonment for not more than 90 days.

(9) Recasting. Sometimes the best choice is to recast the sentence completely, especially if it is long.

Example:

~~Every finder of a stray, within 7 days thereafter, shall notify the owner thereof, if to him known, and request him~~ A person who finds a stray and knows who owns it shall notify the owner within 7 days after finding the stray and request the owner to pay all reasonable charges and take that stray away ~~but if such owner be to him unknown, he~~. A finder who does not know who owns the stray shall file a notice with the town clerk within 10 days.

(10) Reflexive pronouns. Omit or replace reflexive pronouns such as "himself" or "herself" as follows:

Examples:

An individual is considered to seek nomination or election if that individual has taken the action necessary under this chapter to qualify ~~himself~~ for nomination.

... to appear before grand juries or in any court of this State, as the Attorney General ~~himself~~ might do ...

The public official shall ~~remove himself~~ withdraw if possible, in a manner prescribed by the board.

A person, ~~by himself, his~~ personally or through an agent, or as the agent of another, may not sell wood alcohol.

It is unlawful for any person, firm or corporation, by ~~himself~~ itself or ~~his~~ by its employee or agent, or as the employee or agent of another, to…

The commissioner~~, by himself~~ or ~~any of his assistants,~~ the commissioner's designee is authorized ...

... as necessary to ~~inform himself concerning~~ ascertain the sanitary conditions of the establishments.

(11) Person, partnership or corporation. When "a person, partnership or corporation" or other string of similar words occurs at the beginning of a sentence and is referred to as a "he" later in the same sentence, change the "he" to a noun that encompasses all of the terms.

Example:

If any company, joint stock association, copartnership, corporation, or individual files an application, ~~he~~ the applicant shall ...

CHAPTER 2
WORD CHOICE AND USAGE

Section 1. Legal action verbs: shall, must and may

In stating the legislative objective, the drafter must pay particular attention to the verb forms used to direct, limit or permit action or inaction.

A. Mandatory and permissive language.

(1) Shall. Although "shall" is somewhat uncommon in general English usage, it may be used correctly in legal drafting. Drafters, however, must pay close attention to the proper use of "shall." Below are examples of the proper and improper use of "shall."

(a) Used to impose a duty. "Shall" is properly used to impose a duty on a person or body or to mandate action by a person or body. Use it to say a person or a body "has a duty to" do something or "has to" do something.

Examples:

An association that issues shares by series shall keep a record of every certificate that it issues.

The commissioner shall adopt rules.

(b) Not for objects or concepts. "Shall" should not be used with respect to objects or concepts or in definitions.

Examples:

Do not write:	**Write:**
The report shall include…	The report must include…
Money in the fund shall be used to…	Money in the fund must be used to…
The court may apportion costs as justice shall require.	The court may apportion costs as justice requires.
"Bottle" shall mean a container…	"Bottle" means a container…

(c) Not used in describing condition. "Shall" should not be used in describing a condition that governs a situation or a condition that must be met to achieve a desired goal.

Examples:

Do not write:	Write:
If it shall have been established ...	If it is established ... OR If it has been established ...
When the officers shall have completed their investigation ...	When the officers complete their investigation ...
To be eligible for parole, a prisoner shall demonstrate ...	To be eligible for parole, a prisoner must demonstrate ...

(d) Not used to confer a right. Avoid using "shall" to confer a right when the recipient is the subject of an active sentence. A right should not be stated as a duty to enjoy the right.

Example:

Do not write:	Write:
The director shall receive compensation of $12,000 a year.	The director is entitled to compensation of $12,000 a year.

(e) Future law. Similarly, don't use "shall" to say what the law is or how it applies in the future.

Examples:

Do not write:	Write:
A person shall be eligible to apply for tax relief.	A person is eligible to apply for tax relief.
A person who traps lobsters in violation of this section shall be guilty of a Class E crime.	A person who traps lobsters in violation of this section is guilty of a Class E crime.
Grammatical errors shall not invalidate a rule.	Grammatical errors do not invalidate a rule.
It shall be unlawful ...	It is unlawful ...
Funds shall carry to ...	Funds carry to ...

(2) Must.

(a) When not a person. "Must," rather than "shall," should be used when the subject is not a person or body.

Examples:

A copy of the signed contract must be given to the debtor.

A record must be kept whenever a certificate is issued.

(b) To express requirements. Use "must" rather than "shall" to express requirements, that is, statements about what people or things *must be* rather than what they *must do*. "Must" is usually correct in passive sentences imposing requirements.

Examples:

Applicants must be at least 17 years of age.

Professions must be licensed by the State.

(c) In describing condition to be met. "Must" rather than "shall" is used in describing a condition that must be met to achieve a desired goal.

Example:

To be eligible for benefits, an applicant must demonstrate ...

(3) May. "May" means "is permitted to," "is authorized to," "is entitled to" or "has power to." "May" authorizes or permits rather than commands.

Example:

The commissioner may call a special meeting when necessary.

If calling a special meeting is discretionary, "may" is the proper word. If the commissioner is required to call a special meeting, use "the commissioner shall ..."

(4) Will. "Will" should never be used as a command word. For a discussion of "will" as used in the future tense, see page 88.

B. Prohibitive and restrictive language. Drafters should use positive language whenever possible to express ideas. Laws, however, are frequently prohibitive or restrictive in nature. Drafters must use care in wording these sections.

(1) Prohibiting action. Do not use "shall not." Use "may not" to prohibit an action. "May not" is broader than "shall not" as "may not" negates the authority to perform an action as well as prohibiting the action itself. Correlative expressions to "shall not" and "may not" are "no person shall" and "no person may." Avoid "no person may" and never use "no person shall." Literally, "no person shall" means "no person has a duty to." Consider this sentence: "No person shall conduct a picket line without a permit issued under this section." Literally, this means "No person has a duty to conduct a picket line without a permit issued under this section." If "may" replaced "shall" in the sentence, it would mean "No person is authorized to conduct a picket line ..." "No person may" in this context makes more sense. In most instances, however, "no person may ..." is verbal overkill. It provides unneeded emphasis. "A person" is probably sufficient to include anyone who should be included.

Example:

A person may not conduct a picket line ...

(2) Negating duty or condition. To negate a duty or a condition precedent, or to say a thing is not required, use "need not" or "is not required."

Example:

If fewer than 7 people object to a rule, a hearing need not be held (or "a hearing is not required").

(3) Negating right or privilege. To negate a right, use "is not entitled to."

Example:

The director is not entitled to compensatory time off.

Section 2. Jargon

Jargon is the useful technical vocabulary of a trade or profession, but it can also refer to unclear expressions that have a technical ring. Real technical language can save time and space if the audience understands it and expects it. Jargon-like terms created to dignify a subject are simply hard to read. Learn to recognize them and eliminate them.

If you must create a general term, do not make it more general than necessary. Legal writing is often full of empty phrases that sound imposing but mean little. One reason for this is that drafters often have to create names that cover broad classes. For example, the phrase "educational institution" in a bill might cover public schools, private schools, technical colleges and the University of Maine System. If you need to use such a broad term, define it to include its several meanings.

To avoid creating empty phrases when you write broad terms, minimize the use of abstract words. Phrases such as "regional channel entity," "entity-operational structure" or "parallel policy options" are meaningless unless the reader looks back at the definitions. Be as specific as possible. If certain boards grant licenses, do not call them "credentialing organizations"; call them "licensing boards." Remember that what you create is likely to be perpetuated in future bills and rules.

Jargon already existing in the law creates special problems. Drafters often repeat any language that works legally to avoid lawsuits. Conform your wording with existing law but do not preserve bad wording without a compelling legal reason. Consistency is valuable, but so is clarity.

Section 3. Non-English terms

Although a non-English term or phrase may have a definite meaning to the drafter and present an attractive shorthand expression to reduce the length of a section, its use may cause confusion. Consequently, the drafter usually should avoid using these terms and phrases. Phrases

such as "in loco parentis" can be easily misunderstood by the public. Occasionally, the drafter must use a foreign term or phrase, such as "in camera," "in vitro" or "ex officio," but when doing so, the drafter should be judicious.

Section 4. Acronyms, abbreviations and symbols

A. Statutory text. Generally, abbreviations and acronyms, such as using DEP to indicate the Department of Environmental Protection, are inappropriate in the text of the Maine Revised Statutes.

(1) Common symbols and abbreviations. The following common symbols and abbreviations are exceptions to this rule and may be properly used: "$," "¢," "°," "%," "a.m." and "p.m."

Do not use the abbreviations: "e.g.," "i.e.," "et al.," "et seq." and "etc."

(2) Statutorily defined abbreviations. Acronyms and abbreviations specifically defined in a statute may be used in that statute as provided.

Examples:

"HIV" is defined in Title 5, section 19201.

"F.O.B." is a specifically defined abbreviation used in the Uniform Commercial Code.

"FIFRA" is defined in the Maine Pesticide Control Act of 1975.

(3) Proper names. An abbreviation may be used if it is part of a proper name, as in "Moody's Investors Service, Inc." But see also page 111 for use of proper names.

(4) Special materials. Abbreviations may be used in tables, illustrations and similar materials, although these materials should be avoided in statutes because of the difficulty in amending them.

(5) Land descriptions. In legal land descriptions, use symbols for degrees (°), minutes ('), seconds ("), but abbreviate directions only when used with a degree.

Examples:

Do not write:	**Write:**
West 15° 22' 13" East OR West 15 degrees, 22 minutes, 13 seconds East	W 15° 22' 13" E

Note, however, that if the draft quotes directly from a deed description or other similar document, use the symbols, abbreviations or words exactly as they appear in that document.

B. Summary. Acronyms and abbreviations may be used sparingly in summaries using the following format.

Example:

This bill requires that an all-terrain vehicle, or ATV, ...

The acronym or abbreviation must appear immediately after the initial use of the whole word or phrase and then may be used in place of the whole word or phrase for the remainder of the summary. Acronyms and abbreviations should be used only if the term occurs more than once.

Section 5. Numbers

Note that, in the discussion of cardinal and ordinal numbers below, "one" and "first" are treated differently than other numbers to minimize the confusion that may result from using "1" or "1st," both of which resemble typographical errors more than other numbers.

A. Cardinal numbers.

(1) General rule. Generally, cardinal numbers appear in the text of the Maine Revised Statutes as Arabic numerals (2, 3...) unless the number is "one" or the first word in a sentence (see below for additional information regarding the use of the number "one").

Examples:

The authority consists of the Commissioner of Economic and Community Development and 8 public members.

For 10 days …

Of 108 cubic feet …

Sixteen tons is the limit …

The board consists of at least one member who holds a certified general license…

(2) The number "one." While the number "one" is generally spelled out, the Arabic numeral "1" is used for citations and dates and to denote structural elements of legislation and laws such as sections or subsections. The numeral "1" is also used in dollar figures and percentages unless the number is the first word in a sentence.

Examples:

The following information and records do not constitute public records as defined in Title 1, section 402, subsection 3.

This Act takes effect January 1, 2027.

A fee of $1…

If a referendum passes by less than 1% ...

One percent of the revenue must be transferred to…

One dollar of the fee must….

B. Ordinal numbers.

(1) General rule. Generally, ordinal numbers also appear in the text of the Maine Revised Statutes in Arabic form (2nd, 3rd...) unless the number is "first" or the number is the first word in a sentence. (See below for when "1st" may be used and other exceptions.)

Examples:

On the first Monday after the 2nd Wednesday of December ...

The 3rd person designated in the application request ...

Third parties are not subject to this chapter.

(2) Use of "1st" for certain dates. Despite the general rule, "1st" rather than "first" is used to convey a date that does not include a year.

Example:

The report must be submitted by October 1st annually.

(3) Other exceptions. There are other exceptions to the general rule of presenting ordinal numbers in Arabic form. For example, legislative session designations are written out. Also, there may be specific proper names, terms and phrases in which an ordinal number should be spelled out.

Examples:

Usually, the second regular session ends by May.

First Special Session of the 122nd Legislature ...

The Machias River, including Fifth Lake Stream…

C. Fractions. Fractions, both cardinal and ordinal, appear in Arabic form, except as the first word of a sentence.

Examples:

… at least 1 1/2 feet from the floor.

… by a 2/3 vote of the legal voters.

… a sum equal to 3/4 the amount paid …

Two thirds of both Houses …

D. Percentages. Percentages appear in Arabic form, except as the first word of a sentence.

Examples:

… no more than 50% of the time.

… a sum equal to 0.5% the amount due.

Ten percent of voters …

E. Ranges of numbers. When designating a range of numbers, use the form "sections 2 to 5" to include both of the numbers listed and the intervening numbers.

Section 6. Dates; time and time periods

A. Dates. Use the word "date" or "day," not "time," when referring to a specific date or if you intend that a period of time is to be measured in whole days.

Example:

Do not write:	**Write:**
... 120 days after the time when ...	... 120 days after the day on which ... OR ... 120 days after (name a specific event) …

Dates in the Maine Revised Statutes that contain a year appear in the form: Month, day, year.

Example:

The commission shall submit its final report no later than June 30, 2005.

Dates that do not contain a year appear in the form:

Examples:

February 1st

June 30th

B. Time; time periods. Times in the Maine Revised Statutes are expressed in Arabic numbers followed by "a.m.," "p.m.," "noon" or "midnight."

Examples:

6:00 a.m.

6:32 p.m.

The rules of construction in the Maine Revised Statutes, Title 1, section 71, subsection 5 indicate "Wherever in the Revised Statutes or any legislative Act a reference is made to several dates and the dates given in the reference are connected by the word 'to,' the reference includes both the dates which are given and all intervening dates." To express clearly what the first and last days are, avoid words such as "until," "by" and "from."

Examples:

… before July 1, 2005.

… after June 30, 2005.

… before the effective date of this Act.

If an action must be completed by the end of a designated period that begins in the future, indicate whether the act:

- May be done before the designated period begins, as in "not later than the 90th day after the end of the tax year"; or

- Must be done within the designated period, as in "within the 90-day period immediately following the end of the tax year."

The general rule for calculating time periods, such as the 90-day period in these examples above, is that the day of the event that triggers the time period is excluded from the calculation (*Opinion of the Justices*, 484 A.2d 999 (Me. 1984)).

Section 7. Age

Ambiguities that arise when referring to ages can be avoided by specifying whether the age indicated is to be included or excluded from the described classification.

To establish a range of ages:

Do not write:	**Write:**
... between the ages of 21 and 30.	... 21 years of age or older and under 31 years of age.

To establish a minimum age:

Do not write:	**Write:**
... who is over 17 years of age.	... who is 18 years of age or older.

To establish a maximum age:

Write: ...who is under 21 years of age; or
...who has not attained 21 years of age.

To establish an exclusive age (law applies *only* to named age):

Write: ...who is 17 years of age.

Section 8. Relative pronouns; restrictive and nonrestrictive clauses: that, which and who

A. Relative pronouns. A relative pronoun introduces a subordinate clause that modifies a noun or a pronoun occurring elsewhere in the sentence and connects a dependent clause to the main clause. It is also a substitute word that refers to its antecedent and stands for that antecedent in a subordinate clause.

Examples:

The committee elected the new chair, *who* had years ...

The office *that* is responsible for overseeing operations ...

The bill, *which* was enacted in 2004, is not effective until 2006.

"Who" relates to a specific person. "That" relates to animals, persons or things and introduces restrictive clauses. "Which" relates to animals, things and ideas and introduces nonrestrictive clauses.

Examples:

John Doe, *who* was appointed ...

A person *that* commits assault ...

(Note: Although "that" is correct when the person or persons are not specifically identified, many writers prefer to use "who.")

The report, *which* was due in November, lists the committee's recommendations.

B. Restrictive and nonrestrictive clauses. Although the use of "who" causes little heartache, the distinction between "that" and "which" eludes many drafters.

(1) That. Use "that" to introduce restrictive clauses, that is, clauses upon which the meaning of the sentence depends; clauses that specifically identify the subject or object you are describing. These clauses are not usually set off by commas.

Examples:

The commissioner shall adopt rules that address the concerns identified by this committee.

The Bureau of Public Lands shall acquire the parcel of land that adjoins Baxter State Park.

(2) Which. Nonrestrictive clauses are parenthetical or commentary in nature. "Which" introduces these clauses. Although they provide additional information about the subject or object, this information is not essential to the meaning of the sentence. These clauses are generally set off by commas.

Examples:

The suggested rules, which reflect the board's new statutory authority, outline the prohibited conduct.

The hearing, which was held during the special session, provided the impetus for this additional legislation.

(3) Which + noun. The following sentences contain obsolete types of relative clauses that should be avoided.

Examples:

> The executive secretary shall give as much notice as possible to all board members prior to any special meeting, which notice shall state the time, place and subject matter of the meeting.
>
> All parties have the right to a hearing before the hearing examiner at which hearing the parties may cross-examine witnesses.

Changing the relative clauses to separate sentences produces more modern English and shorter sentences.

Examples:

> Before any special meeting, the executive secretary shall give all board members as much notice as possible. The notice must state the time, place and subject matter of the meeting.
>
> All parties have the right to a hearing before the hearing examiner. At this hearing, the parties may cross-examine witnesses.

Section 9. References to committees

When referring to a standing or select legislative committee (e.g., the Joint Standing Committee on Taxation), use the committee's proper name only when the provision you are drafting deals specifically with the current biennium and will not appear in the Maine Revised Statutes. If the provision's use or effectiveness extends beyond the current biennium, refer to the committee generically.

Examples:

> **Current biennium:**
>
> The board shall report to the Joint Standing Committee on Health Coverage, Insurance and Financial Services by (date within the current biennium).
>
> **Extended period:**
>
> The board shall report to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters within the first 30 days of each regular session of the Legislature.

The reference varies because the official names of committees may change from session to session. Should this happen, a law effective beyond a biennium that refers to a specific committee

by its proper name may refer to a committee that no longer exists. For this reason, general references to committees are usually in allocated law and specific references are usually in unallocated law and summaries.

Section 10. Proper names

The drafter should be cautious when including a proper name in the statutes, because the name, goals or mission of the named organization may change in ways not anticipated by the Legislature and not consistent with the statutory provision that names the organization. Avoid using proper names; instead, attempt to define narrowly the parameters and purpose of an organization or corporation rather than citing its proper name in the statutes.

Example:

Instead of using the name "Ducks Unlimited, Inc.," use:

An international, nonprofit organization whose purpose is to raise money for developing, preserving, restoring and maintaining waterfowl habitat on the North American continent.

Section 11. Selected problem words

This section does not contain an exhaustive listing of problem words; rather it identifies and discusses several words and phrases that frequently pose problems for the legislative drafter.

A. "And" and "or." Never use "and/or" because it has no definite meaning. "And" is conjunctive. If the legislative intent is that all requirements be fulfilled, the drafter should use "and." "Or" is disjunctive. If the fulfillment of any one of several requirements is sufficient, use "or."

Examples:

Compare the following two examples:

Under this example, *all three* requirements must be met:

A. To be eligible for benefits, an applicant must:
   1) Be at least 62 years of age;
   2) Have a medically recognized disability; *and*
   3) Have an income of less than $25,000 a year.

Under this example, *only one* of the three requirements must be met:

A. To be eligible for benefits, an applicant must:
   1) Be at least 62 years of age;
   2) Have a medically recognized disability; *or*
   3) Have an income of less than $25,000 a year.

The rules of statutory construction in the Maine Revised Statutes, Title 1, section 71, subsection 2 indicate that "and" and "or" "are convertible as the sense of a statute may require." Don't use this as an excuse to draft unclearly. The proper use of "and" and "or" will minimize the need for courts to interpret the wording of the law.

B. "Assure," "ensure" and "insure." These transitive verbs are often confused. Generally, one insures against something but is assured of it. "Assure" distinctively implies the removal of suspense and doubt. "Ensure" means to make sure or certain. "Insure" stresses the taking of necessary measures beforehand and most often means to provide or obtain insurance.

C. "Attorney's fees." This appears in Maine and federal statutes, court rules and judicial decisions in these varying forms: attorney fee, attorney fees, attorney's fee, attorneys' fee, attorney's fees and attorneys' fees. The preferred usage is "attorney's fees."

D. "Biannual" and "biennial." "Biannual" means twice a year. "Biennial" means once every two years.

E. "Deem." "Deem" is only properly used in drafting to express a legal fiction. A legal fiction is a situation contrived by the law to permit a court to dispose of a matter.

Example:

> A minor who commits murder is deemed an adult and is subject to full prosecution under the law.

Obviously, a minor is not an adult and a legal fiction is necessary to make a law that applies to adults apply to minors. "Consider" or "determine" may be used in other contexts.

Example:

Do not write:	**Write:**
If an applicant is deemed eligible for benefits ...	If an applicant is determined eligible for benefits ...

F. "Each," "every," etc. Generally, these adjectives should be avoided. Simple articles such as "a," "an" or "the" nearly always can be used instead.

If it becomes necessary to use these words, there are certain rules that should be followed.

(1) "Each" or "every." If the legal subject is singular, use the term "every" or "each" only to clarify that all members of a class must discharge the obligation or privilege imposed by the rule.

Example:

Each employee shall ...

G. "Oral" and "verbal." If you are discussing the form in which an oath or testimony is given, a contract made, etc., keep in mind that "verbal" means relating to words and "oral" means spoken. Therefore, if you want to say, for example, that a spoken contract is binding, use "oral." A "verbal" contract, on the other hand, could be either written or spoken since it merely has to have words.

H. "Person" and "individual." As defined in the Maine Revised Statutes, Title 1, section 72, subsection 15, "person" may include a body corporate. If you want to refer only to humans and not to business entities, use "individuals." Keep this in mind, especially when making provisions for membership on a board or agency.

I. "Respectively" and "as the case may be." These terms are important in establishing the correct relationship between two sets or groups.

(1) Respectively. If you want to show that:

A applies to X, B applies to Y and C applies to Z,

it may be more convenient to state:

A, B and C apply to X, Y and Z, respectively.

(2) As the case may be. If you want to show that:

A applies if X occurs, B applies if Y occurs or C applies if Z occurs,

it may be more convenient to state:

If X, Y or Z occurs, A, B or C applies, as the case may be.

J. "Rules" and "regulations." State agencies do not promulgate "regulations" in state law under the Maine Administrative Procedure Act (Title 5, chapter 375); they adopt "rules."

Federal agencies and local authorities may promulgate rules or regulations. If referring to mandates, directives, mandatory guidelines or prohibitions at the state level, use the term "rules."

K. "Such" and "said." Improperly used, both of these adjectives are overly formal and legalistic and should be avoided. Generally, depending on the context, words such as "that," "the," "those," "it" and "them" refer to a previously mentioned subject better than "such" or "said."

Examples:

Do not write:	Write:
The board shall submit a report. Such report must…	The board shall submit a report. The report must ...

"Such" may, however, be properly used as a synonym when coupled with "a," meaning "that kind of," or "as," meaning "like." If you use it alone, use it judiciously.

Example:

> Documents such as wills, codicils, marriage or birth certificates ...

L. "There." Avoid starting a sentence or clause with "There is," "There are" or "There may be." Often these words are needless.

Example:

> There is excluded in computing the percent of voting power or value stock owned directly by the other corporations.

The sentence is more direct if turned around.

Example:

> Stock owned directly by the other corporations is excluded in computing the percent of voting power or value.

If you want to put different information at the end of the sentence, use the following construction.

Example:

> In computing the percent of voting power or value, stock owned directly by the other corporations is excluded.

If you know who is to do the computing and excluding, put the verb in the active voice and make the sentence clearer and more direct.

Example:

> When computing the percent of voting power or value, the registrar shall exclude stock owned directly by the other corporations.

Section 12. Forbidden and preferred words and phrases

The following lists are designed to be a practical aid in drafting concisely. These examples are generally based on those provided by the National Conference of Commissioners on Uniform State Laws and are by no means exhaustive.

A. Couplets.

(1) Avoid the use of redundant couplets. In each of the following couplets, use only one of the terms to avoid redundancy.

Examples:

alter and change	authorize and empower	by and with
each and all	each and every	final and conclusive
from and after	full and complete	full force and effect
made and entered into	null and void	order and direct
over and above	shall have and exercise	sole and exclusive
type and kind	unless and until	

(2) Avoid the use of inconsistent couplets. In each of the following couplets, use only the broader or narrower term as the context requires.

Examples:

any and all	authorize and direct	desire and require
means and includes	necessary and desirable	power and authority

B. Indefinite or archaic words.

Avoid indefinite, archaic or legalistic words.

Examples:

aforementioned	aforesaid	before (as an adjective)	before-mentioned
hereafter	hereby	herein	hereinabove
hereinafter	heretofore	herewith	said or such (as a substitute for "it," "he," "she," etc.)
thereof	thereto	therewith	thereupon
to wit	whatsoever	whensoever	wheresoever
whereupon	whomsoever		

Words such as "above," "below," "following," "hereinafter," "hereinbefore" and "preceding" are objectionable when referring to the position of a section or other statutory unit. If reference is necessary, specify the chapter, section, subsection, lettered paragraph, etc., as appropriate.

C. Simple language. Although complex terms are sometimes necessary, use simple language when possible.

Examples:

Complex:	**Simple:**
absolutely null and void	void and of no effect
accorded	given
adequate number of	enough
adjudged, ordered and decreed	adjudged
admit of	allow
afforded	given
among and between	among (if more than two things or persons are involved); between (if two or more things are involved but are treated individually)
at the place	where
at the same time	when
at the time	when
attempt (as a verb)	try
cause it to be done	have it done
cease	stop
commence, institute	start, begin
conceal	hide
consequence	result
constitute and appoint	appoint
contiguous to	next to
do and perform	do
does not operate to	does not
donate	give
during such time as	while
during the course of	during
endeavor (as a verb)	try
enter into a contract with	to contract with
evidence, documentary and otherwise	evidence
evince	show
excessive number of	too many
expiration	end
for the duration of	during or while
for the purpose of [holding] (or other gerund)	to [hold] (or comparable infinitive)
for the reason that	because
forthwith	immediately
frequently	often
from July 1, 2016	after June 30, 2016

full and adequate OR full and complete	full
hereafter	after [this]
heretofore	before [this]
however or provided	if, unless, except or state the condition
in order to	to
in a case in which	when
in case	if
indicate (in the sense "to show")	show
inquire	ask
institute	begin, start
interrogate	question
in the event that	if
in the interest of	for
is able to	can
is applicable	applies
is authorized and directed	shall
is authorized to	may
is binding upon	binds
is directed to	shall
is empowered to	may
is entitled (in the sense of has the name)	is called
is required to	shall
is unable to	cannot
it is the duty	shall
it shall be lawful to	may
maximum	most, largest, greatest
may, from time to time	may
minimum	least, smallest
modify	change
necessitate	require
negotiate (in the sense of enter into a contract)	make
occasion (as a verb)	cause
of a technical nature	technical
on the person's own application	at the person's own request
on the part of	by
or, in the alternative	or
party of the first part	(the party's name)
per annum	per year
per centum	percent
period of time	period, time
portion	part
possessed	have or had
preserve	keep

proceed	go, go ahead
procure	obtain, get
prosecute its business	carry on its business
provided that	as long as, if, unless, but or except
remainder	rest
render (in the sense of give)	give
render (in the sense of cause to be)	make
require (in the sense of need)	need
retain	keep
shall have the power to	may
specified (in the sense of expressly mentioned or listed)	named
State of Maine	the State
subsequent	later
subsequent to	after
suffer (in the sense of permit)	permit
sufficient number of	enough
summon	send for, call
the Congress	Congress
the manner in which	how
to the effect that	that
under the provisions of	under
until such time as	until
utilize, employ (in the sense of use)	use
within or without the United States	inside or outside the United States
with reference to	for
with the object of [changing] (or other gerund)	to [change] (or comparable infinitive)

Section 13. Respectful language

When drafting a bill that contains language that refers to persons with shared characteristics, such as disabilities, the drafter should use respectful language and avoid the use of terminology that may be perceived as derogatory or demeaning by that group. However, the drafter must be mindful to balance the respectful language with possible policy implications, such as funding levels defined by specific words in federal law, when deciding to use a particular word or phrase. As with all aspects of drafting, the drafter must exercise care to ensure that terminology choices do not alter or render ambiguous the substantive meaning of a statutory unit, especially in instances in which the term in question is used in other areas of the statutes or the laws.

In its report prepared pursuant to Resolve 2007, chapter 62, the Maine Developmental Disabilities Council has included a helpful list of terms to be avoided or replaced, along with recommendations for more respectful replacement terms. The report recommends that, in general, the drafter use language that places primary emphasis on the person that has a disability, rather than the disability itself. For example, rather than referring to a "disabled person," the drafter should

refer to a "person with a disability." However, the council notes that language that is perceived as respectful may, over time, develop a negative connotation; as a result, the council recommends ongoing communication with the disability community to ensure the use of the most appropriate terminology. The council has prepared a guide to using so-called people first language, "Put People First: A Guide to Using People First Language and Communicating with People with Disabilities," which can be found at https://digitalmaine.com/ddc_docs/4.

Public Law 2021, chapter 348, section 58 specifically directs departments, agencies and offices of the legislative, executive and judicial branches of State Government to discontinue the use of the terms "handicap," "handicapped" and "hearing impaired" to describe a person or set of persons in all laws, rules and official documents.

CHAPTER 3
CAPITALIZATION

Section 1. General capitalization rules

A. Initial word. Capitalize the first letter of the first word:

- In a sentence;
- Following a colon, if the words after the colon could form a separate sentence; or
- Of each entry in an outline or tabulation.

B. Proper nouns. Capitalize the names of specific people, places, institutions, things or ideas when the full name is given.

Examples:

Jane Q. Public

Aroostook County (but do not capitalize the "c" in counties if saying "Aroostook, Androscoggin and Cumberland counties")

Maine Medical Center

City of Portland (but do not capitalize the "c" in cities if saying "the cities of Portland and Augusta")

C. Titles; specific titleholders. Capitalize all titles including those of government, rank, honor or respect when the title precedes the name of the person holding the title.

Examples:

Governor Baxter
Senator Margaret Chase Smith
Commissioner McGoo (but "the commissioner")
Judge Wapner

(1) Maine titles. Capitalize the following titles that do not name the specific titleholder if you are referring to people holding these positions in Maine. Legislative titles are listed under section 2.

Examples:

Governor
Secretary of State
Judge or Justice (of a specified court)

Commissioner (of a specified agency - "Commissioner of Health and Human Services," but "the commissioner" if the specified agency does not follow the term)

Director (of a specified department or division - "Director of the Silviculture Division," but "the director" if the specified unit does not follow the term)

(2) National titles. Capitalize "president" when referring to the president of a nation regardless of whether the name is included.

Section 2. Specialized capitalization rules

A. Governmental bodies.

(1) Generally. Capitalize words such as "department," "bureau," "office," "agency," "commission," "board" and "committee" only when referring to one of these entities by its entire formal name and only when the entity's formal name is established in statute.

(2) Courts. Capitalize "Supreme Judicial Court," "Law Court," "Superior Court" and any other court that is created by the Constitution of Maine or the Legislature. Notice that "Juvenile Court" is capitalized even though the District Court actually sits as the Juvenile Court because the Legislature created the Juvenile Court to be a separate body. Do not capitalize shorthand expressions such as "a court" and "the court."

(3) Federal and State. Do not capitalize "government" when used alone, but use "State Government" when referring to Maine State Government and "Federal Government" when referring to the government of the United States. Likewise, do not capitalize "federal" unless it appears as part of the name of an act or a proper name. "State" should be capitalized when used possessively ("if in the State's interest"), as part of a proper noun or as a noun referring to the State of Maine ("when the State is involved" or "residents of this State"). "State" should not be capitalized when used as a common adjective: "state employees" or "state-owned."

(4) Legislature. When referring to the Maine Legislature, capitalize the following:

Legislator
Legislature
Senate
House of Representatives
Legislative Council

President of the Senate
Speaker of the House of Representatives
Senator
Representative

When these words refer to a legislature or legislators of another state, do not capitalize them unless they are part of a proper name. Do not capitalize "legislative" when used as a common adjective ("legislative intent").

When referring to sessions of the Legislature, capitalize references to specific sessions: "Second Regular Session of the 122nd Legislature." Do not capitalize general references to legislative sessions: "during the first regular session or any special session."

B. Legal instruments and documents.

(1) Acts. Generally, capitalize "act" when making an internal reference to the instrument you are drafting ("as used in this Act"), when using the name of a specific public or private and special law or when using the title of an existing named act in the Maine Revised Statutes ("the Unemployment Compensation Act"). Otherwise, do not capitalize "act." ("An act of the Legislature must be approved by the Governor.")

(2) Resolves. Do not capitalize "resolve" except as part of a title.

(3) Law. Capitalize "law" only as part of a title or popular name designated in the Maine Revised Statutes ("Nuclear Activity Consent Law"). Do not capitalize "law" when referring to a particular subject ("motor vehicle law").

(4) Constitution. "Constitution" by itself should be capitalized when referring to a national or state constitution. Use the full title of the document to ensure clarity: "Constitution of Maine" or "United States Constitution."

(5) Legislative documents and legislation. Capitalize the abbreviations "PL," "P&SL," "Res." or "Con. Res." Do not capitalize "public laws," "private and special laws," "resolves"" or "constitutional resolutions"" unless naming a particular law ("Public Law 2005, chapter 1").

(6) Revised Statutes. Capitalize "Revised Statutes" when referring to the Maine Revised Statutes.

(a) Headnotes. Except when a word in a headnote falls under one of the general capitalization rules, capitalize only the first letter of the first word of the headnote.

(b) Paragraphs, subparagraphs, divisions and subdivisions. Capitalize the first letter of the first word of a paragraph, subparagraph, division and subdivision, even if it is not the beginning of a sentence.

Example:

1. Notice. The notice must:

A. Inform the taxpayer that property taxes have been deferred in the current year;

B. Show the total amount of deferred taxes; and

C. Inform the taxpayer that voluntary payment of deferred taxes may be made to the bureau at any time.

(c) Subunits. As for subunits within the text of the Maine Revised Statutes, capitalize "Title," "Subtitle," "Part" and "Subpart." Do not capitalize "chapter," "subchapter," "article," "subarticle," "section," "subsection," "paragraph," "subparagraph," "division" or "subdivision."

(7) Bill titles. Generally, in a bill title:

- Capitalize all words of 5 or more letters, regardless of the part of speech; and
- Capitalize all words of 4 or fewer letters, except for articles, coordinating conjunctions, prepositions and the word "to" in an infinitive.

Examples:

An Act to Improve the Early Childhood Education Plans Grants Program

An Act to Strengthen an Injured Employee's Right to Rehabilitation and to Improve the Workers' Compensation Rehabilitation System

An Act to Improve Maritime Education for High School Graduates

An Act to Protect Consumers Against Real Estate Title Defects

(a) Hyphenated terms. Generally, for hyphenated terms in a title, capitalize the first word and lowercase the word or words in that term that follow the hyphen. The following exceptions apply.

- Despite the general rule, if the word that follows a hyphen is a proper noun, or the hyphenated term is itself a proper noun in which the word after the hyphen is typically capitalized, then capitalize that word. "Dover-Foxcroft."
- Both words of a hyphenated term should be capitalized if the words are functionally equal, meaning that neither term is modifying the other: "Attorney-Client" or "Landlord-Tenant."

(b) Miscellaneous rules. The following additional rules apply to capitalization in titles.

- Words that are not normally capitalized might need to be capitalized as part of a proper name: "An Act to Improve the Maine Rx Plus Program."

- Capitalize prepositions when part of a verb: "An Act to Clean Up the Kennebec River."

C. Funds. When referring to a specific state fund by its proper name, capitalize the first letter of each word: "General Fund," "Highway Fund."

D. Specific tables. Capitalize the full name of specific tables, such as "The Commissioner's 1941 Standard Ordinary Mortality Table."

E. Table and column headings. Capitalize the headings of tables and columns (for example, "Table A" and "Houses Equipped, 1978-80").

F. Letters. Capitalize letters used as designations, such as "Class E" or "Grade B."

G. Abbreviations. Capitalize abbreviations in compliance with their use in codes or uniform laws (for example, "F.A.S." and "F.O.B." in the Uniform Commercial Code).

H. Hyphenated words. "Ex" and "elect" used with a position title are not capitalized: "ex-President," "Governor-elect." Except when used in a bill title, prefixes such as "non" and "pro" are not capitalized when coupled with proper nouns or adjectives: "non-English speaking." (See also discussion of hyphenated words on pages 129 to 130.)

CHAPTER 4
PUNCTUATION

Courts may base their interpretation of a law on punctuation or the lack of it. A court may, however, disregard punctuation that renders the language ambiguous. Revise any sentence that relies on punctuation to convey its meaning.

This chapter does not provide general punctuation rules as found elsewhere, but includes guidelines to which you should adhere if drafting for the Maine Legislature. Generally, punctuate as little as possible. Use short, simple sentences and outline when necessary. It is impossible to articulate rules applicable to every situation, but keep the following in mind.

Section 1. Periods

In allocated text, use periods after subsection headnotes, section and subsection numbers and paragraph letters. Do not use periods after titles, after section headnotes or after any unit greater than a section.

Example:

§5959. Rules; reports

1. Rules. The commissioner may adopt rules.

A. The rules are subject to review by the board.

In unallocated text, use periods after section headnotes and after emergency preamble and emergency clause headnotes.

Examples:

Sec. 23. Effective date. This Act takes effect July 1, 2022.

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

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

Section 2. Commas

Commas are probably the most misused and misunderstood punctuation marks in legal drafting and, perhaps, the English language. Use them thoughtfully and sparingly.

A. Series. Although authorities on punctuation may differ, when drafting Maine law or rules, don't use a comma between the penultimate and the last item of a series.

Do not write:	Write:
Trailers, semitrailers, and pole trailers	Trailers, semitrailers and pole trailers

Be careful if an item in the series is modified. For example:

> Trailers, semitrailers and pole trailers of 3,000 pounds gross weight or less are exempt from the licensing provisions.

Does the 3,000-pound limit apply to trailers and semitrailers or only to pole trailers? If the limit is not intended to apply to trailers and semitrailers, the provision should read:

> Pole trailers of 3,000 pounds gross weight or less, trailers and semitrailers are exempt from the licensing provisions.

If the limit is intended to apply to all three, the provision should read:

> If a trailer, semitrailer or pole trailer has a gross weight of 3,000 pounds or less, it is not required to be licensed.

B. Clauses and phrases.

(1) "When," "if," "unless" or "which" clause. As a general rule, a clause beginning with the word "when," "if," "unless" or "which" is set off by a comma.

(2) Interrupting expressions. Use commas to set off expressions that interrupt a sentence.

(a) Appositive word or phrase. An appositive is a word or phrase that follows a noun or pronoun and further identifies or explains it.

Example:

> The deputy, who is the staff member charged with oversight, shall ensure compliance.

(b) Parentheticals. The following expressions are commonly used parenthetically and are set off by commas, particularly when a pause is needed for emphasis or clarity: "on the contrary," "therefore," "for example," "however" and "nevertheless." These expressions are seldom used in drafting law.

Example:

The agency, however, may not release the name of the recipient.

(c) Nonrestrictive clauses or phrases. Clauses or phrases that are nonrestrictive, that is, parenthetical in nature, are set off by commas.

Examples:

The commissioner, appointed as provided in section 2333, may adopt necessary rules.

The rules, which the commissioner is authorized to adopt under section 2332, must be adopted before September 1, 2005.

(3) Restrictive clauses. Do not use commas to set off restrictive clauses or phrases that are essential to the meaning of the sentence.

Examples:

Do not write:	Write:
The division chief, that oversees the department's purchases, shall report all purchases to the commissioner.	The division chief that oversees the department's purchases shall report all purchases to the commissioner.

C. Multiple adjectives. Use a comma between adjectives preceding a noun when they modify the same noun.

Example:

The commissioner shall submit a shortened, simplified, uniform report.

Do not use a comma between two adjectives preceding a noun if using the comma destroys the intended relationship because the adjectives are too closely related to be separated.

Examples:

additional reasonable cost
huge boxlike building
quaint old mining town
outstanding military service
(See also discussion on hyphenation on pages 129 to 130.)

Section 3. Semicolons

Use semicolons in the following circumstances:

- Between two independent clauses when they are not joined by "and," "or," "but," "nor" or "for";

- In lists in which one or more of the items contains a comma;

- To separate groups of words, such as phrases or clauses, that are dependent on a general term or statement;

- To separate lengthy statements following a colon; and

- After lettered or numbered text following a colon in outlined provisions as described in the next section.

Section 4. Colons

Use colons to introduce lists or to emphasize or elaborate an idea. Capitalize the first word after a colon when it introduces an independent passage or sentence; otherwise, do not.

Example:

> The director may enforce the following requirements for admission: Residents must be able to care for themselves; rent is payable on the first day of the month; and residents must designate a responsible person to be called in cases of emergency.

Colons are also used at the end of an introductory expression when outlining.

Section 5. Parentheses

Parentheses are not used in the text of the Maine Revised Statutes except as part of a sample, such as a statutory will or lease that appears in the law or in certain legal citations. Generally, use commas or separate sentences to set off parenthetical language.

Section 6. Brackets

Brackets generally are not used in Maine law unless they are already included in text being quoted in the law, such as a deed description.

Section 7. Quotation marks

Quotation marks appear most often in definition sections of the Maine Revised Statutes. All types of punctuation, except colons, semicolons and question marks, appear inside any quotation marks regardless of whether the punctuation is part of the quoted words. A question mark is placed inside the quotation marks if it belongs to the actual quotation and outside of the quotation marks if the question mark is not part of the quotation.

Examples:

"Domesticated animal" means an animal kept by ...

"Do you favor amending the Constitution of Maine to provide property tax credits to low-income residents?"

... that Bill, "An Act to Prohibit Smoking in Hospitals," H.P. 728, L.D. 1005, be recalled ...

Section 8. Hyphenation

A. Compound adjectives. Hyphenate a compound adjective.

Examples:

an after-school meeting	day-to-day operations	door-to-door soliciting
teacher-pupil relationship	well-planned program	one-story house
rule-making authority		

Many words that are hyphenated as adjectives are not hyphenated as nouns. For example, although it is correct to refer to "the commissioner's rule-making authority," it is likewise correct to require that the commissioner be responsible for "rulemaking."

B. Adverb or adjective ending in -ly. When one of the modifying words is an adverb or adjective ending in -ly, omit the hyphen.

Examples:

duly sworn official	wholly owned subsidiary

C. Certain prefixes. Use hyphens with all prefixes before proper nouns. With the prefixes "ex-," "self-" and "all-" and the suffix "-elect," use hyphens with any nouns.

Examples:

un-American	pro-British	self-taught
self-respect	self-employed	all-knowing
ex-President	Governor-elect	(except: selfless, selfsame)

Generally, do not use a hyphen between a prefix and the root word unless the root word is a proper noun.

Examples:

antisocial	intramural	nonofficial
semiannually	retroactive	intercollegiate
nonemergency	antipsychotic	nonsectarian
mid-August	non-European	trans-Canada

D. Civil and military titles. Civil and military titles are not hyphenated.

Examples:

Ambassador at Large	Chief of Police	Attorney General
Commander in Chief	Chief Justice	Attorney at Law
Surgeon General		

Notice that words denoting an office itself are hyphenated, such as attorney-at-law.

E. Foreign phrases as adjectives. Foreign phrases used as adjectives are not hyphenated.

Example:

in vitro fertilization

CHAPTER 5
CITATION

Textual citations are the references to legal authorities, such as constitutions, statutes or rules, that permit the reader to understand the nature of the source and locate it if desired. This chapter does not deal with citations used in amending clauses; those citations are generally in more abbreviated form than textual citations. The general rule for textual citation is that material is always cited in descending order; that is, the type of item being cited is given first, followed by a citation to the largest relevant unit of that item, followed by a citation to the next largest unit and so forth. All public laws, private and special laws, resolves and constitutional resolutions are referred to by the first year of the biennium in which they were passed or enacted. The following sections illustrate the proper forms of citation when drafting legislation.

Section 1. Maine materials

A. Constitution of Maine. In citing the Constitution of Maine, be familiar with the structure of the Constitution as set out on page 51. Citations are made by listing the appropriate structural units in descending order.

(1) Internal references. A reference in the Constitution of Maine citing another portion of the Constitution of Maine should be made in the following form: "Article IV, Part First, Section 3."

(2) External references. Citations to portions of the Constitution of Maine made in text outside of the Constitution should be made in one of the following forms: "Constitution of Maine, Article IX, Section 14-A" or "Constitution of Maine, Article IV, Part First, Section 3."

B. Maine statutes. Maine statutes that have a short title, or popular name, may be referred to by that title or name. For instance, Maine Revised Statutes, Title 9, chapter 385 may be referred to as "the Charitable Solicitations Act."

In citing the Maine Revised Statutes, be familiar with the structure of the statutes as set out in pages 33 to 35.

(1) Internal references. A reference in the Maine Revised Statutes citing a unit in another Title is made as follows: "Title 14, section 810" or "Title 22, section 396-D, subsection 9."

For references to statutory units contained in the same Title as the referring unit, use the smallest statutory unit possible that still makes the reference clear. Do not include in the reference those larger units that contain both the unit referred to and the referring unit. For example, a reference to Title 14, section 349 contained in Title 14, section 865 should read simply "section 349." A reference to Title 5, section 1830, subsection 3, paragraph C contained in Title 5, section 1830, subsection 2, paragraph B should read "subsection 3, paragraph C."

However, do not make a reference in the form "Part___, chapter___" or "chapter__, section___." Both chapter and section numbers appear in and are unique within each Title other than the few Titles based on uniform codes that do not conform to the structure outlined on page 34. Check the structure of the Title in which you are working.

A reference citing the same unit in which the reference appears is made as follows: "this Title," "this chapter," "this subsection," "this Act" (if a named act), etc.

See the rules of construction in the Maine Revised Statutes, Title 1, section 71, subsection 11.

(2) External references. When referring to the statutes in text that will not become part of the Maine Revised Statutes, the citation form is: "the Maine Revised Statutes, Title 5, section 1510, subsection 1" or "the Maine Revised Statutes, Title 17-A, chapter 2."

(3) Repealed law. When referring to a section of the statutes that has been repealed, the word "former" should be placed before the statutory reference; e.g., "A person convicted under this section or former Title 29, section 1312 is liable … ."

C. Public laws.

(1) External cites. Basic textual citation to a public law is as follows: "Public Law (year), chapter (number)." The citation may be more specific by listing a part and section of a public law, as appropriate, such as: "Public Law 1999, chapter 459, section 2."

(2) Internal cites. When referring in a public law to another portion of that same public law, do not recite "Public Law (year), chapter (number)," but use "this Act" or "section 6 of this Act," as it is assumed that any reference without a definite citation refers to another portion of the public law containing the reference.

D. Private and special laws. Basic textual citation to a private and special law is as follows: "Private and Special Law (year), chapter (number)." Other citation guidelines for public laws apply to private and special laws.

E. Resolves.

(1) External cites. Basic textual citation to a resolve is as follows: "Resolve (year), chapter (number)."

Most resolves are so short that it is unnecessary to refer to a more specific internal unit of a resolve; rather, the resolve itself is cited. If it is necessary to refer to a specific unit of a resolve, a drafter should note that while resolves are presently arranged by "resolve sections," there are earlier resolves having unusual internal arrangements, and no one rule for citation to internal portions of a resolve can be given. Commonly used methods of citation to specific internal units of a resolve include the following.

- For resolves with section numbers, use the form:

Resolve 1999, chapter 55, section 5 ...

- For older resolves without section numbers, use the form:

Resolve 1987, chapter 60, the last resolve clause ...

(2) Internal cites. When referring to another portion of the same resolve, do not recite "Resolve (year), chapter (number)," but use "this resolve," or "section 6 of this resolve" as it is assumed that any reference without a definite citation refers to another portion of the resolve.

F. Constitutional resolutions. When referring to a constitutional resolution, the following form is used: "Constitutional Resolution 1999, chapter 2."

G. Citations to Maine rules.

(1) Courts of the State. Citations to rules that govern proceedings in the courts of this State are made in the following manner: "Maine Rules of Civil Procedure, Rule 80B," "Maine Rules for Probate Court, Rule 7" or "Maine Rules of Evidence, Rule 501."

- Specific citations to a rule subsection or paragraph should be avoided due to potential future changes to the rules. If it is necessary to cite a specific subsection or paragraph of the Maine Rules of Criminal Procedure, use the following format: "Maine Rules of Criminal Procedure, Rule 16A(b)(2)(A)."

(2) Reference to department or agency rules of the State. Due to recurring changes in department and agency rules and rule numbering, specific citation in the statutes to these types of rules should not be given by rule number; instead, identify or explain the content of the rule in the text of the statutes. Temporary provisions of a bill drafted as unallocated law may cite the department or agency rule number.

Section 2. Federal materials

A. United States Constitution. Citation to portions of the United States Constitution should be in the same form as for the Constitution of Maine; that is, the name "United States Constitution" is given first, followed by the largest division, which is either "Article (number)" or "Amendment (number)," followed by the next largest division and so forth.

Examples:

United States Constitution, Article I, Section 8

United States Constitution, Amendment XIV, Section 1

B. Citations to federal statutes. There are two citation sources for most statutes: the code, which collects statutory language after enactment, and the act, which is the original source of the statutory language. Basic rules for citation of federal statutes are listed below.

(1) Code citation. Always cite to the United States Code if available.

(a) Official name. Give either the official or popular name of the act or title. Avoid abbreviations.

(b) Title number. Give the title number before the name of the code, then list all necessary subdivisions of the statute cited (articles, sections, etc.).

(c) Year. Indicate the year of the most recent version that contains the language cited.

Examples:

Amateur Sports Act of 1978, 36 United States Code, Sections 371-826, 391-96 (Supplement III 1979)

National Labor Relations Act, 29 United States Code, Sections 151 to 169 (1982)

(2) Exception; citation to an original act. Cite to the original act when the code is not available or when an act appears to affect so many scattered sections or titles that no useful citation to the code is possible.

(a) Federal delineation. Unless clearly stated in the title, "federal" should precede the name of the act. "Federal" is not needed if the title of the act begins "United States or National ..."

(b) Official name. As with citation to a code, give the official title of the act or a popular name. Avoid abbreviations.

(c) Public law number. Give the public law number and the relevant sections of the public law.

(d) Year. The year may be omitted when clearly indicated in the name of the act.

Examples:

federal Local Rail Service Reauthorizing Act, Public Law 101-213, Section 2 (1989)

federal Clean Water Act of 1977, Public Law 95-217, Section 4

C. Rules and regulations.

(1) Code of Federal Regulations. Whenever possible, cite all federal rules and regulations, except Treasury materials, to the Code of Federal Regulations (C.F.R.) by title, part, section and year of the most recent edition of the C.F.R.

Example:

12 Code of Federal Regulations, Section 226.19 (2004)

Each title of the C.F.R. is revised at least once a year; cite to the most recent edition. If a rule or regulation is commonly known by name, its name should be given.

Example:

Environmental Protection Agency Effluent Limitations Guidelines, 40 Code of Federal Regulations, Section 405.53 (2004)

(2) Federal Register. The Federal Register publishes rules and regulations before they are entered in the Code of Federal Regulations. Citations of rules or regulations in the Federal Register should give any commonly used name of the rule or regulation, the volume and page on which the rule or regulation begins and the year. Give additional pages for more specific references. When the Federal Register indicates where the rule or regulation will appear in the Code of Federal Regulations, give that information parenthetically.

Examples:

Amendment 1 of Regulation 361, 50 Federal Register, 37,638 (1985) (to be codified at 7 Code of Federal Regulations, Section 908.661)

50 Federal Register, 37,646 (to be codified at 14 Code of Federal Regulations, Section 75.100)

D. Treasury materials. Treasury materials are cited using a separate system. If you are involved in the tax law, consult the latest version of *A Uniform System of Citation*, published by the Harvard Law Review Association.

Section 3. Citations to court opinions and opinions of the Attorney General

It is customary when referring to a court decision to give the name of the case or opinion and its citation in the appropriate court reports. Attorney General opinions are cited differently depending on the year of issuance. For the sake of uniformity, use *Uniform Maine Citations*, published by the Maine Law Review, in conjunction with *A Uniform System of Citation*, published by the Harvard Law Review Association, when citing these materials. If these two sources differ, use the method set out in *Uniform Maine Citations*.

PART IV
SPECIALIZED DRAFTING SITUATIONS

This Part deals with several specialized drafting situations that require drafting conventions that are different from the usual forms or pose particular problems for the drafter. Although the situations set out in this Part do not represent all of the specialized situations a drafter may face, they do represent situations a drafter is likely to encounter.

CHAPTER 1
REFERENDA

A referendum, according to the Maine Revised Statutes, Title 21-A, section 1, is an "election for the determination of a question." Under this process, a proposed new law is referred to the people of the State or a locality for their approval. It is vital that the question appearing on the ballot at a referendum be as clear, concise and objective as possible in order to facilitate informed voting by the citizens of the State. Do not attempt to lead or sway the vote in a referendum issue by phrasing the question in a biased or deceptive way. The Office of the Revisor of Statutes reviews all referendum questions to help ensure that they are not biased or misleading.

Section 1. Statutory referenda

The Legislature may wish to submit an issue to the voters for their approval after the Legislature approves the enactment of a bill that proposes a change to the Maine Revised Statutes. This is accomplished by adding a referendum clause to the bill. Thus, if the Legislature approves the statutory change proposed in the bill, the change must be approved by the voters of the State in order to be effective.

Example:

> **Sec. XX. Statutory referendum procedure; submission at statewide election; form of question; effective date.** This Act must be submitted to the legal voters of the State at a statewide election held in the month of November following passage of this Act. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Act by voting on the following question:
>
> "Do you favor (subject of proposed action)?"
>
> The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within a corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns. If a majority of the legal votes are cast in favor of this Act, the Governor shall proclaim the result without delay and this Act becomes effective 30 days after the date of the proclamation.
>
> The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Act necessary to carry out the purposes of this referendum.

Section 2. Advisory referenda

Occasionally, a Legislator may wish to submit an issue to the voters of the State to determine their feelings before the Legislature takes any action on that issue. This may be done through the use of an advisory referendum. A bill proposing an advisory referendum directs the Secretary of State to hold a referendum to determine the sentiment of the voters of Maine on a designated issue. It does not enact any statutory law.

Example:

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

Sec. 1. Special advisory referendum on (subject of referendum). The Secretary of State shall, at a special statewide election in the month of November following the passage of this Act, hold a special advisory referendum to determine the sentiment of the people on (subject on which referendum is to be held).

Sec. 2. Advisory referendum procedure; submission at statewide election. This advisory referendum must be submitted to the legal voters of the State at a statewide election held in the month of November following passage of this Act. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to give their opinion on this question by voting on the following:

"Do you favor (subject of referendum or proposed action)?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within a corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns and shall proclaim, without delay, the total number of ballots in favor of and opposed to the (subject of the referendum or proposed action).

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Act necessary to carry out the purpose of this advisory referendum.

Section 3. Local referenda

Occasionally, a bill will be drafted that affects a single town, and the sponsor may wish to make the enactment of the bill subject to approval by the voters of the town. In this case, a

specialized referendum clause must be used. The following is an example of a standard local referendum clause for a town.

Example:

> **Sec. XX. Referendum; effective date.** This Act takes effect only for the purpose of submitting this Act to the legal voters of the Town of _____ at the regular town meeting in 20__ or at a special town meeting called for the purpose within _____ days of the approval of this Act. That special town meeting must be called, advertised and conducted according to the law relating to municipal elections; except that the municipal officers of the town may not be required to prepare for posting, nor the town clerk to post, a new list of voters and for the purpose of registration of voters the board of voter registration must be in session on the secular day next preceding the special election. The town clerk of the town shall prepare the required ballots, on which the clerk shall reduce the subject matter of this Act to the following question:
>
> "(Question to be voted on)?"
>
> The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion of the same.
>
> This Act takes effect for all other purposes (insert effective date language) if it is accepted by a majority of the legal voters voting at the special town meeting called for the purpose of approving this Act; and if the total number of votes cast for and against the acceptance of this Act equals or exceeds ___% of the total vote for all candidates for Governor cast in the town at the most recent gubernatorial election.
>
> The result of the vote must be declared by the municipal officers of the Town of _____ and due certificate must be filed by the town clerk with the Secretary of State.

The above language must be modified for a referendum clause in a bill that affects a single county, municipality or quasi-municipal district.

CHAPTER 2
STATEWIDE BOND ISSUES

Frequently, the Legislature will authorize, subject to approval of the voters, the issuance of bonds to finance certain projects. The most common type of bond issue before the Legislature is the "general obligation" bond issue, which is backed by the "full faith and credit of the State," and whose debt service is paid out of the General Fund or Highway Fund.

Drafters must use caution when combining statewide bond issues with other types of language. When making changes to the statutes in the same instrument as a bond issue, it is convenient to separate the bill into parts.

When drafting legislation that is contingent on voter approval of a bond issue, but is not in the same bill as the bond issue, the drafter should include a section modeled on the following language.

Example:

> **Sec. XX. Application; contingent on bond issue.** This Act takes effect only if a $(amount of issue) (general revenue bond issue) (or other type, if applicable) for (purpose of bond issue) is approved by the voters of this State.

Since the Constitution of Maine, Article IX, Section 14 requires bond issues to be approved by a vote of 2/3 of the members of each house present and voting, the Attorney General's office determined that emergency preambles are unnecessary on bond issues. In a 1984 opinion, the Attorney General's office concluded that, notwithstanding the presence of an emergency preamble on a bill authorizing a bond issue, a vote of 2/3 of the members of each house present and voting rather than 2/3 of the entire elected membership of the house is all that is required for passage (Op. Me. Att'y Gen., 84-20).

State bond issues are subject to the provisions and restrictions found in the Maine Revised Statutes and the Constitution of Maine, Article VIII, Part First, Section 2 and Article IX, Sections 14, 14-A, 14-B, 14-C and 14-D. Anyone drafting such a proposal should be familiar with these provisions. Technical questions concerning bond issue bill drafts should be discussed with the Office of Fiscal and Program Review.

The following example is a model of a bond issue without any other type of language.

Example:

> **Preamble.** Two thirds of both Houses of the Legislature deeming it necessary in accordance with the Constitution of Maine, Article IX, Section 14 to authorize the issuance of bonds on behalf of the State of Maine to provide funds as described in this Act,
>
> **Be it enacted by the People of the State of Maine as follows:**

Sec. 1. Authorization of bonds. The Treasurer of State is authorized, under the direction of the Governor, to issue bonds in the name and on behalf of the State in an amount not exceeding $_____ for the purposes described in section ____ *(use allocation section number)* of this Act/Part. The bonds are a pledge of the full faith and credit of the State. The bonds may not run for a period longer than 10 years from the date of the original issue of the bonds.

Sec. 2. Records of bonds issued; Treasurer of State. The Treasurer of State shall ensure that an account of each bond is kept showing the number of the bond, the name of the successful bidder to whom sold, the amount received for the bond, the date of sale and the date when payable.

Sec. 3. Sale; how negotiated; proceeds appropriated. The Treasurer of State may negotiate the sale of the bonds by direction of the Governor, but no bond may be loaned, pledged or hypothecated on behalf of the State. The proceeds of the sale of the bonds, which must be held by the Treasurer of State and paid by the Treasurer of State upon warrants drawn by the State Controller, are appropriated solely for the purposes set forth in this Act/Part. Any unencumbered balances remaining at the completion of the project in this Act/Part lapse to the Office of the Treasurer of State to be used for the retirement of general obligation bonds.

Sec. 4. Interest and debt retirement. The Treasurer of State shall pay interest due or accruing on any bonds issued under this Act/Part and all sums coming due for payment of bonds at maturity.

Sec. 5. Disbursement of bond proceeds from General Fund bond issue. The proceeds of the sale of the bonds authorized under this Act/Part must be expended as designated in the following schedule under the direction and supervision of the agencies and entities set forth in this section.

_____, DEPARTMENT OF

Bureau _____

Provides funds to _____ .

Total $_____

Sec. 6. Contingent upon ratification of bond issue. Sections 1 to # ____ do not become effective unless the people of the State ratify the issuance of the bonds as set forth in this Act/Part.

Sec. 7. Appropriation balances at year-end. At the end of each fiscal year, all unencumbered appropriation balances representing state money carry forward. Bond proceeds that have not been expended within 10 years after the date of the sale

of the bonds lapse to the Office of the Treasurer of State to be used for the retirement of general obligation bonds.

Sec. 8. Bonds authorized but not issued. Any bonds authorized but not issued within 5 years of ratification of this Act/Part are deauthorized and may not be issued, except that the Legislature may, within 2 years after the expiration of that 5-year period, extend the period for issuing any remaining unissued bonds for an additional amount of time not to exceed 5 years.

Sec. 9. Referendum for ratification; submission at election; form of question; effective date. This Act/Part must be submitted to the legal voters of the State at a statewide election held in the month of November following passage of this Act. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Act/Part by voting on the following question:

"Do you favor a $_____ bond issue _____?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within a corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns. If a majority of the legal votes are cast in favor of this Act/Part, the Governor shall proclaim the result without delay and this Act/Part becomes effective 30 days after the date of the proclamation.

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Act/Part necessary to carry out the purposes of this referendum.

SUMMARY

The funds provided by this bond issue, in the amount of $_____, will be used to_____.

CHAPTER 3
CRIMINAL PENALTIES, CIVIL VIOLATIONS AND THE MAINE CRIMINAL CODE

Section 1. Introduction; initial questions

The Maine Criminal Code ("criminal code") is intended to apply not only to the crimes set out within the code but to crimes defined in all other parts of the Maine statutes. Criminal statutes must conform as closely as possible to the general principles and guidelines set out in the criminal code. Therefore, the criminal code should serve as the basic model for drafting any proposed statute that deals with crimes, civil violations or civil penalties.

The following is a summary of the questions one needs to ask before drafting a new prohibition of conduct, the elements to include if a prohibition is in fact necessary and what to consider when determining whether the penalty should be criminal or civil. (See also the table: "Differences Between Crimes and Civil Violations" at the end of this chapter.)

Step 1. Before drafting a new prohibition of conduct, first review whether a new prohibition is actually needed. This should include a review of what penalties currently exist in statute. The criminal code was drafted to be broad and general in order to capture many kinds of criminal activity under fewer crimes. For instance, a person can commit several types of assault (e.g., assault on a child, a stranger or a domestic partner) or several types of theft or fraud. Although the criminal code may penalize these acts differently based upon who the victim is or the monetary amount that is wrongfully taken, the prohibited conduct is defined broadly and generally for all such acts. It is not necessary to create a specific crime for every specific bad act; it is important to ensure that an existing law does not already cover the conduct that you wish to sanction.

Step 2. If a penalty or sanction does not already exist for the conduct that the sponsor wishes to prohibit, the drafter must determine whether the sponsor wishes to impose a criminal or civil penalty. Is the intent to mete out punishment or ensure compliance? In order to impose criminal sanctions, the State must guarantee that certain constitutional requirements are met, as discussed in detail in Section 2, subsection A.

Section 2. Drafting

A. Criminal violations. If it is necessary to establish a new crime, make sure to use precise language and follow these basic guidelines.

(1) Classification. Determine how severe the penalty should be and use the criminal code classification system. This system applies whether a drafter is establishing a criminal prohibition to be included in the criminal code or a criminal prohibition to be included in another Title.

If a criminal prohibition is to be included in the criminal code, the Maine Revised Statutes, Title 17-A, section 4 provides that all crimes defined by the Maine Criminal Code, except murder, must be classified as Class A, Class B, Class C, Class D or Class E crimes for sentencing purposes. The term of imprisonment for each class of crime other than murder,

found in Title 17-A, section 1604, and the maximum authorized fines for each class of crime, established in Title 17-A, sections 1704 and 1705, are as follows:

Class of Crime (17-A §4)	Term of Imprisonment (17-A §1604) Definite period	Maximum Fine (17-A §§1704, 1705) Individuals	Organizations
A	not to exceed 30 years	$50,000	$100,000
B	not to exceed 10 years	$20,000	$40,000
C	not to exceed 5 years	$5,000	$20,000
D	less than one year	$2,000	$10,000
E	not to exceed 6 months	$1,000	$10,000

Sections 1704 and 1705 authorize higher fines for individuals or organizations regardless of the class of crime so long as the fine does not exceed twice the pecuniary gain derived from the crime by the defendant. Section 1705 authorizes a fine in any amount for an organization found guilty of murder.

There are a number of existing statutes that fail to classify the crime described. Under Title 17-A, section 4-A, a crime that is not expressly designated as a Class A, B, C, D or E crime is converted into a crime with a specific class based on the amount of imprisonment assigned to the prohibited conduct. Make sure to provide a class of crime when drafting a new criminal prohibition or the law may operate to provide a fine or term of imprisonment that was not intended.

(a) Exceptions. A drafter should have a very good reason to draft a crime with a penalty that varies from that provided in the standard classification system for a specified class. Avoid doing so if at all possible. If it is necessary to vary from the standard classification, be aware when it is appropriate to "notwithstand" Title 17-A, section 1604, 1704 or 1705. It is necessary to "notwithstand" section 1604, 1704 or 1705 *only* if the penalty provides for a term of imprisonment or a fine that is *outside the range* allowed by the current penalty under the appropriate classification. For example, a Class E crime that includes a mandatory term of imprisonment of 48 hours is within the range authorized for Class E crimes (0-6 months), so there is no need to "notwithstand" section 1604.

An example where the drafter would need to "notwithstand" Title 17-A, sections 1704 and 1705 may be found in Title 38, section 349, subsection 1 where a penalty for a Class E crime provides fines outside the Class E range of up to $1,000 as described in sections 1704 and 1705. The penalty in section 349, subsection 1 reads:

> "Except as otherwise specifically provided, a person who intentionally, knowingly, recklessly or with criminal negligence violates a law administered by the department, including, without limitation, a violation of the terms or conditions of an order, rule, license, permit, approval or decision of the board or commissioner, or who disposes of more than 500 pounds or more than 100 cubic feet of litter for a commercial purpose, in violation of Title 17, section

2264-A, commits a Class E crime. Notwithstanding Title 17-A, section 1704, subsection 5 and section 1705, subsection 5, the fine for a violation of this subsection may not be less than $2,500 and not more than $25,000 for each day of the violation, except that the minimum amount for knowing violations is $5,000 for each day of violation."

The criminal code was written to provide appropriate ranges for punishment for prohibited conduct. Ranges give judges discretion to look at all the factors and circumstances and arrive at the appropriate sentence for the person committing the crime. Like drafting a penalty that varies from that provided in the standard classification system, a drafter should also have a good reason for drafting a mandatory sentence for a crime.

(b) Felonies and misdemeanors. The Maine Revised Statutes no longer defines crimes as either "felonies" or "misdemeanors." Please do not use these terms. What used to be referred to as a felony is a crime punishable by imprisonment for one year or more. All Class A, B and C crimes are felonies and all Class D and E crimes are misdemeanors.

(2) Format. Criminal penalty provisions that are to be included in the criminal code should be drafted to ensure that the provisions conform to the criminal code and the requirements set in Title 17-A, section 4. By convention, provisions in the criminal code are usually divided into subsections, with one subsection setting out the elements of the crime and another subsection, usually the last in the section, setting out the criminal class designation if all ways of committing the crime are of the same class.

Example:

§207. Criminal threatening

1. A person is guilty of criminal threatening if that person intentionally or knowingly places another person in fear of imminent bodily injury.

2. Criminal threatening is a Class D crime.

If the class of the crime varies based on the inclusion of different elements, write the class into the subsection or paragraph that defines the prohibited conduct.

Example:

§207. Assault

1. A person is guilty of assault if:

A. The person intentionally, knowingly or recklessly causes bodily injury or offensive physical contact to another person. Violation of this paragraph is a Class D crime; or

B. The person has attained at least 18 years of age and intentionally, knowingly or recklessly causes bodily injury to another person who is less than 6 years of age. Violation of this paragraph is a Class C crime.

Other subsections may be used as necessary to provide definitions, exceptions, etc.

The preferred format for drafting crimes outside the criminal code is as follows:

Example:

1. Headnote. A person may not (set out prohibited conduct). A person who violates this (chapter, section, subsection, etc.) commits a Class (insert classification letter) crime.

Sometimes it is best to draft the prohibited conduct in one subsection, and the penalty in another subsection. Whatever method works best, consistency is important. If the description of the conduct or the context makes this format awkward, an alternative is:

Example:

1. Headnote. A person who (set out prohibited conduct) commits a Class (insert classification letter) crime.

(3) State of mind (*mens rea*). An element of a crime that is often overlooked is the requisite mental state or *mens rea*. Every crime should require some level of mental culpability. The criminal code recognizes the following states of mind: intentionally, knowingly, recklessly or with criminal negligence. (See Title 17-A, sections 34 and 35.) Do not use "willfully," "corruptly" or "maliciously" or other terms not listed in section 35.

There are a few crimes in the criminal code that do not include a culpable mental state, and these are "strict liability crimes." If a sponsor does not want to use a culpable mental state, it should be specifically stated that the crime is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. The following is the standard language to use:

Example:

Violation of this (section, subsection, etc.) is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

(4) Subsequent violations. Occasionally a drafter will be requested to draft a crime that has graduated penalties for subsequent violations. Draft each offense that has a different penalty as a separate statutory unit.

Example:

§853-B. Engaging a prostitute

1. A person is guilty of engaging a prostitute if:

A. The person engages a prostitute within the meaning of section 851, subsection 1-A. Violation of this paragraph is a Class E crime; or

B. The person violates paragraph A and, at the time of the offense, the person has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, the date of the prior conviction may not precede the commission of the offense by more than 2 years. Violation of this paragraph is a Class D crime.

Title 17-A, section 9-A provides standard language for considering prior convictions. The default look-back period is 10 years, but the drafter may change that period of time (as in §853-B above).

(5) Statutes of limitation; restitution. The criminal code addresses statutes of limitation (see Title 17-A, section 8) and restitution (see Title 17-A, chapter 69) for all crimes. There is usually no need to mention either issue when drafting new crimes.

B. Civil violations. If the sponsor wishes to establish a civil violation, the format and language requirements are similar to that for crimes.

(1) Format. The following is the format for language establishing a civil violation.

Example:

A person that (set out prohibited conduct) commits a civil violation for which a fine of not more than (maximum dollar amount) may be adjudged.

Instead of using a "fine of not more than $x may be adjudged," a drafter can use other options such as identifying a range of potential fines ("a fine of not less than $x and not more than $x…) or naming a specific amount ("a fine of $x..."). Note that saying "must be adjudged" (instead of "may be adjudged") means that the fine is mandatory.

(2) Fines. The monetary sanctions in almost all civil violations are now called "fines." The term "forfeiture" is no longer used.

(3) Civil penalties. "Civil penalty" should be used only when a person or entity is enforcing the statute in a civil action and the monetary sanction is paid to that person or entity.

Example:

A person that (set out prohibited conduct) is subject to a civil penalty not to exceed (maximum dollar amount), payable to the (person or entity -- i.e., State, municipality, board, etc.). This penalty is recoverable in a civil action.

(4) Subsequent violations. If the sponsor wishes to establish a civil violation that has graduated penalties for subsequent violations, draft each offense that has a different penalty as a separate statutory unit.

Example:

§750. Violations

1. Violation. A person, firm or corporation may not violate this subchapter or a rule adopted pursuant to this subchapter.

2. Penalty. The following penalties apply to violations of this section.

A. A person who violates subsection 1 commits a civil violation for which a fine of not more than $500 may be adjudged.

B. A person who violates subsection 1 after having previously violated subsection 1 commits a civil violation for which a fine of not more than $1,000 may be adjudged.

There is no constitutional limitation on using prior bad conduct to enhance the consequences of a subsequent civil violation. There are 2 acceptable formats for civil violations. The basic civil format requires only that the person violated the statute at least once before. There is no requirement for an adjudication based on that prior violation to qualify as a subsequent violation. The other civil format takes into account the fact that an adjudication of the prior violation was completed at the time of the current adjudication. "Adjudication" instead of "conviction" is used in the civil context.

Note that for crimes, the prior conviction must have taken place before the current crime was committed.

(5) Additional provisions regarding civil violations. Title 14, chapter 621 contains general provisions that apply to civil violations. These provisions cover statutes of limitation (section 5601), restitution (section 5602, which adopts chapter 69 of the Maine Criminal Code), license suspensions (section 5603) and terminology governing monetary sanctions (section 5604). It is not necessary to cross-reference these provisions; all of these provisions apply without referencing them.

C. Enforcement through civil action. There is one more type of statute that defines prohibited conduct without making it criminal but does not expressly refer to or designate the conduct as a "civil violation." These statutes are enforced by the Attorney General's office, unless another appropriate public official is specified, in civil actions pursuant to the general civil jurisdiction of the Superior Court or as specifically provided in the statute defining the prohibited conduct. There are only a few statutes in this category.

If the sponsor wants the violation of the statute to be handled as a civil violation, specifically state that violation of the section, subsection, etc. is a civil violation and include the permitted sanction. (Rule 80H of the Maine Rules of Civil Procedure applies to the enforcement of civil violations.) If the sponsor wants the violation of the statute to be handled as a civil action, state what sanctions or remedies are available, to whom any monetary sanctions are payable and who is authorized to enforce the statute in a civil action if the public official who will enforce the statute is not the Attorney General.

Example:

§2989. Civil action by commission

1. Civil penalties. Any dealer or retail store that violates section 2983 is subject to:

A. For the first violation, a civil penalty not to exceed $1,000; and

B. For each subsequent violation, a civil penalty not to exceed $2,000.

Penalties are collected by the commission in a civil action and must be paid to the Treasurer of State for credit to the General Fund.

2. Injunction. In lieu of or in addition to the collection of civil penalties under subsection 1, the commission may bring a civil action in the Superior Court to prevent, restrain or enjoin a violation of section 2983. If in that action a violation or threatened violation of section 2983 is established, the court may enjoin and restrain or otherwise prohibit the violation or threatened violation. In the action it is not necessary that actual damages to any person be alleged or proved.

Section 3. Differences between crimes and civil violations

If a penalty or sanction does not already exist for the conduct that a sponsor wishes to prohibit, the drafter must determine whether to use a criminal or civil penalty. Is the sponsor's intent to mete out punishment or ensure compliance? The State must guarantee that certain constitutional requirements are met in order to impose criminal sanctions. The following are major differences between crimes and civil violations that the sponsor should know to decide whether sanctions are appropriate, and if so, whether they should be civil or criminal.

Attribute	Crimes	Civil violations
Burden of proof	State must prove each element beyond a reasonable doubt	State must prove defendant committed the act by a preponderance of the evidence (i.e., it is more likely than not that the defendant committed the act) Note that this burden can be increased by statute for the particular violation
Right to counsel	State must provide court-financed counsel to indigent defendants when imprisonment will actually be imposed (see State v. Cook, 1998 Me. 40, 706 A.2d 603)	No right to court-appointed counsel
Right to jury trial	State must provide option of jury trial for all crimes except punishment for contempt	Not clear in all cases but generally not required when the remedy is an injunction or other form of equitable relief
State of mind (*mens rea*)	State must prove defendant acted with culpable state of mind in almost all crimes (i.e., intentionally, knowingly, recklessly or with criminal negligence)	Generally, culpable state of mind is not required
Cost	Expensive for society to use criminal justice system and option of imprisonment	Less expensive to administer and enforce
Morality	Conduct is criminal if it deserves to be condemned morally – a criminal conviction is a true handicap that does not disappear (it may negatively affect one's ability to secure employment, financial aid or enlist in armed services) Confidential for juveniles unless offense is murder; Class A, B or C offense; or 2nd or subsequent Class D offense	Conduct may be antisocial in nature but not so immoral as to warrant imprisonment Compliance is goal, not punishment Not required to be disclosed as a "criminal record" No confidentiality for juveniles

CHAPTER 4
REQUESTS FOR OPINIONS OF THE JUSTICES OF THE SUPREME JUDICIAL COURT

The Constitution of Maine, Article VI, Section 3 requires the Justices of the Supreme Judicial Court to render an opinion upon "important questions of law and upon solemn occasions, when required by the Governor, Senate or House of Representatives." Occasionally, either the Senate or the House of Representatives may wish to request that the court render an opinion on a certain issue.

Because the court will give its opinion only on important questions of law and upon solemn occasions, the request must spell out the circumstances raising the important questions of law and constituting the solemn occasion. Without this, the court may rule that the questions of law are not important or that the occasion is not solemn.

The following is the form generally used to request an opinion. The request has the following standard heading and first paragraph.

Example:

> (House or Senate) Order Propounding Questions to the Justices of the Supreme Judicial Court
>
> **WHEREAS,** it appears to the (Senate or House of Representatives) of the ___(nd, th or st) Legislature that the following are important questions of law and that this is a solemn occasion; and

Then, in as many paragraphs as are necessary, the circumstances that give rise to the important questions of law and that make the occasion solemn are set out.

The "Whereas" paragraphs are followed by an "ORDERED" paragraph or paragraphs. If a separate summary concerning the occasion is to be set out in the order, it is set forth as indicated below.

Example:

> **ORDERED,** that, in accordance with the Constitution of Maine, Article VI, Section 3, the (Senate or House of Representatives) respectfully requests the Justices of the Supreme Judicial Court to give the (Senate or House of Representatives) their opinion on the following questions of law:
>
> (Summary)
>
> (question to be addressed to the court)

This is the general form used in requesting an opinion, which may be varied to meet the needs of each particular case. An example follows.

Example:

STATE OF MAINE

In Senate_____

WHEREAS, it appears to the Senate of the 127th Legislature that the following is an important question of law and that this is a solemn occasion; and

WHEREAS, the Constitution of Maine, Article VI, Section 3 provides for the Justices of the Supreme Judicial Court to render their opinion on such a question; and

WHEREAS, on June 30, 2015, the Legislature, in accordance with past practices and historical precedent, passed a Joint Order, S.P. 556, providing that "when the House and Senate adjourn they do so until the call of the President of the Senate and the Speaker of the House, respectively, when there is a need to conduct business, or consider possible objections of the Governor"; and

WHEREAS, pursuant to the Joint Order, the Legislature is currently meeting to conduct its final business of the First Regular Session before adjourning sine die; and

WHEREAS, the Legislature, when it passed the Joint Order, anticipated that, in accordance with past practices and historical precedent, bills that had been presented to the Governor would be returned within 10 days (Sundays excepted) pursuant to the Constitution of Maine, Article IV, Part Third, Section 2 so that the Legislature could consider the possible objections of the Governor to any or all of the bills before adjourning sine die; and

WHEREAS, Legislative Document 729, as amended, "An Act to Add Acetylfentanyl and Methylfentanyl Derivatives to the List of Schedule W Drugs," which is emergency legislation, was presented to the Governor on June 30, 2015 and not returned by the Governor within 10 days (Sundays excepted) after it was presented to the Governor; and

WHEREAS, pursuant to the Constitution of Maine, Article IV, Part Third, Section 2, this bill was chaptered as law; however, the Governor has stated that the Legislature's action pursuant to the Joint Order, S.P. 556, was or became an adjournment that prevented his return of Legislative Document 729 under the Constitution of Maine, Article IV, Part Third, Section 2 and that this bill has not become law without his

signature and that he may at some point return it with objections; therefore, be it

ORDERED, that, in accordance with the Constitution of Maine, Article VI, Section 3, the Senate respectfully requests the Justices of the Supreme Judicial Court to give the Senate their opinion on the following question of law:

Question: Is Legislative Document 729, which was enacted by the Legislature and presented to the Governor and not returned by the Governor within 10 days (Sundays excepted) after it was presented to the Governor still subject to action by the Governor, or is this bill now law pursuant to the Constitution of Maine, Article IV, Part Third, Section 2?

CHAPTER 5
UNIFORM LAWS

Uniform laws are laws recommended for enactment in each state by the Uniform Law Commission, also known as the National Conference of Commissioners on Uniform State Laws. Uniform laws, particularly ones enacted long ago, sometimes appear in the Maine Revised Statutes in forms different from that of the other Maine statutes. Today, however, when complex uniform laws are enacted as Maine statutes, the basic numbering system, the mechanical structure and the internal organization recommended by the Uniform Law Commission are usually altered to conform with the Maine Revised Statutes standards.

When an amendment to the uniform law is recommended by the commission, it is in the form and style and is allocated and integrated into the uniform statute as recommended by the commission. On the other hand, if the amendment is not one recommended by the commission, its form and style conform as closely as possible to the style of the uniform law being amended but is allocated as any other amendment to the Maine Revised Statutes. For example, if the amendment replaces a section or subsection and if the subject matter of the amendment differs substantially from the subject matter of the item, the amendment is allocated to a different section or subsection number. This policy ensures uniformity of numbering where uniformity exists and highlights nonuniform changes where they are inserted into a uniform law.

The Uniform Law Commission has established rules for drafting uniform laws. These are available in the Law and Legislative Reference Library and on the website of the Uniform Law Commission at: www.uniformlaws.org. Under the constitution and bylaws of the commission, the Revisor of Statutes is an associate member of the commission. Drafters may direct any questions on form or procedure to the Office of the Revisor of Statutes. See page 31 for a discussion on the use of comments in bills enacting or amending uniform laws.

CHAPTER 6
MUNICIPAL ORGANIZATION, BOUNDARIES AND OTHER REAL ESTATE MATTERS

There are several types of legislation dealing with municipal and real estate matters. When drafting these types of legislation, the drafter must be sure to include the names of the towns as well as the counties involved and give a complete description of the property in the bill. The Office of the Revisor of Statutes does not alter the legal land descriptions contained in such bills to conform to drafting manual standards; the land descriptions in such bills are intended to conform to the land descriptions contained in other relevant legal documents, such as deeds.

Section 1. Converting a plantation to a town

Legislation is necessary to convert a plantation to a town, subject to a referendum submitted to the voters of the area in question. This is done through a private and special law, and the bill follows a specialized format. The following is the standard form for a private and special law bill converting a plantation to a town.

Example (standard form):

An Act Converting (name of plantation) Plantation to the Town of (name of town)

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

Sec. 1. Town of (name of town); incorporated. (Name of plantation) Plantation, with its inhabitants, is incorporated into a town by the name of (name of town). The inhabitants of this town are vested with the powers, privileges and immunities that the inhabitants of towns within the State enjoy. The town created takes the effects belonging to (name of plantation) Plantation and also assumes all of its obligations.

Sec. 2. Legislative district. Until the next legislative apportionment of Representatives after the effective date of this Act, the Town of (name of town) remains in the same legislative district in which (name of plantation) Plantation is classed.

Sec. 3. First meeting; how called. Upon acceptance of this Act by referendum as provided in section 4, the board of assessors of the plantation shall issue a warrant, in accordance with the general laws, for the first town meeting, to be held within one year of the referendum. The plantation clerk shall file notification of the town meeting with the Secretary of State for determining the effective date of sections 1 and 2.

Sec. 4. Referendum; certificate to Secretary of State. The board of assessors of the plantation shall submit this Act by ballot to the legal voters within the territory embraced within the limits of the proposed Town of (name of town) at a regular or special election to be

held within one year after passage of this Act. This election must be called, advertised and conducted according to the Maine Revised Statutes, Title 30-A, sections 2528 and 2532. The plantation clerk shall prepare the required ballots, on which the clerk shall reduce the subject matter of sections 1 and 2 to the following question:

"Do you favor converting (name of plantation) Plantation to the Town of (name of town)?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion of the question. This Act must be approved by a majority of the legal voters voting at the election and the total number of votes cast for and against the acceptance of sections 1 and 2 at the election must equal or exceed 50% of the total number of votes cast in the plantation for Governor at the last gubernatorial election.

The board of assessors of (name of plantation) Plantation shall declare the result of the vote and the plantation clerk shall file due certificate of the election result with the Secretary of State.

Sec. 5. Effective date. Section 3 takes effect upon its acceptance of the referendum by a majority of the legal voters at the election. Sections 1 and 2 take effect for all purposes at the first town meeting.

SUMMARY

This bill authorizes the incorporation of the Town of (name of town) upon approval by the voters of (name of plantation) Plantation.

A referendum must be held no later than one year after passage of this bill. If the incorporation is approved, the first town meeting must be held within one year of the referendum.

Section 2. Changing boundaries

Changing boundary lines of a town is also accomplished by a private and special law.

Example:

An Act to Amend the Boundary Line between the Towns of Albion and Benton

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

Sec. 1. Boundary line. In Kennebec County, the boundary line between the towns of Albion and Benton is as described in this section.

Beginning at a drill hole in the top of a stone bound set in 1988 and engraved with the letters "A" and "B" on the respective sides facing the towns of Albion and Benton; the stone bound is located on a polar bearing of South 78° 05' 44" East and 3,154.3 feet from the stone bound at Foss Hill marking the corners of Albion, Benton and Winslow, and along the existing municipal boundary between the towns of Benton and Albion as established by Chapter 142, 1803 Laws and Resolves of Massachusetts; thence, North 11° 14' 14" East for 1,881.2 feet to a drill hole in the top of a stone bound set in 1988 near the southerly line of the Albion-Benton Road, the stone bound marked with the letters "A" and "B" on the respective sides facing the towns of Albion and Benton. Thence, North 11° 14' 14" East for 858.1 feet to a drill hole in the top of a stone bound set in 1988 marking a corner of the town line, the stone bound marked with the letters "A" and "B" on the respective sides facing the towns of Albion and Benton; thence, North 78° 33' 11" West along the existing municipal boundary between the Town of Albion and the Town of Benton.

All bearings have been rotated to match a plan entitled "Albion-Benton Town Line" dated October, 1976, by S.L.F., Inc. All bearings are based on true north. The declination from true north to magnetic north is 18° 50' 51" West.

SUMMARY

The purpose of this bill is to establish an agreed-upon boundary between the towns of Albion and Benton.

Section 3. Deorganization

Deorganization of a plantation or town is usually accomplished through a private and special law bill subject to referendum submitted to the legal voters of the plantation or town in question. The drafter should request a copy of the deorganization plan from the requestor of the bill; ideally, the bill should be drafted to reflect the plan. The statutory provisions regarding the procedure for deorganization of municipalities and plantations are found in Title 30-A, chapter 302. Not all of the provisions in the following example are necessary in every proposed deorganization.

Example:

An Act Authorizing the Deorganization of Oxbow Plantation

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

PART A

Sec. A-1. Deorganization of Oxbow Plantation. Notwithstanding any contrary requirement of the Maine Revised Statutes, Title 30-A, chapter 302, if in accordance with Title 30-A, section 7207 a majority

of the voters in Oxbow Plantation approve the deorganization procedure developed in accordance with Title 30-A, section 7205 and if the question of Oxbow Plantation's deorganization is approved by the registered voters of Oxbow Plantation pursuant to section 8 of this Part and if Oxbow Plantation has executed a withdrawal agreement with School Administrative District No. 32 or Regional School Unit No. 32, Oxbow Plantation in Aroostook County is deorganized, except that the corporate existence, powers, duties and liabilities of the plantation survive for the purposes of prosecuting and defending all pending suits to which the plantation is, or may be, a party and all needful process arising out of any suits, including provisions for the payment of all or any judgments or debts that may be rendered against the plantation or exist in favor of any creditor.

Sec. A-2. Financial obligations and other liabilities. Any financial obligations or other liabilities that were incurred by Oxbow Plantation as a municipality or that were incurred by Oxbow Plantation as a member of School Administrative District No. 32 or Regional School Unit No. 32 are hereby excepted and reserved in accordance with the Maine Revised Statutes, Title 30-A, section 7303 and remain liabilities for the inhabitants of lawful age residing in the territory included in the deorganized Oxbow North Township for the duration of the liabilities. The State Tax Assessor shall assess taxes against the property owners in the deorganized Oxbow North Township to provide funds to satisfy any municipal or educational obligations or other liabilities. These financial obligations or other liabilities are not the responsibility of either the Department of Education or the taxpayers in the Unorganized Territory Tax District as described in Title 36, chapter 115.

Sec. A-3. Deorganization procedure. The deorganization of Oxbow Plantation must be conducted in accordance with the approved deorganization procedure developed in accordance with the Maine Revised Statutes, Title 30-A, section 7205.

Sec. A-4. Unexpended school funds. The treasurer of Oxbow Plantation or any other person who has custody of the funds of the plantation shall pay the Treasurer of State all unexpended school funds that, together with the credits due the plantation for school purposes, are to be used by the State Tax Assessor to settle any school obligations incurred by the plantation before deorganization. The State Tax Assessor shall approve any written requests or invoices for payments and submit the approved documents to the fiscal administrator of the unorganized territory within the Office of the State Auditor to process through the Office of the State Controller. Any unexpended school funds remaining with the Treasurer of State after all the obligations have been met must be credited to the Unorganized Territory Education and Services Fund, as established in the Maine Revised Statutes, Title 36, chapter 115.

Sec. A-5. Unexpended municipal funds and property. The treasurer of Oxbow Plantation or any other person who has custody of the funds of the plantation shall pay the Treasurer of State all unexpended funds of the plantation that, together with the credits due the plantation for its purposes, are to be used by the State Tax Assessor to settle any obligations of the plantation incurred by the plantation before deorganization. The State Tax Assessor shall approve any written requests or invoices for payments and shall submit the approved documents to the fiscal administrator of the unorganized territory within the Office of the State Auditor to process through the Office of the State Controller. Pursuant to the Maine Revised Statutes, Title 30-A, section 7304, at the end of the 5-year period during which the powers, duties and obligations relating to the affairs of the plantation are vested in the State Tax Assessor or when in the judgment of the State Tax Assessor final payment of all known obligations against the plantation has been made, any funds that have not been expended must be deposited with the county commissioners of Aroostook County as undedicated revenue for the unorganized territory fund of Aroostook County.

Any property of the plantation that has not been sold must be held by the State in trust for the unorganized territory or transferred to Aroostook County to be held in trust for the unorganized territory. Income from the use or sale of that property held by the State must be credited to or deposited in the Unorganized Territory Education and Services Fund under Title 36, chapter 115. Income from the use or sale of that property held by Aroostook County must be credited to the unorganized territory fund of the county pursuant to Title 36, section 1604, subsection 4.

Sec. A-6. Provision of education services. Notwithstanding any other law, education in the unorganized territory of Oxbow North Township must be provided under the direction of the Commissioner of Education as described in the Maine Revised Statutes, Title 20-A, chapter 119 and must meet the general standards for elementary and secondary schooling and special education established pursuant to Title 20-A. The provisions of subsections 1 to 3 must be implemented at the time of deorganization.

1. Students in prekindergarten and kindergarten to grade 12 whose parents or legal guardians are legal residents of the unorganized territory of Oxbow North Township must be provided educational services at a school located within School Administrative District No. 32 in Ashland. Transportation services to and from this school must be provided under the direction of the Department of Education.

2. Special education services must be provided to eligible resident students as required by federal and state laws, rules and regulations.

3. Career and technical education must be provided to eligible resident students pursuant to Title 20-A, section 3253-A.

Tuition to schools other than those that are identified in subsection 1 may be provided on behalf of resident students with the prior approval of the director of state schools within the Department of Education. Tuition may not exceed limits set out in the Maine Revised Statutes, Title 20-A, section 3304, and transportation is the responsibility of the parents or legal guardians. The receiving school must be approved by the Commissioner of Education for the purpose of tuition.

The provision of educational services is subject to future modification in response to changes in educational conditions.

Sec. A-7. Assessment of taxes. The State Tax Assessor shall assess the real and personal property taxes in Oxbow Plantation as of April 1, 2017 as provided in the Maine Revised Statutes, Title 36, section 1602.

Sec. A-8. Referendum; certificate to Secretary of State. This Part takes effect 90 days after its approval only for the purpose of permitting its submission by the municipal officers of Oxbow Plantation to the legal voters of the plantation by ballot at the next general election to be held in November. This election must be called, advertised and conducted according to the Maine Revised Statutes, Title 30-A, sections 2528 and 2532. The plantation clerk shall prepare the required ballots on which the clerk shall reduce the subject matter of this Part to the following question:

"Shall Oxbow Plantation be deorganized?"

The voters shall indicate their opinion on this question by a cross or check mark placed against the word "Yes" or "No." Before becoming effective, this Part must be approved by at least 2/3 of the legal voters casting ballots at the general election, and the total number of votes cast for and against the acceptance of this Part at the election must equal or exceed 50% of the total number of votes cast in the plantation for Governor at the last gubernatorial election.

The municipal officers of Oxbow Plantation shall declare the result of the vote. The plantation clerk shall file a certificate of the election result with the Secretary of State within 10 days after the date of the election.

Sec. A-9. Effective date. Sections 1 to 7 of this Part take effect July 1, 2017 if the legal voters of Oxbow Plantation approve the referendum under section 8 of this Part.

PART B

Sec. B-1. Register and transmit copy of approved deorganization procedure. Before the effective date of the deorganization of Oxbow Plantation pursuant to Part A, the fiscal administrator of the unorganized territory within the Office of the State Auditor shall transmit a copy of the approved deorganization procedure developed in accordance with the Maine Revised Statutes, Title 30-A,

section 7205 to the Aroostook County Administrator and register the approved deorganization procedure with the Aroostook County Registry of Deeds.

Sec. B-2. Effective date. This Part takes effect upon approval of the referendum under Part A, section 8.

SUMMARY

This bill authorizes the deorganization of Oxbow Plantation if the legal voters of the plantation approve by referendum the deorganization.

Section 4. Annexation

Annexation of land by a town is usually accomplished through a private and special law bill subject to referendum submitted to the voters of the town and the voters inhabiting the area to be annexed.

Example:

An Act to Authorize the Annexation of Land Adjacent to the Town of East Millinocket

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

Whereas, the Town of East Millinocket requires the annexation of adjacent lands for the proper operation of municipal government, including road maintenance, public safety and utilities management; and

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

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

Sec. 1. One lot or parcel of land; annexed to Town of East Millinocket. The following lot or parcel of land bounded and described as follows and situated adjacent to the Town of East Millinocket in Penobscot County is annexed to the Town of East Millinocket:

Beginning at a point on the north town line of TA R7 WELS at the center or thread of Dolby Pond (Flowage); thence easterly by and along the north town line a distance of one thousand nine hundred feet (1,900), more or less, to the northwest corner of the Town of East Millinocket; thence southerly by and along the west town line of East Millinocket a distance of two and one-quarter (2-1/4) miles, more or less, to a point in the center or thread of the West Branch of the Penobscot River; thence northwesterly by said center or thread a distance of three-quarter (3/4)

miles, more or less, to the center or thread of Dolby Pond (Flowage); thence northerly by and along the center or thread of Dolby Pond (Flowage) a distance of one and three-quarter (1-3/4) miles, more or less, to the point of beginning. Said parcel contains 521 acres, more or less.

Sec. 2. One lot or parcel of land; annexed to Town of East Millinocket. The following lot or parcel of land bounded and described as follows and situated adjacent to the Town of East Millinocket in Penobscot County is annexed to the Town of East Millinocket:

Beginning at a point on the west town line of East Millinocket at the center of the thread of the West Branch of the Penobscot River and immediately before that west town line turns southeasterly along the center or thread of the West Branch of the Penobscot River; thence southerly by the west town line of East Millinocket a distance of twenty eight thousand five hundred ninety eight (28,598) feet, more or less, to the south township line of TA R7 WELS; thence easterly by and along the south township line of TA R7 WELS a distance of thirteen thousand eight hundred sixty (13,860) feet, more or less, to the west town line of Medway; thence northerly by and along the west town line of Medway a distance of twelve thousand four hundred seventy four (12,474) feet, more or less, to a point in the center or thread of the West Branch of the Penobscot River; thence westerly by and along the center or thread of the West Branch of the Penobscot River a distance of sixteen thousand six hundred ninety eight (16,698) feet, more or less, to the point of beginning.

Sec. 3. Planning costs to be absorbed by the Town of East Millinocket. All costs associated with the transfer of jurisdiction over lands in Township A, Range 7 WELS from the Maine Land Use Regulation Commission to the Town of East Millinocket must be borne by the Town of East Millinocket.

Sec. 4. Referendum; emergency clause; effective date. This Act must be submitted to the legal voters in the Town of East Millinocket and Township A, Range 7 WELS in Penobscot County at the next regular municipal election after the passage of this Act for the purposes of voting on the annexation described in section 1 of this Act, and at the 2nd regular municipal election after passage of this Act for the purposes of voting on the annexation described in section 2 of this Act. Warrants must be issued for that election in the manner now provided by law for the holding of municipal elections, notifying and warning the qualified voters of the town and township to vote on the approval or rejection of this Act.

The subject matter of this Act must be presented at the town meeting in the form of the following question:

> "Do you favor annexation by the Town of East Millinocket of certain portions of Township A, Range 7 WELS in Penobscot County?"

The voters of TA R7 WELS present at the meeting must be given one of 2 township ballots, distinguished on the basis of the portion of the township proposed for annexation in which the voter resides. The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the question posed. The votes of legal voters of the Town of East Millinocket and each portion of Township A, Range 7 WELS proposed for annexation must be separately counted, tallied and recorded.

In view of the emergency cited in the preamble, section 1 of this Act takes effect upon its acceptance by a majority of the voters of East Millinocket and a majority of the voters of the portion of TA R7 WELS described in section 1 of this Act. In view of the emergency cited in the preamble, section 2 of this Act takes effect upon its acceptance by a majority of the voters of East Millinocket and if a majority of the voters of the portion of TA R7 WELS described in section 2 of this Act do not oppose annexation.

If the referendum fails, it may not be submitted again to the voters under the provisions of this Act.

The municipal officers of the town shall declare the result of the votes and the town clerk shall file due certificates of the election results with the Secretary of State within 10 days of the date of the vote.

SUMMARY

This bill authorizes the Town of East Millinocket to annex land adjacent to the town, subject to a vote at referendum of the voters of East Millinocket and the voters of the adjacent land.

Section 5. Secession of territory

Secession of a territory from a municipality is usually accomplished through a private and special law bill subject to referendum submitted to the voters of the territory seeking to secede and the voters of the municipality containing the seceding territory. Statutory guidelines for legislation proposing secession may be found in Title 30-A, chapter 113, subchapter 2.

Example:

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

PART A

Sec. A-1. Separation of Peaks Island, House Island, Pumpkin Knob and Catnip Island and incorporation as Town of Peaks Island. Subject to a referendum election held in accordance with section 2 of this Part, the following territory now within the City of Portland and Cumberland County, together with the inhabitants of that territory, is

separated and set off from the City of Portland and incorporated into a separate town by the name of the Town of Peaks Island: Peaks Island, House Island, Pumpkin Knob, Catnip Island and the surrounding waters, referred to in this Act as "the Peaks Island territory." By virtue of this separation, the Town of Peaks Island is also removed from the jurisdiction of the Board of Harbor Commissioners of the Port of Portland but remains within Cumberland County.

The boundaries of the Town of Peaks Island are described as follows: All that part of the City of Portland in Cumberland County in the State of Maine beginning from sea NNW along the Long Island line to a point in the waters of Hussey Sound between Long Island, Peaks Island and Great Diamond Island starting at 43° 40' 47.1" N by 70° 10' 56.29" W, extending SW to 43° 40' 35.93" N by 70° 11' 12.04" W, continuing to 43° 40' 0.13" N by 70° 12' 5.78" W, continuing SW to 43° 39' 34.86" N by 70° 12' 34.34" W, then SW to 43° 39' 3.69" N by 70° 12' 59.96" W, then SE to 43° 38' 54" N by 70° 12' 47.73" W, then E to 43° 38' 56.37" N by 70° 11' 34.73" W, then E to 43° 38' 57" N by 70° 11' 8.64" W, then SSE to sea along a line parallel to the Long Island line.

Sec. A-2. Referendum election. This Part takes effect no sooner than 30 days after completion of agreement or arbitration of debts and assets between the Peaks Island territory and the City of Portland in Part B to permit its submission to the voters of the Peaks Island territory at a special referendum election to be held on January 10, 2012. Warrants must be issued for this election notifying the qualified voters to vote on the approval or rejection of this Part.

For the purposes of this referendum election, all persons resident and legally registered to vote within the Peaks Island territory are eligible to vote on the question with respect to the separation of the Peaks Island territory from the City of Portland.

The city clerk of the City of Portland shall prepare the required ballots on which the subject matter of this Act must be reduced to the following question:

> "Do you favor the separation of Peaks Island, House Island, Pumpkin Knob and Catnip Island and the surrounding waters from the City of Portland and their incorporation as a separate town?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their vote on this question.

The referendum election must be conducted by the city clerk of the City of Portland, who shall declare the result of the election. After the polls close and after a ballot inspection and recount, if one is necessary, the city clerk's declaration of the election results is final, subject to review by the Superior Court for the County of Cumberland. The city clerk shall file the results of the referendum election with the Secretary of State. The Peaks Island territory shall reimburse the City of Portland

for the reasonable and necessary administrative costs the City of Portland incurs in conducting this referendum election.

Sec. A-3. Effective date of separation. If a majority of those voting in the referendum under section 2 of this Part approve the question, this Part takes effect with respect to the Peaks Island territory and the Peaks Island territory is separated from the City of Portland and is incorporated as the Town of Peaks Island on July 1, 2012.

Sec. A-4. Provision for first meeting. If a majority of those voting in the referendum under section 2 of this Part approve the question, within 30 days after the election a justice of the peace or notary public may issue a warrant to any legal voter in the Peaks Island territory directing that legal voter to notify the municipal inhabitants within the Peaks Island territory of a public meeting to select 9 transition representatives by written ballot. Notice to the municipal inhabitants must be provided at least 7 days prior to the meeting.

Effective immediately after the election, the transition representatives selected at the meeting are vested with the powers to represent the future Town of Peaks Island and to enter into letters of intent and memoranda of understanding for the establishment of its local government, to negotiate interlocal agreements and to engage in other necessary transition activities.

Any agreements made by the transition representatives must be presented for ratification by the Town of Peaks Island's legislative body after the incorporation of the Town of Peaks Island. The term of the transition committee members expires July 31, 2012.

Within 30 days prior to July 1, 2012, a justice of the peace or notary public may issue a warrant to any legal voter in the Town of Peaks Island directing that legal voter to notify the municipal inhabitants of a public meeting to select municipal officers and school board members and to transact municipal business, to be held at a time and place specified in the warrant. Notice to the municipal inhabitants must be provided at least 7 days prior to the meeting. Effective July 1, 2012, municipal officers and school board members selected at the meeting are vested with all the powers and duties that other duly elected municipal officers and school board members have, including the power to raise, borrow and spend money.

Sec. A-5. Form of government. If a majority of those voting in the referendum under section 2 of this Part approve the question, the Town of Peaks Island will be incorporated and separated from the City of Portland on July 1, 2012 and shall adopt the town meeting as its form of government.

This Act does not prevent the Town of Peaks Island from subsequently voting to change its form of government without the necessity of a further act of the Legislature.

Sec. A-6. Allocation of debts and assets. If the Town of Peaks Island is incorporated and is separated from the City of Portland on July 1, 2012, the Town of Peaks Island shall assume its just and due proportion of the debts of the City of Portland and must receive the same proportion of the assets of the City of Portland, including property taxes collected from July 1, 2011 to June 30, 2012. Any debt or any asset may be excluded upon agreement of both parties.

Sec. A-7. Sewage treatment services. If the Peaks Island territory is separated from the City of Portland and is incorporated as the Town of Peaks Island, the Portland Water District shall provide wastewater and sewage services to the Town of Peaks Island in accordance with the district's charter. The allocation of financing, operating and maintenance costs and any other costs related to wastewater and sewage collection, interception and treatment under this section must be consistent with the Portland Water District charter, except that, if agreement is not reached between the Town of Peaks Island and the City of Portland, the arbitration panel established pursuant to Part B, section 2 may allocate or reallocate between the City of Portland and the Town of Peaks Island any of the financing, operating and maintenance costs and any other costs related to wastewater and sewage collection in its total allocation of debts and assets.

If the Town of Peaks Island fails to make necessary payments on any bonded indebtedness and interest for the wastewater and sewage collection facilities on Peaks Island allocated to the Town of Peaks Island pursuant to section 6 of this Part, the City of Portland shall pay the principal and interest on any bonds issued by the Portland Water District prior to July 1, 2012. If the City of Portland makes such payments, the Town of Peaks Island shall reimburse the City of Portland those payments and the City of Portland has a cause of action against the Town of Peaks Island for any unpaid amount of those payments.

Sec. A-8. Water rates. If the Town of Peaks Island is incorporated and is separated from the City of Portland, the Portland Water District shall provide water service to the Town of Peaks Island in accordance with the district's charter and may charge rates in accordance with the provisions of the Maine Revised Statutes, Title 35-A, chapter 61.

PART B

Sec. B-1. Other duties and responsibilities. Projected debts, assets and property taxes for the period June 30, 2011 to July 1, 2012 must be allocated between the City of Portland and the Town of Peaks Island as set forth in Part A, section 6. The City of Portland and the Town of Peaks Island shall allocate other duties and responsibilities between themselves as they mutually determine to be necessary and appropriate and shall negotiate with each other in good faith.

Sec. B-2. Agreement binding; binding arbitration. Negotiations under section 1 of this Part must be completed by November 1, 2011.

This deadline may be extended by mutual agreement of the City of Portland and the Town of Peaks Island. If the parties reach agreement by the date agreed upon by the parties, the agreement must be reduced to writing and is final and binding on the City of Portland and the Town of Peaks Island upon incorporation of the Town of Peaks Island on July 1, 2012, if the referendum question in Part A, section 2 is approved.

If the parties do not reach agreement by November 1, 2011, the parties shall submit any matters remaining in dispute to a panel of arbitrators and shall reduce to writing all matters agreed upon. The panel of arbitrators consists of one arbitrator selected by the City of Portland, one arbitrator selected by the representatives of the Island Independence Committee and one neutral arbitrator selected jointly by the other 2 arbitrators. Each party shall pay the cost of the arbitrator it chooses; the costs of the neutral arbitrator must be apportioned and paid equally by the City of Portland and the Peaks Island territory. Determination of disputed matters by the panel of arbitrators is final and binding on the parties. The arbitration must be administered under the auspices of the American Arbitration Association and, except for the selection of arbitrators, is governed by the commercial rules and procedures of the American Arbitration Association. The concept of "last best offer" must be used. These issues must be resolved no later than December 1, 2011.

Sec. B-3. Educational needs. Upon the date of its secession from the City of Portland and incorporation as the Town of Peaks Island, the Town of Peaks Island becomes a municipal school unit as defined in the Maine Revised Statutes, Title 20-A, section 1, subsection 19. No further referenda, legislation or dispensations by the State or any of its officers, departments or agencies is required of the Town of Peaks Island prior to its undertaking the education of its school age children.

The Town of Peaks Island shall start providing education services upon the date of its secession from the City of Portland and incorporation as the Town of Peaks Island as required by Title 20-A, including, but not limited to, matters of curriculum, instruction, transportation, mainland student transition, attendance, student eligibility for enrollment, student records, audits, employee and applicant records, standards and assessment of student performance, health, nutrition and safety, immunization, school lunch programs, special education, school finances, gifted and talented students, career and technical education and adult and vocational education.

The Town of Peaks Island's education plan must provide for the transition of administration and governance of the Peaks Island School to the properly elected Town of Peaks Island school board. This Act may not be construed to prevent the Town of Peaks Island school board from making changes to the provision of education services and the education plan in accordance with the school board's powers and duties pursuant to Title 20-A.

PART C

Sec. C-1. Hold harmless provision and enforcement. The municipal officers, municipal officials and residents of the City of Portland and the Town of Peaks Island and all their agents are immune from liability for any action taken as a result of this Act. The City of Portland and the Town of Peaks Island, or their successors in interest, may enforce this Act by civil action in Superior Court. In any action between the City of Portland and the Town of Peaks Island, the court shall award reasonable attorney's fees to the prevailing party.

Sec. C-2. Equal rights. After the separation and incorporation of the Town of Peaks Island, residents of the Town of Peaks Island and the City of Portland continue to enjoy equal access to municipally owned public lands for travel, recreation and related activities and enjoy all the rights and privileges they enjoyed before the separation, just as residents of other towns and municipalities enjoy.

SUMMARY

This bill authorizes the incorporation of Peaks Island, House Island, Pumpkin Knob and Catnip Island into the Town of Peaks Island if the legal residents of those territories approve, by referendum, separation from the City of Portland and incorporation as a separate town. Part B clarifies the binding arbitration process. Part C specifies the liability and rights of the City of Portland and the Town of Peaks Island.

Section 6. Conveyance of state land

Another type of legislation gives the State authority to convey its interest in land. This is done through a resolve that also follows a specialized format. If the description of the land to be conveyed is lengthy or if there are numerous parcels, a copy of the description can be attached to the bill and marked as an exhibit and cross-referenced in the bill and summary. Otherwise, the description should be included in the body of the bill.

Example with incorporated description:

Resolve, to Clear Title or to Secure a Release of Property from the State

Sec. 1. Authority to convey. Resolved: That the Director of the Bureau of Public Lands shall convey to Gerald H. Briggs and Elizabeth G. Briggs the State's interest in a certain parcel of land in Bangor. The State's interest must be conveyed at the cost of the State's initial investment in the property and associated title transfer costs. The parcel of land is described as follows:

A certain lot or parcel of land together with the buildings thereon, situated in Bangor, Penobscot County, State of Maine, bounded and described as follows, to wit:

Beginning at Number 6 iron rebar located at the northwesterly sideline of Stillwater Avenue all the southeasterly corner of land now or formerly of Statewide Floor Waxing, Inc. as described in Penobscot County Registry of Deeds in Book 2232, Page 464 thence N 10° 13' 08" W through a one-inch bolt, One Thousand Three Hundred Seventy-Seven and Forty-Two Hundredths Feet (1,377.42'), more or less, to a Number 6 iron rebar, thence N 5° 01' 22" E, Six Hundred Sixty and Seventy-Four Hundredths feet (660.74'), more or less to a Number 6 iron rebar; thence S 59° 35' 00" E Three Hundred Forty-Seven and Sixty Hundredths Feet (347.60'), more or less, through a Number 6 iron rebar to a Number 6 iron rebar at the northeasterly corner of land of Helen Gardner described in said Registry in Book 3958, Page 309, thence S 30° 25' 00" W One Hundred Nine and Eighty-Four Hundredths Feet (109.84'), more or less, to a Number 6 iron rebar; thence S 58° 27' 35" E Six Hundred Sixty-Six and Fifty-One Hundredths Feet (666.51'), more or less, to a Number 6 iron rebar; thence S 32° 03' 49" W Two Hundred Feet (200'), more or less, to a Number 6 iron rebar; thence S 57° 36' 11" E Two Hundred Ten Feet (210'), more or less, to a Number 6 iron rebar at the northwesterly sideline of Stillwater Avenue; thence S 32° 03' 49" W, along the northwesterly sideline of Stillwater Avenue One Thousand Three Hundred Thirteen and Eighty-Six Hundredths Feet (1,313.86'), more or less, to the point of beginning. Being 22.53 acres more or less. Bearings in this paragraph are based upon a Standard Boundary Survey conducted by Richard N. Perry, Jr. dated November 18, 1986.

SUMMARY

This resolve authorizes the Director of the Bureau of Public Lands to convey the State's interest in land in Bangor to Gerald H. Briggs and Elizabeth G. Briggs.

For an example using descriptions that are incorporated by reference, see pages 170 to 172.

CHAPTER 7
INCORPORATION BY REFERENCE

In drafting a legislative document, it may be necessary or desirable to refer to another source as a means of incorporating its contents into your document. Unfortunately, this convenience presents practical and constitutional pitfalls and should be used with caution.

If it is necessary to incorporate by reference a law, regulation, rule, policy or other source, make certain it is clearly and correctly identified and that it contains the desired information. The following resolve properly incorporates purchase and sale agreements. The agreements were attached to the legislative document as exhibits.

Example with description incorporated by reference:

Resolve, Authorizing the Conveyance of Certain Public Lands

Sec. 1. Director of the Bureau of Public Lands; property conveyed by quitclaim deed. Resolved: That the Director of the Bureau of Public Lands within the Department of Conservation may by quitclaim deed convey the following properties.

1. To the Little Moose Campowners Association, the land described in a purchase and sale agreement between the State of Maine and the Little Moose Campowners Association, dated April 12, 1989.

2. To the Town of Gray, the land described in a purchase and sale agreement between the State of Maine and the Town of Gray, dated March 7, 1989.

3. To Frederic C. Thompson and Doreen Thompson, the land described in a purchase and sale agreement between the State of Maine and Frederic C. Thompson and Doreen Thompson, dated March 7, 1989.

4. To Peter Becker, the land described in a purchase and sale agreement between the State of Maine and Peter Becker, dated April 20, 1989.

All money received from the sale of this land must be credited to the Public Reserved Lands Acquisition Fund and must be used to purchase additional land for the public reserved lands system. The State may not convey any land or interest in any land that comprises a public road or a great pond.

SUMMARY

The transactions outlined in this resolve involve conveyances of small parcels of public lands. Two of the agreements call for the sale of land with no special public use potential at fair market value. The other

transaction allows for a public road relocation adjacent to an existing parcel of public land to correct a safety problem. All money received as the result of these transactions will be credited to the Public Reserved Lands Acquisition Fund and used to acquire land of greater interest to the public. The agreements and associated materials are reproduced as exhibits to this summary.

Little Moose Campowners Association: In accordance with direction from the 112th Legislature, the Bureau of Public Lands negotiated the sale of camp lots in Little Moose Township to the camp owners at market value. The camp owners have been leasing their lots from the bureau since the bureau acquired these leases as part of a land exchange in 1975. (Exhibit A)

Town of Gray, Frederic C. and Doreen Thompson: These transactions allow the Town of Gray to relocate a dangerous section of road and intersection. (Exhibits B and C)

Peter Becker: This transaction clarifies a title defect that currently exists. The property in question may have escheated to the State in 1977 when the owner died, apparently without heirs. This agreement conveys the State's interest in the parcel to a nonblood relative at market value. (Exhibit D)

BUREAU OF PUBLIC LANDS
DEPARTMENT OF CONSERVATION

EXHIBIT A to LR 2379

Little Moose Township

This agreement is by and between the State of Maine, acting through its Department of Conservation, Bureau of Public Lands (hereinafter referred to as the "State"), and Kathi Cooper (P.O. Box 95, Greenville), acting as agent on behalf of those having leased lots on the Public Reserved Lands in Little Moose Township, as listed in Exhibit A attached hereto (hereinafter referred to collectively as the "Grantee"), in accordance with the provisions of 30 MRSA §4169 and subject to the following terms and conditions:

(1) The State of Maine shall convey all of its right, title and interest in and to those camp lots on the Public Reserved Lands of Little Moose Township (hereinafter referred to as the "premises"), as shown on Exhibits B1 through B7 attached hereto, reserving for such administrative purposes as may be necessary rights-of-way as shown on

Exhibits B1, B2, B3, B4, B5, B6 and B7. There is no further obligation of the State of Maine, expressed or implied, and the parties to this agreement do hereby waive all claims or causes against the State of Maine, relating to the ownership, administration or condition of these premises. The State is not responsible for maintenance of or any costs associated with any rights-of-way serving the camp lots.

CHAPTER 8
INITIATED BILLS

The Constitution of Maine, Article IV, Part Third, Sections 18, 19 and 20 and the Maine Revised Statutes, Title 21-A, chapter 11 set out the procedure by which a proposal may be enacted by the direct initiative of the people.

When a person or group wishes to propose an initiated bill, the first step is to submit an application to the Department of the Secretary of State. The application must contain the full text of the proposed law. When the Secretary of State's office receives the application containing the draft legislation for review, it is forwarded to the Office of the Revisor of Statutes for an advisory editorial review. The Office of the Revisor of Statutes reviews the bill draft and prepares a revised draft that includes suggested corrections authorized by the Maine Revised Statutes, Title 21-A, section 901, such as corrections to form, format, allocation and grammar. This corrected draft is forwarded to the Secretary of State's office. The Secretary of State provides the corrected draft to the proponents, who are advised, but not required, to use the corrected version. If the proponents make additional changes to the draft, the Secretary of State's office forwards the changes to the Office of the Revisor of Statutes for review. The Office of the Revisor of Statutes does not prepare a new revised draft based on the proponent's changes; rather, comments on the revised draft or drafts are conveyed by means of a letter addressed to the Secretary of State's office.

For the proposal to advance, the number of valid signatures on the petition must be equal to at least 10% of the total vote for Governor cast in the last gubernatorial election. Once the requisite number of signatures is obtained, the draft is transmitted by the Secretary of State to the Clerk of the House, who sends it to the Office of the Revisor of Statutes for transcription. From that point on no changes may be made, as the Constitution of Maine provides that the Legislature must consider the bill in the exact form presented by the petition. If the Legislature fails to enact the bill, it goes out for referendum. The Legislature may wish to make changes to the bill; if so, the amended version goes out to referendum as a competing measure at the same time as the original.

If the initiated version of the bill is passed at referendum, the bill becomes law in the exact form presented by the petition. Any technical errors in drafting, formatting or allocation can be addressed in subsequent legislation.

CHAPTER 9
STATUTORY INCONSISTENCIES, CONFLICTS AND ERRORS

The volume of legislation passed each session is so great that statutory inconsistencies, conflicts and errors are inevitable.

Statutory inconsistencies, conflicts and errors in enacted laws must be directed to the Office of the Revisor of Statutes rather than to individual committees so that corrections can be coordinated to minimize duplication of effort and to avoid creating future conflicts while attempting to resolve current problems. Substantive problems within the law are addressed by the introduction of legislation that proposes a change to a statute, rather than through the inconsistencies, conflicts and errors bill, and these individual bills are referred to the committees having jurisdiction.

Publication errors in *Laws of the State of Maine* and publication errors in the *Maine Revised Statutes* should be sent to the Office of the Revisor of Statutes, which will work to correct these errors when possible.

Inconsistencies, conflicts and errors identified in enactments should be sent to the Office of the Revisor of Statutes at the earliest possible time. These can include problems such as multiple amendments of existing law without reference to each other (conflicts), multiple enactments of sections, inconsistent enactments or cross-references, misspellings, improper numbering, etc. They will be researched and documented by the office.

Depending on the nature of the inconsistency, conflict or error, it will either be addressed in the annual Revisor's Report or included in a bill specifically designed to correct such technical errors, known as an "inconsistencies, conflicts and errors bill."

The Revisor's Report is an annual report submitted to the joint standing committee having jurisdiction over judiciary matters describing the changes made by the Revisor of Statutes pursuant to the Maine Revised Statutes, Title 1, section 93 in the course of the update of the statutory database by that office. The Revisor of Statutes is authorized by that section of law to make certain limited changes or corrections when the corrections do not alter the sense or meaning of the laws. The types of corrections permitted are explicitly outlined in the statute and include corrections involving cross-references, histories, headnotes and renumbering or relettering. Any nonsubstantive error identified that does not fit squarely within the categories set forth in Title 1, section 93 is reviewed for inclusion in an inconsistencies, conflicts and errors bill.

After legal review, these remaining sections are consolidated into a bill entitled "An Act to Correct Inconsistencies, Conflicts and Errors in the Laws of Maine." Inconsistencies, conflicts and errors identified after the original bill is printed may be presented to the joint standing committee having jurisdiction over judiciary matters for possible incorporation in the committee amendment to the bill. The committee then reviews each section along with the supporting documentation and decides whether to include those sections it considers substantive.

The chairs of the committee may also present sections that the committee considers to be "possibly substantive" as a separate part of the bill or committee amendment or as floor amendments so that, if one of these sections generates controversy, passage of the noncontroversial sections, the great majority, will not be delayed. Drafters should be aware that these and any other floor amendments to the inconsistencies, conflicts and errors bill are governed by the Joint Rules, which require that an amendment to the inconsistencies, conflicts and errors bill be printed at least 24 hours before consideration.

CHAPTER 10
ACTIONS RELATING TO THE UNITED STATES CONSTITUTION

Article V of the United States Constitution provides that:

> The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress ...

The powers granted to the state legislatures include the ratification of proposed amendments and the right to make application to Congress to call conventions for the purpose of proposing constitutional amendments. Generally, legislative proposals for actions relating to the United States Constitution take the form of a memorial, resolution, application or petition. The procedures governing these powers are established in the Joint Rules; as stated in the rules, the proposals do not need approval from the Legislative Council.

The following examples show two types of joint resolutions involving actions relating to the United States Constitution. The drafter can modify the form used in these examples to fit the circumstances of the particular occasion.

Example of a joint resolution ratifying an amendment to the United States Constitution:

JOINT RESOLUTION TO RATIFY THE EQUAL RIGHTS AMENDMENT TO THE UNITED STATES CONSTITUTION

WHEREAS, the 92nd Congress of the United States of America in Congress assembled and two thirds of each House concurring therein, the following article is proposed as an amendment to the United States Constitution, which shall be valid to all intents and purposes as a part of the Constitution when ratified by the Legislatures of three fourths of the several States within 7 years from the date of its submission by the Congress:

ARTICLE

Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

Section 3. This Amendment shall take effect two years after the date of ratification, now, therefore, be it

RESOLVED: By the Members of the House of Representatives and the Senate of the 106th Legislature, that such proposed amendment to the United States Constitution be and the same is hereby ratified; and be it further

RESOLVED: That certified copies of this resolution be forwarded by the Secretary of State to the Administrator of General Services, Washington, D.C., and the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States.

Example of a joint resolution making application to Congress for the calling of a constitutional convention:

JOINT RESOLUTION MAKING APPLICATION TO THE CONGRESS OF THE UNITED STATES CALLING A CONSTITUTIONAL CONVENTION TO PROPOSE AN AMENDMENT TO THE UNITED STATES CONSTITUTION TO REQUIRE A BALANCED FEDERAL BUDGET AND FURTHER FISCAL RESTRAINTS

WHEREAS, under the United States Constitution, Article V, the Congress of the United States, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to the United States Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments that, in either case, shall be valid to all intents and purposes, as part of the United States Constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; and

WHEREAS, with each passing year, this nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues, so that the public debt now exceeds hundreds of billions of dollars; and

WHEREAS, the annual federal budget is a continual demonstration of an unwillingness or inability of both the legislative and executive branches of the Federal Government to curtail spending to conform to available revenues; and

WHEREAS, unified budgets do not reflect actual spending because of the exclusion of special outlays that are neither included in the budget nor subject to the legal public debt limit; and

WHEREAS, knowledgeable planning, fiscal prudence and plain good sense require that the budget reflect all federal spending and be in balance; and

WHEREAS, believing that fiscal irresponsibility at the federal level, with the inflation that results from this policy, is the greatest threat that faces our nation, we firmly believe that constitutional restraint is necessary to bring about the fiscal discipline needed to restore financial responsibility; and

WHEREAS, we believe action on amendments to the United States Constitution concerning federal expenditures to be vital; now, therefore, be it

RESOLVED: That the Legislature of Maine respectfully applies to the Congress of the United States, under the provisions of Article V of the United States Constitution, for the calling of a convention of the states limited to proposing an amendment to the United States Constitution requiring that, in the absence of a national emergency, the total of all federal outlays made by the Congress of the United States for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year, together with any related and appropriate fiscal restraints; and be it further

RESOLVED: That this application is to be considered as covering the same subject matter as the presently outstanding balanced budget applications from other states, including but not limited to previously adopted applications from Alabama, Alaska, Arkansas, Colorado, Delaware, Florida, Georgia, Indiana, Iowa, Kansas, Louisiana, Maryland, Michigan, Mississippi, Missouri, Nebraska, Ohio, Nevada, New Hampshire, New Mexico, North Carolina, Pennsylvania, South Dakota, Tennessee, Texas and Utah; and this application must be aggregated with same for the purpose of attaining the two-thirds of states necessary to require the calling of a convention for proposing amendments, but may not be aggregated with any applications on any other subject; and be it further

RESOLVED: That this application constitutes a continuing application in accordance with Article V of the United States Constitution until the legislatures of at least two-thirds of the several states have made applications on the same subject. It supersedes all previous applications by this Legislature on the same subject; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Secretary of the Senate and presiding officers of both houses of the legislatures of each of the several states in the nation, the Speaker and Clerk of the United States House of Representatives, the President and Secretary of the United States Senate and each member of the Maine Congressional Delegation.

CHAPTER 11
LEGISLATIVE STUDIES

Legislative studies are studies authorized by action of the Legislature or the Legislative Council that require an individual or group of individuals to study and report to the Legislature on any matter or advise the Legislature on any matter and that require the use of legislative resources. Legislative studies are different from nonlegislative studies, which include studies that direct any individual or group of individuals, without the use of legislative resources, to study and make a report.

The Joint Rules of the 130th Legislature contain a number of procedural and substantive requirements concerning studies and set forth requirements for legislative studies concerning the appointment of members, the appointment of chairs, committee size, staffing, reporting dates and compensation.

The following are examples of a study order and a resolve authorizing a legislative study. Because the preferred form and format of study orders and study legislation have changed significantly over the years, it is essential that a drafter of such a document refer for drafting guidance to the most recently adopted Joint Rules and study guidelines, as well as the most recently enacted study legislation and adopted study orders.

Example of a study order:

STATE OF MAINE

_____

In House _____

ORDERED, the Senate concurring, that the Working Group to Study Background Checks for Child Care Facilities and Providers is established as follows.

1. Working Group to Study Background Checks for Child Care Facilities and Providers established. The Working Group to Study Background Checks for Child Care Facilities and Providers, referred to in this order as "the working group," is established.

2. Membership. The working group consists of 5 members appointed as follows:

A. Two members of the Senate appointed by the President of the Senate, including members from each of the 2 parties holding the largest number of seats in the Legislature; and

B. Three members of the House of Representatives appointed by the Speaker of the House, including members from each of the 2 parties holding the largest number of seats in the Legislature.

The members appointed must serve on the Joint Standing Committee on Judiciary, the Joint Standing Committee on Health and Human Services, the Joint Standing Committee on Education and

Cultural Affairs or the Joint Standing Committee on Appropriations and Financial Affairs.

3. Working group chairs. The first-named member of the Senate is the Senate chair of the working group and the first-named member of the House is the House chair of the working group.

4. Appointments; convening of working group. All appointments must be made no later than 30 days following passage of this order. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been made. When the appointment of all members has been completed, the chairs of the working group shall call and convene the first meeting of the working group. If 30 days or more after the passage of this order a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the working group to meet and conduct its business.

5. Duties. The working group shall review the requirements for national criminal history background checks based on fingerprints as required by the federal Child Care and Development Block Grant Act of 2014. The working group shall invite the participation of and comments from stakeholders, including but not limited to child care facilities, family child care providers and parents. The working group shall invite the participation of the Department of Health and Human Services and the Department of Public Safety, State Bureau of Identification. The working group shall recommend how the required background checks should be incorporated into law in this State, including but not limited to who should be subject to the background checks, whether the law should provide for contingent or provisional hiring while background checks are pending, who is responsible for the payment of costs associated with the background checks and how the Background Check Center within the Department of Health and Human Services can help coordinate and streamline the background check process for child care facilities and providers. The working group shall explore options, including the application of federal grant funds, to defray all or some of the initial and ongoing additional costs.

6. Staff assistance. The Legislative Council shall provide necessary staffing services to the working group.

7. Report. No later than November 2, 2016, the working group shall submit a report that includes its findings and recommendations, including suggested legislation, to the Second Regular Session of the 127th Legislature.

Example of a resolve establishing a study:

Resolve, to Establish a Background Check Consolidation Commission

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

Whereas, this legislation establishes the Background Check Consolidation Commission to study consolidating state-required, employment-related background checks; and

Whereas, the study must be initiated before the 90-day period expires in order that the study may be completed and a report submitted in time for submission to the next legislative session; and

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

Sec. 1. Commission established. Resolved: That the Background Check Consolidation Commission, referred to in this resolve as "the commission," is established.

Sec. 2. Commission membership. Resolved: That the commission consists of 11 members appointed as follows:

1. Four members of the Senate appointed by the President of the Senate, including members from each of the 2 parties holding the largest number of seats in the Legislature;

2. Three members of the House of Representatives appointed by the Speaker of the House, including members from each of the 2 parties holding the largest number of seats in the Legislature;

3. The Commissioner of Education or the commissioner's designee;

4. The Commissioner of Inland Fisheries and Wildlife or the commissioner's designee;

5. The Commissioner of Public Safety or the commissioner's designee; and

6. The Commissioner of Health and Human Services or the commissioner's designee.

Sec. 3. Chairs. Resolved: That the first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the commission.

Sec. 4. Appointments; convening of commission. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the commission. If 30 days or more after the effective date of this resolve a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the commission to meet and conduct its business.

Sec. 5. Duties. Resolved: That the commission shall study consolidating and centralizing as many state-required background checks required for employment as possible, including background checks for teachers, state workers and persons seeking Maine Guide licenses. Background checks to obtain firearms may not be addressed by the commission.

Sec. 6. Staff assistance. Resolved: That the Legislative Council shall provide necessary staffing services to the commission, except that Legislative Council staff support is not authorized when the Legislature is in regular or special session.

Sec. 7. Report. Resolved: That, no later than December 4, 2019, the commission shall submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the Second Regular Session of the 129th Legislature.

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

SUMMARY

This resolve establishes the Background Check Consolidation Commission to study consolidating and centralizing as many state-required background checks required for employment as possible, including background checks for teachers, state workers and persons seeking Maine Guide licenses. It prohibits the commission from studying background checks to obtain firearms.

CHAPTER 12
APPROPRIATIONS AND ALLOCATIONS

General provisions concerning the use and limitations of appropriations and allocations sections are set forth on pages 25 to 26. In addition to the legal requirements addressed in that portion of this manual, a drafter must pay attention to the specific types of appropriations and allocations section formats used depending on which types of State Government entities are receiving funds. Particular attention to these formats is necessary to ensure uniformity in the presentation and interpretation of budget bills and sections.

Section 1. Overview

An appropriation or allocation is the Legislature's authorization for an organization, generally a state agency, to make expenditures. Appropriations authorize expenditures from the General Fund, and allocations authorize expenditures from non-General Fund resources. Authorizations of non-General Fund expenditures are considered allocations because the resources are already designated for a particular purpose with a particular revenue source set aside in a designated fund. Appropriations and allocations sections, also referred to in this chapter as "appropriation sections," are usually drafted by the Office of Fiscal and Program Review (OFPR). An appropriation section should be drafted to provide, in as few words as possible, a clear and concise identification of the particular funds, department or agency program and fiscal year involved and the purpose of the appropriation.

Some general information affecting the drafting of appropriations and allocations sections includes:

- Appropriations run concurrently with the State's fiscal year from July 1st of one year to June 30th of the next year. A fiscal year is the legal accounting and budgetary cycle of Maine State Government covering the period of July 1st through June 30th (see 5 MRSA §1501). The state fiscal year is named according to the 2 calendar years involved (e.g., FY 2021-22) or according to the year in which that fiscal year ends (e.g., FY 21, which ends on June 30, 2021);

- Appropriations may not be made for fiscal years beyond the current legislative biennium. A biennium is the period covered by the biennial budget of the State, which covers 2 fiscal years beginning with a fiscal year whose designation ends with an even-numbered fiscal year, and is denoted using that even-numbered year and the following odd-numbered year (e.g., the 2006-2007 biennium). For example, the 130th Legislature may not appropriate funds beyond the 2022-2023 biennium, which begins July 1, 2021 and ends June 30, 2023. A Legislature may make adjustments to appropriations in the current fiscal year during its first regular session;

- The Legislature controls funding by appropriating money to funds and programs. A program may include more than one account. Within an appropriation or allocation to a program, the Legislature further designates the use of the appropriation, breaking it down into only the following line categories: "Personal Services," "All Other," "Capital Expenditures" and "Unallocated." The Governor may approve some modifications to the line category amounts and may even transfer funds between programs within certain statutory constraints;

- If positions are being authorized on an ongoing basis, the appropriation or allocation may include the number of positions to be funded by that appropriation or allocation and the designation of the type of count (e.g., either Legislative Count or FTE (which means "Full-Time Equivalent") Count);

- Appropriations and allocations are rounded to the nearest dollar;

- Deappropriations or deallocations, which are reductions to previously authorized spending, are drafted by following the same format as appropriations and allocations, except that deappropriated or deallocated funds are indicated by enclosure in parentheses; and

- Unexpended and unencumbered General Fund appropriations and Highway Fund allocations lapse back to the General Fund or Highway Fund, respectively, at the end of the fiscal year unless the appropriation or allocation specifically states that the funds may not lapse or unless the account specifically by statute does not lapse. A statement specifying that the funds do not lapse appears in the initiative description, a separate paragraph that appears after the program name.

Section 2. Initiative description

Within an appropriation section, there is a paragraph that provides a description of the purposes of the funding authorizations or reduction in funding authority. This paragraph is called an "initiative." The initiative follows immediately after the program name (see standard format below) and always begins with "Initiative:". Initiatives provide the restrictions or directions on the use of appropriated or allocated funds. It is important that the initiative paragraph provide an adequate description of the legislative purpose of the funding change, including identifying the positions to be authorized. This is typically the only source in law of the intent behind an appropriation. It should include all directions specific to the funds, including, for example, whether the funding is provided on a one-time basis or whether the funds carry forward at the end of the fiscal year. It should also include anything unusual about the funding authorization, such as any contingency on the funds or a matching requirement. However, the initiative description should not include positive law, such as a requirement that a commissioner report back to a committee of the Legislature on a certain date. Positive law should be in a separate unallocated section of the bill.

One of the most common examples of unnecessary verbiage is "Provides for the deappropriation (or deallocation) of funds." The phrase "provides for the deappropriation of funds to recognize savings from negotiated reductions in health insurance" could be replaced with "recognizes savings from negotiated reductions in health insurance." The most important thing is to properly state the intent of the initiative. Brevity is important, but it should not come at the expense of capturing the intent of the initiative or providing the necessary detail, such as the positions being added or eliminated.

Some examples of brief and to-the-point initiative descriptions follow:

Examples:

- Eliminates x positions effective July 1, 2021, including 2 Clerk Typist II positions and 4 Environmental Specialist III positions. (Note: It is not necessary to comment on the fact that the appropriation section is adjusting appropriations and allocations unless within that appropriation section something different is being done, such as reducing grants, in addition to eliminating the positions.)

- Recognizes savings from energy efficiency programs.

- Provides funds for grants to be distributed to municipalities based on criteria established in this Act.

- Transfers funding related to growth management grants from PROGRAM X to PROGRAM Y.

As when drafting other sections of laws, consistency is important in drafting initiatives. One of the most common inconsistencies in initiatives is the designation of a fiscal year. A fiscal year should be designated as "fiscal year 2021-22" and not "fiscal year 2022" or "FY22." A budget biennium is designated as follows: "the 2022-2023 biennium." Another inconsistency that sometimes appears concerns abbreviations or popularized names that refer to agencies or programs to which funds are appropriated. Do not use abbreviations or popularized names in initiative descriptions.

Section 3. Appropriations and allocations section formats

Example:

Sec. XX. Appropriations and allocations. The following appropriations and allocations are made.

XXXXXXX, DEPARTMENT OF Note 1

Program Name Note 2

Initiative: Provide a description of the funding change and its purpose. Note 3

FUND # 1 NAME	**2021-22**	**2022-23**	Note 4
POSITIONS - LEGISLATIVE COUNT	0.000	0.000	Note 5
POSITIONS - FTE COUNT	0.000	0.000	Note 5
Personal Services	$0	$0	Note 6
All Other	$0	$0	Note 7
Capital Expenditures	$0	$0	Note 8
Unallocated	$0	$0	Note 9
FUND #1 TOTAL	$0	$0	Note 10

FUND #2 NAME	**2021-22**	**2022-23**
POSITIONS - LEGISLATIVE COUNT	0.000	0.000
POSITIONS - FTE COUNT	0.000	0.000
Personal Services	$0	$0
All Other	$0	$0
Capital Expenditures	$0	$0
FUND #2 TOTAL	$0	$0

Program Name

Initiative: Provide a description of the funding change and its purpose.

FUND #1 NAME	**2021-22**	**2022-23**
POSITIONS - LEGISLATIVE COUNT	0.000	0.000
Personal Services	$0	$0
All Other	$0	$0
Capital Expenditures	$0	$0
FUND #1 TOTAL	$0	$0

FUND #2 NAME	**2021-22**	**2022-23**
POSITIONS - LEGISLATIVE COUNT	0.000	0.000
Personal Services	$0	$0
All Other	$0	$0
Capital Expenditures	$0	$0
FUND #2 TOTAL	$0	$0

XXXXXXX, DEPARTMENT OF **DEPARTMENT TOTALS**	**2021-22**	**2022-23** Note 11
FUND #1	$0	$0
FUND #2	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	$0	$0

SECTION TOTALS	**2021-22**	**2022-23** Note 12
FUND #1	$0	$0
FUND #2	$0	$0
SECTION TOTAL - ALL FUNDS	$0	$0

Notes:

- **Note 1** – The department or agency name (also known as "umbrella") is always presented in its inverted order so that it reflects the alphabetical sorting within an appropriation section. For example, the Department of Administrative and Financial Services is printed as "Administrative and Financial Services, Department of." Abbreviations are not allowed.
- **Note 2** – The program name also may not include any abbreviations. It may include the program number after the program title.
- **Note 3** – The discussion of the initiative description is included in section 2.
- **Note 4** – The fund name, such as General Fund, Highway Fund, Federal Expenditures Fund, Federal Block Grant Fund, Other Special Revenue Funds and Fund for a Healthy Maine, appears immediately above the line category amounts to which it applies. There is an established listing of fund names available from the Office of Fiscal and Program Review or the Bureau of the Budget.
- **Note 5** – As noted in section 1, if a position is being authorized on an ongoing basis, then an amount will be entered based on rules established by the Bureau of the Budget. Legislative Count is used for any position authorized for 52 weeks per year, whereas FTE (full-time equivalent) Count is used for positions authorized for less than 52 weeks per year. The FTE Count is determined by dividing the number of authorized hours in a year for a position by the standard number of hours for a full-time position, carried out to 3 decimal places. For example, for the 130th Legislature, increases in position counts are reflected as a number without parentheses and a reduction of position counts are reflected in parentheses. The title of the line category position authorization appears in all capitals to help distinguish it from the line category dollar amounts.
- **Note 6** – Personal Services line category amounts include salaries and wages and benefits paid to state employees. A state retirement contribution amount is typically included with salaries and is included in this line category. Per diems are also included in this line category.
- **Note 7** – All Other line category amounts include all expenditures not otherwise classified as Personal Services or Capital Expenditures.
- **Note 8** – Capital Expenditures line category amounts include all expenditures for fixed assets items with a total item cost of $3,000 or more.
- **Note 9** – The Unallocated line category is rarely used. Amounts appropriated to Unallocated may not be allotted without a financial order transferring the spending authority to one of the other 3 line categories. In some cases, this line category is used to set aside funds in a General Fund account that are planned for a transfer to another fund or account.
- **Note 10** – The fund total line includes the sum of all dollar amounts but does not include the position count amounts.
- **Note 11** – The department total portion of the appropriation section is required only if there is more than one department or if there is more than one program or initiative included in an appropriation section with only one department.
- **Note 12** – The section total portion is required only if there is more than one department in an appropriation section.

For more information on appropriations and allocations, see the Maine Revised Statutes, Title 5, Part 4, which deals with miscellaneous financial matters. Specific questions about fiscal matters should be resolved through consultation with the Office of Fiscal and Program Review.

Section 4. Specialized executive branch budget drafting

In budget bills produced by the executive branch, an initiative description often applies to several different programs. When an initiative is used for multiple programs, the description should make sense for all of the programs to which the initiative applies. If an initiative does not make sense for one or more included programs, then a new initiative should be added for those programs. When an initiative includes an indicator that an appropriation or allocation generates additional revenue, the revenue amount indicated should be specific to a program and initiative. If an initiative must contain a revenue amount that is generated by multiple programs, the initiative should indicate that the revenue amount is generated by more than one program. For example, " ... the total increase of General Fund revenue of this initiative, affecting program x, program y and program z, is $XXX,XXX in fiscal year 2021-22 and $XXX,XXX in fiscal year 2022-23."

Section 5. Examples of appropriation sections

There are many possible variations in appropriation section formats; the primary difference among them is whether or not a department total or a section total is necessary.

EXAMPLE #1
SINGLE DEPARTMENT; SINGLE PROGRAM;
SINGLE LINE ITEM

Sec. XX. Appropriations and allocations. The following appropriations and allocations are made.

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Remediation and Waste Management 0247

Initiative: Provides a one-time appropriation in fiscal year 2021-22 of $2,500 for rule-making costs related to retrofitting single-walled underground oil storage tanks.

GENERAL FUND	**2021-22**	**2022-23**
All Other	$2,500	$0
GENERAL FUND TOTAL	$2,500	$0

EXAMPLE #2
SINGLE DEPARTMENT; SINGLE PROGRAM;
MULTIPLE LINE ITEMS

Sec. XX. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Information Services 0155

Initiative: Establishes one Senior Information System Support Specialist position and 3 Information System Support Specialist II positions to support statewide security and network maintenance and provides funding for associated All Other costs.

OFFICE OF INFORMATION SERVICES FUND	**2021-22**	**2022-23**
POSITIONS - LEGISLATIVE COUNT	4.000	4.000
Personal Services	$346,996	$353,656
All Other	$62,896	$62,896
OFFICE OF INFORMATION SERVICES FUND TOTAL	$409,892	$416,552

EXAMPLE #3
SINGLE DEPARTMENT; SINGLE PROGRAM;
MULTIPLE FUNDS

Sec. XX. Appropriations and allocations. The following appropriations and allocations are made.

TRANSPORTATION, DEPARTMENT OF

Multimodal - Island Ferry Service Z016

Initiative: Provides allocations to conduct a peer review of the Maine State Ferry Service and to outfit all Maine State Ferry Service vessels with lockboxes for medical samples.

HIGHWAY FUND	**2021-22**	**2022-23**
Personal Services	$0	$5,000
All Other	$0	$1,500
HIGHWAY FUND TOTAL	$0	$6,500

ISLAND FERRY SERVICES FUND	**2021-22**	**2022-23**
Personal Services	$0	$10,000
All Other	$0	$3,000
ISLAND FERRY SERVICES FUND TOTAL	$0	$13,000

EXAMPLE #4
SINGLE DEPARTMENT; MULTIPLE PROGRAMS;
SINGLE LINE ITEM

Sec. XX. Appropriations and allocations. The following appropriations and allocations are made.

ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF

Maine Coworking Development Fund N193

Initiative: Provides base allocations in the event funds are received from private or public sources.

OTHER SPECIAL REVENUE FUNDS	**2021-22**	**2022-23**
All Other	$500	$500
OTHER SPECIAL REVENUE FUNDS TOTAL	$500	$500

Maine Coworking Development Program N192

Initiative: Provides funds to support collaborative workspace businesses.

GENERAL FUND	**2021-22**	**2022-23**
All Other	$100,000	$100,000
GENERAL FUND TOTAL	$100,000	$100,000

ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF

DEPARTMENT TOTALS	**2021-22**	**2022-23**
GENERAL FUND	**$100,000**	**$100,000**
OTHER SPECIAL REVENUE FUNDS	**$500**	**$500**
DEPARTMENT TOTAL - ALL FUNDS	**$100,500**	**$100,500**

EXAMPLE #5
SINGLE DEPARTMENT; MULTIPLE PROGRAMS; MULTIPLE LINE ITEMS

Sec. XX. Appropriations and allocations. The following appropriations and allocations are made.

HEALTH AND HUMAN SERVICES, DEPARTMENT OF

Medical Care - Payments to Providers 0147

Initiative: Provides funds for additional claims activity due to expanded eligibility for family planning services.

GENERAL FUND	**2021-22**	**2022-23**
All Other	$158,778	$479,325
GENERAL FUND TOTAL	$158,778	$479,325

FEDERAL EXPENDITURES FUND	**2021-22**	**2022-23**
All Other	$1,429,001	$4,313,926
FEDERAL EXPENDITURES FUND TOTAL	$1,429,001	$4,313,926

Medical Care - Payments to Providers 0147

Initiative: Deappropriates funds for savings achieved through a reduction in MaineCare costs for pregnancies.

GENERAL FUND	**2021-22**	**2022-23**
All Other	$0	($1,900,844)
GENERAL FUND TOTAL	$0	($1,900,844)

FEDERAL EXPENDITURES FUND	**2021-22**	**2022-23**
All Other	$0	($3,191,156)
FEDERAL EXPENDITURES FUND TOTAL	$0	($3,191,156)

Office for Family Independence Z020

Initiative: Provides funds for Automated Client Eligibility System technology updates to handle the changes to eligibility and services due to expanded eligibility for family planning services.

GENERAL FUND	2021-22	2022-23
All Other	$44,800	$0
GENERAL FUND TOTAL	$44,800	$0

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
All Other	$44,800	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$44,800	$0

Office of Family Independence - District 0453

Initiative: Provides funds for 14 Eligibility Specialist positions and one Family Independence Supervisor position to handle the increased caseload for newly eligible individuals and services due to expanded eligibility for family planning services.

GENERAL FUND	2021-22	2022-23
POSITIONS - LEGISLATIVE COUNT	15.000	15.000
Personal Services	$374,318	$510,007
All Other	$35,315	$47,087
GENERAL FUND TOTAL	$409,633	$557,094

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
Personal Services	$374,318	$510,007
All Other	$35,315	$47,087
OTHER SPECIAL REVENUE FUNDS TOTAL	$409,633	$557,094

Office of MaineCare Services 0129

Initiative: Provides funds for Maine Integrated Health Management Solution technology updates to handle the changes to eligibility and services due to expanded eligibility for family planning services.

GENERAL FUND	2021-22	2022-23
All Other	$23,731	$0
GENERAL FUND TOTAL	$23,731	$0

FEDERAL EXPENDITURES FUND	2021-22	2022-23
All Other	$71,193	$0
FEDERAL EXPENDITURES FUND TOTAL	$71,193	$0

HEALTH AND HUMAN SERVICES, DEPARTMENT OF DEPARTMENT TOTALS	2021-22	2022-23
GENERAL FUND	**$636,942**	**($864,425)**
FEDERAL EXPENDITURES FUND	**$1,500,194**	**$1,122,770**
OTHER SPECIAL REVENUE FUNDS	**$454,433**	**$557,094**
DEPARTMENT TOTAL - ALL FUNDS	**$2,591,569**	**$815,439**

EXAMPLE #6
MULTIPLE DEPARTMENTS; MULTIPLE PROGRAMS; MULTIPLE FUNDS; MULTIPLE LINE ITEMS

Sec. XX. Appropriations and allocations. The following appropriations and allocations are made.

CORRECTIONS, DEPARTMENT OF

County Jail Operations Fund N220

Initiative: Transfers funds from the State Board of Corrections to the Department of Corrections.

GENERAL FUND	**2021-22**	**2022-23**
All Other	$12,202,104	$12,202,104
GENERAL FUND TOTAL	$12,202,104	$12,202,104

OTHER SPECIAL REVENUE FUNDS	**2021-22**	**2022-23**
POSITIONS - LEGISLATIVE COUNT	2.000	2.000
Personal Services	$225,881	$228,505
All Other	$565,503	$565,503
OTHER SPECIAL REVENUE FUNDS TOTAL	$791,384	$794,008

CORRECTIONS, DEPARTMENT OF DEPARTMENT TOTALS	**2021-22**	**2022-23**
GENERAL FUND	**$12,202,104**	**$12,202,104**
OTHER SPECIAL REVENUE FUNDS	**$791,384**	**$794,008**
DEPARTMENT TOTAL - ALL FUNDS	**$12,993,488**	**$12,996,112**

CORRECTIONS, STATE BOARD OF

State Board of Corrections Operational Support Fund Z087

Initiative: Transfers funds from the State Board of Corrections to the Department of Corrections.

GENERAL FUND	**2021-22**	**2022-23**
All Other	($12,202,104)	($12,202,104)
GENERAL FUND TOTAL	($12,202,104)	($12,202,104)

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
POSITIONS - LEGISLATIVE COUNT	(2.000)	(2.000)
Personal Services	($225,881)	($228,505)
All Other	($565,503)	($565,503)
OTHER SPECIAL REVENUE FUNDS TOTAL	($791,384)	($794,008)

CORRECTIONS, STATE BOARD OF DEPARTMENT TOTALS	2021-22	2022-23
GENERAL FUND	**($12,202,104)**	**($12,202,104)**
OTHER SPECIAL REVENUE FUNDS	**($791,384)**	**($794,008)**
DEPARTMENT TOTAL - ALL FUNDS	**($12,993,488)**	**($12,996,112)**

SECTION TOTALS	2021-22	2022-23
GENERAL FUND	**$0**	**$0**
OTHER SPECIAL REVENUE FUNDS	**$0**	**$0**
SECTION TOTAL - ALL FUNDS	**$0**	**$0**

EXAMPLE #7
DEAPPROPRIATION

Sec. XX. Appropriations and allocations. The following appropriations and allocations are made.

AGRICULTURE, CONSERVATION AND FORESTRY, DEPARTMENT OF

Division of Forest Protection Z232

Initiative: Reorganizes 2 seasonal full-time Customer Representative Associate I - Communications positions to one permanent full-time Customer Representative Associate I - Communications position.

GENERAL FUND	**2021-22**	**2022-23**
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
POSITIONS - FTE COUNT	(1.000)	(1.000)
Personal Services	($1,430)	$257
GENERAL FUND TOTAL	($1,430)	$257

CHAPTER 13
MANDATES

The Constitution of Maine, Article IX, Section 21 provides that "the State may not require a local unit of government to expand or modify that unit's activities so as to necessitate additional expenditures from local revenues unless the State provides annually 90% of the funding for these expenditures from State funds not previously appropriated to that local unit of government." It also provides that "an exception to this requirement may be enacted upon the vote of 2/3 of all members elected to each House." Legislation intended to be enacted as an exception requires the inclusion of a mandate preamble (see pages 16 to 17).

To help the Legislature understand the potential costs to the State of funding a potential mandate, the Office of Fiscal and Program Review provides a fiscal note for any bill, resolve or amendment that includes a potential mandate if the bill, resolve or amendment receives a favorable vote from a committee. The fiscal note doesn't offer a legal opinion but rather identifies potential mandates and potential costs to the State.

If the members of the committee voting for a report with a fiscal note that identifies a potential mandate find that the constitutional test for a mandate is not met, they may memorialize that determination in the summary of their report, describing why the proposal does not require a local unit of government to expand or modify its activities so as to necessitate additional expenditures.

Example:

The fiscal note on this amendment identifies a requirement in the amendment as a potential state mandate. In order to be a mandate pursuant to the Constitution of Maine, a provision must require a local unit of government to expand or modify its activities so as to necessitate additional expenditures from local revenue. The committee finds that the provisions identified as a potential mandate do not require a local unit of government to expand or modify its activities so as to necessitate additional expenditures from local revenue.

The requirement in the amendment that a municipality make an appropriate filing in the registry of deeds if it makes a final determination that a road has been abandoned does not require an expansion or modification of activities so as to necessitate additional expenditures from local revenue because there is no requirement that a municipality abandon one of its roads or determine the road has been abandoned. The amendment requires only that a municipality take the appropriate legal step of recording a determination of abandonment if the municipality chooses to make such a determination.

CHAPTER 14
PUBLIC RECORDS EXCEPTIONS AND CONFIDENTIALITY PROVISIONS

Section 1. Overview

Maine's Freedom of Access Act ("FOAA"), allocated in the Maine Revised Statutes, Title 1, chapter 13, subchapter 1, states that "[i]t is the intent of the Legislature that their actions be taken openly and that the records of their actions be open to public inspection and their deliberations be conducted openly" (see Title 1, section 401). This drafting guidance applies to statutory provisions affecting the availability of records and reflects the recommendations adopted by the Right To Know Advisory Committee for standardized language to clearly delineate records that are not public; it does not provide guidance on public proceedings.

FOAA grants a person the right to inspect and copy any public record unless some exception is provided by statute (see Title 1, section 408-A). Although the definition of a public record in FOAA is broad, hundreds of exceptions exist both in Title 1, section 402 and among the subject-specific statutes in the other titles.

Under FOAA, all public records exceptions must be reviewed by the joint standing committee of the Legislature having jurisdiction over judiciary matters before they are enacted, and all existing public records exceptions are periodically reviewed by the Right To Know Advisory Committee.

Section 2. Allocating the exception of the statutes based upon its breadth

When drafting a new public records exception, consider whether the exception is applicable to a record that may be held by numerous agencies or divisions of government or whether the exception is narrower. Broad exceptions may be allocated as additions to the list of exceptions to the term "public records" found in Title 1, section 402, subsection 3. Narrower exceptions that apply to specific records should be allocated in the Title and chapter where the law sets forth the circumstances under which those records are likely to be produced.

Section 3. Drafting public records exceptions and confidentiality provisions

A record designated confidential is excepted from the definition of public records in FOAA found in Title 1, section 402, subsection 3, thereby making it unavailable for public inspection and copying. When the intent of the Legislature is to make a record unavailable to the public, the drafter should designate the record confidential and ascertain any limits or conditions under which an otherwise confidential record may be made public. Although there are examples in the statutes that define a record as "not a public record," it is not recommended that this phrase be used by a drafter because of its ambiguity. Simply defining or describing a document as not a public record does not provide any further information about whether, for example, the agency in possession of the document may share it voluntarily with the public, within the agency or with other agencies.

The recommended method for drafting a public records exception to convey the Legislature's intent that a record should generally not be made available to the public is to designate the record "confidential" and specify any limits or conditions under which the record may be disclosed to the public. If a record is already designated confidential, a drafter should avoid

describing the record as also "not a public record" or adding language prohibiting disclosure of the record because the intent of the additional language is the same.

The following examples offer suggested language for drafting public records exceptions in different situations that relate to the confidentiality of a record and any circumstances authorizing or prohibiting the disclosure of that confidential record.

A. Designating a record confidential.

Example:

Notwithstanding any provision of law to the contrary and except as provided in Title 22, section 2768, all court records relating to an adoption decreed on or after August 8, 1953 are confidential.

B. Authorizing the disclosure of a confidential record to a certain person.

Example:

Any information obtained or gathered by the commission when performing an evaluation or investigation of an attorney is confidential, except that it may be disclosed to the attorney being evaluated or investigated.

C. Authorizing the disclosure of a confidential record with permission.

Example:

Information in records of the network manager or collected by InforME relating to the identity of or use by users of electronic services is confidential and may be released only with the express permission of the user or pursuant to court order.

D. Authorizing the disclosure of a confidential record for certain purposes.

Example:

1. General rule of confidentiality. Records that pertain to a victim's current address or location or that contain information from which a victim's current address or location could be determined must be kept confidential, subject to disclosure only as authorized in this section.

2. Disclosure to law enforcement or victims' service agency. Records that pertain to a victim's current address or location or that contain information from which a victim's current address or location could be determined may be disclosed only to:

A. A state agency if necessary to carry out the statutory duties of that agency;

B. A criminal justice agency if necessary to carry out the administration of criminal justice or the administration of juvenile justice;

C. A victims' service agency with a written agreement with a criminal justice agency to provide services as a victim advocate; or

D. A person or agency upon request of the victim.

E. Authorizing the disclosure of a confidential record to third parties with conditions.

Example:

The superintendent may disclose information that is confidential under this subsection to other jurisdictions if the recipient of the information agrees to maintain the same level of confidentiality provided under Maine law and has demonstrated that it has the legal authority to do so.

F. Authorizing the disclosure of aggregated or summarized data when individual records are confidential.

Example:

The department may provide prescription monitoring information for public research, policy or education purposes as long as all information reasonably likely to reveal the patient or other person who is the subject of the information has been removed.

Example:

When financial and operating information, business records, business plans and marketing plans that are confidential under this section are submitted, the board and the applicant or licensee shall prepare a publicly available document that summarizes the confidential information in a manner that maximizes public access to that information.

G. Making a confidential record public upon the occurrence of certain events.

Example:

A request for funds for expert or investigative assistance that is submitted by an indigent party or by an attorney on behalf of an indigent client is confidential. The decision of the executive director of the commission hired pursuant to section 1804, subsection 1, or the

executive director's designee, to grant or deny such a request is not confidential after a case has been completed. A case is completed when the judgment is affirmed on appeal or the period for appeal has expired.

H. Prohibiting the disclosure of a confidential record through compulsion or judicial process.

Example:

The proceedings and records of the child death and serious injury review panel created in accordance with section 4004, subsection 1, paragraph E are confidential and are not subject to subpoena, discovery or introduction into evidence in a civil or criminal action. The commissioner shall disclose conclusions of the review panel upon request, but may not disclose data that is otherwise classified as confidential.

BIBLIOGRAPHY

Advisory Commission on Intergovernmental Relations. *State Constitutions in the Federal System: Selected Issues and Opportunities for State Initiatives*. Washington, D.C., 1989.

Barnet, Sylvan, and Marcia Stubbs. *Practical Guide to Writing*. Boston: Little, Brown and Company, 1977.

Dickerson, Reed. *The Fundamentals of Legal Drafting*. Boston: Little, Brown and Company, 1986.

_____. *Legislative Drafting*. Westport: Greenwood Press, 1977.

_____. *Materials on Legal Drafting*. St. Paul: West Publishing Company, 1981.

Fowler, H.W. *A Dictionary of Modern English Usage*. Oxford: Oxford University Press, 1985.

Legislative Research Office, State of Maine. *Manual for Legislative Drafting*. 1980.

Maggio, Rosalie. *The Nonsexist Word Finder*. Phoenix: Oryx Press, 1987.

Office of Legislative Assistants, State of Maine. *A Guide to Maine Bill Drafting*. 1976.

Office of Policy and Legal Analysis, State of Maine. *An Outline on the Commerce Clause*. Aug. 1988.

_____. *An Outline on Delegation of Legislative Authority*. Dec. 1986.

_____. *An Outline on Federal Preemption*. Nov. 1986.

_____. *An Outline on Miscellaneous Provisions of the Constitution of Maine*. Nov. 1989.

_____. *An Outline on the Privileges and Immunities Clause*. Sept. 1988.

_____. *An Outline on Separation of Powers*. Nov. 1989.

_____. *An Outline on Statutory Construction*. Nov. 1987, Jan. 1987.

Office of the Revisor of Statutes, State of Maine. *Manual for Legislative Drafting*. 1988.

Office of the Revisor of Statutes, State of Minnesota. *Minnesota Revisor's Manual*. 1984.

Shertzer, Margaret. *The Elements of Grammar*. New York: Macmillan Publishing Company, 1986.

Singer, Norman J. *Sutherland Statutory Construction*. Wilmette: Callaghan & Company, 1985.

Strunk, William, Jr., and E.B. White. *The Elements of Style*. New York: Macmillan Publishing Company, 1979.

Weihofen, Henry. *Legal Writing Style*. St. Paul: West Publishing Company, 1961.

Wydick, Richard C. *Plain English for Lawyers*. Durham: Carolina Academic Press, 1979.

INDEX

A

a.m., usage **107**
Abbreviations **103-104, 124**
Acronyms **103-104**
Act
capitalization of term **122**
titles **15-16**
Active voice **86-87**
Advisory referenda **138**
After-deadline procedure **2**
After-deadline request **2**
Age **108**
Agency rules
Maine, citation to **133**
federal, citation to **134**
Allocation sections
See Appropriations and Allocations sections
Amending clauses **35-37**
Amendments **66-73**
amendatory language **69**
committee **66**
elements **67-69**
examples **70-73**
floor **66**
numbering **69-70**
quotation marks **70**
second degree **67**
And, usage **111-112**
And/or, usage **111-112**
Annexation **161-163**
Application clauses **22-23**
Appropriations and Allocations sections **25-26**
definition **25**
examples **25-26, 188-197**
guidelines **25-26, 183-188**
Archaic terms **115**
As the case may be, usage **113**
Assure, ensure, insure; usage **112**
Attorney's fees, usage **112**
Audience of a bill **75**

B

Biannual, usage **112**
Biennial, usage **112**
Bills, elements
see also specific types of bills, such as **Resolves, Resolutions** etc.; **Bills, general**; and **Bills, technical**
application clauses **22-23**
appropriations and allocations sections **25-26**
definitions **20**
effective date clauses **26-28**
emergency clauses **28**
emergency preambles **17-18**
enacting clauses **18**
fiscal notes **29**
general rules **21**
housekeeping, general **21-28**
implementation provisions **24**
jacket legends **3**
mandate preambles **16-17**
nonseverability sections **24**
penalties and enforcement **21**
permanent provisions **21**
purpose clauses **19**
referendum clauses **28**
repeal clauses **26**
retroactivity clauses **26**
revision clauses **21-22**
severability clauses **24**
short titles **18-19**
sponsors and cosponsors **2-3**
subordinate provisions **21**
summaries **29-31**
titles **15-16**
transition clauses **23-24**
Bills, general
see also specific types of bills, such as **Resolves**, **Resolutions** etc.; **Bills, elements**; and **Bills, technical**
acceptable formats for Revisor **11**
authorities for introduction **2-3**
checklist for reviews **11-12**
cloture **2**

examples of complete bills **38-42**
intake **3-4**
legislative confidentiality **4-5**
legislative numbering **5-6**
research resources **8-10**
Revisor of Statutes review **11-12**
structure, general **10-11**
types of bills **15**

Bills, technical
see also specific types of bills, such as **Resolves, Resolutions** etc.; **Bills, elements**; and **Bills, general**
amending clauses **35-37**
amending existing law **36**
conflicting law **33**
enacting law previously repealed **37**
headnotes **37**
incorporation by reference **170-172**
inserting law between consecutive sections **34-35**
lead-ins **37-38**
lists **81-83**
new chapters **34**
new drafts **38**
new laws **35-36**
order by types of law affected **31-33**
order, mixed instruments **31-32**
order, MRSA **32**
order, private and special **32-33**
order, public law **32**
order, resolves **33**
order, unallocated **33**
organizational rules, general **31-33**
outlining **80-84**
paragraph **82-84**
indented, blocked **84-85**
Parts **31**
repealing and replacing **36-37**
repealing existing law **36**
sections **37**
unallocated **38**

Blocked paragraphs **84-85**

Bond issues
statewide **140-142**

Brackets **128**

C

Capitalization rules..... **120-124**
Carryover bills **63-64**
Chapter numbering **34-35**
Citations, federal
constitution **133**
rules and regulations..... **134-135**
statutes **134**
treasury **135**
Citations, Maine
Constitution of Maine..... **131**
constitutional resolution **133**
courts **133**
department and agency rules **133**
private and special laws..... **132**
public laws..... **132**
resolves **132-133**
statutes **131-132**
Civil violations..... **147-148**
Classified crimes **143-145**
Clauses and phrases..... **126-127**
Cloture **2**
Colons **128**
capitalization and..... **128**
outlining and..... **82-84**
quotation marks and..... **128**
Commas **125-127**
semicolons and **127-128**
"that" and **109**
"which" and **109**
Committee amendments..... **66**
Committees, how to refer to……...**110-111**
Concept drafts…….……**47**
Confidentiality **4-5**
Confirmation process change……**17**
Conflicting enactments..... **33**
correcting..... **174-175**
Congratulatory order **59-60**
Consider, usage **112**

Constitution of Maine
form of citation **122, 131**
structure……..**51**
Constitutional resolutions **48-53**
effective dates **51**
example..... **52-53**
main body **48-49**
preamble **48**
referendum provisions **49-51**
summaries..... **51**
titles **48**
Constitution, U.S.……**176-178**
form of citation **133**
Conveyance of state land..... **168-169**
Cosponsors **2-3**
Courts
citation **133, 135**
requests for opinion **151-153**
Criminal penalty provisions **143-147**
state of mind (*mens rea*) **146**

D

Dangling participles..... **91-92**
Dates..... **106-107**
Deappropriations, deallocations..... **184, 197**
Deem, usage..... **112**
Definitions..... **20-21**
quotation marks and **128-129**
Deorganization, plantation or town . **157-161**
Department bills
executive branch departments **3**
Department rules **9-10**
Determine, usage..... **112**
Drafting process
see also **Bills**
examples **38-42**
final review **11-12**
formats
cut-and-paste method..... **11**
electronic **11**
mark-ups **11**
intake **3-4**
organizational rules..... **31-33**
preliminary research, resources **8-10**
proofreading and editing..... **12-13**
structure determination **10-11**

technical processing..... **12**
technical rules **33-38**

E

Each, usage **112-113**
Effective dates **26-28**
constitutional resolutions and **51**
Emergency clauses **28**
Emergency preamble **17-18**
Enacting clauses **18**
Every, usage **112-113**
Exceptions **21, 79-80**

F

Felony, usage **145**
Fines
civil **147**
enforcement through civil action **149**
exemption from statutory limits, wording **144-145**
forfeitures **147**
maximum **144**
penalties, civil **147-148**
First, usage **105**
Fiscal notes **29, 68**
Fiscal year, FY **185**
Floor amendments **66**
Forfeitures **147**
Fractions **106**
Freedom of Access Act, FOAA **199**
Funds
appropriations and allocations **25-26**
capitalization of **124**
general obligation bonds and ... **140-141**
Future tense **88**

G

Gender
- adjective and noun changes
  - examples **93-94**
  - exceptions
    - general acceptance **95**
    - intentional distinctions..... **93**
    - legal meanings **95**
    - proper nouns **93**
- familial relationships, examples **94**
- general **92-98**
- passive voice..... **96**
- "person" as suffix..... **94**
- pronoun strategies
  - passive voice..... **96**
  - plurals **96**
  - possessive pronouns **95**
  - recasting sentences **97**
  - reflexive pronouns **97-98**
  - repeating the noun **95**
  - verbal expression **95**
- proper nouns **93**
- voice, singular and plural..... **89**

General Fund **25-26, 183-184, 187**

Governor's bills..... **3**

Grammar
- *see also* **Gender**; **Word usage**
- active voice **86-87**
- capitalization..... **120-124**
- case **77-78**
- clarity **75-76**
- dangling participles..... **91-92**
- legal sentence
  - case (limited application)..... **77-78**
  - condition **78-79**
  - exception..... **79-80**
  - legal action..... **77**
- legal subject **77**
- modifiers..... **91**
  - dangling participles..... **91-92**
  - noun strings..... **92**
- nominal style..... **89-90**
- outlining..... **80-84**
  - complicated text..... **81**
  - formulas..... **81**
  - formatting **82-84**

subordinate clauses **80-81**
when to outline……...**80-82**
paragraphs
flushing left……**84**
indented/blocked..... **84-85**
parallel construction **83**
series **82-83**
passive voice..... **86-87**
singular/plural..... **89**
splitting verbs **90-91**
subjective words **76**
synonyms..... **76**
tenses
future..... **88**
past..... **88**
present..... **87-88**
Grandfather clause..... **22-23**

H

Headnotes **37**
resolves and **44-45**
House and Senate amendments..... **66**
House and Senate orders..... **59-65**
House and Senate resolutions **55**
Housekeeping provisions..... **21-28**
Hyphens **34-35, 124, 129-130**

I

Implementation provisions **24**
In memoriams **57-58**
Inconsistencies, conflicts and errors bill
……..174-175
Inconsistent couplets..... **115**
Incorporation by reference..... **170-172**
Indented paragraphs **84-85**
Individuals, usage **113**
Initiated bills **173**
Intake..... **3-4**
Interviewing process..... **4**

J

Jackets..... **3**
legends..... **3**
Jargon..... **102**
Joint resolutions.....**54-55, 176-178**
Joint Rules
amending errors bill..... **174-175**
cloture……..**2**
intake and..... **3-4**
joint orders amending..... **63**
legislative confidentiality and..... **4-5**
Judicial opinions, requests for……**151-153**

L

Land held for conservation purposes; change in use..... **17**
Lead-ins..... **37-38**
Legislative Document (L.D.) number..... **5-6**
Legislative Reference (L.R.) number..... **5-6**
Legislative sentiment..... **59-60**
Legislative studies……...**179-182**
Legislators' bills..... **2**
Lists, series..... **82-84**
Local referenda..... **138-139**

M

Maine Administrative Procedure Act.... **9-10**
Maine Criminal Code..... **27, 143-150**
Maine Revised Statutes
see also **Bills, elements**; **Bills, general**; and **Bills, technical**
amending clauses..... **35-37**
amending existing law..... **36**
enacting new law..... **35-36**
reenacting repealed law..... **37**
repealing and replacing existing law..... **36-37**
repealing existing law..... **36**
general……**8**
lead-ins……**37-38**
section structure..... **37**
title; headnotes..... **37**
Maine Supreme Judicial Court..... **151-153**

Major substantive rules..... **4, 9-10, 21**
Mandate……..**198**
Mandate preambles..... **16-17**
May, usage..... **101**
May not, usage **101-102**
Memorials..... **55-57**
Midnight, usage..... **107**
Misdemeanor, usage **145**
Mixed instruments..... **31-32**
Modifiers..... **91-92**
MRSA
see Maine Revised Statutes
Must, **usage**..... **100-101**

N

Negating duty or condition **102**
New draft..... **38**
Non-English terms..... **102-103**
Nonrestrictive clauses..... **109-110, 127**
Nonseverability clause..... **24**
Noon, usage..... **107**
Numbers **104-106**

O

One, usage..... **104-105**
Oral, usage..... **113**
Orders
adjourning..... **62-63**
amending rules..... **63**
carrying over bills..... **63-64**
congratulatory/legislative sentiments
……...**59-60**
body **59**
elements..... **59**
introductory phrase **59**
preamble **59**
other uses **65**
recalling bills **60-62**
reporting out bills..... **62**
requesting court opinions..... **151-153**
study..... **65, 179-182**
Outlining **80-84**

P

p.m., usage **107**
Paragraphs
blocked..... **84-85**
flushing left..... **84**
indented **84-85**
lead-ins..... **37-38**
lists/series in **82-84**
order within MRSA **34**
when to use **82-84**
Parentheses..... **128**
Participles..... **91-92**
Passive voice **86-87, 96-97**
Past tense **88**
Penalties..... **143-149**
civil violations **147-148**
determination of criminal or civil
..... **149-150**
Percentages..... **106**
Periods
punctuation..... **125**
time..... **107**
Person, usage..... **98, 113**
Plural..... **89, 96**
Preambles **16-18**
Preambles, resolve **43-44**
Present tense..... **87-88**
Printer instructions..... **69**
Private and special laws
see also **Referenda**
citations to..... **132**
emergency, example **41-42**
general **15**
internal ordering **32-33**
Problem words and phrases……...**111-114**
Pronouns.....**95-98, 108-109**
Proofreading and editing **12-13**
Proper names, usage..... **111**
Provided that, usage **79-80**
Public law
citations to..... **132**
examples **38-41**
general **15**
order within..... **31-32**
Public records, exceptions……..**199-202**
Punctuation
see also **Grammar**
brackets..... **128**

clauses and phrases **126-127**
colons **128**
commas **125-127**
general **125-130**
hyphens **129-130**
multiple adjectives **127**
parentheses **128**
periods **125**
quotation marks **128-129**
semicolons **127-128**
Purpose clauses **19**

Q

Quotation marks
amendments in **70**
punctuation in **128-129**
referendum questions in **49**

R

Redundant couplets **115**
Reenacting law **35, 37**
Referenda
advisory **138**
annexation **161-163**
clauses **28**
constitutional **49-51**
converting plantations to towns **155-156**
deorganizing plantations **157-161**
general **137-139**
local **138-139**
secession of territory **163-168**
statewide bond issues **140-142**
statutory **137**
Reflexive pronouns **97-98**
Regulations **113**
citation to federal **134-135**
Relative pronouns **108-109**
Repeal clause **26**
Repealing and replacing **36-37**
Repealing existing law **36**
Resolutions
constitutional

effective date **51**
example **52-53**
preamble **48**
main body **48-49**
referendum provision **49-51**
summary **51**
title **48**
general **54-58**
House **55**
in memoriam **57-58**
joint **54-55**
memorials **55-57**
proposing amendment to U.S. Constitution **176-177**
Senate **55**
Resolves
elements **43-45**
emergency preamble **43-44**
fiscal note **45**
main body **44-45**
preamble **44**
summary **45**
technical style **45**
title **43**
Respectful language **118-119**
Respectively, usage **113**
Restrictive clauses **109-110, 127**
Retroactivity clause **26**
Revision clause **21-22**
Revisor's Report **174-175**
Rules
department and agency rules
citation to Maine **133**
citation to federal **133-135**
major substantive rules **4, 9-10, 21**
routine technical rules **4, 9-10, 21**
rule of construction **19**
rulemaking **4, 9-10, 21**
vs. regulations **113**

S

Said, usage **113**
Savings clause **22-23**

Second degree **67**
Section numbering **34-35**
Semicolon **127-128**
Senate and House amendments **66**
Senate and House orders **59-65**
Series; lists **82-84, 126**
Severability clauses **24**
Shall, usage **99-100**
Short title **18-19**
Simple vs. complex terms **116-118**
sine die **62-63**
Singular **89**
Sponsors **2-3**
Staggered terms **22**
Statewide bond issues **140-142**
Statutory referenda **137**
Structure
bills **10-11**
Constitution of Maine **51**
legislative sentence **76-80**
MRSA **33-35**
outline **80-84**
paragraph **82-84**
Study reports **10**
Subordinate clause **80-81**
Such, usage **113-114**
Summaries
acronyms and abbreviations in. **104**
amendments **68**
general **29-31**
Symbols **103**

T

Technical processing **12**
Technical style
amendment **69**
bill **31-33**
Technicians **12**
That, usage **108-109**
There, usage **114**
Third person **89**
Time and time periods **106-107**
Titles, bill **15-16**
Transition clause **23-24**

U

Unallocated law **33, 38**
Uniform laws **10, 154**
United States Constitution
actions relating to **176-178**

V

Verb tense **78-79, 87-88**
Verbal, usage **113**
Verbs, legal action **99-102**
Violations **143-150**

W

Which, usage **108-110**
Who, usage **108-109**
Will, usage **87-88, 101**
Without day **62**
Word usage
a.m. **107**
age **108**
and **111-112**
or **111-112**
archaic terms **115**
attorney's fees **112**
biannual **112**
biennial **112**
consider **112**
dates **106-107**
day **107-108**
deem **112**
determine **112**
each **112-113**
every **112-113**
felony **145**
first **105**
forbidden terms **115-118**
forfeitures **147**
individuals **113**
jargon **102**
may **101**
may not **101-102**

midnight..... **107**
misdemeanor..... **145**
must **100-101**
non-English terms……**102-103**
noon **107**
one **104-105**
oral **113**
p.m. **107**
person..... **98, 113**
proper names..... **111**
provided that **118**
respectively **113**
said..... **113**
shall..... **99-100**
simple terms..... **116-118**
such..... **113-114**
that **108-109**
there **114**
verbal **113**
which **108-110**
who **108-109**
will **101**